COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES

Senate

Official Hansard

No. 5, 2013
Thursday, 16 May 2013

FORTY-THIRD PARLIAMENT
FIRST SESSION—NINTH PERIOD

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SITTING DAYS—2013

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FORTY-THIRD PARLIAMENT
FIRST SESSION—NINTH PERIOD

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

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Cory Bernardi, Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt and Ursula Mary Stephens
Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Deputy Leader of the Government in the Senate—Senator Hon. Penelope Ying Yen Wong
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. Jacinta Mary Ann Collins
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate — R Laing
Clerk of the House of Representatives — B Wright
Secretary, Department of Parliamentary Services — C Mills
Parliamentary Budget Officer — P Bowen
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister on Asian Century Policy</td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Jason Clare MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Dr Andrew Leigh MP</td>
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<tr>
<td><strong>Treasurer</strong> (Deputy Prime Minister)</td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon David Bradbury MP</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Bernie Ripoll MP</td>
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<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Special Minister of State</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Minister Assisting for Deregulation</td>
<td>The Hon David Bradbury MP</td>
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<td><strong>Minister for Defence</strong></td>
<td>The Hon Stephen Smith MP</td>
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<td>(Deputy Leader of the House)</td>
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<tr>
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<tr>
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<tr>
<td><strong>Minister for Infrastructure and Transport</strong></td>
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<td>The Hon Catherine King MP</td>
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<tr>
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<td><strong>Minister for the Arts</strong></td>
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<td><strong>Minister for Community Services</strong></td>
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<td>The Hon Melissa Parke MP</td>
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<td>The Hon Amanda Rishworth MP</td>
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<td><strong>Minister for Foreign Affairs</strong></td>
<td>Senator the Hon Bob Carr</td>
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<td><strong>Minister for Trade and Competitiveness</strong></td>
<td>The Hon Dr Craig Emerson MP</td>
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<td>Parliamentary Secretary for Trade</td>
<td>The Hon Kelvin Thomson MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
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<tr>
<td>Minister for Sustainability, Environment, Water, Population</td>
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<td>(Vice-President of the Executive Council)</td>
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<td>Minister for Employment and Workplace Relations</td>
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<td>Parliamentary Secretary for School Education and Workplace Relations</td>
<td>Senator the Hon Jacinta Collins</td>
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<tr>
<td>(Manager of Government Business in the Senate)</td>
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<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon Joe Ludwig</td>
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Each box represents a portfolio. **Cabinet Ministers are shown in bold type.** As a general rule, there is one department in each portfolio. However, there is a Department of Veterans' Affairs in the Defence portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.
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Thursday, 16 May 2013

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

BUSINESS

Rearrangement

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:31): I seek leave to move a motion to vary the routine of business for today.

Leave not granted.

Senator JACINTA COLLINS: Pursuant to contingent notice standing in the name of the Leader of the Government in the Senate, Senator Conroy, I move:

That so much of the standing orders be suspended as would prevent Senator Conroy moving a motion to give precedence to a motion to vary the routine of business today.

Leave not granted.

Senator JACINTA COLLINS: That so much of the standing orders be suspended as would prevent Senator Conroy moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion to vary the routine of business today.

For the benefit of senators in the chamber, the motion that I am seeking to move would allow for consideration of general business private senators' bills under temporary order 57(1)(d)(ia) not to be proceeded with and for government business to have precedence from 9.30 for two hours and 20 minutes.

This matter arises to allow for the Senate to consider the very important issues around asylum seekers getting on boats and coming to the mainland. A further incident this week has highlighted the ongoing concerns around our inability to implement the full recommendations of the Houston report. Senators will be aware that government business order of the day No. 2, Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012 has been on the Notice Paper this week and, with cooperation from the opposition, the urgency of this matter has been accepted today so that we deal with this matter this morning rather than the private senators' business legislation and the reinstatement of temporary protection visas, for which there is no agreement.

On that basis I highlight that we need to deal with the issues around people smugglers, who continue to evolve their tactics and will use any trick in the book to try and evade authorities. Border Protection Command uses an intelligence-led approach to the deployment of their aerial and surveillance assets in order to ensure the most rapid deployment in response to distress calls or to intercept suspected irregular entry vessels. However, as we have seen in recent times, three of such ships arrived directly onto our borders.

Whatever you think of this wretchedly difficult policy area, the government of the day should be given the power it thinks it needs to stop the boats. That is what has been denied previously in this debate. I am pleased that today we are able to progress this particular recommendation of the Houston report. We need to implement all of the recommendations of the Houston expert panel, including the Malaysian solution, but we welcome the opportunity to deal with this one today.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (09:34): I indicate to the chamber that we will be supporting the government in this matter. The opposition always takes a cooperative and practical approach to the management of business in this chamber. This is an important piece of legislation, and we are happy to facilitate its debate and passage so that it can be concluded today.
Senator MILNE (Tasmania—Leader of the Australian Greens) (09:34): What an absolute disgrace it is that we have now got the coalition and government working together to engage in what has been previously described by the Labor Party as a stain on our national character. You are right: it is a stain on our national character. As Mr Bowen said in 2006, it is a bad bill with no redeeming features—a bad bill with no redeeming features for which you are seeking to suspend standing orders and to bring on here in a rush, with the support of the coalition.

I am not surprised that the coalition support it, because it is their bill. It is what former Prime Minister John Howard tried to bring into this parliament. The nation was horrified at the prospect that a prime minister would seek to wipe Australia off the map in order to avoid our global obligations under the refugee convention. It is an affront to the decency of the whole Australian nation. I am shocked that the Labor Party have now abandoned any sense of decency.

The Prime Minister was out this week trying to sell a budget which she says will deliver a fairer Australia—great!—a fairer Australia in which we wipe the entire country off the map when it comes to decency and human rights and which imposes what the Labor Party itself has described as a stain on the national character. This policy takes away the legal rights of asylum seekers. They will no longer be recognised if they land on Australian mainland territory. That is what this is about. It is not about looking at why people are seeking asylum in the first place, what is driving people to leave their countries. It is a failure to recognise that deterrence does not and has not worked. In fact, three or four times more people have arrived here seeking asylum since you brought in crueller and crueller policies—policies lacking in compassion.

I see that several members of the Labor Party who go around the country to forums and refugee conventions, who hold positions in United Nations organisations, saying, 'I don't agree with it,' are not here. Where are you today, Senator Singh? Where are you today? Where are all of these people in the Labor Party who stand up around the country saying they uphold the United Nations conventions? Where are you? Today Labor are standing with the coalition, delivering what John Howard could not. But in 2006 you did not think it was fair, and it was not; you did not think it was legal, and it was not; you did not think it was decent in terms of international law, and indeed it was not. This demonstrates once and for all why people are so disappointed that a government that says it wants to deliver a fair Australia is doing nothing of the sort. It is not only delivering an unfair Australia; it is delivering an Australia which is increasingly, in the international context, becoming a disgrace.

Here we are, elected to the United Nations Security Council. What does the rest of the world think of us now that we are going to excuse our entire nation from the map so that we can be crueller to refugees, crueller to people seeking asylum? It is a stain on our national character.

The motion for the suspension of standing orders because of urgency implies that it is more urgent than normal to do what is an affront to international law, an affront to decency in this country. You want it to be more urgent than it otherwise would be, because the urgency is that you want to be crueller, Senator Collins—I am glad you think this is amusing—

Senator Jacinta Collins: Oh, come on, Christine! I was responding to something Senator Sterle said.
Senator MILNE: As I indicated a moment ago, it is not urgent to be crueler, it is not urgent to excise the whole country and it is not urgent to stop people making valid visa applications. In fact, what the Labor Party is now doing, far from making us a stronger, smarter, fairer country, as I said and I will say again tonight, is making us a weaker, dumber, meaner country. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Ludlam): The question is that the motion to suspend standing orders be agreed to.

The Senate divided. [9:44]

(The Acting Deputy President—Senator Ludlam)

Ayes...............33
Noes...............10
Majority..........23

AYES

Back, CJ
Bilyk, CL
Brown, CL
Carr, KJ
Colbeck, R
Crossin, P
Fawcett, DJ
Furner, ML
Ludwig, JW
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Singh, LM
Stephens, U
Thistlethwaite, M
Urquhart, AE

Bernardi, C
Boswell, RLD
Cameron, DN
Cash, MC
Collins, JMA
Edwards, S
Fenehy, D
Gallacher, AM
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ruston, A
Smith, D
Sterle, G
Thorp, LE

NOES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhianon, L
Waters, LJ
Wright, PL

Question agreed to.

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:46): I move:

That a motion to vary the routine of business for today may be moved immediately and have precedence over all other business today till determined.

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

The Senate divided. [9:47]

(The Acting Deputy President—Senator Ludlam)

Ayes ....................33
Noes...............10
Majority..........23

AYES

Back, CJ
Bilyk, CL
Brown, CL
Carr, KJ
Colbeck, R
Crossin, P
Fawcett, DJ
Furner, ML
Ludwig, JW
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Singh, LM
Stephens, U
Thistlethwaite, M
Urquhart, AE

Bernardi, C
Boswell, RLD
Cameron, DN
Cash, MC
Collins, JMA
Edwards, S
Fenehy, D
Gallacher, AM
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ruston, A
Smith, D
Sterle, G
Thorp, LE

NOES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhianon, L
Waters, LJ
Wright, PL

Question agreed to.
Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:49): I move:

(a) consideration of general business private senators' bills under temporary order 57(1)(d)(ia) shall not be proceeded with; and

(b) government business shall have precedence from 9.30 am for 2 hours and 20 minutes.

Question agreed to.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:49): I move:

That intervening business be postponed till after consideration of government business order of the day no. 2, the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012.

Question agreed to.

**BILLS**

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CASH (Western Australia) (09:50): I indicate to the chamber that the coalition will not be opposing the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012. The stated objective of the bill is to expand the existing offshore processing regime to apply to all persons arriving on mainland Australia unlawfully by sea. It will replace the concept of 'offshore entry person' with the concept of 'unauthorised maritime arrival'. The effect of the bill is that persons who arrive on Australian soil by boat without a valid visa will be subject to removal to an offshore processing country and will be processed according to that regime—that is, the bill will effectively excise the Australian mainland from the Migration Act. It is intended to be a disincentive aimed at discouraging potential unlawful immigrants from making the hazardous sea voyage to Australia.

While the coalition will not be opposing, and in fact is strongly supporting, the passage of this legislation today—and I note for the record that the coalition voted with the government to rearrange the business of the Senate today to ensure that this bill was given precedence and that the coalition gave up our private senators' time this morning to ensure that this bill is facilitated in a timely fashion—I do believe we need to consider why the government has introduced this bill, given that when the same bill was introduced in 2006 by the Howard government those on the opposite side of the chamber howled in opposition to it. These are the facts that Australia is faced with today.

Five years ago in November 2007, when this Labor government was first elected to office, there were just four people in immigration detention who had arrived in Australia illegally by boat. When the Labor government was elected to office in November 2007, maintenance of Australia's immigration detention network was costing Australian taxpayers less than $100 million per annum. In fact, it was costing approximately $85 million. Today there are well in excess of 15,000 illegal maritime
arrivals in Australia's detention system, whether they are on bridging visas in community detention, in alternative places of detention or in the detention network itself. This government's spectacular record of failure in relation to this portfolio worsens when you consider that the number of people who have arrived since November 2007 is 40,772 on 673 boats. It is a fact, and that is one of the reasons whereby the government and Minister O'Connor today came to the coalition quite literally on bended knee and begged us to facilitate the passage of this legislation, which we agreed we would do. It is a fact that Australia is now witnessing what is an unprecedented rate of boat arrivals and that is, without a doubt, the sole reason the government has done an about-face in relation to policy in this area.

April 2013 is now on record as the month with the largest number of asylum seeker arrivals, with 3,300 people arriving by boat in that one month alone. March 2013 saw over 2,500 asylum seekers arrive and even though we are only two weeks into May, we have already seen 1,500 asylum seekers arrive. What that means—and perhaps the reason the government again came to the coalition on bended knee today, with Minister O'Connor begging shadow minister Scott Morrison for his assistance in relation to the facilitation of this legislation, which we agreed we would do. It is a fact that Australia is now witnessing what is an unprecedented rate of boat arrivals and that is, without a doubt, the sole reason the government has done an about-face in relation to policy in this area.

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This bill was introduced into the parliament by the former Minister for Immigration and Citizenship, Mr Bowen, on 31 October 2012. The proposal set out in the bill reflects some but not all of the advice of the Expert Panel on Asylum Seekers, which recommended that an arrival anywhere in Australia by regular maritime means should result in such individuals having the same status as those arriving at an offshore place which has already been excised from the immigration zone. The effect of this bill will mean that irregular maritime arrivals anywhere in Australia will make that person liable to regional processing arrangements.

Given the hysteria of the government in 2006 when we introduced what is effectively the same piece of legislation—which I believe the government now acknowledges, given they have today come cap in hand to the coalition, is part of a suite of policy measures which indeed does stop the boats—I believe it is appropriate to put on the record comments of those at the time and what the Labor members said in relation to the Howard government's legislation and to note that today they are the ones who are begging us, the coalition who stopped the boats, to now support them in their efforts to restore part of the former Howard government's strong suite of border protection policies, which clearly, by the passage of this legislation, they now admit they were wrong in rolling back. Take, for example, the comments of the former minister for immigration, the minister who in the other place introduced what is effectively the former Howard government's bill. This is what he said back in 2006:

This is a bad bill with no redeeming features. It is a hypocritical and illogical bill. If it is passed today, it will be a stain on our national character ... If it is passed, it will be repealed by an incoming Labor government.

History now records that it was, in fact, repealed by the incoming Labor government. History also now records the facts I have outlined for the record today—that Australia has now been subjected to an unprecedented number of illegal boat arrivals. Under this government, we are heading towards 41,000 arrivals in 2013, which equates to approximately 66 arrivals per day.
Despite the fact that Minister Bowen in 2006 took a completely different stance on legislation which had been proven to work and to stop the boats, we see that same minister, now in government, acknowledging that Labor have made one of the greatest—if not the greatest—policy mistakes of all time. They are now backing the coalition to side with them and support what is effectively Howard government legislation.

What did Mr Simon Crean say at the time the Howard government's bill was passed? The bill is shameful and xenophobic.

... ... ...
It is a bill that should be opposed.
I note that by 2012 Mr Crean had clearly had a change of heart.

What did Mr Anthony Albanese have to say at the time? This bill is wrong in principle and it is wrong in motivation.

... ... ...
This bill is a disgraceful shirking of responsibility by Australia and it must be rejected.

... ... ...
I reject the bill as being fundamentally abhorrent to everything I believe in ...

... ... ...
It has been a test of the Australian Labor Party and we have risen to the occasion, and that is why we are rejecting this legislation.

Clearly Mr Albanese has also come to the realisation, as have the majority of Australians, that Labor were wrong in 2006 and that they were wrong in 2008 when they repealed the Howard government legislation. But they are right today to come into this place and to ask the coalition to assist them in facilitating the passage of what is effectively the former Howard government's legislation.

Why has the Labor Party done an about-face? Why did the Labor Party—the current minister, Mr O'Connor—come to the shadow minister, Mr Morrison, and effectively beg him to assist Labor in passing this legislation today? These are the reasons. Over the life of the Howard government, 1999 was the year of the greatest number of boat arrivals—86 boats arrived in 1999. In comparison, this year 86 boats arrived just between 1 January and 14 April. The greatest number of asylum seekers arriving in any one year under the Howard government was in 2001—5,550 people arrived in 2001. In comparison, the Gillard government managed to exceed that figure in just the eight weeks covering March and April of this year.

What did we, the former Howard government, do? We realised we had a problem and we took strong and decisive action, which included the action set out in the bill before the Senate today. What was the result of the former Howard government's strong border protection policies? In 2002, the year after the Pacific solution was introduced, the number of boats arriving in Australia was reduced to zero. In 2003, one boat arrived; in 2004, zero boats arrived; in 2005, four boats arrived; in 2006, six boats arrived; and, in 2007, five boats arrived. The fact of the matter is this: the Labor Party cannot deny that, when they assumed office in November 2007, they inherited a solution from the former Howard government. In August of 2008, they proceeded quite deliberately and arrogantly to wind back the proven border protection policies of the former Howard government. We have now come almost full circle and we stand here today in the Senate implementing—or re-implementing—a further plank of the former Howard government's border protection policies.

Will this go far enough? Absolutely not. I have put forward a private senator's bill to reintroduce temporary protection visas. That
is something which this bill does not do. I would say to those on the other side: if you really are fair dinkum about stopping the boats and if you really do want to return, as you are telling us, to the former Howard government's policies, you must also give urgent consideration to restoring temporary protection visas as part of the suite of policy measures.

There is a difference between the Howard government bill and this bill. One of those differences is—lo and behold—their effectiveness. The government's March 2012 decision to allow all offshore entry persons access to merits and judicial review through the RRT and the courts severely weakens the effectiveness of this bill and will prove to be very costly to taxpayers—bearing in mind that the cost to taxpayers of the government's failed border protection policies is now in excess of $10 billion. When the coalition introduced its bill in 2006, the bill's impact would have been much more significant than that of the current bill and would have denied all asylum seekers access to merits and judicial review.

Whilst the Labor government have significantly watered down a number of previous coalition initiatives, consequently diminishing the potential impact of this bill, the broad principle of this bill is, as I said at the outset, consistent with coalition policy and we will therefore support it—notwithstanding the gross hypocrisy of Labor. In 2006, Labor were screaming from the rooftops that the very provisions which they have begged us to support today—the very provisions which, under the Howard government, were proven to work—were anathema to them. I commend this bill to the Senate.

Senator HANSON-YOUNG (South Australia) (10:07): I rise to speak in opposition to the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012. The Australian Greens are in strong opposition to the idea of removing Australia's entire mainland from our migration zone. When John Howard, back in 2006, proposed to do this very thing here in this place, not only did we have members of the Labor Party speaking strongly against it; we even had members of the coalition speaking strongly against it. When John Howard proposed to strip all migration law rights away from people based on their arriving on the Australian mainland, one of the reasons that that bill did not end up passing the Senate was that even Barnaby Joyce—

Senator Williams: Senator Joyce.

Senator HANSON-YOUNG: believed that this was bad policy. Even Senator Barnaby Joyce knew the madness of this policy. It must be pretty bad when you have got Senator Joyce arguing for the rights of refugees and the rights of vulnerable people under basic rule-of-law provisions.

I urge all members in this place to search the back of their conscience and to think about why this is really being put forward and why there is an urgency for it to be rushed through. There is no urgency, of course, except the continued failure of the government's already harsh, inhumane and cruel no advantage rule and offshore processing, which have not worked to stem the flow of people in our region who are desperate to seek protection. The Prime Minister on this issue is always looking for somebody else to blame, and now it is that we have provisions on the mainland that uphold the rule of law—that is bad and that has got to go, according to the Prime Minister and this Labor government. And of course Tony Abbott's opposition are going to support this legislation, because it is their policy. This is the Labor government
implementing John Howard's policy and Tony Abbott's policy. That is what is going on here. We do not have to wait until 14 September; we have already got the opposition's policy. The Labor government have done all the Liberal Party's dirty work when it comes to beating up on refugees, dog whistling on immigration and stripping away laws that protect the most vulnerable in our community.

This bill effectively excises the entire mainland of Australia from the ordinary operations of the migration zone so that, wherever somebody may arrive, they do not have the right to seek protection under normal circumstances. This expands the already existing two-tiered system that is in direct contravention of the refugee convention, which clearly identifies that we should not be discriminating against people and their right to protection, care and safety based on their mode of arrival. It is simply wrong. It is unacceptable under the refugee convention. Yet here we are this morning seeing exactly that happening—both the government and the opposition doing away with, violating, the letter and the spirit of the rights outlined in the refugee convention.

As I said, the Howard government had already attempted to do this. In 2001, they set up a system which treated refugees who arrived by boat differently—not to protect them, not to care for them, not to deal in a practical way with their vulnerability and needs. No, no; it was to demonise them, to whip up fear and hatred and to send a signal to the nastiest, darkest parts of our psyche, where we may think that somehow, because somebody is a refugee and had to come by boat, they are a bad person. That is precisely why John Howard changed these rules in 2001 and that is precisely what the Labor government, hand in hand and shoulder to shoulder with Tony Abbott's coalition, are doing today.

This is yet another stark and very, very disappointing example of the government locked in a race to the bottom with the coalition over immigration and refugee policy. Punishing refugees for seeking protection in Australia is the central concept of this bill. Let us not beat around the bush. This bill does nothing to save people's lives. This bill does nothing to protect and help and care for vulnerable refugees, including children. This bill does nothing to help these people and it will not save their lives. This bill is all about punishment and all about whipping up fear and hatred and demonising people because of how they arrived and where they have come from. The fact is that the majority of people who arrive here by boat—whether it is in the already excised zone or the small handful of people who find their way to the mainland—are people who could not come to Australia by plane because they never would have got a ticket without a visa, because of the countries that they come from, because of their need to flee from torture, from persecution, from war. This bill goes right to the heart of discriminating against refugees because of the places they have had to flee.

Of course, as we know, just as happened in 2006, this bill has been widely criticised by a range of legal and human rights experts. This bill went to inquiry, and it was universally condemned. The only supporting evidence to this inquiry came from the government's own department. Not one independent voice in support of this piece of legislation came forward. Not one independent voice of support exists for this legislation.

In fact, let me just go to what the United Nations and their human rights and refugee committees have said in relation to this piece of legislation. We know that the UNHCR in Australia have said that they are extremely concerned that the measures to excise large
portions of the territory to set up systems which substantially reduce fundamental refugee protection rights sets a negative precedent internationally.

This is not about building a regional protection framework; this is doing the absolute opposite. This is about gross, bottom of the barrel, crass domestic politics here in Australia. This is about the Labor Party competing with Tony Abbott as to who can be the toughest, the cruelest, the meanest on refugees.

**Senator Williams:** Mr Acting Deputy President, I rise on a point of order. I ask Senator Hanson-Young to refer to those in the other place by their correct titles. She started off with 'Barnaby Joyce' instead of 'Senator Joyce', then continued on about 'Tony Abbott'—

**The ACTING DEPUTY PRESIDENT (Senator Bernardi):** Thank you, Senator Williams; I understand your point. Before you continue, Senator Hanson-Young, Senator Williams is absolutely correct: you have, on a number of occasions, referred to other members of parliament without their correct titles. You have corrected yourself on one of those occasions, and I should have drawn it your attention earlier. So, please, would you adhere to the Senate standing orders.

**Senator HANSON-YOUNG:** Thank you, Mr Acting Deputy President. This is crass domestic politics that is based on the Labor Party competing, in a race to the bottom, as to who can be the cruelest, the nastiest, the meanest, the harshest on refugees. A race to the bottom with Mr Abbott's coalition—that is what this piece of legislation is about.

The UNHCR goes on to say that, if each one of the 148 other countries around the world that have signed on to the refugee convention took this attitude and changed their laws in this way, it would undermine the entire convention. This legislation is out of step with not just the letter but absolutely the spirit of the convention. We know that the Refugee Council has said that they are extremely concerned about this as well—that it violates our obligations. It strips away people's rights, and it will likely cause serious harm to people fleeing from persecution and torture. It will cause more harm, more damage, to people who are already fleeing some pretty unsafe and harmful circumstances. That is what the experts are saying.

We know that many of the church groups around the country are extremely concerned about this as well, from a moral perspective as well as a legal one. We have seen Elenie Poulos, the National Director of UnitingJustice, attached to the Uniting Church, say that this is a shameful piece of legislation that undercuts our moral responsibilities as a nation towards vulnerable and oppressed asylum seekers.

This is a bad piece of legislation and is only designed to hurt people and not care for them. There is nothing in this legislation that will save people's lives—in fact, unfortunately, all to the contrary. People's lives are going to be at more risk. People are going to suffer more. Children will not have rights. Despite the need for protection, they will not now have access to lawyers. They will not have any legal assistance at all. They cannot even make a claim for refugee protection under this legislation. They can be sent, of course, offshore to one of the cruel camps—whether that is Manus Island or Nauru or wherever else this government or the coalition decide they want to start dumping vulnerable refugees. This bill exposes vulnerable people to indefinite detention in inhumane and cruel camps.
As to those who may be lucky enough to be put on a bridging visa after suffering in detention, they will have no work rights. They will have no access to proper education or medical services. They will have no way of being able to rebuild their lives and protect their children. In fact, children and families under this legislation will be pushed into poverty even further.

This legislation exposes more people in immigration detention to inadequate legal assistance and legal oversight—in fact, not just 'inadequate'; they have no rights at all. Whether you are the vulnerable family of someone who has been fighting for democracy in Iran or a Hazara family from Afghanistan, you have no rights for proper protection under this piece of legislation.

What is the urgency for us to have to rush this piece of legislation through? It is not going to stop people coming here by boat; we know that. We know that being harsh to people, deterrence policies, do not stop people taking those dangerous journeys when that is the only option they have. We have seen that proven over the last six months.

Back in August last year, we saw this again—the Labor Party implementing the coalition's policies on offshore detention, on stripping out protection and on the no-advantage rule. We were told that was going to slow the boats. It has not slowed the boats at all: we have four times the number of people fleeing to Australia than we did last year. It has not stopped people taking those journeys. It has not saved people's lives.

In fact, the unfortunate thing about all of this is that no-one is safer—no-one is being kept safer or treated better; no-one's rights are being upheld. In fact, the exact opposite is happening: we are now subjecting children to institutionalised child abuse in the detention camps of cruelty on Manus Island.

That is the reality of the policies that are coming from this government, backed up by Mr Abbott's coalition. These policies are not saving people's lives; they are not caring for people. These policies and this legislation are subjecting people to further harm and torture.

I will be moving three amendments to this legislation. The first amendment is in relation to allowing for media access to these detention camps that Australians are paying billions and billions of dollars for. We saw the budget come out on Tuesday night and we know that offshore processing is costing Australian taxpayers more than $7½ billion. In fact, if you include this year and the forward estimates, it is costing $10 billion to detain children and their families on Manus Island, in inhumane conditions, damaging them for the rest of their lives—$10 billion. There is of course no media access to these detention centres, because the government do not want the Australian people to see how badly we are treating our fellow human beings. They do not want the Australian conscience to be pricked by the truth of what is going on in these camps. The amendment that I will be moving in relation to that is to allow media access to our detention centres, particularly those offshore on Manus Island and Nauru.

The second amendment is about allowing the Australian Human Rights Commission to enter those camps and be able to inspect them—because we cannot trust either this government or any government run by the coalition to treat vulnerable refugees and their families properly. We know that every time we actually get a glimpse into what is going on in these awful places, we see that people are not being treated right, that it is inhumane, that children are suffering. We should be allowing the Australian Human Rights Commission to go inside and inspect. I ask you, Mr Acting Deputy President: if there is nothing to hide, why not let them in?
The third amendment is a very important one, in relation to removing children and their families from Manus Island. It is a horrible place. It is a cruel place. It is an inhumane place. Even adults should not be there. Vulnerable refugees do not deserve to be treated like animals, as we have seen from the footage that was leaked through the Four Corners report only some weeks ago. Children are suffering on Manus Island, and it is time they were brought to the Australian mainland and cared for properly. This amendment will ban any government from being able to detain children, remove children to those awful places of abuse and cruelty—they are inhumane. Those children must be brought to the Australian mainland and cared for.

As a mother I have a responsibility to stand in this place and argue for the rights of those children. I call on every senator in this place to stand up for those children's rights as well, and do what you would want if they were your children.

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (10:28): I thank all senators for their contributions to the second reading debate on the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012. Dealing with the issue of irregular maritime arrivals has probably been the most difficult public policy issue that our nation has dealt with in the last 25 years. I do not believe that anyone in this parliament believes that Australia should take an immoral or heartless approach to refugees. And certainly our history demonstrates and proves that this nation has been most welcoming of people coming from difficult circumstances, fleeing persecution, fleeing war and settling in Australia.

This government's commitment to supporting refugees coming to this country is highlighted by the fact that we have increased the humanitarian intake of refugees to 20,000—I believe the largest settlement program of any nation throughout the world. But what we cannot allow to continue to happen are events such as those that occurred on 15 December 2010, when 50 innocent women and children drowned in shocking circumstances before the eyes of this nation on the rocks at Christmas Island. We simply cannot allow, as a nation with a heart, those circumstances to occur again.

The Gillard government empanelled a team of experts, headed by Angus Houston, to develop a set of recommendations to try and take the politics out of this very difficult issue and to come up with a workable solution for the long term. That panel consulted and reported, and they came up with 22 recommendations. They made it very clear to the government and to the nation when they made those recommendations that they must be accepted as a whole, a full package—that you could not seek to pick out and implement elements of it. They made it clear that it needed to come as a full package for it to be effective.

This bill delivers on one of those recommendations. It delivers on the advice of the experts that the government consulted to attempt to take the politics out of this issue. That recommendation is recommendation No. 14. It says: … arrival anywhere on Australia by irregular maritime means will not provide individuals with a different lawful status than those who arrive in an excised offshore place. That is, irregular arrival by sea anywhere in Australia should make the person liable to regional processing arrangements. That is necessary to ensure the no advantage principle is adhered to. The panel's reasoning in making this recommendation was the need
to reduce any incentive for people to take even greater risks with their lives by seeking to reach the Australian mainland to avoid being subject to regional processing arrangements. The report states:

The Panel considers that all possible measures should be implemented to avoid creating an incentive for IMAs taking even greater risks with their lives by seeking to reach the Australian mainland. As a complement to facilities in Nauru and PNG, the Panel recommends the Government bring forward legislative amendments to the Migration Act 1958 so that arrival on the Australian mainland by irregular maritime means does not provide individuals with a different lawful status than those who enter at an excised offshore place, such as Christmas Island.

That is making it very clear to the Prime Minister, to the executive and to the nation what they expected as an effective means for ensuring a deterrent to people-smuggling. The panel also emphasised—and the government has consistently reiterated—that this recommendation in the report is part of an integrated set of proposals. To be effective in discouraging asylum seekers from risking their lives, the incentives and disincentives the panel recommended must be pursued in a comprehensive, coordinated manner. This includes incentives to encourage greater use of regular migration pathways and international protection arrangements and disincentives to undertake irregular maritime voyages, including the application of a no advantage principle and regional processing arrangements. The legislative amendments proposed in this bill are part of that integrated approach.

The bill was referred to the Senate Legal and Constitutional Affairs Committee for inquiry and report. I thank the committee for their report, tabled on 25 February 2013. I thank those who provided submissions and of course those who appeared before the committee. The bill involves complex issues, and I commend the manner in which the committee has captured and reported these complexities. The report states:

… the committee supports the intent of the Bill, subject to one important amendment.

The committee recommended that the bill be amended to require the Minister for Immigration and Citizenship to report annually to both houses of parliament in respect of matters relating to unauthorised maritime arrivals, including arrangements for assessing their refugee claims as well as the arrangements relating to accommodation, health care and education. Additionally, the committee recommended that the minister report on the number of asylum claims by unauthorised maritime arrivals that are assessed and determined to be refugees during the 12-month period. The government amendment that will be moved in the committee stage reflects this recommendation and will require the Minister for Immigration and Citizenship to cause that to be laid before each house of the parliament within 15 sitting days of that House after the end of the financial year.

The government does not support the amendments that have been put forward by the Greens, as that would be contrary to the recommendations of the expert panel, which the government has accepted and is implementing. The bill marks an important further step in giving effect to the recommendations of the panel and will remove yet another incentive for asylum seekers to take greater risks with their lives to reach the Australian mainland.

In respect of the claim that this is excising the Australian mainland, let me reiterate that this bill does not purport to excise the Australian mainland from the migration zone. The definition of the migration zone is not being amended in this bill. Instead, the bill defines individuals subject to regional processing based on their status as
unauthorised maritime arrivals—that is, by arriving in Australia in the migration zone, by sea, without a visa in effect. This is in contrast to the current situation, where an individual is only subject to regional processing if they enter regional Australia in an excised offshore place such as Christmas Island.

In summing up, this government is fully committed to delivering a proper and sustainable regional solution through the full implementation of the recommendations of the expert panel that was led by Angus Houston. No-one should doubt this government's commitment to implementing all 22 of the recommendations of the expert panel to break the people smugglers business model and help to stop people dying at sea. That is how responsible governments develop policy—listening to the advice of experts.

I thank all senators for their contributions to this debate and I commend the bill and the government amendments to the Senate.

The question is that the bill be read a second time.

The Senate divided. [10:42]

(The Acting Deputy President—Senator Bernardi)

Ayes................. 29
Noes................... 9
Majority..............20

AYES
Back, CJ          Bernardi, C
Bilyk, CL        Birmingham, SJ
Bishop, TM       Brown, CL (teller)
Bushby, DC       Cameron, DN
Carr, KJ         Cash, MC
Collins, JMA     Crossin, P
Edwards, S       Feeney, D
Furner, ML       Gallacher, AM
Ludwig, JW       Marshall, GM
McKenzie, B      Moore, CM
Parry, S         Pratt, LC
Ruston, A        Singh, LM

AYES
Smith, D
Thistlethwaite, M
Williams, JR

Stephens, U
Urquhart, AE

NOES
Di Natale, R     Hansen-Young, SC
Ludlam, S        Milne, C
Rhiannon, L      Stiewert, R (teller)
Waters, LJ       Whish-Wilson, PS

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (10:44): I table the supplementary explanatory memorandum relating to the government amendments to be moved in this bill.

The TEMPORARY CHAIRMAN (Senator Bernardi) (10:45): We will deal with the first of the amendments by the Australian Greens, which is schedule 1 after items 18 and 60. It is an amendment request on sheet 73501 and 73502.

Senator HANSON-YOUNG (South Australia) (10:45): The first amendment that the Australian Greens are moving this morning in relation to this bill is to allow for the Australian Human Rights Commission to visit, inspect and report on the conditions and what is going on in offshore detention centres that are run by Australia and paid for by Australian taxpayers. We know, at the moment, they are on Manus Island and Nauru. This is a very important amendment. We know that the Human Rights Commission has these rights in Australian mainland detention centres. They are able to
go to detention centres, inspect what is going on, talk to people about their cases and talk to people about the conditions that they are experiencing in those places.

The importance of this amendment is that it allows for the same rights and obligations that the Human Rights Commissioner has already for Australian based detention centres and, indeed, on Christmas Island to be similar to those for detention centres that we have further offshore on Manus Island and Nauru. It would allow the Human Rights Commissioner to go in, inspect, look at the conditions of what these camps are like and deal with any complaints or issues that come out of that. It is really important because, as we know, these centres are costing Australian taxpayers billions of dollars. The legal rights of the refugees who are locked up there indefinitely have been taken away. There is currently no transparency at all on Manus Island and Nauru.

I previously wrote to the minister about this. I raised this with the department in Senate estimates. It is clear that, unless we change the Migration Act, which is what this amendment does, there is no ability for the Australian Human Rights Commission—Australia's peak human rights body—to inspect what is going on in these places. When you look at the reports that have come out and when you hear the stories of people who have said how they were treated in these god-awful places, then you know something is going on and we need a bit more transparency.

For the Australian Human Rights Commission to be able to go in and inspect is a really important thing for us and this chamber to do. We think that it is okay for it to happen in Australian based centres and it is all okay for it to happen on Christmas Island; let us make sure it is there for the refugees who are sent offshore. Let us not forget that these people are there indefinitely, as the government has this open-ended 'no advantage' rule. The children, their families, and the young men and women who are detained in these places could be there for five, 10 or 15—who knows how many—years. To allow for some proper transparency would go a long way to making sure that Australian taxpayers and members of our community who are concerned about issues of human rights and how we treat our fellow human beings can have some assurance that there is somebody watching what is going on.

It is an important amendment and I would ask for the government and the opposition to support it. If they are not going to support it, I would ask for the minister representing the Minister for Immigration and Citizenship in this chamber today to explain why the government does not want to see this type of basic transparency available to the Australian Human Rights Commission in these god-awful places.

The TEMPORARY CHAIRMAN: Senator Hanson-Young, before you formally move your amendments, because there are two of them you have to seek leave to move them together.

Senator HANSON-YOUNG: by leave—I move the two amendments that relate to the Human Rights Commissioner having access to detention centres together:

(1) Schedule 1, page 6 (after line 28), after item 18, insert:

18A After subsection 198AB(6)
Add:

(6A) If the Minister designates a country or has previously designated a country under subsection (1), the Minister must:

(a) ensure that the country provides assurances that it will provide the Australian Human Rights Commissioner with access to any place where a person who is an unauthorised
Senators are discussing amendments to the Migration Act. The government rejected both amendments moved by Senator Hanson-Young. The government believes that requiring another country to provide assurances that it will provide access to the Australian Human Rights Commissioner is something that this government cannot guarantee; therefore, it is not appropriate to put it in this legislation.

The department has received advice from the Solicitor-General on the extent to which the Australian Human Rights Commission may inquire into complaints about alleged human rights breaches in regional processing centres. The advice was sort after the president of the Human Rights Commission wrote to the Department of Immigration and Citizenship, inquiring into a complaint that the AHRC had received from persons transferred to Nauru under the regional processing provisions of the Migration Act. The department accepts that the president of the commission can inquire into such complaints. As to the full implications of the advice, the department is further considering this.

Senator HANSON-YOUNG (South Australia) (10:52): I must say that I am extremely disappointed that the government wishes to continue this secrecy in relation to how vulnerable refugees are being treated and the conditions they are being kept in on Manus Island and Nauru. The Australian people have a right to know what is going on there, who is really in charge and, above all else, what our $10 billion being spent in the government's offshore processing regime is actually going to. It is hard to understand why the government would not want to ensure in Australian law through the Migration Act that the Human Rights Commission have access to these camps unless they have something to hide. That is the reality. What else are the Australian people meant to think?

This is disappointing to many members of the community after seeing how badly people can be treated and the conditions they can be kept in in these places. It is not just under this Pacific solution mark 2 regime; we know that the conditions were horrendous when the camps were being run by the former John Howard government. One of the reasons why the Australian detention system was opened to the Australian Human Rights Commission and, indeed, the Commonwealth Ombudsman was the scandal of Vivian Solon and Cornelia Rau. They are the very real examples of what happens to people when governments do not allow these places to have proper scrutiny and transparency. That is the reality. We have seen it. It has been proven. It has ruined people's lives.

Now, despite all of the evidence in front of us, this government are prepared to make the same mistakes all over again. What are the Australian people meant to think? There is no other explanation than that the government are wanting to hide what is really going on. They do not want proper
scrutiny. It is bad enough that they put gag clauses in their contracts with service providers, but not letting Australia's peak human rights body inspect what is a fundamental part of this government's immigration system is dishonest, irresponsible and, frankly, shameful. There is no other explanation than that the government are wishing to hide what is really going on.

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (10:56): The government is implementing appropriate transparency and monitoring arrangements in line with the recommendations of the Expert Panel on Asylum Seekers. As the minister has said on previous occasions, the process of designating regional processing countries, which can be disallowed by the parliament, provided the opportunity for parliament to scrutinise the arrangements that we were putting in place. It included the requirement to place before both houses of parliament a range of documents relating to regional processing arrangements, such as why it is in the national interest, advice from the United Nations High Commissioner for Refugees and arrangements in relation to the treatment of persons.

There are now a range of other mechanisms in place to support the objectives of transparency. For example, access to regional processing centres has been granted to the UNHCR and other human rights organisations and observands, and, indeed, Australian politicians, and there is regular public reporting in relation to regional processing arrangements, including through mechanisms such as Senate estimates hearings. Additionally, Australia is working closely with regional processing countries to establish advisory arrangements as specified in the memoranda of understanding. An interim joint advisory committee has been established for Nauru, and we continue to work closely with PNG to develop similar arrangements. The government sees the oversight mechanisms as important in ensuring transparency of operations and policy.

I note that part of the committee's recommendations included reporting on health, education and accommodation arrangements in centres. In addition to a range of oversight arrangements in place, there are also a number of established quality assurance and reporting mechanisms for health, education and accommodation. These include treating transferees with dignity, respect and integrity, building an environment that supports security and safety, improving health and wellbeing outcomes for transferees, interacting with transferees in a culturally sensitive way, reflecting human rights principles through the provision of services and facilities, and ensuring the best interests of the child are taken into account.

Senator HANSON-YOUNG (South Australia) (10:58): Wow! I realise the minister representing the immigration minister today is not the minister who was in the Senate on the night that we debated the legislation that would allow for refugees to be dumped on Manus Island or Nauru, but there is nothing binding in law to ensure that that entire list of things that the minister has just read out have to happen. In fact, there is nothing in law to ensure that they have to happen. The government and the opposition made it law that the minister does not have to prove any of this in the first instance. This chamber was not given the ability nor the right to scrutinise the conditions on Manus Island or Nauru deliberately by the government, because they knew it would not pass the test that even the Houston panel suggested was needed. The Houston report...
outlines a list of things that need to happen—how people have to be treated, the conditions that they will be kept in, the appropriateness of services, the appropriateness of accommodation. The Houston report said that no-one could be sent to these offshore places without these things in place. The point is precisely that none of those things is happening and there is no-one to ensure that they start happening, because there is no independent scrutiny or checks. It is precisely why we need the Human Rights and Equal Opportunity Commission to have access.

I come back again to the fact that the government are more concerned about hiding what is going on in these places than making sure that they are following their own policies or the recommendations of the Houston report. The fact is that those things are in the report and they have not been done. You are more interested in trying to cover it up. That is the truth of it. They are not in law and they are not binding. This government would prefer that it stayed out of the public eye—that Australian taxpayers did not know that they are spending $10 billion on decrepit, inhumane, wet, insufficient camps of cruelty. That is the reality of this. Chair, I ask that the amendments be put.

The TEMPORARY CHAIRMAN (Senator Boyce): The question is that the Australian Greens amendments (1) and (2) on sheet 7350 be agreed to.

(Temporary Chairman—Senator Boyce)
The committee divided [11:06]

| Ayes: 10 | Noes: 27 | Majority: 17 |

AYES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)

Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ

AYES

Whish-Wilson, PS
Wright, PL

NOES

Back, CJ
Boyece, SK
Cameron, DN
Colbeck, R
Crossin, P
Farrell, D
Feeney, D
Ludwig, JW
McEwen, A
Moore, CM
Ruston, A
Smith, D
Thistlethwaite, M
Williams, JR (teller)

Bilyk, CL
Brown, CL
Cash, MC
Collins, JMA
Edwards, S
Faulkner, J
Gallacher, AM
Marshall, GM
McKenzie, B
Pratt, LC
Singh, LM
Sterle, G
Uruqhurt, AE

Question negatived.

Senator HANSON-YOUNG (South Australia) (11:09): by leave—I move Greens amendments (1) and (2) on sheet 7349 together:

(1) Schedule 1, page 6 (after line 28), after item 18, insert:

18B After subsection 198AB(6)
Add:

(6B) If the Minister designates a country or has previously designated a country under subsection (1), the Minister must:

(a) subject to the media access protocol referred to in paragraph (c), ensure that the country provides assurances that it will provide accredited media representatives with reasonable access to any place where a person who is an unauthorised maritime arrival for the purposes of this Act is detained, housed or otherwise held; and

(b) subject to the media access protocol referred to in paragraph (c), ensure that the country provides assurances that it will provide accredited media representatives with reasonable access to interview and speak with a person (being a person who consents to be interviewed)
who is an unauthorised maritime arrival for the purposes of this Act; and

(c) enter into a media access protocol with the country that allows accredited media representatives to enter a place where a person who is an unauthorised maritime arrival is detained, housed or otherwise held for the purposes of:

(i) general reporting on the facilities operation and status (including for the purpose of taking photographs, recordings and other footage); and

(ii) interviewing and speaking with a person (being a person who consents to be interviewed) who is detained or otherwise held at the place; and

(d) make publicly available the media access protocol referred to in paragraph (c).

(2) Schedule 1, page 12 (after line 14), after item 60, insert:

60B Application provision—subsection 198AB(6B)

Subsection 198AB(6B) of the Migration Act, as inserted by this Schedule, applies in relation to a designation that is made before or after commencement.

The second lot of amendments that the Australian Greens are moving this morning relate directly to the establishment of media access protocols for detention centres and camps on Manus Island and Nauru. There are two technical amendments which allow for this to occur.

The media have access to Australian based detention centres, subject of course to appropriate media access protocols, but for some reason—and there is only one conclusion to be drawn—the government has not been willing to allow media into the detention centres on Manus Island and Nauru. I will read amendment (1) so it is very clear to people what it does. If the minister designates a country, such as Manus Island or Nauru, or has previously designated a country under subsection (1), the minister must:

(a) subject to the media access protocol referred to in paragraph (c), ensure that the country provides assurances that it will provide accredited media representatives with reasonable access to any place where a person who is an unauthorised maritime arrival is detained … for the purposes of:

(i) general reporting on the facilities operation and status (including for the purpose of taking photographs, recordings and other footage); and

(ii) interviewing and speaking with a person (… who consents to be interviewed) who is detained or otherwise held at the place; and

(b) subject to the media access protocol referred to in paragraph (c), ensure that the country provides assurances that it will provide accredited media representatives with reasonable access to interview and speak with a person …

(c) enter into a media access protocol with the country that allows accredited media representatives to enter a place where a person who is an unauthorised maritime arrival is detained … for the purposes of:

(i) general reporting on the facilities operation and status (including for the purpose of taking photographs, recordings and other footage); and

(ii) interviewing and speaking with a person (… who consents to be interviewed) who is detained or otherwise held at the place; and

(d) make publicly available the media access protocol referred to in paragraph (c).

This is fundamental to allowing not just proper scrutiny of the conditions within these camps but also proper scrutiny and assurances for the Australian taxpayer. Australian taxpayers are paying $10 billion a year, including this year, with the establishment of these awful camps. These are Australian run camps. They are Australian funded, they are managed by Australian representatives and most of the workers in these places are Australian. This is all under the auspices of Australia. The Australian people have a right to know what is going on in these camps and what their money is being spent on.

This amendment does not allow for the doors to be flung open and for anyone to
come in and take photographs and footage. It requires that there be an agreement and a proper media access protocol established, with assurances from the host country that the media will be able to gain access, interview those who wished to be interviewed and take photographs of the conditions—all within an appropriate protocol. We do not even have a protocol at the moment. There are no rules against visiting these detention centres, apart from the fact that the government says you cannot. Media agencies here in Australia have for some time now been able to talk to and interview people within Australian detention centres if they follow the appropriate media access protocols. All this amendment is asking for is that the same type of access be available on Manus Island and Nauru. It is common sense—it allows for proper transparency and proper scrutiny, and it gives an assurance to the Australian people that they can find out what is going on in these places.

It should not be that difficult for the government to give assurances that media who follow the appropriate rules can have access—unless, of course, the government have something to hide; unless, of course, what is going on in these places is so atrocious, so out of step, that they do not want the Australian people to know. I have a question for the minister: will the government allow for the establishment of these media access protocols and allow for media to visit these detention centres to find out what is really going on?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (11:15): The government is of the view that it is inappropriate to make any amendments to the bill that impose upon the independence and authority of sovereign nations in the way Senator Hanson-Young has proposed. As sovereign nations, it is the exclusive decision of the governments of Nauru and PNG to determine to whom they grant lawful entry into their respective countries. As a corollary to that, access to regional processing centres is at the discretion of the governments of Nauru and PNG and it is not appropriate that that be legislated by the Australian government.

The Australian government is working with both of the regional processing countries on what the arrangements will be for suitable visitor and media access. That work is continuing. However, we do not see any merit in legislating in the way proposed in the Greens amendments.

Senator HANSON-YOUNG (South Australia) (11:17): I have brought these amendments to the chamber today because there is no guarantee that anything that the minister has just described will happen. Back in October I asked the minister and the department during Senate estimates when we would get media protocols and access guidelines for Manus Island and Nauru. We were told they would have a look at it; they might try to draft something. That was almost nine months ago.

This government have no intention to provide proper scrutiny and transparency of what is going on in these god-awful places. No commitment could be undertaken that would convince anyone that they are serious about doing this. If they believe it is important, they can make sure it goes in the act. I am not dictating how the provisions have to look, or in what time frame they have to be put in place. They have already had nine months and nothing has eventuated. I am saying that the act must stipulate that it should be done. Otherwise, we know there is absolutely no way the Australian people can trust the government to do this.
The Australian people know there is no way we can trust this government on anything to do with asylum seekers and refugees. Every time we are promised something, the promise is broken. Every time we are told people will be treated properly, we find out they are not. Every time we hear children will not be subject to harsh treatment, we find out they are being subjected to harsh treatment. Every time we hear from the government that they are working on making the system fairer, we find out there has been nothing done. Unless it is in the act, it will not happen.

I do not believe the other side would be any more inclined to stick to their word. I do not have any hope that, if we had a coalition government, they would be allowing the media to access detention centres on Manus Island or Nauru either. If this government believe that it should happen and that it is important, they should put it in law. They either believe it is important and it needs to be in the legislation—particularly ahead of the September election—or they do not. The fundamental message from all this is that there is no commitment to proper scrutiny of what is going on in these places, and there is absolutely no way the government wants the media finding out about it.

A couple of weeks ago the Four Corners report on Manus Island and Nauru was aired. That footage had to be smuggled out. What does that say about our government and our laws—that the only way to find out how we are treating vulnerable refugees, under a system we are paying billions of dollars for, is to smuggle out footage of these places?

What does that say about basic democracy, about fundamental understandings of transparency, about how we spend our money, about how we treat people and about how the government is in line with the law? When it gets to a point where refugees have to smuggle out footage of the conditions they are in, or Australians have to go in to get it and sneak it out, to give us an understanding of what is really going on, that is not something Australia should be proud of. These conditions are more like those in some of the countries these people fled from in the first place.

It is clear that the only take-home message from all of this is that the government does not want the Australian people to see what is really going on inside. If there is nothing to hide then let the media in and commit to putting it in law so that it cannot be abused, so that there is no ambiguity about the right of media to speak to people in detention, to see the conditions and to report back to the Australian people about how their money is being spent and how these individuals are being treated. If there is nothing to hide, then open the doors.

The TEMPORARY CHAIRMAN (Senator Boyce) (11:24): The question is that Greens amendments (1) and (2) on sheet 7349 be agreed to.

The committee divided. [11:28]

(The Temporary Chairman—Senator Boyce)

Ayes ...................... 10
Noes ...................... 31
Majority ................. 21

AYES
Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Wright, PL

NOES
Back, CJ
Boyce, SK
Bushby, DC
Cash, MC
Collins, JMA
Edwards, S

Bilyk, CL
Brown, CL
Cameron, DN
Colbeck, R
Crossin, P
Eggleston, A
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NOES

Farrell, D  Faulkner, J
Feeney, D  Fifield, MP
Kroger, H (teller)  Ludwig, JW
Lundy, KA  McEwen, A
McKenzie, B  Moore, CM
Pratt, LC  Ruston, A
Singh, LM  Smith, D
Sterle, G  Thistlethwaite, M
Thorp, LE  Urquhart, AE
Williams, JR

Question negatived.

Senator HANSON-YOUNG (South Australia) (11:31): by leave—I move Australian Greens amendments (1) to (4) on sheet 7383:

(1) Schedule 1, page 7 (after line 4), after item 19, insert:

19A Subsection 198AD(1)
Omit “and 198AG”, substitute “, 198AG and 198AJ”.

(2) Schedule 1, page 10 (after line 15), after item 47A, insert:

47B At the end of Subdivision B of Division 8 of Part 2
Add:

198AJ Vulnerable persons
(1) Section 198AD does not apply to an unauthorised maritime arrival if the person is a vulnerable person for the purpose of subsection (2).

(2) A person is a vulnerable person for the purpose of this subsection if:

(a) the person was an unauthorised maritime arrival at any time on or after 13 August 2012; and

(b) the person was taken from Australia to a regional processing country pursuant to subsection 198AD(2) of the Migration Act 1958; and

(c) the person was a vulnerable person for the purpose of subsection 198AJ(2) at the time the person was taken to the regional processing country; and

(d) the person is a vulnerable person for the purpose of subsection 198AJ(2) at the time the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013 receives the Royal Assent.

(3) Subject to subitem (4), an officer must, as soon as reasonably practicable, take an offshore entry person to whom this subitem applies, from the regional processing country to a place located in Australia.

(4) Page 14 (after line 21), at the end of the Bill, add:

Schedule 3—Further contingent amendments

Immigration (Guardianship of Children) Act 1946
1 Section 4 (definition of regional processing country)
Repeal the definition.

2 Paragraph 6(2)(b)
Repeal the paragraph.

3 Paragraph 8(3)(b)
Repeal the paragraph.

The final amendments the Australian Greens are moving this morning concern children and families being detained on Manus Island. There are a number of people within the Australian community—and this is also reflected in here and in the other place—who are incredibly uncomfortable with the indefinite detention of children on Manus Island.

We know that the conditions there are substandard. The UNHCR has told us that.
We know that the conditions are inappropriate for children, harmful for children. Not only has the UNHCR said that; Amnesty International has also told us that. We know that even the government's own Department of Immigration and Citizenship believes that the current conditions on Manus Island are pretty poor.

Many Australians were shocked and horrified when the Four Corners report was aired a couple of weeks ago and they saw the conditions children were being kept in. There are other people in this place, from other parties, who also do not believe that vulnerable children and their families should be kept on Manus Island. Senator Cameron has said that he does not believe that children should be kept on Manus Island. I agree with Senator Cameron. The opposition's spokesperson on immigration, Mr Morrison, has said that he is uncomfortable with the idea of children being kept on Manus Island.

When I went to Manus Island at the end of January, before parliament resumed this year, I met with the children who were being detained there. It was a pretty harrowing experience. When I was there, there were 35 children. The youngest was seven; the oldest was 17. There was one little boy who was very clearly distressed.

I met the children without their parents—I had their parents' consent. I met with them, sat with them and talked with them. They all talked to me about how awful it was being locked up there. They asked what they had done—what was the bad thing they had done which meant they had to be locked up in this prison? This little boy, who was clearly depressed, told me that he was scared and upset but that he could not cry. He had stopped himself from crying—because every time he cries, his mum cries. And his mum cries all the time. This is that little boy's picture: 'My mum is crying and I am sad.'

This is the naked truth of what we are doing to children on Manus Island. Other children talked about how they felt as if they were locked in prison. This is a picture of a young boy staring out from inside the fence: 'This is a boy; he is in prison and waiting.' This is from an eight-year-old child.

They were all taken to Manus Island on a plane and they told me the stories of how they were taken there. They were ripped out of their beds on Christmas Island, some of them at four or five o'clock in the morning. They were given no warning. They were put onto the plane in the middle of the night. They talked about how they had had to take the almost 10-hour flight—there was a stopover where they remained on the plane—while still in their pyjamas, terrified about what was going to happen to them.

They are in this camp, which is hideous. Not one person, aside from the immigration minister, believes that these conditions are appropriate. It is a place of cruelty. In this hideous, hideous camp, there is really nothing for these children to do, so they are watching all the time, and, when they see planes flying over, they think the plane is coming to get them to take them back to safety. 'When there is an aeroplane in the sky, all the kids start to cry and ask for leaving Manus with it.' That was from a 10-year-old child that I met when I was on Manus Island.

I know this issue is difficult. I have never argued that there is a simple solution to addressing the needs of asylum seekers who arrive on our shores. I do not think there is a simple solution. But I do not believe that we should be punishing children in some way to pretend that there is a simple solution. We are sacrificing these children's lives. We are— and I do not say this lightly—subjecting these children to child abuse, to institutionalised abuse, to child abuse by
policy. We are creating a damaged generation. Most of these kids, at the end of this, are going to come to Australia, be given protection, because they deserve it, and become Australian citizens—and we have damaged them. We have damaged them. They will become the next damaged generation.

Children and their families cannot be kept in detention in these camps of horror. We must bring them to Australia, assess their claims fairly, treat them with care—look after these poor kids. These children have fled some of the most horrendous circumstances we can imagine—war, torture, brutality. They have seen their parents subjected to torture. And now we have them locked up in conditions that are inhumane, where they are witnessing adults who are under so much pressure that they are threatening to take their own lives, attempting self-harm—and these kids are seeing it all. It is not right.

We debate in this place all the time how we manage this issue. There has to be something said for protecting children and standing up for the rights of these children when they are totally voiceless. If we do not do it in this place, who is going to? If we cannot see that subjecting these children to these types of conditions is dangerous, is cruel, what will we be prepared to do next? It was wrong when John Howard detained children in Woomera. It was wrong when John Howard detained children on Manus Island. It is wrong today to have children detained in our detention centres. It is wrong to be detaining children on Manus Island. It is wrong today to have children detained in our detention centres. We have the capacity to assess their claims here and stop treating them like animals, subjecting them to abuse and creating the next damaged generation. I seek leave to table our pictures.

Leave granted.
institutionalised and abused; we have apologised to them. And we have apologised for forced adoptions. And every single time we get up and say: 'Oh—if only we had known,' or 'It was the culture of the period,' or 'What a shocking thing was happening to these children, and it ought not to have happened.' And we have admitted that we created a scarred generation, in each of those cases, that has gone on for generations ever since. The difference is: not one of you who votes against this amendment, in 10 years, 15 years or 20 years, when there is a national apology to the children detained indefinitely in detention for the sole supposed crime of seeking a better life in our country because they are running away from persecution with their families—not one of you will be able to stand up and say: 'Oh, we didn't know,' or, 'It was the culture of the period,' or, 'It was the best way, we thought, of saving their lives, by locking them up in detention in places which the UNHCR has said are completely unsuitable.'

The UNHCR went to Manus Island, and their report speaks for itself. They say that it is totally inappropriate, the way that children are being detained there. But this parliament seeks to take no notice of that. This parliament seeks to perpetrate the lie—and it is a lie—that locking people up in indefinite detention is saving their lives because it is stopping them drowning. Well, that was a ridiculous proposition in the first place and it remains a ridiculous proposition.

Since you have taken these measures, the more cruel they get, the more people are arriving in our country. That is why we are here today—because you are excising the whole of the Australian mainland in order to take away people's human rights. That is what you are actually doing here today, because more and more people are arriving as you get more and more cruel. That says to me that your deterrence policy does not work, has not worked, will not work, is not working right now, and more and more and more people are risking their lives, not fewer and fewer and fewer. So you are actually deliberately choosing cruelty. You are deliberately choosing to punish children. And there is no justification for it at all—none. Look in the eyes of a child and say: 'What crime have you committed? The crime you have committed is: as a child, you have come here with your family to seek a better life.' And, as I said, if you were in the criminal justice system, no child would be detained unless they had committed a serious or violent crime.

If this parliament will not stand up for children, who will? Is it any wonder that every mental health expert in the country is saying that we are driving people into more and more desperate circumstances? These children are witnessing the mental torment of their parents. They are put in vulnerable circumstances. Not only are they in physically difficult circumstances on Manus Island, as has been shown to the country with television footage—it is hot; it is humid; it is a bad place to be keeping people in terms of the physical environment—but the mental cruelty, the torture, that is going on on an ongoing basis, every day, to those children is unacceptable. You all know about it. Many of you have your own children. You all think it is fine for somebody else's children to be punished, to be kept in indefinite detention, to suffer the mental scars for the rest of their lives—but it is okay, because your children will never be in that position.

Well, I am very glad to be standing here today on behalf of those children. I am very proud to be standing here with my Green colleagues—with Senator Sarah Hanson-Young who has just spoken so eloquently on behalf of those children and reported on the visit that she made to those children on Manus Island earlier this year. And it is not
just the Greens. The UNHCR is saying it. But this parliament chooses to ignore the UNHCR.

The hypocrisy here is extreme when it comes to many members of the Labor government because, in 2006, when John Howard tried to excise the whole country, Labor was up in arms and the Greens spoke strongly against it then and it was not proceeded with. But now Labor in government has done what the former Prime Minister John Howard was not able to do. You have gone even further. Every day you come up with more and more cruel options. Every day those options cost the Australian people huge amounts of money, in a budgetary sense, with a massive blow-out for your cruel detention centres.

But it is not the financial cost which is the greatest cost to the nation. The greatest cost to the nation is the disappointment, the heartbreak, the mental damage and the scarring, as well as the physical damage, of a whole generation, the majority of whom are going to be found to be refugees who meet the criteria under the refugee convention. What are you going to say to them when, at some point, you decide that your 'no advantage' clause is completely unacceptable? What are you going to say about having locked up these children and deprived them of media access? You know it is wrong; otherwise, you would be allowing the media in there to take pictures and to talk to people. You know it is wrong. Not only is it 'Out of sight, out of mind'; it is about, 'Lock them up, throw away the key, pull down the curtains; let's not show people what we are doing.'

The media has been able to show some images, and this parliament has been shown some drawings. You know what is going on: you are choosing cruelty to children; you are choosing punishment for innocent children. I ask, when these amendments are put, that you think very carefully as you vote, and as your name is recorded against this vote, of what you are going to say to your own children when they ask you, 'Why did you do this?' And please don't lie to your own children and say, 'I did it to save their lives,' because your policy is not saving lives by stopping anyone getting on boats and coming here by sea—there has been a quadrupling of the numbers of people coming on boats. So if that is your concern then you should abolish this policy at once, because this policy has, in your eyes, driven a greater increase.

But the fact is, whether you like it or not, that if you send an army into Iraq on a lie, if you cause the problems that have occurred subsequent to the war in Iraq, you will have refugees leaving Iraq. If you go into Afghanistan, and you witness what is going on in Afghanistan, and you say that the Taliban in Afghanistan must be defeated, and that is why we have troops there, and people are running away from the Taliban—the people we agree are cruel; the people we agree are persecuting the Hazara—don't then say, 'Yes, run away, but don't come to us, because we will lock you up and keep you there indefinitely, because we don't want you in our country.'

It is the same in Sri Lanka. You all know that the Rajapakse regime in Sri Lanka is carrying out, as we speak, persecution and human rights abuses in Sri Lanka right now. You all know that, and yet you are pretending you do not. The reason we are getting more and more Sri Lankans is that they are being persecuted by the Rajapakse. You have just had the International Commission of Jurists bring out a report talking about the impeachment of the chief justice; you have had reports of what is going on in that country, with disappearances, where academics are disappearing in white vans—you have had
all of those things. And yet you choose to pretend and listen to the Rajapakse saying, 'No, everything's fine in Sri Lanka; it's not a problem.' Well, it is a problem—and that is why people are leaving, and you know it. So you all know that the reason people are leaving their countries is that they are persecuted.

I went to the Pontville detention centre not long ago, when 129 children, unaccompanied minors aged between 14 and 18—young men—were brought to that detention centre. And they talked about the persecution that they had suffered and that they had run away from. You know that is happening; you know the Hazara are being persecuted; you know they are genuine refugees—but you choose base domestic politics of fear and mean-spiritedness above decency, humanity and compassion when it comes to the treatment of children. That is what you are doing. We are standing here in this parliament to make a plea for those children: bring them home from Manus Island. Bring them home now. Bring their families home. Bring them to Australia and have them assessed against their asylum-seeking claims.

Don’t do what you are doing and excise the whole country and go into the same immoral space where the former Prime Minister, John Howard, tried to take Australia and where you are now taking this nation.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (11:57): Prior to transfer, individuals will undergo an assessment of their particular circumstances to confirm that transfer is reasonably practicable and to identify any health issues or particular vulnerabilities that might need to be taken into account. This will be done on a case by case basis to assess individual circumstances. But we do consider sufficient safeguards are in place to protect vulnerable persons and that exempting children and their families would simply encourage people-smugglers to put children on boats to Australia.

The CHAIRMAN: The question is that Australian Greens amendments (1) to (4) on sheet 7383 be agreed to.

The committee divided. [12:02]

(The Chairman—Senator Parry)

Ayes ...................... 10
Noes ...................... 28
Majority................... 18

AYES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Wright, PL

NOES

Back, CJ
Cameron, DN
Collins, JMA
Edwards, S

Bilyk, CL
Cash, MC
Crossin, P
Farrell, D

CHAMBER
Question negatived.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (12:04): by leave—I move government amendments (1) to (3) on sheet BV293 together:

(1) Schedule 1, item 47A, page 10 (after line 15), after section 198AI, insert:

198AJ Reports about unauthorised maritime arrivals

(1) The Minister must cause to be laid before each House of the Parliament, within 15 sitting days of that House after the end of a financial year, a report on the following:

(a) arrangements made by regional processing countries during the financial year for unauthorised maritime arrivals who make claims for protection under the Refugees Convention as amended by the Refugees Protocol, including arrangements for:

(i) assessing those claims in those countries; and

(ii) the accommodation, health care and education of those unauthorised maritime arrivals in those countries;

(b) the number of those claims assessed in those countries in the financial year;

(c) the number of unauthorised maritime arrivals determined in those countries in the financial year to be covered by the definition of refugee in Article 1A of the Refugees Convention as amended by the Refugees Protocol.

(2) However, a report under this section need deal with a particular regional processing country in accordance with subsection (1) only so far as information provided by the country makes it reasonably practicable for the report to do so.

(3) A report under this section must not include:

(a) the name of a person who is or was an unauthorised maritime arrival; or

(b) any information that may identify such a person; or

(c) the name of any other person connected in any way with any person covered by paragraph (a); or

(d) any information that may identify that other person.

(2) Schedule 1, heading to Part 2, page 12 (line 1), after "Application", insert "transitional".

(3) Schedule 1, page 12 (after line 19), after item 61, insert:

61A Transitional provision—section 198AJ of the Migration Act

Section 198AJ of the Migration Act applies to the period beginning on 13 August 2012 and ending on the first 30 June after commencement as if that period were a financial year.

The Senate Legal and Constitutional Affairs Committee report made a recommendation that the bill be amended to require the Minister for Immigration and Citizenship to report annually to both houses of parliament with respect to matters relating to unauthorised maritime arrivals, including arrangements for assessing their claims, accommodation, health care and education. Additionally, the committee recommended the minister report on the number of asylum claims by unauthorised maritime arrivals that are assessed and determined to be refugees during each 12-month period. This amendment gives effect to those recommendations.

Senator HANSON-YOUNG (South Australia) (12:05): Despite the Greens' support for more information to be given to
parliament in relation to how many cases the department is managing, there is a big get-out clause in this amendment which renders this entire amendment useless, and it is item (2). Despite the list of things that the minister is required to include in a report at the end of each financial year, under schedule (1), the amendment states:

(2) However, a report under this section need deal with a particular regional processing country in accordance with subsection (1) only so far as information provided by the country makes it reasonably practicable for the report to do so.

Time and time again, the government say they will do these things and then give themselves a get-out clause so that none of it has to happen. That is why, when we saw the allowance for Manus Island to be used for offshore processing, we did not have the information about what conditions people would be living in, how people would be treated or what services would be provided—because the act gives the minister total discretion as to what information he gives the parliament. For the minister to not give information, he just has to say he does not think it is reasonable. So this whole amendment is basically useless and it will not be getting the Greens' support.

The CHAIRMAN: The question is that government amendments (1) to (3) on sheet BV293 be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator HANSON-YOUNG (South Australia) (12:08): We have been debating this legislation for two hours and 20 minutes. We are about to excise Australia's entire mainland. We have dealt with amendments that relate to the detention of children on Manus Island. We have dealt with amendments that relate to giving appropriate media access to these detention centres. We have dealt with an amendment in relation to ensuring that Australia's Human Rights Commission has access. There is no evidence that this bill, if passed, will save any lives. In fact, all the evidence is to the contrary. It is going to cost people's lives and damage people who are already suffering from such harm.

This is a bad piece of legislation, an immoral piece of legislation, and all we see is the government and the opposition ramming it through in just over two hours, despite the fact that it was not meant to be on the agenda this morning. We think it is very important for people to understand that this is how desperate both the Labor Party and the Liberal Party are in the race to the bottom on refugees. They have discarded all proper process and are simply ramming this through. The result will mean more suffering, more harm and more damage to refugees who have fled war. It is a pretty low point in this parliament. It is a pretty low point for our country. John Howard could not succeed in getting this done, but Julia Gillard has.

The PRESIDENT: The question is that this bill be now read a third time.
The Senate divided. [12:15]
(The President—Senator Hogg)
Ayes....................28
Noes.....................10
Majority................18

AYS
Back, CJ
Cameron, DN
Collins, JMA
Edwards, S
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
McEwen, A (teller)
Moore, CM
Singh, LM
Sterle, G
Urquhart, AE

Bilyk, CL
Cash, MC
Crossin, P
Farrell, D
Fifield, MP
Heffernan, W
Kroger, H
Lundy, KA
McKenzie, B
Parry, S
Smith, D
Thorpe, LE
Xenophon, N

NOES
Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Wright, PL

Question agreed to.
Bill read a third time.

NOTICES
Withdrawal
Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:16): I withdraw government business notices of motion Nos 2, 3 and 5, which relate to the consideration of legislation.

Withdrawal
Senator XENOPHON (South Australia) (12:17): I withdraw business of the Senate notice of motion No. 3 in relation to a reference to the Foreign Affairs, Defence and Trade Legislation Committee.

COMMITTEES
Selection of Bills Committee
Report
Senator McEWEN (South Australia—Government Whip in the Senate) (12:18): I present report No. 5 of 2013 of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted.
The report read as follows—

SELECTION OF BILLS COMMITTEE
1. The committee met in private session on Wednesday, 15 May 2013 at 7.40pm.
2. The committee resolved to recommend—That—
   (a) the provisions of the Australian Jobs Bill 2013 be referred immediately to the Economics Legislation Committee for inquiry and report by 17 June 2013 (see appendix 1 for a statement of reasons for referral);
   (b) the Export Market Development Grants Amendment Bill 2013 that was considered at meeting 2 of 2012 on Wednesday, 27 February 2013 and not referred, was reconsidered. The committee recommends that notwithstanding its previous decision, that the bill be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 17 June 2013 (see appendix 2 for a statement of reasons for referral);
   (c) the provisions of the Private Health Insurance Legislation Amendment (Base Premium) Bill 2013 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 17 June 2013 (see appendix 3 for a statement of reasons for referral); and
   (d) contingent upon its introduction in the House of Representatives, the provisions of the Public Governance, Performance and Accountability Bill 2013 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report 3
3. The committee resolved to recommend—That the following bills not be referred to committees:

- Broadcasting Services Amendment (Advertising for Sports Betting) Bill 2013
- Customs Tariff Amendment (Incorporation of Proposals) Bill 2013
- Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Bill 2013
- Indigenous Education (Targeted Assistance) Amendment Bill 2013
- National Disability Insurance Scheme Legislation Amendment Bill 2013
- DisabilityCare Australia Fund Bill 2013
- Medicare Levy Amendment (DisabilityCare Australia) Bill 2013
- Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013
- Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013
- Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
- Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
- Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013
- Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013
- Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013
- Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013
- Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013
- Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013
- National Health Reform Amendment (Definitions) Bill 2013
- Statute Stocktake (Appropriations) Bill 2013.

The committee considered the Referendum (Machinery Provisions) Amendment Bill 2013 and, noting that the bill had passed the Senate on 15 May 2013, resolved to recommend that the bill not be referred to a committee.

The committee recommends accordingly.

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

- Interactive Gambling Amendment (Virtual Credits) Bill 2013
- Social Security and Other Legislation Amendment (Caring for Single Parents) Bill 2013
- Social Security Legislation Amendment (Caring for People on Newstart) Bill 2013
- Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Bill 2013
- Superannuation (Sustaining the Superannuation Contribution Concession) Imposition Bill 2013
- Tax Laws Amendment (2013 Measures No. 1) Bill 2013
- Tax Laws Amendment (Medicare Levy) Bill 2013.

(Anne McEwen)
Chair
16 May 2013

APPENDIX 1

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee:

Name of bill:
Australian Jobs Bill 2013

Reasons for referral/principal issues for consideration:
Submissions previously received by the Senate Economics Committee on the Exposure Draft raised issues for examination that have not been addressed in the Bill.
Possible submissions or evidence from:
Businesses and/or industry groups.

Committee to which bill is to be referred:
Senate Economics Committee

Possible hearing date(s):
May/June 2013

Possible reporting date:
(Late) June 2013

Senator Fifield
Whip/Selection of Bills Committee member

APPENDIX 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of Bill:
Export Market Development Grants Amendment Bill 2013

Reasons for referral/principal issues for consideration:
In undertaking the inquiry, the Committee should consider:
1. The consultation process with industry and other stakeholders;
2. The possible impact on exporters, particularly small exporters; and
3. The structure of the 'fit and proper person' test.

Possible submissions or evidence from:
Department of Foreign Affairs and Trade
AusTrade
Australian Chamber of Commerce and Industry Export Council of Australia
Association of Australina Convention Bureaux
Export Consultants Group

Committee to which the bill is to be referred:
Senate Standing Committee on Foreign Affairs, Defence and Trade Legislation Committee

Possible hearing date(s):
May/June 2013

Possible reporting date:
17 June 2013

(signed)
Senator McEwen
Whip/Selection of Bills Committee member

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Private Health Insurance Legislation Amendment (Base Premium) Bill 2013

Reasons for referral/principal issues for consideration:
To consider consequences for the Australian health system.

Possible submissions or evidence from:
Private Healthcare Australia
Australian Private Hospitals Association
Australian Medical Association

Committee to which bill is to be referred:
Community Affairs

Possible hearing date(s):
To be determined by the committee

Possible reporting date:
To be determined by the committee

(signed)
Senator Fifield
Whip/Selection of Bills Committee member

APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Public Governance, Performance and Accountability Bill 2013

The Bill proposes to reform the financial framework for Commonwealth agencies and has a whole of government impact.

Bill has been through an extensive process that has involved briefings to the Finance and Public Administration Committee.

Possible submissions or evidence from:
The Department of Finance and Deregulation
Other Government Departments and agencies
The Auditor General or another member of the Australian National Audit Office
Academics and interested stakeholders

Committee to which bill is to be referred:
Finance and Public Administration Legislation Committee
Possible hearing date(s):
To be agreed with the Committee at their discretion.
Possible reporting date:
3 June 2013
(signed)
Senator McEwen
Whip/Selection of Bills Committee Member

Senator McEWEN: I move:
That the report be adopted.
Question agreed to.

BUSINESS
Rearrangement
Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:18): I move:
That government business orders of the day, as shown in the list circulated in the chamber, are to be considered from 12.45 pm today, and that government business be called on after consideration of the bills listed in paragraph (a) and considered not until later than 2 pm today.
Question agreed to.

Consideration of Legislation
Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:18): I move:
That the order for general business for consideration today be as follows: (a) general business notices of motions No. 1, 2, 4 and 5, standing in the name of Senator Di Natale relating to sport betting law reform; and (b) orders of the day relating to government documents.
Question agreed to.

NOTICES
Postponement
The following items of business were postponed:

Senator Hanson-Young to postpone general business notice of motion no. 1218 to 20 June 2013 (bridging visas for asylum seekers)

Senator Madigan to postpone general business notice of motion no. 1243 to 24 June 2013 (introduction of the Health Insurance Amendment (Medicare Funding for Post-Operative Care for Illegal Organ Transplants) Bill 2013

MOTIONS
GrainCorp
Senator HEFFERNAN (New South Wales) (12:19): I seek leave to amend business of the Senate notice of motion No. 1 in the terms circulated in the chamber.
Leave granted.

Senator HEFFERNAN: I move the motion as amended:
That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 31 July 2013:

(a) whether such arrangements are in the interest of:
(i) Australia’s farmers, and
(ii) Australia’s long term food security interest;
(b) whether the potential impacts on competing grain traders’ access to grain handling facilities, ports, silos and transport infrastructure;
(c) whether there are potential impacts for grain traders, and a competitive marketplace, of access to warehoused grain stock information;
(d) whether there is potential for conflict between the responsibility to shareholders and the best
interests of Australian producers and consumers; and
(f) any other related matters.
Question agreed to.

COMMITTEES
Rural and Regional Affairs and Transport References Committee
Reference
Senator DI NATALE (Victoria) (12:20):
I move:
That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 27 June 2013:
The practice of sports science in Australia with regard to:
(a) the current scope of practice, accreditation and regulation arrangements for the profession;
(b) the role of boards and management in the oversight of sports scientists inside sporting organisations;
(c) the duty of care of sports scientists to athletes, and the ethical obligations of sports scientists in relation to protecting and promoting the spirit of sport;
(d) avenues for reform or enhanced regulation of the profession; and
(e) any other related matter.
Question agreed to.

MOTIONS
Suspension of Standing Orders
Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:20): I move:
That standing order 110 be suspended to enable the third reading of a constitution alteration bill relating to local government to be passed without a roll call.
Question agreed to.
BILLS

Interactive Gambling Amendment (Virtual Credits) Bill 2013

First Reading

Senator XENOPHON (South Australia) (12:22): I move:

That the following bill be introduced: A Bill for an Act to amend the Interactive Gambling Act 2001, and for related purposes.

Question agreed to.

Senator XENOPHON: I present the bill and move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator XENOPHON (South Australia) (12:22): I move:

That this bill be now read a second time.

I table the explanatory memorandum relating to the bill and seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

INTERACTIVE GAMBLING AMENDMENT (VIRTUAL CREDITS) BILL 2013

This bill aims to address a serious and significant loophole in our current online gambling laws. Online gambling is developing at a rapid pace; it now goes beyond sports betting and online poker to a myriad of different games played through Facebook, on iPhones and internet gaming.

Currently, the definition of 'gambling service' in the Interactive Gambling Act 2001 reads:

(a) a service for the placing, making, receiving or acceptance of bets; or

(b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or

(c) a service for the conduct of a lottery; or

(d) a service for the supply of lottery tickets; or

(e) a service for the conduct of a game, where:

(i) the game is played for money or anything else of value; and

(ii) the game is a game of chance or of mixed chance and skill; and

(iii) a customer of the service gives or agrees to give consideration to play or enter the game; or

(f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.

Currently, under the law, virtual items purchased within a game or in relation to a game are not considered 'items of value' under this definition. That means that many of the games currently operating, which any reasonable person would consider to be gambling, do not come under the regulations set out in the Act.

I was first made aware of this issue when a constituent of mine approached me. He had been playing a game called DoubleDown Casino through Facebook. At the start, players used free virtual chips to gamble on roulette and blackjack. However, as the game progressed, players — including my constituent — had to purchase additional virtual chips with real cash.

The problem came when my constituent tried to cash out his winnings, and couldn't. Despite the fact he had paid real money to gamble, the game would not allow him to exchange the virtual chips he had won for hard currency. He was only able to cash out his winnings for more virtual chips.

The problem came when my constituent tried to cash out his winnings, and couldn't. Despite the fact he had paid real money to gamble, the game would not allow him to exchange the virtual chips he had won for hard currency. He was only able to cash out his winnings for more virtual chips.

At the time, I wrote to the Australian Media and Communications Authority, asking them to investigate the operator for breaches of the Interactive Gambling Act. My belief was that this was a clear example of a gambling service, and therefore prohibited under the Act.

However, ACMA responded that because the chips were virtual and gamblers were therefore not technically playing for real money, DoubleDown was not covered by the definition of...
'gambling service' and therefore not subject to the provisions in the Act.

In short, there was nothing ACMA could do.

I also wrote to Minister Conroy, who responded that this matter would be considered as part of his Department's review of the Act. However, no changes were suggested or implemented on this matter once the review was concluded.

This is a clear loophole in relation to online gambling regulation. It is a simple matter of consumer protection, and the fact that this definition in the Act has failed to keep pace with technology, and it doesn't take into account the way many of these sites operate. The current legislation is 12 years old. Given the rapid take-up of online gambling and the expansion of the industry, it needs to be overhauled.

DoubleDown is not a one-off example. On a similar front, Zynga Poker is an online gambling game where players also use virtual items or credits to bet. However, Zynga goes one step further and sells 'gift cards'; in supermarkets and toy stores, which can be used to purchase items within the game. These cards can be purchased, using real money, by children as young as thirteen – or even younger, if that restriction is not enforced at the point of sale.

Zynga, like DoubleDown, does not allow these virtual credits to be cashed out.

Dr Charles Livingstone of Monash University is an expert in gambling behaviours, and has previously spoken out about his concerns with these kinds of online games and the access children have to them.

Earlier this year, speaking to the ABC he said: "They are in a sense preparing kids to find gambling, particularly slot machine or poker machine gambling, an attractive form... It's hard for governments to act when these things emerge but I do think that it is an important priority that they act to ensure that young people do not have access to games which mimic existing gambling opportunities and which have the potential to create a whole new generation of gambling-dependent young folk."

We have seen multiple examples of games played through social media or online gaming where buying virtual items with real cash is commonplace. These virtual items become a de facto currency for the game and take on an intrinsic value.

There have even been court cases overseas where people have been charged and penalised for the theft of virtual items.

We are lagging seriously behind in consumer protection measures on this front. These games are genuine gambling activities and involve the loss of real money; in fact, they cannot truly be called 'games' at all.

They need to be appropriately regulated and controlled so that consumers, including children, are protected.

This bill amends the definition of 'gambling service' to specify that 'items of value' include virtual tokens, credits, coins, objects or any similar thing that is purchased within, or as part of, or in relation to, the game.

This will ensure that sites such as DoubleDown and Zynga have to come clean about their activities, and that consumers will know whether they are participating in gambling activities or not.

It will also ensure that these sites are not available to children.

This measure is straightforward and necessary, and it will significantly improve consumer protection and online gambling regulation in Australia.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Marriage Act Amendment (Recognition of Foreign Marriages for Same-Sex Couples) Bill 2013

First Reading

Senator HANSON-YOUNG (South Australia) (12:23): I move:

That the following bill be introduced: A Bill for an Act to amend the Marriage Act 1961 to recognise same-sex marriages solemnised in a foreign country, and for related purposes

Question agreed to.
Senator HANSON-YOUNG: I present the bill and move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator HANSON-YOUNG (South Australia) (12:24): I move:
That this bill be now read a second time.
I table the explanatory memorandum and seek leave to have the second reading speech incorporated in Hansard.
Leave granted.

The speech read as follows—

MARRIAGE ACT AMENDMENT (RECOGNITION OF FOREIGN MARRIAGES FOR SAME-SEX COUPLES) BILL 2013

This Bill amends the Marriage Act 1961 so that same-sex marriages that were validly entered into in foreign countries can be recognised in Australia.

Under current Australian law, international marriages of different-sex couples are legally recognised but same-sex international marriages are barred from recognition through an explicit prohibition in the Marriage Act.

This bill removes that prohibition and inserts new clauses that make it abundantly clear that all marriages, regardless of the gender or sexual orientation of the couple, will have full legal status and recognition upon the married couple's return to Australia.

It is worth noting that this Bill has been introduced shortly after our neighbours in New Zealand became the fourteenth country to bring in full marriage equality.

Last month Australians watched on with joy and envy as the New Zealand Parliament secured the fantastic achievement of marriage equality and was cheered on by supporters around the world.

There are already thousands of Australian couples planning to marry in New Zealand from late 2013 onwards. There is no residency requirement in the New Zealand Marriage Act so Australian same-sex couples will be free to marry there.

Those couples will join the many Australians who have been travelling the world over the past decade to get married, only to come back home to the country that they love to find their marriage is not recognised. Despite being legally married in the foreign country, in their homeland they step off the plane and have to leave their marriage at the customs gate.

This is not in the spirit of what Australians really want to see in this country. Public support for marriage equality is the same in New Zealand as in Australia, which is that a 65% majority of people want to see marriage equality happen. But as long as we do not have full marriage equality here in Australia, we should at least recognise the marriages of all couples – lesbian, gay and straight – who have legally married overseas.

This bill offers a modest and practical step forward to marriage equality and it is consistent with the foundational Australian ideal of equality before the law.

The marriages that are the subject of this Bill have been entered into by the parties with sincerity and commitment and are valid marriages under the law of the county where it was solemnised. The couples have gone to the effort and emotional investment of organising a wedding in a foreign country, often at great expense and involving family and friends from Australia, and they have made vows that would be life-long if they were to remain in the country where the wedding was held. The solemnity of the vows that these couples made overseas should be recognised by Australia's parliament and people.

There a number of countries that recognise international same-sex marriages without having domestic laws to perform same-sex marriages, including Israel, Slovenia, Japan and the Netherlands.

Couples from those countries can marry in one of the fourteen countries which have marriage equality, such as Argentina, the Netherlands, France or New Zealand, and then return to have
their marriage recognised under the laws of their homeland.

It makes legal and moral sense for Australians to have the same privilege. These married couples are not the legal strangers that our laws say they are. Rather, they are two committed, loving, validly married people under the laws of a foreign nation and they should be recognised under Australian as such.

I commend this Bill to the Senate.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

COMPETITION AND CONSUMER AMENDMENT (AUSTRALIAN COUNTRY OF ORIGIN FOOD LABELLING) BILL 2013

The purpose of this bill is to amend the Competition and Consumer Act to create specific provisions for country of origin labelling requirements for food.

In doing so it responds to key recommendations from the Independent Blewett Review of food labelling in Australia in his report "Labelling Logic".

At the heart of these recommendations is the contention that that country of origin labelling for food should be treated differently from other goods because, as Blewett noted "food is ingested unlike other consumer goods that are just used". However, it should be addressed through consumer law rather than food safety standards, as ultimately it is a matter of truth and accuracy in labelling.

This bill responds to these recommendations by creating a specific provision in the Competition and Consumer Act for the treatment of country of origin claims for food with some proportion of Australian content, separate from other goods.

To assist with the well-documented confusion arising from current country of origin labelling practises, this bill sets out to create a simple three-tier standard of labelling for food with any form of Australian origin or processing.

In the first instance, it retains the well-established premium of 'Product of Australia', where all the significant ingredients and processing must have occurred in Australia to make this claim.

For fresh unpackaged food, it also allows the use of 'Grown in Australia' as this is a clear and now well-established and understood claim.

Secondly, for food that has been manufactured in Australia, that is substantially transformed, it requires such packaged food to be labelled 'Manufactured in Australia'. This term is specified to replace 'Made in Australia' because consumer research has shown that people confuse the term 'Made in', thinking it denotes the origin of the food, not just where it was processed.
This amendment will achieve two important improvements: it will clarify for consumers that the label is about where the food has been processed, not where the ingredients are from; provide a strong label identifying local manufacture to help Australians support local jobs in food processing; and it will help prevent imported food from masquerading as Australian content by making it clear that this label only speaks to the processing, not the ingredients.

A further reform in this bill is that it provides for the creation of a regulation to provide clear guidance on the meaning of 'substantial transformation' in relation to food processing. It is clear from the evidence that understanding what qualifies as food manufacturing – that is substantial transformation – is a grey area, and some companies push the envelope in their claims.

It must be remembered that the purpose of the substantial transformation test is to reward significant investment and jobs in local food manufacturing. The system breaks down if manufacturing claims are made for much lesser and often more transient investments.

Therefore this bill recommends that a regulation on the definition of substantial transformation provide a list of processes that do not qualify. This would significantly increase the clarity and transparency of 'Manufactured in Australia' claims, and support local food processing jobs.

It is worth noting too, that historically the companies investing in genuine food manufacturing in Australia are the most likely to also be sourcing local food for their products. To further encourage clear labelling of Australian ingredients, this bill allows for the voluntary highlighting of local content that comprise significant ingredients – for example a chocolate might therefore be labelled "Manufactured in Australia from Australian milk".

This allows for the fact that there are some foods manufactured in Australia that don't use all local ingredients for the simple reason that Australia does not produce it in sufficient quantity for it to be possible – cocoa beans for making chocolate being a good example. But it does allow for local significant ingredients to be differentiated, which in turn means that consumers can reward local content and greater transparency at the cash register.

Finally the bill establishes a third tier of labelling to deal with packaged food that does not have sufficient Australian content or processing to qualify for the other claims. At the moment these products use the least understood – by as little as 3% of Australians in fact – and most frustrating current country of origin claims, those known as 'qualified claims' – terms such as 'Made from imported and local ingredients'.

These vague catch-all statements at best confuse and frustrate consumers, and they certainly don't support informed decisions. This bill prohibits them, and instead requires any packaged food that has some level of Australian processing or content, but that does not meet 'Product of' or 'Manufactured in' claims to simply say "Packaged in Australia".

By providing three tiers of country of origin claims, this bill offers an opportunity to greatly simplify a complex and frustrating area of food labelling. It responds specifically to years of consumer research, showing that Australians equally want to know where their food is from, and where it was processed.

I want to now briefly describe the process of how this bill has come about. Fifteen months ago I introduced the Competition and Consumer Act (Australian Food Labelling) Bill 2012 to the parliament, a bill which I have now withdrawn.

The Competition and Consumer Act (Australian Food Labelling) Bill sought to implement the key recommendations of the Blewett Review as I have outlined before, and also those in which he recommended that country of origin labelling of food be based solely on the origin of the ingredients.

My previous bill allowed these key recommendations to be tested, which is a necessity given that food labelling is frequently acknowledged to be an area of great complexity fraught with unintended consequences.

For this reason I encouraged all interested parties with expertise in the area of country of origin food labelling to make a submission to the Senate inquiry, and urged them to not just focus
on critiquing the bill, but if possible provide viable alternatives.

As a result the senate inquiry was a demonstration of just how effective this core process can be to help focus attention and find solutions in a complex area of law. In addition to submissions from the public expressing support for clearer labelling, I am especially grateful to AUSVEG, the Australian Manufacturers Workers Union, Australian Made Australian Grown, the Australian Food Sovereignty Alliance and CHOICE for their investment of time and goodwill in providing constructive input to the bill. CHOICE deserve special acknowledgement for their work in putting forward viable alternatives to the current labelling system, and my bill reflects the core of their recommendations.

As a result of this constructive work, we were able to identify which of Blewett's recommendations would be effective, which would not, and clear common ground for reform in an area of great interest to many Australians.

The Competition and Consumer (Australian Country of Origin Food Labelling) Bill that I introduce today is the product of that process.

I want to once more put on record why this issue is so important. This is a topic on which there is a clear and united public view. Whenever the question is asked, overwhelmingly Australians tell us that they want to be able to easily identify and buy Australian-grown food, and overwhelmingly they are frustrated in that desire by current country of origin labelling.

CHOICE provided updated comprehensive research to this effect as part of their submission to the senate inquiry into the Competition and Consumer Amendment (Australian Food Labelling) Bill this year, once again confirming Australia's desire to have clear country of origin labelling that allows them to easily identify and choose to purchase food grown and processed in Australia.

I believe this bill offers a tangible step forward to improving country of origin labelling for food, one that has support from organisations representing Australian growers, local jobs in food manufacturing and information transparency for consumers.

There are no doubt further reforms we could and should consider over time. It is still difficult for example, for some forms of local processing that supports local jobs to get recognition under these proposed labelling claims - and the existing one.

But the ability to pursue further improvements should not be used as a reason to oppose the reforms this bill offers. We must remember that over half of Australians are very clear that they do make food purchasing decisions based on whether the food is local.

For Australian farmers and food manufacturers, this bill is urgent. As the news continues to be filled with stories of Australian food manufactures going into administration or slashing their intake of local content, and as Australian farmers struggle to keep market share at home against a rising tide of cheap imports, it has never been more timely to help Australians identify and buy local food. It is time to act.

I commend this bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MOTIONS

Schizophrenia Awareness Week

Senator WRIGHT

(12:26): I move:

That the Senate—

(a) notes that:

(i) 12 May to 18 May 2013 is Schizophrenia Awareness Week,

(ii) people affected by serious mental illness face critical challenges to achieving and maintaining the same physical health as other people in the community,

(iii) such people are more vulnerable to coronary heart disease, diabetes, stroke and respiratory disease than those without serious mental illness, and

(iv) their life expectancy is up to 25 years less than that of the general population; and
(b) calls on all governments in Australia to address the poor physical health status of people with serious mental illness as a priority.

Question agreed to.

Senator WHISH-WILSON (Tasmania) (12:26): I move:

That the Senate—

(a) notes:

(i) the collapse of the Rana Plaza building in Bangladesh that killed 1,127 garment workers, many of whom were sewing clothes for international brands in unsafe conditions,

(ii) the significant protests and riots by garment workers in Bangladesh in response to the building collapse, and

(iii) that in response, some international clothing brands have signalled their intention to sign an accord committing to improve fire and building standards for their workers in Bangladesh; and

(b) calls on:

(i) Australian companies to ensure the safety of their workers in developing countries through improving standards and conditions and providing for independent inspections of factories,

(ii) Australian clothing companies to join the accord committing to improve fire and building standards for workers in Bangladesh, and

(iii) the Australian clothing industry to consider moves towards supply chain accreditation for products from developing countries.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator WHISH-WILSON: This motion is about recognition of the terrible tragedy that we have seen unfolding in Bangladesh over the last two weeks with the collapse of the Rana Plaza building and the subsequent civil disobedience that we have seen around that in Bangladesh. It is also a recognition of the role that we as consumers play in Australia and how we are linked to that and what we can do to prevent these things happening in the future. We often talk about fair trade and free trade in this building. This tragedy is a recognition that this is very real and that there are certain things that we can do to make a difference here. So the motion also calls for a move in the retail and fashion industries to look at things such as product certification so that consumers can be aware of where clothing items come from and how they are made. These types of arrangements should be incorporated in trade arrangements.

Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (12:28): At the request of Senators Mason and Smith, I move:

That the Senate—

(a) notes with deep regret the passing of The Rt. Hon. The Baroness Thatcher, LG, OM, PC, FRS, one of the most significant and influential British Prime Ministers, and the first woman to become the Prime Minister of Great Britain and Northern Ireland; and

(b) conveys its condolences to the people of Great Britain.

Question agreed to.

Senator McKENZIE (Victoria) (12:29): I, and also on behalf of Senator Colbeck, move:

That the Senate—

(a) notes its support for the fruit growers and workers in the local food processing industry;

(b) recognises the impact and toll that the increased cost of doing business has on local food processors;

(c) acknowledges the significance of iconic local food processors as key employers and contributors to regional communities;

CHAMBER
(d) supports the 'Toss a tin in your trolley' campaign to encourage Australians to throw a tin of local canned produce into their shopping trolley and urges supermarkets to promote this initiative; and
(e) calls on:
   (i) the Treasurer to initiate an urgent safeguard investigation to determine whether safeguard action should be imposed in respect of imported canned produce, and
   (ii) the Government to undertake an immediate and comprehensive anti-dumping investigation with respect to the request from SPC Ardmona and the canned food industry.

Question agreed to.

Coalition's Direct Action Plan

Senator MILNE (Tasmania—Leader of the Australian Greens) (12:30): I move:

That the Senate notes that not a single Australian economist or industry group has publicly supported the Coalition's Direct Action Plan.

The PRESIDENT: The question is that that motion be agreed to.

The Senate divided. [12:35]

(The President—Senator Hogg)

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

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Crossin, P
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

AYES

Xenophon, N

NOES

Back, CJ
Boswell, RLD
Brandis, GH
Cash, MC
Edwards, S
Fawcett, DJ
Fifield, MP
Johnston, D
Kroger, H (teller)
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Williams, JR

Poultry Industry

Senator RHIANNON (New South Wales) (12:37): I move:

That the Senate—

(a) notes that:
   (i) the voluntary national Model Code of Practice for the Welfare of Animals: Domestic Poultry designates a maximum outdoor stocking density of 1 500 free range layer hens per hectare yet this is not enforceable and relies on self-regulation,
   (ii) there is no consistent state government move to legislate a maximum of 1 500 hens per hectare, with only New South Wales, Tasmanian, Western Australian and South Australian governments currently considering bills to do so,
   (iii) while an overdue review by the Primary Industries Ministerial Council of the Domestic Poultry Code has finally begun, it is years from completion and implementation, and
   (iv) the Australian Competition and Consumer Commission has made free range eggs one of seven priority areas for 2013, noting consumers want clear and accurate labelling of eggs; and
(b) calls on the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to work with state and territory governments to implement mandatory, nationally consistent truth in labelling laws covering production methods in the egg industry.

The PRESIDENT: The question is that the motion be agreed to.

The Senate divided. [21:41]

(The President—Senator Hogg)

Ayes.....................11
Noes.......................30
Majority...................19

AYES
Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

NOES
Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Edwards, S
Feeney, D
Gallacher, AM
Humphries, G
Ludwig, JW
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Singh, LM
Thorp, LE

Question negatived.

The PRESIDENT: I will next deal with No. 1240, in the name of Senator Ludlam. There may well be more divisions.

Point Peron

Senator LUDLAM (Western Australia) (12:44): I move:

That the Senate—

(a) notes that:

(i) in 1964 the Commonwealth Government transferred the Point Peron area to the Western Australian State Government subject to agreement that its future use was restricted to a reserve for public recreation and parklands, reiterating in 1968 That the land must not be used for private industrial, commercial or residential development,

(ii) the Western Australian Environmental Protection Authority gave conditional approval to the Mangles Bay Marina project in Cape Peron on 29 April 2013 adjacent to a protected freshwater lake containing one of the only surviving thrombolite communities in Western Australia, and

(iii) 8 000 signatures opposing the Point Peron Marina development were submitted to the Western Australian Parliament on Tuesday, 14 May 2013; and

(b) calls on the Government to insist That the Western Australian Government honour its 1964 commitment regarding the use of the land and reject development of this pristine area.

I seek leave to make a brief statement.

The PRESIDENT: Leave is granted for one minute.

Senator LUDLAM: I indicate at this stage that I will not seek to call a division on this motion. This motion is about a place that the people of Rockingham, who have been stepping up in its defence, believe is too precious to lose. That, of course, is Point Peron, which is under threat by the state government—of all people—who are the proponents for a completely inappropriate marina. I particularly want to acknowledge Dawn Jecks, who has campaigned tirelessly for the values of Point Peron on behalf of the whole community.

Point Peron was granted back to the state from the Commonwealth in 1964 on the provision that it be protected in perpetuity as public recreation and parklands. Depending
on the way this vote goes, I suspect we will see the two old parties voting down a very simple motion that that commitment be upheld. It is quite clear that the Greens are the only ones left who are standing up for places like Point Peron, which we know is too precious to lose. I am proud to stand up with the community of Rockingham in the defence of this place.

Question negatived.

**BILLS**

National Disability Insurance Scheme Legislation Amendment Bill 2013
DisabilityCare Australia Fund Bill 2013
Medicare Levy Amendment (DisabilityCare Australia) Bill 2013
Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013
Income Tax Rates Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013
Superannuation (Excess Untaxed Roll-over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013
Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013
Income Tax (First Home Saver Accounts Misuse Tax) Amendment (DisabilityCare Australia) Bill 2013

Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013
Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013
Taxation (Trustee Beneficiary Non-disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:46): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:48): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**NATIONAL DISABILITY INSURANCE SCHEME LEGISLATION AMENDMENT BILL 2013**

This bill follows up the recent landmark legislation underpinning the first stage of DisabilityCare Australia, the National Disability Insurance Scheme, by making minor clarifying and consequential amendments to complement the main legislation.
The National Disability Insurance Scheme Act 2013, passed earlier this year, establishes DisabilityCare Australia, the National Disability Insurance Scheme.

This will enable the scheme to be launched, and DisabilityCare Australia to operate the launch, in four sites across Australia from July 2013 – in South Australia, Tasmania, the Hunter region in New South Wales, and the Barwon area of Victoria – and, from July 2014, in the Australian Capital Territory and the Barkly region of the Northern Territory.

This bill makes minor amendments to the legislation to clarify the policy intention in relevant provisions, and to address minor anomalies and technical errors.

These technical changes will make sure that all of the details intended to be specified in the rules – which are necessary for implementation of the first stage of the scheme – will reflect the principal legislation for the scheme.

For example, provisions that allow rules to be made to prescribe relevant ‘criteria’ will be clarified to make sure rules can also be made to prescribe ‘matters for consideration’ or ‘factors to be taken into account’.

Similarly, in the case of the early intervention supports, where there is no intention to make rules and where key eligibility criteria are already set out clearly in the legislation, the current rule-making power is being removed to avoid any risk that those provisions would not be available to people who may benefit from them.

The bill will strengthen the audit and risk management framework of DisabilityCare Australia. It is critical that the Board adopts a rigorous approach to oversight of DisabilityCare Australia, ensuring that this historic reform is financially sustainable and will support the wellbeing of Australians with disability for decades to come.

The framework for audit and risk management provides an important assurance that DisabilityCare Australia’s operations and risks are being prudently and soundly managed.

Other minor amendments include clarifying the matters to which the CEO must have regard when considering whether to take action to claim or obtain compensation, or take over the conduct of an existing claim. These matters are similar to the matters that the act already requires the CEO to have regard to when deciding whether to require a scheme participant to take compensation action.

While it is not expected that the CEO will often need to take on or take over compensation claims, the amendments provide clarity to scheme participants and potential participants about what the CEO would need to consider before taking any such action.

The bill also makes consequential amendments to other Commonwealth Acts to complement the National Disability Insurance Scheme Act 2013.

The bill will establish a new National Disability Insurance Scheme Division of the Administrative Appeals Tribunal and require that members appointed to the division have expertise relating to disability or other relevant experience.

The Minister responsible for the scheme will also have to be consulted before a tribunal member can be assigned to the new division.

These requirements will ensure that applications for review of relevant decisions under the scheme are reviewed by tribunal members with appropriate training, knowledge or experience in this specialised area. A robust external merits review system is integral to supporting fair, efficient and effective decision making under the National Disability Insurance Scheme.

Amendments to the social security law will include changes to ensure that amounts paid under the National Disability Insurance Scheme for supports funded under a participant’s plan are not taken into account under the social security or veterans’ entitlements income and assets tests.

Lastly, among some consequential amendments to the taxation legislation, there will be changes to ensure that payments and benefits provided under the National Disability Insurance Scheme to participants in the scheme are exempt from income tax.
DISABILITYCARE AUSTRALIA FUND BILL 2013

For too long, people with disability, and their carers and families, have lived with inequity and uncertainty.

That is why this Government is transforming disability services by creating and locking in funding for DisabilityCare Australia.

DisabilityCare Australia will provide people with significant and permanent disability across Australia with the support they need.

The support they have waited too long for.

It will provide them with choice and control.

And it will enhance their opportunities for social and economic participation.

Through the bill the Prime Minister has introduced, the Government will provide a strong and enduring funding stream for DisabilityCare Australia, and provide certainty to people with disability that they will receive support in the long term, the Government will increase the Medicare levy from 1.5 to 2 per cent from 1 July 2014.

Disability can affect any of us and therefore it affects all of us.

That is why we are asking Australians to make a small contribution that will make a big difference to the lives of over 460,000 people with disability when the scheme is fully rolled out.

It was a Labor Government that introduced the Medicare levy in 1984 to fund Medicare.

The introduction of Medicare and the Medicare levy ensured equal access to health care for all Australians and demonstrated a commitment by the Labor government to the benefits of universal health care.

The DisabilityCare Australia Fund Bill is an important part of making DisabilityCare Australia a reality.

Every dollar raised from increasing the Medicare levy will be paid into the DisabilityCare Australia Fund, that we will establish with this bill.

This bill makes it crystal clear that the additional funds raised by the Medicare levy can only be drawn upon to fund DisabilityCare Australia.

The DisabilityCare Australia Fund will be managed by the Future Fund Board of Guardians (the Future Fund Board) who have the experience in successfully managing other Government owned investment funds.

The bill requires that a fixed amount of the money flowing into the Fund each year will be set aside for the States and Territories.

This amount will be $825 million in 2014-15, one quarter of the amount we expect to raise in that year.

The annual amount allocated within the Fund to the States and Territories will be grown in future years by 3.5 per cent per year.

Over ten years, the States and Territories will be allocated a total of $9.7 billion.

Funds will be used to reimburse States and Territories for spending on the scheme once key conditions are met.

We will formalise those conditions in agreements with the States.

Consistent with the principle that these funds are only to be used for additional costs in delivering DisabilityCare, those conditions will ensure that States can only access funds once they are incurring significant new costs in delivering DisabilityCare.

To support early establishment costs, eligible States will also be able to access some of their annual allocation in 2015-16, 2016-17 and 2017-18.

The bill will also provide the opportunity to cover interim matters to enable DisabilityCare Australia to commence operations from 1 July 2013, through creation of a transitional special account to manage State and Territory government funds until the Board overseeing the National Disability Insurance Scheme Launch Transition Agency is established.

The transitional special account will also be credited with the Commonwealth's contribution for 2013-14 which will be appropriated to the Department of Families, Housing, Community Services and Indigenous Affairs. This will provide assurance to State and Territory...
governments that the Commonwealth's contribution will be spent only on DisabilityCare Australia.

This bill allows the DisabilityCare Australia Fund to receive, hold and invest the additional revenue from the increase in the Medicare levy for the purposes of reimbursing the Commonwealth and States and Territories for their contributions to DisabilityCare Australia. It supports the critical objectives and principles of DisabilityCare Australia.

The Government's plan for DisabilityCare Australia extends well beyond the Medicare levy increase and the DisabilityCare fund.

In the Budget, the Government detailed the long term structural savings that, along with the revenue from the Medicare levy increase, will fully fund DisabilityCare well beyond the forward estimates, even beyond a ten year horizon.

This unprecedented step of providing long-term funding well beyond the normal four year Budget cycle shows the depth of Labor's commitment to DisabilityCare.

It shows our commitment to righting the wrongs of too many years of complacency, too many years where we have not given proper regard to the needs of people with significant and permanent disability.

With the secure funding we lock in for DisabilityCare today and for the future, we ensure that come 1 July 2013, DisabilityCare will be here to stay.

MEDICARE LEVY AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

Australia's strong economy and Australia's social safety nets are the envy of the world.

In this Bill, we see Australia at its very best.

In this Bill, we see that we still can be the strong, smart, fair Australia that created the Age Pension and the Pharmaceutical Benefits Scheme, Medibank, Medicare and universal superannuation.

In this Bill, we see that there is still a place for collective action to solve those great pressures of life that are too big and complex for individuals and families to solve alone.

In this Bill, we see a nation united in a spirit of concern to strengthen and extend the fair go, to ensure no one is left behind ...

… we also see a Parliament ready to put the national interest ahead of ideology.

To those who say Australian politics no longer works, I say simply: read the Medicare Levy Amendment (DisabilityCare Australia) Bill.

This is a united embrace of national responsibility and a great act of mutual care and solidarity.

Every week or fortnight, a sliver of the paypacket will go to DisabilityCare Australia: around a dollar a day for the average earner.

But all that money added together from every corner of the nation will be a mighty force for good.

Today we give an assurance to all Australians who live with disability and to those who care for them: DisabilityCare Australia will be here when you need it … election after election, decade after decade, generation after generation.

A new assurance for 410 000 Australians living with significant, permanent disability now and for their families and carers.

Today we also give a new assurance to all those Australians who do not have a disability today but who, through the vagaries of fortune, will come to have a significant, permanent disability in times to come.

For everyone who thinks, "it couldn't happen to me – could it?" this Bill brings peace of mind, it brings the knowledge that a scheme as well-designed and stably-funded as Medicare will be here when you need it.

Let me turn to the detail of the Bill.

The Bill will increase the Medicare levy by half a percentage point, from 1.5 per cent to 2 per cent, from 1 July 2014.

The Bill also makes consequential changes to the upper phase-in amount for low-income taxpayers with income between certain thresholds – as well as to the formula for calculating the amount of a person's Medicare levy liability where a person has a spouse or dependants.
These changes reflect the increase in the Medicare levy.

Low-income earners will continue to receive relief from the Medicare levy through the low-income thresholds for singles, families, seniors and pensioners.

The current exemptions from the Medicare levy will also remain in place, including for blind pensioners and sickness allowance recipients.

A number of other tax rates that include a component for the Medicare levy will also increase in line with this change – these include increases in the rate of fringe benefits tax and excess contributions tax.

These bills will be introduced by my Ministers today and further details of these consequential increases are set out in the Explanatory Memorandum.

Every cent raised by the increase in the Medicare levy will be allocated to a special fund over the next decade – the DisabilityCare Australia Fund.

By law, the fund will only be spent on supporting people with disability through DisabilityCare Australia.

The DisabilityCare Australia Fund will be established by the DisabilityCare Australia Fund Bill 2013, which will be put before the House as part of this package.

Full details of this fund will be outlined in the explanatory memorandum to that Bill which is to be tabled by the Deputy Prime Minister shortly.

Increasing the Medicare levy will raise approximately $20.4 billion between 2014-15 and 2018-19 – amounting to approximately 55 per cent of the total cost of funding DisabilityCare Australia over that period.

The Commonwealth's share of the fund will go toward our additional contribution to DisabilityCare Australia.

This will cover around 60 per cent of the Australian Government's net new spending on the scheme over the ten years from 2014-15.

In last night's Budget, the Deputy Prime Minister outlined that through this increased Levy and other wise savings, DisabilityCare Australia is fully funded.

DisabilityCare Australia is designed to ensure every Australian with significant and permanent disability, regardless of where he or she lives, gets the care and support they need.

DisabilityCare Australia will end the notorious "postcode lottery" for people with disabilities in this country.

I want no more of the unfairness and irrationality by which a person gets vastly different support merely because of where he or she lives or how a disability was acquired.

This requires the commitment and support of State and Territory governments.

The Government will assist the States and Territories with funding their share of DisabilityCare Australia, by setting aside some of the money going into the DisabilityCare Australia Fund.

Over the life of the fund, the States and Territories will be allocated a total of $9.7 billion.

The States and Territories will be able to draw down from the Fund when they meet key conditions for implementation.

DisabilityCare Australia will have full coverage across the Australian Capital Territory by July 2016, in New South Wales and South Australia by July 2018, and Tasmania, Victoria, Queensland and the Northern Territory by July 2019.

These agreements will see the scheme cover around 90 per cent of the total Australian population.

The Western Australian allocation from the Fund will be quarantined until we reach agreement with the State.

We encourage the Western Australian Government to join the cause.

All our people deserve the best.

To ensure that DisabilityCare Australia is fully funded, the Government has implemented a number of other savings measures.

Part of the savings from reforms to the Government's assistance for private health insurance announced in the 2012-13 MYEFO which have not been allocated to the
Government's dental package will support DisabilityCare.

Funding will also come from reforms to retirement incomes policy, the phase out of the net medical expenses tax offset and other long-term savings decisions now announced as part of the 2013-14 Budget.

Making a new call upon the finances of Australians is not something that is done without care in this country – the fact is when a levy does happen, there is rightly a very good reason.

Bob Hawke with the Medicare levy.

John Howard with the levy for gun buy-backs.

This Government's flood levy which rebuilt Queensland.

Now, this increase in the Medicare levy to support DisabilityCare.

Ours has been a fiscally-responsible government.

Offsetting all new spending since 2009, holding expenditure at a level lower than the average seen over the past 25 years.

A levy was not our first choice of funding vehicle for DisabilityCare.

But with the high dollar and the historic anomaly of nominal GDP growth falling below real GDP growth for a sustained period, the revenue write-downs have been unprecedented ...

$17 billion for this financial year alone.

In short, the facts have changed.

I am also deeply conscious that the States and Territories face their own fiscal pressures arising from these same complex economic circumstances.

So we want to be able to offer them more support to pay for the scheme – which is why a substantial share of funds raised by this levy will go to the States and Territories.

Most importantly, we've listened to the sound case made by disability support groups for secure, ongoing funding for the national disability insurance scheme.

In a time of burden sharing and wise savings, they are right to want to ensure that DisabilityCare has a sustainable and stable funding stream ...

in order to guarantee the security DisabilityCare is designed to bring.

The President of People with Disability Australia, Craig Wallace, has summarised the argument well – the levy will be

An insurance premium for good times and bad ... people's disabilities will not go away the next time we have a surplus.

That's the backdrop against which I introduce this Bill.

That's why the Government not only has bipartisan support for this Bill, we have near-nationwide agreement on this scheme.

Following the ground breaking agreement with New South Wales last December, the other jurisdictions have joined the cause, one by one:

South Australia, the ACT, Tasmania, Victoria, Queensland and most recently the Northern Territory.

That means 90 per cent of Australians are now part of the plan ... leaving only the people of Western Australia still waiting for a decision by their Premier.

People with disabilities and their families have campaigned so long to design and fund a national disability insurance scheme.

Many of those advocates are here with us today – I want to take the time to welcome and acknowledge you all now – and to acknowledge the passion and dedication of so many people with disability, so many families and carers, who have brought the campaign to this point.

In recent weeks, as the momentum you have built has broken through, as we have struck agreements with States and Territories and announced details of the funding, I have seen the hope and anticipation which Australians with disability, particularly young Australians, now share.

The Saturday before last, I travelled to Melbourne to meet Premier Napthine and sign up Victoria to DisabilityCare.

In Melbourne, I saw Sophie, a twelve-year-old girl who lives with Down Syndrome.

As her parents describe her, Sophie "reads and writes, mucks around on the monkey bars, can be
well behaved and badly behaved, runs like a billy goat, and is a budding photographer”.

She took my photo while we were there.

Last week I travelled to Brisbane to meet Premier Newman and sign up Queensland to DisabilityCare.

While I was there, I met Sandy, who is 17 and lives with a physical disability similar to cerebral palsy.

Sandy has big dreams for his future, like any teenager, but his future also has some big needs: mobility aids that cost tens of thousands of dollars, personal care to maintain his hygiene, physical therapy to maintain his muscles and his health.

When I met this young man he handed me a card signed by him and his mates to say thanks for what we are doing for people with disability – a card illustrated by the photo Sophie had taken a week before.

In years to come, DisabilityCare Australia will ensure Sophie and Sandy and so many other young people with disability will have the security and dignity every Australian deserves.

This, above all, is why Australians so overwhelmingly support DisabilityCare.

Over the past six years, the idea of a national disability insurance scheme has found a place in our nation’s heart.

In March, we gave it a place in our nation’s laws.

Today we inscribe it in our nation’s finances.

The people who’ve gathered here today from around the country to witness this debate, know what this means.

There’ll be no more "in principle" and no more "when circumstances permit".

There’ll be launches, not trials ... permanent care, not temporary help.

DisabilityCare Australia starts in seven weeks – and there will be no turning back.

FRINGE BENEFITS TAX AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

The Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

The Gillard Government is proud to be delivering DisabilityCare Australia, the most important social reform since Medicare.

We know this is a reform that's time has come.

A reform that will deliver significant benefits to people with disability, their carers and families and to the wider Australian community.

DisabilityCare Australia will transform the lives of people with disability, their families and carers. In 2019-20, the first year of full scheme, it will provide around 460,000 Australians with a significant and permanent disability the care support they deserve, regardless of how they acquired their disability.

People with a disability, their families and carers deserve certainty. They deserve the certainty of knowing that they will be supported over their lifetimes, and the certainty that DisabilityCare Australia will be funded over the long term.

That’s why the Government is increasing the Medicare levy from 1.5 to 2 per cent. And that is why every dollar raised from increasing the levy will go directly to fund DisabilityCare Australia. The DisabilityCare Australia Fund will be used solely to for spending on DisabilityCare Australia.

This will ensure DisabilityCare Australia has a strong and stable funding stream, replacing the current funding model based on arbitrary budget allocations.

People with a disability, their families and carers also deserve certainty that they will receive support no matter where they live in Australia. DisabilityCare Australia is a national reform that requires the commitment and support of all State and Territory governments.

To assist the States and Territories, the Government will make a share of the DisabilityCare Australia fund available to the States and Territories. We will make available to the States and Territories $9.7 billion over the next decade to assist in the delivery of DisabilityCare Australia.
People with a disability, their families and carers also deserve certainty that the Commonwealth will fully fund its share of DisabilityCare Australia. That is why we have taken a number of tough savings decisions and will direct those savings to fully fund DisabilityCare Australia.

The Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill contains consequential amendments as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Fringe Benefits Tax plays an important role in maintaining the fairness and integrity of Australia’s taxation system.

It places employees who receive fringe benefits on a more even footing with employees whose remuneration consists entirely of salary or wages. It ensures that all forms of remuneration paid to employees bear a fair measure of tax.

The fringe benefits tax system also ensures that such benefits are counted as income when a person accesses means tested Government financial assistance, such as family tax benefits, ensuring that families are treated equally.

Fringe benefits are taxed at a rate of 46.5 per cent. This is the sum of the top marginal tax rate of 45 per cent plus the current Medicare levy rate of 1.5 per cent.

The Fringe Benefits Tax Amendment (DisabilityCare Australia) Bill 2013 will increase the fringe benefits tax rate to 47 per cent to reflect the increase in the Medicare levy. This will apply from 1 April 2014 – the start of the FBT year.

These consequential amendments will help to ensure the integrity of the tax system.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

In supporting these changes in the Parliament, we show our support for certainty for people with disability, their families and their carers.

We all commit ourselves to this long overdue and much needed reform.
The increase in the Medicare levy will help fund DisabilityCare Australia, the most profound piece of social justice policy since Medicare.

This is a watershed moment in our federation of states, our national story. An opportunity to alter the course of the future for millions of Australians that find difficulty in maintaining a basic level of existence which we all take for granted.

The importance, the urgency of this, is not to be underestimated.

Once DisabilityCare becomes a reality, we will never look back.

We will never look back to a time, a truly primitive time, when the disabled and their carers had to shoulder the burden and fill the gap while legislators sat back and looked at their knuckles, and hoped the problem would fix itself.

I believe this is the greatest cause to come before this chamber for a very long time, and the most important that I have had the privilege to work for.

This is our chance to turn to the almost more than four hundred thousand Australians, their families and their carers that face these daily struggles and say to them ‘your country will not leave you to fight each day alone’.

We see you. You have worth. And with a bit of help from your people, your society, your tribe, there is a chance things can change.

A better prosthetic may give new chances of work. The help of a specialist, one that was previously unaffordable under the private system, could make a breakthrough that can turn a life around.

This will change lives.
Change families.
Change the dimension of hope in every community.

No longer do we fill this place with empty rhetoric on this issue. We now put our money on the table. And we ask:

What is the price of an ordinary life?

Under DisabilityCare, it doesn't matter if you were born with it, or the circumstance in which you came to be the way you are.

What seems like such a basic concept, as old as the Good Samaritan, has taken a lot of work by a lot of people to come to action, fruition, to legislation in this place, on this historic day.

This really is a moment in our history to relish and remember.

Equality, a truly Labor principle, is the simple goal of this nation changing reform.

I turn now to the details of the bill.

This bill contains consequential amendments as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Contributions to superannuation are subject to a number of different caps, which vary depending on the age and retirement status of the person making the contribution, and on whether the contribution is made out of before or after tax income. These caps exist to ensure that the amount of concessionally taxed superannuation benefits that a person may receive is sustainable and appropriately targeted.

The amount of a person's pre-tax superannuation contribution that exceeds the concessional cap is currently taxed at a rate of 31.5 per cent. This is the sum of the top marginal personal tax rate of 45 per cent and the current Medicare levy of 1.5 per cent, less the general rate of 15 per cent tax paid by most superannuation funds.

The Superannuation (Excess Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate at which tax on excess concessional contributions is payable.

From 1 July 2014, this rate will increase by half a percentage point to 32 per cent, reflecting the increase in the Medicare levy.

These consequential amendments will help to ensure the integrity of the tax system.

Further details of the bill are set out in the explanatory memorandum for the package of bills.
The Superannuation (Excess Non-Concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

This bill contains consequential amendments as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Contributions to superannuation are subject to a number of different caps, which vary depending on the age and retirement status of the person making the contribution, and on whether the contribution is made out of before or after tax income. These caps exist to ensure that the amount of concessional taxed superannuation benefits that a person may receive is sustainable and appropriately targeted.

The amount by which a person's after-tax contribution to their superannuation exceeds the non-concessional cap is currently taxed at a rate of 46.5 per cent. This is the sum of the top marginal personal tax rate of 45 per cent and the current Medicare levy of 1.5 per cent.

The Superannuation (Excess Non-concessional Contributions Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate at which tax on excess non-concessional contributions is payable.

From 1 July 2014, this rate will increase by half a percentage point to 47 per cent, and will apply to an individual's excess contributions for a financial year. This reflects the half a percentage point increase in the Medicare levy.

These consequential amendments will help to ensure the integrity of the tax system.

The revenue from this package of bills will be used to provide a strong and stable funding stream for DisabilityCare Australia.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

The Superannuation (Excess Untaxed Roll-Over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

This bill contains consequential amendments as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Excess, untaxed, roll-over amounts are currently taxed at a rate of 46.5 per cent, which is the sum of the top marginal personal tax rate of 45 per cent and the current Medicare levy of 1.5 per cent.

The Superannuation (Excess Untaxed Roll-Over Amounts Tax) Amendment (DisabilityCare Australia) Bill 2013 will increase the rate at which tax on excess untaxed roll-over amounts is payable.

From 1 July 2014, this rate will increase by half a percentage point to 47 per cent, and will apply to excess untaxed roll-over amounts paid on or after 1 July 2014. This reflects the half a percentage point increase in the Medicare levy.

These consequential amendments will help to ensure the integrity of the tax system.

The revenue from this package of bills will be used to provide a strong and stable funding stream for DisabilityCare Australia.

Further details of the bill are set out in the explanatory memorandum for the package of bills.
INCOME TAX (TFN WITHHOLDING TAX (ESS)) AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

The Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

This bill contains consequential amendments to the Income Tax (TFN Withholding Tax (ESS)) Act 2009. These are necessary as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Employers are required to pay the withholding tax if they provide their employees with discounted shares or rights and employees have not provided their tax file number or Australian Business Number to their employer by the end of the income year. This helps to ensure the integrity of the taxation of employee share schemes.

The rate of the withholding tax is currently 46.5 per cent, the top marginal rate of 45 per cent plus the current Medicare levy rate of 1.5 per cent.

The Income Tax (TFN Withholding Tax (ESS)) Amendment (DisabilityCare Australia) Bill 2013 will increase this rate to 47 per cent, from 1 July 2014, to reflect the increase in the Medicare levy from 1.5 per cent to 2 per cent.

These consequential amendments will help to ensure the integrity of the tax system.

The revenue from this package of bills will be used to provide a strong and stable funding stream for DisabilityCare Australia.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

FAMILY TRUST DISTRIBUTION TAX (PRIMARY LIABILITY) AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

This bill is part of a package of measures to transform disability services by creating and locking in funding for DisabilityCare Australia, the national disability insurance scheme.

DisabilityCare Australia will change the lives of people with disability, their families and their carers. It will provide the 410,000 Australians with a significant and permanent disability the care and support they deserve, support they have waited far too long to receive.

The Government is also providing certainty. Certainty for people with disability. Certainty for their families and carers. And certainty to all Australians. Certainty that DisabilityCare Australia will be funded in the long term.

The Gillard Government will increase the Medicare levy by half a percentage point, from 1.5 per cent to 2 per cent, from 1 July 2014. This
will provide DisabilityCare Australia with a strong and enduring funding stream.

The Government will also ensure that every dollar raised from increasing the levy will go directly to fund DisabilityCare Australia. As part of this package of bills, the Deputy Prime Minister and Treasurer introduced the bill that will establish the DisabilityCare Australia Fund. The Fund will hold and invest the proceeds from the increase in the Medicare levy and can only be used to meet expenditure directly related to DisabilityCare Australia.

To ensure that all Australians benefit from this fundamental reform, the Government will make a share of the Fund available to the States and Territories to assist them in establishing DisabilityCare Australia.

Over a ten-year period, the Government will allocate around $9.7 billion of the revenue from the increase in the Medicare levy to the States and Territories to help fund their contribution to DisabilityCare Australia.

The risk of disability is something that all of us face and the rewards of supporting people with disability will be shared by all. That is why we are asking Australians to make a small contribution to fund DisabilityCare Australia.

For someone earning average wages of around $70,000 this will mean a modest contribution of around 96 cents a day—a small amount that will make a big difference to those with disability, their carers and their families.

Despite this small increase, virtually every taxpayer is still paying less tax now than they were in 2007.

I will now turn to the details of the bill.

This bill contains consequential amendments as a result of the increase in the Medicare levy contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

The family trust distribution tax is payable where a trustee of a family trust has made a family trust election and a distribution is made to, or a present entitlement conferred on, a person other than the primary individual or a member of their family.

The rate of the family trust distribution tax is currently 46.5 per cent, the top marginal tax rate of 45 per cent plus the current Medicare levy of 1.5 per cent. The alignment with the top marginal rate and Medicare levy minimises the incentive to reduce a person's tax through the use of a family trust.

To maintain this alignment, the Family Trust Distribution Tax (Primary Liability) Amendment (DisabilityCare Australia) Bill 2013 will increase this rate of tax to 47 per cent.

These consequential amendments will help to ensure the integrity of the tax system.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) (NO. 1) AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

The Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

This bill contains consequential amendments to the Taxation (Trustee Beneficiary Non-Disclosure Tax) Act (No. 1) 2007 as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

Where a share of the net income of a closely held trust is distributed to another trust, the trustee must advise the Commissioner of Taxation of each share of trust income or tax-preferred amounts that is distributed from the trust. If a trustee does not provide this information, they will be liable to pay trustee beneficiary non-disclosure tax.

The rate of the trustee beneficiary non-disclosure tax is currently 46.5 per cent, the top marginal rate of 45 per cent plus the current Medicare levy rate of 1.5 per cent.

The Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 1) Amendment (DisabilityCare Australia) Bill 2013 will increase this rate to 47 per cent, from 1 July 2014, to
reflect the increase in the Medicare levy from 1.5 per cent to 2 per cent.

These consequential amendments will help to ensure the integrity of the tax system.

The revenue from this package of bills will be used to provide a strong and stable funding stream for DisabilityCare Australia.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

TAXATION (TRUSTEE BENEFICIARY NON-DISCLOSURE TAX) (NO. 2) AMENDMENT (DISABILITYCARE AUSTRALIA) BILL 2013

The Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013 is part of a package of measures increasing the Medicare levy by half a percentage point.

This bill contains consequential amendments to the Taxation (Trustee Beneficiary Non-Disclosure Tax) Act (No. 2) 2007 as a result of the increase in the Medicare levy, contained in the Medicare Levy Amendment (DisabilityCare Australia) Bill 2013.

The Taxation (Trustee Beneficiary Non-Disclosure Tax) Act (No. 2) 2007 also imposes a secondary trustee beneficiary non-disclosure tax, which supports the core trustee beneficiary non-disclosure tax, which is contained in Taxation (Trustee Beneficiary Non-Disclosure Tax) Act (No. 1).

In order to discourage the use of circular chains of trusts to disguise the identity of the final beneficiary of trust income, trustee beneficiary non-disclosure tax is also imposed on the first trustee beneficiary where trust income is further distributed to another trust.

The rate of the trustee beneficiary non-disclosure tax is currently 46.5 per cent, the top marginal rate of 45 per cent plus the current Medicare levy rate of 1.5 per cent.

The Taxation (Trustee Beneficiary Non-Disclosure Tax) (No. 2) Amendment (DisabilityCare Australia) Bill 2013 will increase this rate from 1 July 2014 to 47 per cent, to reflect the increase in the Medicare levy from 1.5 per cent to 2 per cent.

These consequential amendments will help to ensure the integrity of the tax system.

The revenue from this package of bills will be used to provide a strong and stable funding stream for DisabilityCare Australia.

Further details of the bill are set out in the explanatory memorandum for the package of bills.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:48): I rise to speak on this package of 13 bills, the first of which is a bill to give effect to an increase in the Medicare levy from 1.5 per cent to two per cent from 1 July next year. There are 10 consequential tax bills. There is also the bill to establish the DisabilityCare Australia Fund, into which the levy proceeds will go. The 13th bill is essentially a housekeeping bill to make a number of amendments to the primary NDIS Act, which was passed in March.

I am pleased to indicate that the opposition was very happy to facilitate yesterday, in quick time, the passage of this legislation through the House of Representatives—courtesy of conversations between Mr Abbott's office and Ms Gillard's office. For the opposition's part, we will ensure that this legislation is passed in quick time through this place. We have already agreed to exempt this legislation from the cut-off and to see it placed in the noncontroversial section of the chamber's agenda for today. We do so because this parliament does have a shared commitment to a better deal for Australians with disability. In the words of Mr Abbott, the 'NDIS is an idea whose time has come'.

Every senator in this chamber knows very well that the system of support for Australians with disability is broken. When we had the debate on the primary NDIS legislation and when we had the Senate
Standing Committee on Community Affairs

look at that legislation, I think all of us had reinforced the arbitrary nature of disability support around Australia.

There is consensus that we do need and will be getting a new system of support that is based on need rather than on rationing, where the entitlement will go to the individual, where the individual will be at the centre and in charge and where they will be able to pick their service provider for aids, equipment and other supports that they may receive. This was the vision of the Productivity Commission and it is the vision of the NDIS. I did see Mr David Bowen last night at the Carers Australia 20th anniversary function. I was hoping that he would leave and make it an early night because he needs all the energy he can possibly muster for the great adventure of which he is at this time the chief steward. I know all senators wish him well in the task that he and his staff have.

It is important to note that the NDIS is also a shared vision not just of the parliament but of every government in Australia and of every opposition in Australia. For its part, the federal coalition has enthusiastically supported each milestone on the road to the NDIS that has reflected the work of the Productivity Commission. We strongly support the six launch sites. We welcome the agreements between the Commonwealth and the states and territories for full jurisdiction wide rollouts. We supported, as did all colleagues in this place, the NDIS act passed in March.

Mr Abbott demonstrated his personal commitment to Australians with disability and their carers by raising over $1.2 million through the 2012 and 2013 Pollie Pedal charity bike rides. Each year, along the 1,000 kilometre routes, Mr Abbott has met with people with disabilities and with carers, and with the organisations that support them. The next Pollie Pedal will also be in partnership with and raise funds for Carers Australia. For Mr Abbott, his commitment is not just professional; it is certainly personal.

All comments, questions and suggestions by the opposition in relation to the NDIS have been offered in a constructive spirit and in an endeavour to help make the NDIS be the best that it possibly can be. The coalition has stood ready at all times to work with the government and other parties to see the NDIS delivered as soon as possible. The coalition is strongly of the view that with full implementation of an NDIS, it would be nothing short of a new deal for people with disabilities and their carers. We do have to get this right. Because the NDIS is a once-in-a-generation opportunity to deliver a better deal for Australians with disability, because it will unfold over the lives of several parliaments, we think it is important that the NDIS is seen as the property of the parliament as a whole rather than of any individual political party. When I say 'property of the parliament as a whole', that is on behalf of the Australian people.

To get this right will require a high level of consultation and attention to detail, not just now but over the full implementation period—not just in the launch sites but over the period of full jurisdiction and live rollout. That is why the coalition has called for the establishment of a joint parliamentary committee to be chaired by both sides of politics to oversee the establishment and implementation of the NDIS. I am very much of the view that a parliamentary oversight committee would serve as a symbol to the Australian community that all parties were locked in to support the NDIS and that it would provide a non-partisan environment in which issues of design and eligibility could be worked through constructively. I have not hidden my
disappointment in the past on the three occasions when the parliament has declined the opportunity to support the establishment of this committee. In fact, I think the parliamentary oversight committee is even more important given the advent of a new tax base in the form of the Medicare levy increase that is before us and given the establishment of the DisabilityCare Australia fund into which the levy proceeds will be put. But I am very pleased that the government has now agreed to the establishment of a parliamentary committee that will operate on a bipartisan basis, and that has come about as a result of the interactions between the Prime Minister and the Leader of the Opposition over the last day or so. So, that is indeed good news. The terms of reference are not as extensive as envisaged in our initial proposition. But, should we form government, that is something that we would certainly address.

Let me reiterate that the coalition has supported the establishment of the NDIS every step of the way. We want it to be a success. We do not want it to be a political football. We want it to be a reality as soon as possible. We want to see it on a secure footing. And the best guarantee for the NDIS in the long term is good economic management, good budget management and a government that prioritises within its means. Economic policy and social policy are sometimes presented as alternatives or as being in competition, but they are not. You need a good economic policy in order to afford a good social policy. The Productivity Commission, for its part, recommended that the NDIS be funded from consolidated revenue. I think their view was that core government business should be funded from core government revenue.

Our view has long been that the problem under the current administration was not that Australians did not pay enough tax but rather that the current administration has not been a good steward of the ample taxes paid. We have long predicted that the government's wrong priorities and waste and excessive spending would in fact compromise their ability to fund the NDIS from consolidated revenue. Until a few weeks ago the Prime Minister was also of the view that the NDIS should be funded from consolidated revenue. In fact, she categorically ruled out a levy, or the need for one, as recently as December. Instead, the government found a range of things to spend money on, and there was not adequate provision for the NDIS; hence the government's levy proposition. Our view in relation to the levy is straightforward. We did not propose a levy. There should not be the need for a levy, and the government is only proposing a levy because they have blown the bank and have failed to prioritise. We on this side do not like tax increases, but we do not think Australians with disability should miss out on the better deal they deserve due to poor decisions by this government. I do not think that would pass the fair go test. This legislation that is before us, all 13 pieces of it, will pass with our support, but we do see the Medicare levy increase as being only a temporary measure until the budget has been repaired and is in strong surplus.

I will put our decision into a broader context. We know that the Productivity Commission did not recommend funding the NDIS through a new tax. We understand that many families are doing it tough and that tax increases are an impost on household budgets. That is why, rather than responding immediately, we took our time and soberly considered the government's proposition to increase the Medicare levy. We do know that the current government's management of the economy and its fiscal approach, and the state of the budget as a result of the decisions they have taken, do not currently allow the
NDIS to be funded from consolidated revenue without further borrowings. Australians with a disability and their carers want the confidence that the NDIS means a permanent change in the way our country supports people with a disability. People with a disability should not have to wait any longer than is necessary for the support they need. For these reasons the coalition is prepared to support the government's proposed increase to the Medicare levy.

It is also important to recognise that the Medicare levy increase does not cover the full cost of an NDIS. The levy does not cover the difference between what governments currently spend on disability and the full cost of an NDIS. When you take into account the 25 per cent of levy proceeds that the government will give to the states and territories for 10 years you will note that the levy covers perhaps 40 per cent of the Commonwealth's required contribution to an NDIS in the period after the launch. We continue to call on the government to outline how the remaining 60 per cent of funding will be provisioned. Despite promising before the budget to do so, on the night of the budget the government has as yet failed to outline where the balance of the funds will come from. We will certainly be taking the opportunity of Senate estimates to further explore, unpack and disaggregate some of the funding information which the government provided on budget night.

I do not need to tell anyone that the NDIS is a huge venture of great proportions. According to the Australian Government Actuary, it will have a gross cost of $22 billion in complete form and will require additional contributions from all governments of more than $10½ billion dollars beyond 2018-19. When such a big call is being made on taxpayers they are entitled to know exactly what the NDIS will achieve and who it will support. The government needs to provide greater clarity on that.

The 460,000 Australians who will be supported by the NDIS are entitled to have a full appreciation of the gateway to the scheme. The gateway to the NDIS has a number of elements. There are the eligibility criteria in the act, there are the regulations, known as the NDIS rules, some of which have been released in draft form, and the NDIS national assessment tools, which have not as yet been publicly released.

When looking at the issue of gateways it is important to recognise that the Productivity Commission report has been in the government's hands for two years, that this is a $22 billion scheme and that there is a new tax base being created in the form of the Medicare levy increase that will part fund the scheme. It is important also to consider it against the backdrop that NDIS launch sites go live in New South Wales, Victoria, South Australia and Tasmania in six weeks time.

When the opposition indicated we would consider the increase to the Medicare levy we said that the government needed to introduce legislation to establish a fund in which the levy proceeds would be held; the government has done that. We said that the government also needed to legislate to the Future Fund as guardians of the fund, and the government has done that. We also said that the government needed to release the final NDIS rules and the national assessment tool, which has not happened as yet.

When the opposition has raised the issue of the tools and the rules there have been some who have said that the opposition is getting down into the weeds, but I think it is important to recognise that, for Australians with significant disability, the assessment tools and the NDIS rules are not a theoretical mechanism. They are elements which will
combine to underpin the opportunities and quality of life for these individuals.

It has also been suggested that people who want to know the eligibility arrangements for the scheme should grab a copy of the act. I do not believe that the Prime Minister, in saying that, seriously contended that Australians with disability should grab a copy of the act, grab a set of the draft rules, hunt down the national assessment tool and try to work it out themselves. I have said before and I will reiterate that I think it would be extremely helpful to potential scheme participants if a series of cameos or worked examples were released so that people with physical, sensory, intellectual, cognitive or neurological impairments could have a handle on their likely eligibility under the scheme. The same goes for people with psychiatric conditions. I do not think it is unreasonable to expect this sort of detail for a $22-billion scheme that is due to commence in about six weeks time.

I will draw a contrast with another significant reform. When the Howard-Costello government was preparing for the new tax system, the GST, the government of the day produced over 1,000 fact sheets and dozens of cameos and worked examples as to the effects of the tax on every type of household and business. This was done more than a year before the legislation came into the parliament and more than two years before the legislation took effect. I cannot imagine that, when Peter Costello was fielding questions about the new tax system, he ever responded that people should grab themselves a copy of the legislation and work it out for themselves. I think there is a need for some accessible cameos and worked examples in addition to the release of the rules and the national assessment tools. In the absence of some of that sort of information it is difficult to develop a complete picture as to how the scheme will work. I want to be clear: this is in no way a criticism of the staff of FaHCSIA or the transition agency. I think they are working as hard as they can. But that information would be helpful.

The opposition will be supporting this legislation. We look forward to working with all parties to see the NDIS become a reality.

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:08): I rise today to support the legislation before the Senate to establish a National Disability Insurance Scheme. The Greens are strongly supportive of the scheme and delighted that it is being brought forward and then voted on before we go to an election this year. It is a major reform in this country. We are delighted that it is happening and we are very pleased to stand and support it. We certainly welcome the fact that the Gillard government has moved in this way to provide care for people living with disability, no matter how that disability was acquired, to ensure that people will have daily care and to support delivering basic needs to allow full participation in society.

The legislation represents a combination of a strong community campaign. I congratulate all those campaigners and advocates for the determination and dedication that they have demonstrated over the years. Today is a great day for you, for all of those people out there who have made it their life's work. I congratulate them.

The scheme will support more than 400,000 Australians with a disability, their families and their careers. We know that disability currently affects one in every five Australians and that 95 per cent of Australians will enter the disability community, either temporarily or permanently, at some point in their lives. The scheme will pay for carers to give parents of children with disability a break. I know that
everybody will have met or been part of a family trying to support a family member with a disability. It is absolutely essential that people are supported so that they can have a break in order to maintain the ongoing work that they do and to enable them to continue the loving support that they give to their family member with a disability. The increase in the Medicare levy equates to an extra dollar a day for the average income earner and I would suggest that it is a dollar a day well spent.

As disability advocate Stella Young has said, it is hard to think about dollars when it may mean how many showers we get to have per week or whether we can get a mobility aid that will let us leave our houses. That is the practical reality of how to support people so that they can participate in society. I have to say that Stella Young has been a fantastic advocate for this national disability insurance scheme. I welcome the fact that the trials will be beginning in my home state of Tasmania in July. That will be very genuinely appreciated by the Tasmanian community.

The Greens have successfully amended the legislation to allow the national disability insurance scheme to ensure that the other essential services that people living with a disability need do not end or are not curtailed. Those services include transport, housing and education. This means that service providers will be required to continue to provide those services.

I welcome today's announcement that adopts our recommendation from the inquiry that establishes a trial specifically for Aboriginal people living with a disability. The Australian Greens recognise that Aboriginal and Torres Strait Islander people living with a disability often have significant difficulty accessing appropriate services. We welcome the flexibility in the scheme to meet those needs.

I recognise the time constraints on this debate and so I will conclude my remarks by reiterating how pleased the Australian Greens are to have the opportunity to stand here today to support the establishment of the national disability insurance scheme. I congratulate my colleagues for their work in ensuring the amendments to the scheme. I congratulate all the advocates. I congratulate the government for the work that has been done on this. I congratulate my colleague Senator Siewert for her dedication to this and for securing these amendments. I look forward to the passage of the legislation and the pilots starting and the money being made available to support the scheme.

Senator SIEWERT (Western Australia—Australian Greens Whip) (13:13): I rise to add to the Greens support. I will not take long, because I know that we want this legislation to go through this chamber so that we will have all the foundation pieces in place for a national disability scheme to start rolling out across Australia and so that the launch sites can get going. I have to comment yet again that I am really disappointed that we do not have a launch site in Western Australia because Western Australia has not yet signed up. That is very disappointing. I have had a number of emails from people living with a disability in Western Australia and their carers, people who have been supporting the campaign in Western Australia for a very long time. They have been very outspoken. Those people, like the rest of the people in Australia, want a national disability insurance scheme. They want DisabilityCare to come to Western Australia as well. I urge the Western Australian government and the Commonwealth government to work together to come to a resolution of this impasse. We do not want Western Australians to be missing out on opportunities to get the care and support that
other Australians living with a disability will get. People living with a disability in the rest of Australia will get that care and support but unfortunately not those people living in my home state of Western Australia.

This morning I attended—along with the minister and Senator Fifield—the launch of the First People's Disability Network Australia's 10-point plan for the implementation of the NDIS in Aboriginal and Torres Strait Islander communities. They articulated a 10-point plan very clearly to the Senate inquiry and that is why the issue was picked up in both the majority report and in the additional comments by the Greens—particularly the need to pay special attention to the rollout of the NDIS into remote Aboriginal communities. The first thing they point out in the plan is the need to recognise that the vast majority of Aboriginal people with disability do not self-identify as people with disability. For a start we need to overcome that particular issue. I credit the government for funding the implementation of this plan and the rollout of NDIS in Aboriginal communities. The Barkly Shire will be a launch site.

It would give me and other Western Australians so much pleasure to know that there was a launch site in Western Australia, especially in one of the areas that the Western Australian government is focusing on with their My Way sites. This sort of assistance for Aboriginal and Torres Strait Islander peoples would be enormously beneficial, particularly in the south-west of Western Australia for the Noongar community. I say once again to the Western Australian government: 'Get on board and make this happen in Western Australia so that people in Western Australia can enjoy the same care and support that everybody else in Australia is going to have access to. Get over this whole state-rights difference and let's get on with it and build on the strengths that we have in Western Australia already.'

The Greens will be supporting this legislation; we have supported the principle of the NDIS from day one. We have tried to be as cooperative as possible to achieve the rollout of this scheme. It gives me great pleasure to support this legislation and to be able to see the beginning of the launch sites in a couple of weeks time.

Senator McLUCAS (Queensland—Minister for Human Services) (13:17): It is my real pleasure to sum up this debate today. There are 13 bills to deliver DisabilityCare to Australia, but there are also a number of other bills that need to be passed before 2 o'clock, and so my contribution will be short. But the fact that it is short does not indicate our pleasure and pride at getting the legislation through the parliament.

I commend and thank a number of people. May I thank first senators and especially the Senate Community Affairs Legislation Committee for the work that they have done to facilitate a number of pieces legislation through the parliament. I particularly want to thank people with disability and their families and carers. The co-design that we have been able to do with those people has been amazing. May I also thank all advocates who over many years have wanted to see this day come. I thank the department officials—all of them, and there are many—for the work that they have done. I particularly want to thank DisabilityCare Australia, the agency that will now take carriage of an idea that had its embryo some 25 or more years ago. I want to place on record my personal thanks to Minister Jenny Macklin, who has steered this work over many years, and to the Prime Minister, who engaged and has become totally committed to improving the lives of people with disability. We have legislation; we have the
framework; we have the rules; and now we have the funding. It has been my privilege to be part of this historic social reform. Senators, DisabilityCare Australia's day has come.

Question agreed to.

Bills read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Pratt) (13:20): No amendments to the bill have been circulated. Before I call the minister to move the third reading, does any senator wish to have a committee stage on the bill to ask further questions or clarify further issues? If not, I call the minister.

Senator McLUCAS (Queensland—Minister for Human Services) (13:21): I move:

That the bills be now read a third time.

Question agreed to.

Bills read a third time.

Foreign Affairs Portfolio Miscellaneous Measures Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator JOHNSTON (Western Australia) (13:22): The opposition supports this legislation, which has as its purpose the amendment of the Intelligence Services Act to extend the application of the Public Service Act governing the voluntary interagency movement of APS employees to the Australian Secret Intelligence Service, thus entitling such employees to move between agencies, to avoid the restrictions and to have more flexibility—flexibility that does not exist if they are subject to the Public Service Regulations 1999. The amendment means that agreements made between APS employees and agency heads will no longer be subject to those regulations, which are quite restrictive, but instead be subject to the Public Service Commissioner's Directions made under the Public Service Act.

Having said all of that, this is an important adjunct to the highly professional, highly skilled and very difficult work that these members of the Australian Public Service do in this particular agency. They are very hardworking people, and I am very pleased that they will have their terms and conditions of employment enhanced by these amendments.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:24): I thank Senator Johnston for his contribution and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Senator PRATT (Western Australia) (13:25): As no amendments to the bill have been circulated, I call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:25): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Financial Framework Legislation Amendment Bill (No. 2) 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (13:25): The coalition support this bill, which seeks to amend five acts across three
portfolios. This is the 13th Financial Framework Legislation Amendment Bill since 2004. The process was initiated by the Howard government. The coalition find this bill non-controversial. It includes necessary changes which we support. I commend the bill to the house.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:25): I also commend the bill to the house and I thank Senator Cormann for his contribution.

Question agreed to.

Bill read a second time.

Third Reading

Senator PRATT (Western Australia) (13:26): As no amendments to the bill have been circulated, I call the minister to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:26): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Broadcasting Legislation Amendment (Digital Dividend) Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BIRMINGHAM (South Australia) (13:26): The coalition support this legislation. This is important legislation in relation to the allocation of spectrum, in particular the spectrum known as the digital dividend. This will allow for that spectrum, which is freed up by the shifting to digital transmission and the restacking that occurs with that, to be utilised while still part of the broadcasting services bands.

This is important reform; however, the coalition do have some concerns, notwithstanding our support for this. In particular, we are concerned about the government's failure to address the concerns of users of wireless audio microphones. Estimates put the number of such devices in Australia at between 120,000 and 150,000. They are commonly used by function centres, community groups, churches, schools and small businesses like gym instructors. Even senators have been known to use wireless audio microphones! These devices operate in the white space of the BSB spectrum, including in the 694 to 820 megahertz spectrum which forms part of the digital dividend. Once the auction process for that spectrum is complete—and that may now be a little further away than was anticipated previously—and the frequency is made available for 4G services, these devices may no longer work. This of course is a concern, one that the government did not appear to be on top of. Thanks to amendments moved in the other place by Mr Turnbull, the shadow minister for communications and broadband, the Australian Communications and Media Authority will be required to review and report on the provision of spectrum for such low-interference potential devices class licences and provide a transition pathway for such licences by 30 June 2013.

While I understand that many wireless audio devices operate on a set radio frequency, I hope, as does the rest of the coalition, that we will be able to find a suitable solution that ensures that as few of these devices as possible are rendered inoperable and that Senator Conroy's legislation here does not result in unintended consequences. Senator Conroy is a master of unintended consequences, and I could spend
a long time addressing the broader issue of spectrum simply to highlight the fact that Senator Conroy’s failure to manage his portfolio was once again on show in the most recent auction of spectrum and the fact that his personal intervention, against the advice of the ACMA, to set a higher reserve price has left spectrum sitting on the shelf and ensured the government failed to meet its budget expectations in that regard. As I said, it is another demonstration of Senator Conroy’s failure in his portfolio—just another example to go with so many others.

Notwithstanding the minister’s great failures on these issues, we know this legislation is necessary. We supported the transition to digital; we of course want to see the spectrum utilised in the most efficient way possible. That is why the coalition are concerned that so much of it will now be left sitting on the shelf. We support this legislation that would facilitate its usage, and in particular usage where the spectrum has managed to be sold.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:30): I thank Senator Birmingham for his contribution. I commend the bill to the house.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (13:30): As no amendments to the bill have been circulated, I shall call the minister to move the third reading unless any senator requires that the bill be considered in the Committee of the Whole.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (13:31): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Not-for-profit Sector Freedom to Advocate Bill 2013

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) (13:31): The Not-for-profit Sector Freedom to Advocate Bill seeks to invalidate clauses in Commonwealth agreements with the not-for-profit sector that restrict or prevent not-for-profit entities from advocating on Commonwealth law, policy or actions. The coalition, in opposition, has frequently stated its belief that not-for-profit organisations should not be treated as agencies or instruments of government, and it is fitting that we speak on this bill during National Volunteer Week. It is important to pause and remember that there are over 600,000 not-for-profits in Australia. We have a robust civil society and our nation would not be the same without our volunteers or these not-for-profit organisations.

On this side of the chamber we share the view that the state should be doing all it can to assist these organisations to do what they do best, to get on with their core business. We start with the principle that the government should do no harm to the endeavours of the not-for-profit sector. The coalition does have a plan to enable the not-for-profit sector to spend more time focusing on their core activities and our plan places the state at the service of Australia’s civil society rather than the other way around. Our plan will cut red tape and support service providers; it will free up the regulatory
burden that the not-for-profit sector currently has imposed on it.

We also have concerns about the large new regulator, the Australian Charities and Not-for-profits Commission. As I say, we want to help organisations focus on what they do best. We do recognise that there is a place for a national body to enhance the role of institutions in civil society but our view is that, rather than the current commission, there should be a small organisation that would act as an educative and training body—a centre of excellence for the sector. The coalition version of the organisation would seek to perform that role. It would also seek to act as a one-stop shop for information on charitable organisations and agencies operating in Australia, advocate for the rights of charities and not-for-profit agencies and represent the interests of those organisations to government. It would also undertake research and cross-sector evaluations of issues of concern to the sector and help to foster innovation.

It is important that the state be at the service of civil society. We should do no harm to their efforts. The government should be a facilitator but it should not intrude upon the operation of the not-for-profit sector. The coalition, for its part, wants to work with the sector and ensure that the well-intentioned activities of government do not work against it.

Senator SIEWERT (Western Australia—Australian Greens Whip) (13:34): I am pleased to support the Not-for-profit Sector Freedom to Advocate Bill so that we do not see history repeating itself, and I am pleased that the bill will go through with united support from across the chamber. This is a critical piece of legislation. It responds to a recommendation that the Greens made during the debate on the Australian Charities and Not-for-profits Commission late last year, and I am glad that we are able to debate it now and that it is being adopted as non-controversial legislation.

We are strongly supportive of the not-for-profit and charity sector in Australia. I have articulated that support in this place on many occasions. We believe that the sector plays an absolutely essential role in delivering critical services, advocacy and support for communities, but most importantly it plays a critical role in our civil society and democracy. These organisations play a leading role in the development of policy and are fierce advocates for many in our community, particularly the most marginalised and vulnerable groups. They provide enduring advocacy for the disability sector—advocates, service providers, people with disability—and they themselves have been lobbying and campaigning to raise awareness of the need for better services and more funding for disability services. I would go so far as to say that if it were not for those people and their advocacy, we would not have an NDIS today. The legislation we passed today is a result of that advocacy work.

Independence is critical to securing a robust and sustainable sector, and no government that truly wants to make this country a better place should expect not-for-profit organisations to basically sit there, shut up and quietly provide services without advocating for their clients or calling for systemic change. Unfortunately, sometimes government has a virtual monopoly over funding arrangements. It is often the sole contractor or the sole funder for important social environment programs, which leads to an imbalance in power in contract negotiations between governments and service providers and the not-for-profit sector.
In the past we have seen attempts to use those contracting arrangements to stop organisations carrying out advocacy. That is why the Greens believe it is so important that this legislation goes through and that it will protect the independence of the not-for-profit sector and ensure that governments do not use their position to stop not-for-profit advocacy. This was discussed during the ACNC Bill debate. I am really pleased that the government has brought this on and that it also moved at that time to make sure that the government standards did not impinge on the independence and advocacy role of the not-for-profit organisations. We will, of course, be supporting this legislation. We congratulate the government for bringing it on. The Greens will ensure that we hold all to this piece of legislation and ensure that the sentiments expressed in this chamber today are upheld in the future.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (13:38): As no amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in Committee of the Whole. I call the minister.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:38): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:39): I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

AVIATION TRANSPORT SECURITY AMENDMENT (INBOUND CARGO SECURITY ENHANCEMENT) BILL 2013

Australia’s aviation security framework is under continuous review to ensure it is responsive to changes in the aviation security environment including the deterrence, detection and prevention of acts of unlawful interference with an aircraft.

It is apparent that at times it may be necessary for Australia to place restrictions on certain cargo being carried on Australian aircraft, or being carried into Australia on foreign nationality aircraft.

This fact was highlighted on 29 October 2010, when two improvised explosive devices were
discovered on board aircraft in Dubai and the United Kingdom.

The devices were hidden in printers and sent from Yemen to the United States as air cargo consignments.

They were intercepted en route following an intelligence tip-off.

Such events show the potential for inbound air cargo to pose an unacceptable security risk to Australians and Australian interests.

While providing for a security framework covering outbound international air cargo, current provisions under the Aviation Transport Security Act 2004 do not provide specific mitigation measures to counter the threat posed by inbound international air cargo.

The proposed legislative amendment addresses this issue and will ensure that the Government has a sound, transparent and effective legal basis to mitigate the threat posed by international inbound air cargo.

In 2010, responding to the Yemen incident, the Government moved to prohibit air cargo originating in, or transiting through, Yemen or Somalia from being carried to Australia.

This was initially achieved through the issuing of Special Security Directions.

However, Special Security Directions only operate for a six month period as they were deliberately created as a short-term measure, providing an appropriate means to quickly deal with emerging security threats.

Upon their expiration, the effect of the prohibition was continued by requiring relevant aviation industry participants to vary their Transport Security Programs.

Under the current legislation, this is the only way the framework can address lasting threats such as those presented by the 2010 Yemen incident.

While this mechanism has the desired security effect, it is cumbersome, and creates an excessive administrative burden, requiring each aircraft operator to manually amend its security program, and for the Government to individually assess each amendment.

This Bill changes that by introducing a mechanism to quickly and efficiently respond to security threats on a national basis.

The proposed changes allow the Government to prohibit all air cargo entering Australian territory, or be limited to a variety of types of cargo, depending on the nature of the threat.

Some of the current examples of the types of cargo that might be regulated are:

- Cargo originating from a particular country or countries; or
- Cargo packaged in a particular way

This flexibility allows for currently unknown threats to be dealt with effectively and proportionately.

The threat of improvised explosive devices concealed in air cargo is real and the consequence of such a plot succeeding would be catastrophic.

As such, the Bill contains a strict liability offence.

The Government believes this is an appropriate deterrent against acts or omissions committed by aviation industry participants that may contribute to the success of an attack.

The penalties for an offence under the Bill are $34,000 for an aircraft operator and $17,000 for any other aviation industry participant.

These penalties are consistent with similar existing penalties for strict liability offences within the Aviation Transport Security Act.

Another consideration in developing the Bill is that lasting prohibitions on cargo have the potential to affect trade and foreign relations.

This Bill addresses this by providing an appropriate level of scrutiny, transparency and accountability through the use of a disallowable instrument.

No decision will be taken without consultation with the Minister for Foreign Affairs and the Trade Minister.

The Bill makes a technical amendment to the Act which arose out of the Aviation Transport Security Amendment (Air Cargo) Act 2011.

The Yemen incident has been a key driver for the strengthening of Australia’s air cargo security measures.
Ideally, all countries throughout the world would secure their own domestic and outbound cargo to a global minimum standard.

However, as this goal remains aspirational, the Government must take steps to ensure it has the right tools to take action when needed to protect Australia’s interests.

The security of inbound cargo is a key aspect of the Government’s overall aviation security strategy.

The Government’s first priority is ensuring the safety and security of Australians and Australian interests.

This Bill ensures that the Government has a sound, transparent and effective legal basis to mitigate the threat posed to Australia by international inbound air cargo in the future.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (13:40): The Aviation Transport Security Amendment (Inbound Cargo Security Enhancement) Bill 2013 makes two unrelated amendments to the Aviation Transport Security Act 2004, which governs our aviation security arrangements in Australia. Firstly, the act will be amended to strengthen our aviation security regulatory arrangements and to supervise their operation. Secondly, a minor drafting error in the 2011 amendment will be corrected. This is basically housekeeping.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (13:41): As no amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in Committee of the Whole. I call the minister.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:41): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures No. 2) Bill 2013

First Reading

Bill received from the House of Representatives.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:41): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:42): I move:

That this bill be now read a second time.

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

Leave granted.

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE LEGISLATION AMENDMENT (COMPLIANCE MEASURES No. 2) BILL 2013

The tragic deaths of two employees following an incident on the Stena Clyde rig in Bass Strait last year, the uncontrolled release of hydrocarbons from the Montara Wellhead Platform off the northern coast of Western Australia in August 2009 and the explosion of the
Deepwater Horizon in the Gulf of Mexico on 20 April 2010 - all serve to represent unfortunate examples of the serious and inherent risks associated with the offshore petroleum industry.

Collectively these events demonstrate and emphasise the need for a strong, effective and properly resourced offshore petroleum regulatory regime to safeguard human health and safety and the Australian marine environment.

The amendments contained in this bill largely continue the Australian Government's work of implementing its response to the Report of the Montara Commission of Inquiry, building as they do, on the previous compliance themed legislative package I introduced in November 2012 and which completed its passage through the Parliament last sitting fortnight.

This bill amends the Offshore Petroleum and Greenhouse Gas Storage Act 2006 to clarify and strengthen the compliance, monitoring, investigation and enforcement powers of the national offshore petroleum regulator.

As a result, there will be a range of graduated enforcement measures available to the regulator to appropriately and proportionately address different contraventions of the act.

Compliance measures contained in the amended bill will include:

- A range of alternative enforcement mechanisms, such as infringement notices, adverse publicity orders and continuing penalties;
- The agreed recommendations from the whole-of-Government 'polluter pays' report, including an express polluter pays obligation and an associated third party cost recovery mechanism;
- Clarifying insurance requirements to ensure that maintenance of sufficient financial assurance is compulsory without a direction being given, and to clarify the compliance role of the regulator;
- Enabling NOPSEMA inspectors to issue environmental prohibition and improvement notices to require petroleum titleholders to take action removing significant threats to the environment; and
- Requiring the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) to publish OHS and environment improvement notices and prohibition notices on its website.

The bill amends the act by introducing continuing penalties, infringement notices, adverse publicity orders and injunctions.

These tools will enable the regulator to select and apply an appropriate and proportionate regulatory response, depending upon the nature and relative seriousness of the breach that has occurred given the overall set of circumstances.

This range of graduated enforcement tools supplement, but do not replace, existing criminal penalties.

Provisions of the bill also strengthen and clarify the application of the 'polluter pays' principle in the act.

In the event there is an escape of petroleum as a result of operations within a title area, operators will be required to stop, contain, control and clean up the spill, as well as remediate the environment and carry out appropriate environmental monitoring.

In the event that the titleholder fails to comply with these requirements following a spill, the 'polluter pays' provisions will also enable the regulator (NOPSEMA or the Commonwealth Minister) to recover from the titleholder the costs incurred by them carrying out remediation activities.

While recognising that titleholders are operating within the Commonwealth's exclusive jurisdiction, the Australian Government recognises that, should an incident occur, there may be potentially serious environmental consequences in adjacent State and Northern Territory jurisdictions.

Acknowledging this risk, this bill also provides a statutory course of action for State and Northern Territory governments to recoup the costs, from the responsible titleholder, of cleaning up the escaped petroleum and remediating the damage to the environment.

The bill clarifies existing insurance provisions, ensuring that it is compulsory for a titleholder to
maintain sufficient financial assurance to meet any expenses or liabilities arising in connection with work done under the title following an escape of petroleum and also with other extraordinary regulatory costs they might incur. Financial assurance is required to deal with extraordinary costs, expenses and liabilities that a titleholder might not have the capacity to meet. It is not expected to cover ordinary expenses of a titleholder in meeting ordinary operating costs, such as the costs of compliance with title conditions.

The polluter pays and financial assurance amendments collectively implement and address the matters raised in Recommendations 95 and 96 of the Report of the Montara Commission of Inquiry.

Finally, the bill implements a number of miscellaneous technical and minor policy measures, including:

- Enabling the electronic service of documents under the act or legislative instruments to be provided for in regulations under the act; and
- Enabling administrative arrangements for taking eligible voluntary actions, when there is more than one registered holder of a title, to be carried through into legislative instruments under the act.

This current set of amendments makes further strides towards addressing issues identified as arising from the Montara incident in August 2009 and underscores the Government's commitment to the maintenance and continuing improvement of a strong, effective framework for the regulation of offshore petroleum activities.

I commend the bill to the Senate.

Senator HUMPHRIES (Australian Capital Territory) (13:42): The opposition supports this legislation as part of the process of ensuring that Australian and global communities are confident in the operation of offshore petroleum assets, particularly in the oil and gas industry—a very important part of the Australian economy. Our gas exports at present come almost entirely from offshore petroleum in Western Australia, with some also from offshore petroleum in the waters north of Darwin. It has involved the introduction of the latest technology in the world, that of a floating LNG plant located aboard a ship which is larger than an aircraft carrier. It is imperative that Australia moves into the next phase of offshore petroleum production, liquids, condensate and oil, and also gas for the LNG plants to supply the Asian markets in particular. This legislation will ensure that those operations are done safely in an environmentally sustainable way.

The amendments introduce a number of important provisions, which are supported by the opposition. We believe the offshore oil and gas industry can operate in the manner which allows it to grow without exposing either the workers or the environment to unnecessary risks. We need to have the right legislation to ensure correct and safe operation, but the onus must be on the industry to go above and beyond the requirements of the legislation to do everything it can to ensure that the safety of its workers and the protection of the environment are paramount. Accordingly, I commend the bill to the Senate.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:44): I would like to thank Minister Gray's predecessor, Martin Ferguson, for the work he did in setting up this bill. I would also like to thank Mr Ian Macfarlane for supporting the bill. I thank senators for their contributions and commend the bill to the Senate.

Question agreed to. Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (13:44): As no
amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in Committee of the Whole. I call the minister.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:44): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (13:44): The coalition does not like the Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013. What is described in Orwellian fashion as 'reform of self-managed superannuation' is, in fact, nothing but another Labor Party grab for cash. After five years of Labor's fiscal mismanagement, people across Australia are, every day, being asked to pay the price for the incompetence of our Treasurer, Mr Swan. But, given the circumstances we are in, given the fiscal mess Mr Swan has created, the coalition has no choice but not to oppose the bill.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop) (13:46): As no amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in Committee of the Whole.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:46): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Bill 2013

First Reading

Bill received from the House of Representatives.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:47): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:47): I move:

That this bill be now read a second time.

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

Leave granted.
The speech read as follows—

CUSTOMS AND AUSCHECK LEGISLATION AMENDMENT (ORGANISED CRIME AND OTHER MEASURES) BILL

In July 2010 the Government established Taskforce Polaris - a joint law enforcement taskforce targeting organised crime in the cargo system in Sydney.

It is made up of officers from the:
- Australian Federal Police;
- The Australian Crime Commission;
- Customs and Border Protection;
- The NSW Police; and
- The NSW Crime Commission.

It was set up by this Government, funded by this Government and it has been very successful.

To date, it has made 36 arrests, laid 171 charges and seized over 12 tonnes of illicit substances and pre-cursor chemicals.

It has also provided me with advice on further action to strengthen security in the cargo system.

Based on this advice, last year I announced the work of Taskforce Polaris would be expanded to Melbourne and Brisbane.

I also announced major reforms to make it harder for organised crime to infiltrate and exploit the cargo system.

This bill implements a number of these reforms.

Expansion of Taskforce Polaris

Taskforce Polaris shows how effective State and Federal law enforcement agencies can be when they work together.

Given its success, and the threats it has identified, we are going to replicate this model right across the eastern seaboard.

In Melbourne it is called Taskforce Trident. It has now been established and has around thirty members, including officers from:
- The Australian Federal Police
- Victoria Police
- Customs and Border Protection
- The Australian Crime Commission

- The Australian Taxation Office; and
- CrimTrac.

In Brisbane it will be called Taskforce Jericho. Officers from the Australian Federal Police and Customs and Border Protection have begun setting it up and it will roll out in the middle of this year.

Non legislative reforms

A number of non-legislative reforms have also been implemented to harden the cargo supply chain against infiltration by criminal groups.

This includes:
- Changes to the Integrated Cargo System to limit access to specific cargo information to those in the private sector who have a direct and legitimate interest in the movement and clearance of specific consignments.
- On-screen warnings for people who log into the Integrated Cargo System. People who use the Integrated Cargo System now need to agree that they will only use the system for legitimate purposes and will not provide information to unauthorised persons.

This is backed by the new offences in this bill which make it an offence to obtain and use restricted information, including information from the Integrated Cargo System and for unlawfully disclosing that restricted information.

- Work is also underway to increase the real-time auditing capabilities of the Integrated Cargo System to detect anomalies and gather intelligence.
- Customs and Border Protection has also increased the number of targeted patrols of the waterfront.

These patrols have increasingly been targeted using intelligence provided by both task force intelligence units and normal Customs and Border Protection intelligence areas. This intelligence has also been used to more effectively coordinate the use of overt uniformed presence and covert activities such as CCTV monitoring, static surveillance posts and mobile surveillance teams.

- Customs and Border Protection has also strengthened licence conditions on key participants in the trading system, specifically
holders of customs depot, warehouse and broker licences.
For example, from 1 July last year Customs and Border Protection has imposed the following conditions on all broker licences:

- licence holders must undergo additional integrity checks when asked;
- licence holders must advise Customs and Border Protection of any errors or omissions in information it supplies to the Agency;
- licence holders must not allow Customs and Border Protection systems or information to be used for any unauthorised purpose or to assist, aid, facilitate or participate in any unlawful or illegal activity; and
- persons holding a licence must undertake continuing professional development.

Work is also underway to improve the security of, and access to, Container Examination Facilities.

Security clearance procedures and access have been tightened for external service providers assisting the Container Examination Facilities. Customs and Border Protection is also implementing a range of other measures including enhancing CCTV coverage and security signage.

- Work is underway to implement a more stringent system of establishing applicant's identity in the Aviation Security Identification Card (ASIC) or a Maritime Security Identification Card (MSIC) schemes.
- Memoranda of Understanding are also being developed between AusCheck and relevant agencies to formalise existing arrangements and to enable the more timely exchange of criminal record and other relevant information. AusCheck has signed an MOU with the Department of Infrastructure and Transport and work on MOUs with the AFP and Customs is well advanced.

ASIC and MSIC Scheme Discussion Paper

The Department of Infrastructure and Transport released a Discussion Paper on this in December last year.

It proposes better and more consistent offence categories across the ASIC and MSIC lists. It also proposes including a number of offence categories that are not currently on either list, including organised crime, currency violations and harbouring of criminals, and a number that are not on the ASIC list, such as unlawful activity relating to firearms.

I understand that, following on from the Discussion Paper, the Department of Infrastructure and Transport is now preparing an Options Paper in consultation with other relevant Departments. The Options Paper will provide a more detailed proposal for Government and stakeholder comment.

Legislative Reforms

This bill implements four further important reforms.

First, it places new obligations on cargo terminal operators and people who load and unload cargo, which are similar to those that the Customs Act imposes on holders of depot and warehouse licences.

These obligations include mandatory reporting of unlawful activity to ensure the physical security of relevant premises and cargo.

They also include fit and proper person checks at the request of Customs and Border Protection Service.

Non compliance with these obligations will attract criminal or administrative sanctions.

Second, it creates new offences for obtaining and using restricted information, including information from the Integrated Cargo System, to commit an offence, and for unlawfully disclosing that restricted information. The offences will be punishable by a maximum of 2 years imprisonment, a fine of up to 120 penalty units, or both.

Third, it gives the Chief Executive Officer of Customs and Border Protection the power to impose new licence conditions at any time, and makes it an offence to breach certain licence conditions. This brings the Customs broker
licensing scheme into line with other customs licensing schemes.

The bill also adjusts a range of other controls and sanctions in the Customs Act, including increasing penalties for certain strict liability offences and improving the utility of the infringement notice scheme.

Fourth, the bill amends the AusCheck Act 2007 to enable an ASIC or MSIC to be suspended if the cardholder has been charged with a serious offence.

The current ASIC and MSIC regimes provide for the cancellation of an ASIC or MSIC where the holder is convicted of, and sentenced to imprisonment for, an aviation or maritime security relevant offence.

The bill introduces the capacity for AusCheck to suspend a person's ASIC or MSIC, or the processing of an application for an ASIC or MSIC, if the person is charged with a serious offence.

The list of serious offences will be prescribed by regulation. The list of offences will be developed by the Minister for Home Affairs and the Minister for Minister for Infrastructure and Transport.

Law enforcement agencies would be able to notify AusCheck when they charge the holder of, or applicant for, an ASIC or MSIC with a serious offence.

Holders and applicants for ASICS and MSICS will also be required to self-report when they are charged with a serious offence. The Regulations will make it an offence for a person to fail to self-report or to return a suspended card, punishable with a fine of up to 100 penalty units.

This measure has been developed instead of the proposed use of criminal threat assessments to refuse or revoke ASICS and MSICS.

This is based on advice from the Australian Federal Police that this is a better model.

The Australian Federal Police have advised that they prefer this model to the use of criminal threat assessments because of uncertainty around the definition of what should constitute compelling criminal intelligence, what law enforcement should be required to disclose, and how the appeal process should work.

Amendment to the Law Enforcement Integrity Commission Act 2006

The bill also amends the Law Enforcement Integrity Commission Act 2006, which establishes the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity.

This bill repeals provisions which prevent the deputy presiding officers from being appointed to the Committee.

This amendment will provide Parliament with greater discretion when appointing members to this important Committee.

It will also make membership eligibility for the Committee consistent with Parliamentary committees with similar functions, including the Parliamentary Joint Committee on Law Enforcement and the Parliamentary Joint Committee on Intelligence and Security.

Tackling organised crime

This legislation is part of broader action we are taking to tackle organised crime.

Two weeks ago the Prime Minister and I announced the establishment of a National Anti-Gang Taskforce. This includes:

- A National Coordination Team and an Anti-Gang Intelligence Coordination Centre based in Canberra;
- Strike Teams in Sydney, Melbourne and Brisbane – made up of Federal Police, State Police and Tax Office Investigators; and
- Liaison officers in Perth, Adelaide and Darwin.

The Taskforce will be made up of 70 members from the Australian Federal Police and State Police forces and will also include officers from the Australian Crime Commission, Customs and Border Protection, the Department of Immigration and Citizenship, the Australian Taxation Office and Centrelink.
The National Anti-Gang Taskforce will:

- Directly target, investigate and arrest gang members in Australia;
- Provide State and Federal law enforcement agencies with intelligence on gangs across Australia and overseas;
- Provide State and Territory Police with better access to key federal agencies like the Australian Taxation Office, Centrelink and the Department of Immigration and Citizenship, to get the information they need to make arrests;
- Investigate the activities of Australian based gangs overseas and the link to crime back in Australia; and
- Work with international law enforcement agencies such as the Federal Bureau of Investigation, the United States Drug Enforcement Agency, the United States bureau of Alcohol, Tobacco, Firearms and Explosives and Interpol to exchange intelligence and conduct joint operations.

This approach is based on the same model as Joint Taskforce Polaris – the Commonwealth and States working together to tackle organised crime.

It is also based on the FBI's Violent Gang Taskforce – that has been very successful.

This is about State and Federal law enforcement agencies working together.

State and Federal politicians also have to work together to ensure our law enforcement agencies have the powers they need to tackle organised crime.

Criminals move from State to State. They have assets and associates in other states.

If you clamp on organised crime in one state it tends to move to another. We have seen evidence of this.

That's why we need national anti-gang laws – so there is no place to hide and no safe havens.

We also need national unexplained wealth laws.

We all know the story of the person driving around in a flash car with no job, who doesn't pay income tax.

National unexplained wealth laws mean that if you can't explain where the income comes from to buy the flash car and the big house those assets can be seized.

State and Federal police have called for these powers.

Labor and Liberal politicians from the Parliamentary Joint Committee on Law Enforcement have called for these powers.

They require the States to refer these powers to the Commonwealth.

I put this to State and Territory Attorneys-General last year—and they rejected it.

This is a mistake and I am prosecuting the case for these powers again.

The Prime Minister has put this on the agenda for COAG in April, along with a proposal to give law enforcement additional powers to search people who are subject to a Firearms Prohibition Order, as well as any vehicle or premises they are in, for the presence of a firearm without the need to demonstrate reasonable suspicion. South Australian law could be used to as a model.

I am also implementing a number of other reforms to harden the border.

Two weeks ago, the Prime Minister and I also announced the establishment of a $30 million National Border Targeting Centre to target high risk international passengers and cargo.

The National Border Targeting Centre will use an intelligence-led, risk-based approach to target high-risk international passengers and cargo.

The advice of Australian law enforcement agencies is that intelligence and targeting is the key to seizing drugs and other contraband on the streets and at the border.

85 per cent of seizures at the border are the result of intelligence developed by Customs and Border Protection and other law enforcement agencies in Australia and overseas.

The more intelligence that law enforcement agencies have, the more they can seize.

The National Border Targeting Centre is based on the model developed by the National Targeting Centre in the United States and the United Kingdom's National Border Targeting Centre.
It will provide the basis for co-located agencies like:

- Australian Customs and Border Protection Service;
- Australian Federal Police;
- Australian Security Intelligence Organisation;
- Australian Crime Commission;
- Department of Foreign Affairs’ Passports Office;
- Department of Agriculture, Fisheries and Forestry; and

The National Border Targeting Centre will also provide a basis for Customs and Border Protection to work more closely with the Department of Immigration and Citizenship.

The new Centre will be able to work alongside targeting centres in the United States, Canada, the United Kingdom and New Zealand.

This legislation and the establishment of a National Border Targeting Centre are part of the major reforms I am making to Customs and Border Protection.

I have made the point on a number of occasions that Customs and Border Protection requires major and comprehensive reform to improve its business systems, its law enforcement capability and its intelligence culture.

To drive this reform I have established the Customs Reform Board, made up of three distinguished Australians with expertise in law enforcement, corruption resistance and best practice business systems.

The members of the board are:

- The Honourable James Wood AO QC Former Royal Commissioner of the NSW Royal Commission into the NSW Police Service
- Mr Ken Moroney AO APM Former Commissioner of the NSW Police Force
- Mr David Mortimer AO Former CEO TNT Limited, former Deputy Chairman of Ansett, former Chairman of Australia Post and Leightons Holdings.

The Board has already met a number of times, held a number of site inspections and received a number of briefings, and will provide me with its first report by the middle of the year.

**Conclusion**

I have made it clear I am serious about making sure our law enforcement agencies have the powers and tools they need to target organised crime – at the border and on the street.

I am equally determined to weed out corruption.

The vast majority of law enforcement officers, public servants and private sector workers who work in the aviation and maritime industries and the cargo supply chain are good, honest, hardworking people.

However organised criminals do try to target and infiltrate ports, airports and the cargo system.

When they penetrate the system they can cause enormous damage.

The purpose of this bill and the other measures I have outlined are to give our law enforcement agencies the powers they have asked for and the powers they need to stop organised crime from penetrating the system.

This is a constant battle. More reform is required.

I hope that in the near future I will be able to bring forward national anti-gang legislation and national unexplained wealth legislation to give our law enforcement agencies even more power to target organised crime.

**Senator HUMPHRIES** (Australian Capital Territory) (13:47): The Customs and AusCheck Legislation Amendment (Organised Crime and Other Measures) Bill 2013 provides for two very different measures. The first measure seeks to implement recommendations made by Taskforce Polaris and the Parliamentary Joint Committee on Law Enforcement in their report on the adequacy of aviation and maritime security measures to combat serious and organised crime. The second measure removes the prohibition on the Deputy Speaker of the House of Representatives and the Deputy President of the Senate being members of the
Before I address these measures in detail, I remind the Senate of the seriousness of the issue of organised criminal activity on Australian wharves and in our ports. Unfortunately, the Commonwealth's law enforcement agencies have been subject to systematic erosion in almost every budget since this government came to office. If the Attorney-General, the Minister for Home Affairs and the Labor Party were serious about stopping organised crime, that would be reflected in the allocation of resources and support for the essential elements of the mission of those agencies. It is an unfortunate fact that the budget cuts the government has inflicted on our law and border enforcement agencies have improved criminals' chances of putting guns and drugs into Australian communities. The government has reduced funding and personnel for law enforcement agencies such as the ACC and the AFP. It has also savaged Customs, the agency tasked with stopping illicit goods from coming across our borders.

Tuesday's budget confirmed what we already knew—that the government is simply not pulling its weight in this area. Further, it is being urged in that direction by the union movement. A group of five unions made a joint submission to the 2011 inquiry by the then Parliamentary Joint Committee on the Australian Crime Commission into aviation and maritime security measures. The five unions were the Maritime Union of Australia; the Australian Workers' Union; the Rail, Tram and Bus Union; the Australian Maritime Officers Union; and the International Transport Workers Union. The submission said:

Unions are unaware that the incidence of criminal activity is more prevalent on the Australian waterfront than in other domestic workplaces. We have seen and read divisive and scurrilous reports, including newspaper headlines about organised crime being rampant on our waterfront but the articles lack substance while the social commentators' arguments are hardly compelling.

Both Australian Crime Commission maritime case studies included in their submission rely on allegations and suspicions. They suggest there is evidence of gangs of organised criminals operating and infiltrating the transport industries but the evidence is not included in the submission.

These unions have collectively donated $23.7 million to the Labor Party since they came to office. The MUA in particular has long denied there is a problem with criminality on the waterfront.

The government has accordingly been extremely reluctant to act on criminality on the waterfront. The coalition, conversely, has consistently brought this issue to the attention of the government since 2009. This government has finally resolved to act at five minutes to midnight—or, more precisely, four years after these reports were brought to their attention—on the very eve of an election.

Under the Howard government, funding was increased for the AFP and there was an increase in staff numbers from around 2,000 to more than 6,000. By contrast, the last three Labor budgets, including the one delivered on Tuesday, have axed an astonishing $309.7 million from AFP funding. In the 2012-13 budget, to help prop up its budgetary position, Labor froze the use of $58.3 million taken directly from criminals under the Proceeds of Crime Act. Before the 2007 election, Labor promised to increase AFP ranks by 500 operational AFP officers over five years from January 2008. This commitment has not been met. AFP numbers have not been boosted in real terms and there have been at least 249 AFP redundancies since Labor came to office. On
Tuesday, the Treasurer informed the nation that its 2007 commitment would be deferred yet again.

We have heard anecdotal reports of various branches within the AFP being forced to find ways to make more cuts, even though there is no more meat on the bone. The coalition has heard that crime scene investigators are being asked to bring their own notepads and pens to take notes at crime scenes. This is a sorry state of affairs for an agency that was properly resourced under the Howard government. It is particularly galling in an environment where government spending has increased so dramatically over the last five years.

Organised crime is a problem all across the country. Even regional centres and remote communities are not immune from the activities of organised criminal syndicates. The task of combating it requires resources, expertise and cooperation, yet the Australian Crime Commission has been systematically undermined by the Labor government. Tuesday's budget revealed that, since this government came to office, it has cut $29.08 million from the ACC's budget and 198 staff, over 40 per cent of its personnel. Taking the fight to organised crime cannot be achieved when our most powerful crime-fighting agency is being systematically downsized and sidetracked from the main game.

The Australian Customs and Border Protection Service is an important partner of front-line law enforcement agencies. It has a vital role of stopping illegal goods such as drugs and guns, but Customs is not able to perform that role at peak efficiency. The service is plagued by instances of corruption and cuts to the Customs cargo-screening process to the tune of $58 million. It has become clear that organised criminal syndicates are taking advantage of these conditions. The government simply does not subscribe to the tenet of a strong law enforcement regime and strong border protection system.

This bill amends the Customs Act in a number of ways which I will not detain the Senate with. It also amends the AusCheck Act 2007 to allow a person's ASIC or MSIC, or their application for such a card, to be suspended if the person has been charged with a serious offence, and it enables the AusCheck scheme to make provisions for background checks to determine whether an individual has been charged with a serious offence or whether a charge of a serious offence has been resolved in relation to the individual. And I have mentioned that the Deputy Speaker and the Deputy President will legally become members of the parliamentary joint committee.

In conclusion, it is unfortunate that the process of implementing these measures has taken so long, particularly given the report that the joint committee on the Australian Crime Commission released in June 2011 and the recommendations that Taskforce Polaris handed down over a year ago. If the Attorney-General and the Minister for Home Affairs were serious about tackling organised criminal activity, they would have sought to protect their agencies from the damaging cuts this government has inflicted on them, particularly the cuts revealed by the Treasurer this week. Despite the failure of this government to protect the very agencies that this bill affects, the coalition does support measures to strengthen port and airport security, and for this reason I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT
(Senator Mark Bishop) (13:55): As no
amendments to the bill have been circulated, I shall call the minister to move the third reading, unless any senator requires that the bill be considered in the Committee of the Whole. I call the minister.

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (13:55): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**Environment Protection and Biodiversity Conservation Amendment Bill 2013**

**Second Reading**

Debate resumed on the motion:

That this bill be now read a second time.

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (13:55): It is amazing: a couple of days ago here, at about this time, Mr Duddy, one of Mr Windsor's supporters, came into the chamber and I gave a very short speech—three minutes—and we are still hearing the repercussions of it. It was quite clear at the time: I was pointing out that Mr Windsor did very well. This bill is to do with water. He was one of the architects of this. He sold his place for three times the price. I did not tell the full truth, because I said that he sold it for $2,000 an acre. He did not. It was nearly $5,000 an acre. That is an awful lot of money. I wondered how he could get such a price. But I went back and I had a look at some of the things he said in his letter to the editor about water, aquifers and mining. He said:

It is believed there will be an application to extend the Coal Company's mining area—at some time in the future—that application may impact on "Cintra" land if approval were to be given.

Well, why else would you sell your property to a coalmining company unless you expected it to become a coalmine? And what else could affect an aquifer more than turning your place upside down? This is a place that your father owned, and I do not know how many generations the place has been in the family for. The letter also said:

This portion of coal bearing land on Windsor Family land is … gravel ridge …

A gravel ridge is the type of land that should be mined …

That is what Mr Windsor said. Because he believes that that gravel ridge should be mined, maybe he believes that other gravel ridges should be mined. Maybe he believes that the ridges which he is currently protesting on should be mined. It just is a bit peculiar. How can you possibly have two different positions?

I have to say that I think that he did an extremely good deal. It was probably just good luck—because most people would pay three times the price they have to! That is what you do—you just pay vastly more than you have to! That way, one person, one party, gets vastly more money than they expect—and we never know what the other party gets. Obviously they get the satisfaction of knowing that they bought it from you, and that is all that would be motivating them! That is it—just the satisfaction of knowing they paid three times too much for the asset they just purchased!

This is a very interesting thing. Now we know that Mr Windsor does believe in mining. If you go out of Werris Creek, you can see his mine. It is a big mine, with bulldozers and draglines. It is a big mine—and this is the person who is the champion of aquifers—tearing up the coal so they can
ship it off to China. This is the same person who apparently has got a problem with mining in other areas. But he did not have a problem just after he sold the place, back on 28 July 2010. At that time, his problem was not quite so acute, because he says:

A gravel ridge is the type of land that should be mined …

So he is a miner. Coalmine Tony—that is what we call him! 'If mining were to be approved?' Why else would you sell your place to a coalmine unless you thought it was going to be approved for coalmining? What else are they going to put on it—a golf course, a recreation area, a theme park? Why else would you sell your place to a coalmine unless you thought it was going to become a coalmine?

Senator Conroy interjecting

Senator JOYCE: I know that you are going to protect him, because there are a lot of people in the Labor Party who are great friends with Mr Windsor. There are a lot of people in the Labor Party who are very close friends with Mr Windsor. I know you are very close friends because the Labor Party has got to remain close friends with Mr Windsor, don't you, because you are all in this together?

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Budget

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:00): My question is to the Minister for Finance and Deregulation, Senator Wong. I refer the minister to concerns reported today that the budget's assumptions about the value of the dollar and commodity prices might be overly optimistic and, if so, could lead to reduced revenue collections to the tune of $90 billion. Given the heroic assumptions in the budget about the terms of trade and the highly optimistic estimates about the revenue to be collected via the carbon price and the mining tax, will the minister, as one of the people most responsible for preparing the budget, accept a personal responsibility for any deterioration in revenue collections and any consequent impact on the deficit?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:00): I would make a few points in response to Senator Joyce on this. The first is: notwithstanding the attempt by the coalition to distract attention by attacking the Treasury or attacking forecasts, I would remind the coalition that the very professional officers of the Treasury and the very professional officers of Finance are the same institutions—and, often, in many locations, the same individuals—who served Mr Costello and produced the forecasts for Mr Costello. But what the coalition would have you believe is that, magically, suddenly, the Treasury has become some hotbed of a Labor Party faction. Well, we on this side actually have some regard for the professionalism of the institution and think it is very unfair and inappropriate for the coalition to continue to attack the Treasury in the way that it is.

I think there were two questions. The first might have been in relation to nominal GDP, and I would make the point that the forecasts for nominal GDP are in fact: nominal GDP growth below trend and well below the 20-year average, and in fact the nominal GDP forecast has been reduced since the midyear review. In terms of the terms of trade, the forecasts in the budget are broadly in line with those of many major forecasters and show a decline over the forecast period, and of course there is an assumption about decline over the projection period.
I would refer the senator—or perhaps I can, in the supplementary—to a number of comments by market economists about the government forecasts. *(Time expired)*

**Senator Joyce** (Queensland—Leader of The Nationals in the Senate) (14:03): Mr President, I ask a supplementary question. Why should the Australian people have any faith in the forecasts and assumptions that the minister and the Treasurer have adopted in this election year budget when so many of the estimates, forecasts and assumptions in last year's budget were wrong, including the assumption that only 450 asylum seekers would arrive per month when, in fact, the actual number was around 2,000 people per month?

**Senator Wong** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:03): We have a reprise from Senator Joyce of Senator Abetz's attempt yesterday to make sure that they do not actually talk about the economy, they do not actually talk about disability care, they do not actually talk about jobs, and they do not actually talk about how they grow the economy or employment, or what their plans for Australian schools are; all they want to do is talk about boats. But we know that that is the approach that the coalition take. I again remind the Senator that, in terms of the forecasters, the Treasury also forecast for Mr Costello and he is now attacking the same institution that served very well under both governments. I would remind him also of some comments by market economists: according to Citi, the economic forecasts look achievable and are similar to the RBA's, and our forecasts, according to UBS—*(Time expired)*

**Senator Joyce** (Queensland—Leader of The Nationals in the Senate) (14:04): Mr President, I ask a further supplementary question. Given that, in the minister's time as finance minister, we have seen the cumulative total of deficits run up to over $40 billion—more than you and the Treasurer estimated at budget time; $40 billion over what they told us it was going to be—why should Australians have any confidence in your estimates? Why should we have any confidence in the next budget nightmare, the NBN? Is it the fact that Mr Swan just cannot help himself, grossly overestimating your ability to keep the nation's finances under proper control? *(Time expired)*

**Senator Wong** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:05): I was talking about UBS, given I was asked about forecasts. According to UBS, the budget contains more:

… conservative and credible revenue forecasts—without unduly leaning on the economy’s near-term vulnerable economic recovery.

So the reality is: the market does not agree with what Senator Joyce is putting. Nor, I am reminded, does former Prime Minister John Howard—

**Senator Conroy:** What did John Howard say?

**Senator Wong:** He basically said the economy was in good shape, which of course puts him completely at odds with that master of negativity, the Leader of the Opposition.

**Senator Conroy:** ‘When the Prime Minister and the Treasurer and others tell you that the Australian economy is doing better than most—they are right.’ That is what he said.

**The President:** Order! Senator Conroy, Senator Wong is to answer the question.
Senator Joyce: Mr President, I rise on a point of order. I cannot hear Senator Wong's response over Senator Conroy's interjections.

The President: I am drawing the attention of Senator Conroy to the disruption as being disorderly. Senator Wong, continue.

Senator Wong: I remind the senator of Mr Howard's comments: 'When the current Prime Minister and the Treasurer and others tell you that the Australian economy is doing better than most—they are right.' So perhaps Senator Joyce could have a chat to Mr Howard. (Time expired)

Budget

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (14:06): My question is to the Minister for Science and Research, Senator Farrell.

Senator Fifield: Come on down, Don!

Honourable senators interjecting—

Senator CAROL BROWN: I am very honoured to ask the first question of Minister Farrell.

The President: When there is silence, I will ask—

Honourable senators interjecting—

The President: Everyone is happy? All right, Senator Brown.

Senator CAROL BROWN: Thank you, Mr President. Can the minister update the Senate on how the Gillard government's investment in science and research in the 2013-14 budget is supporting the Australian economy?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:07): I thank Senator Brown for her question.

Opposition senators interjecting—

The President: Order!

Senator Abetz: Does the first answer have to be heard in silence?

The President: I have just had it asked of me: does the first answer have to be heard in silence? For the sake of the chamber: every answer has to be heard in silence! Thank you for that prompting, Senator—that was a very good prompt indeed. The senator is entitled to be heard in silence.

Senator FARRELL: Thank you, Mr President, for that protection. I would like to thank Senator Brown for her question and note the senator's ongoing interest in the science and research sector. The Gillard government remains committed to supporting a stronger, smarter and fairer nation. Building this sector is at the heart of our commitment. Supporting science and research fuels jobs and growth, increases productivity and supports Australian businesses to compete in the global economy.

For example, we have invested $185 million over two years in the National Collaborative Research Infrastructure Strategy. This will support Australian researchers and research facilities to drive innovation and support high-quality jobs growth. NCRIS, as it is known, funds projects that support important research work that will benefit future generations. These projects include work on fabrication infrastructure to support advances in materials design, and earth imaging and geospatial systems of direct benefit to the mining industry.

This government knows our future prosperity relies on Australians having the skills and innovation needed to compete against the world's brightest. That is why the Gillard government has also announced $135 million over five years to extend the Future Fellowships scheme. This new funding will
provide 150 more fellowships and builds on the government's original $844 million investment.

Importantly, the Gillard government has also committed $25 million over five years for Hobart's Antarctic Climate and Ecosystems Cooperative Research Centre. Our commitment to both research and an ongoing presence in the Antarctic means jobs for Tasmanians and investments in the Australian and Tasmanian economies. *(Time expired)*

**Senator CAROL BROWN** (Tasmania—Deputy Government Whip in the Senate) (14:10): Mr President, I ask a supplementary question. I thank the minister for his answer. Can the minister further inform the Senate why it is important to invest in programs like Future Fellowships and the National Collaborative Research Infrastructure Strategy?

**Senator FARRELL** (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:10): I once again thank the senator for her question. The National Collaborative Research Infrastructure Strategy supports major research infrastructure to encourage collaboration between the research sector, industry and the Australian government to conduct world-class research. The Gillard government's investment of $185 million in this budget will ensure that Australian research continues to be competitive and ranked highly on the international scale.

I recently visited a new research facility for advanced microscopy technologies at the Waite campus of the University of Adelaide. Researchers at the Waite campus are tackling the global challenges of food security and sustainable food production as part of the Australian Microscopy and Microanalysis Research Facility. This important national project has benefited from $21 million in funding under NCRIS. The Future Fellowship scheme was announced in 2008 by the Labor government—*(Time expired)*

**Senator CAROL BROWN** (Tasmania—Deputy Government Whip in the Senate) (14:11): Mr President, I ask a further supplementary question. How does the investment in Hobart's Antarctic Climate and Ecosystems Cooperative Research Centre support research and the local economy?

**Senator FARRELL** (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:12): I thank Senator Brown, once again, for her question. As part of the 2013-14 budget the Gillard government has committed $25 million over five years for Hobart's Antarctic Climate and Ecosystems Cooperative Research Centre. This announcement will help the CRC continue its world-leading research into Antarctic climate science and the uncertainties that currently limit the global response to climate change.

The funding will be provided from 1 July 2014 over a five-year period. The CRC is looking at the effects of acidity in the Southern Ocean and the impact of these changes to the Southern Ocean and Antarctic ecosystems and fisheries. This announcement reflects the government's support for the ongoing research capabilities and for the Tasmanian economy. There is a range of small businesses that support our work across a range of industries, and these include engineering, electronics and welding. Our commitment to both research and ongoing—*(Time expired)*

**Budget**

**Senator MASON** (Queensland) (14:13): My question is to the Minister for Science and Research and the Minister representing the Minister for Tertiary Education, Skills, Science and Research, Senator Farrell. Does
the minister agree with the Prime Minister when she said in February 2010:

If we are serious about the future, if we are serious about modernising the Australian economy, strengthening Australian communities and improving the lives of Australian families then we have to be serious about lifting the capacity and the performance of Australia's universities.

If so, why has the government decided to rip $2.3 billion out of the higher education budget?

Government senators interjecting—

The PRESIDENT: Order! On my right!

The time for debating the issue is after question time. The Minister for Science and Research and the Minister representing the Minister for Tertiary Education, Skills, Science and Research has the call.

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:14): Thank you for the question. The short answer is: yes, I do agree with the Prime Minister, because that is in fact what we are doing. This government is committed to a strong university system and to ensuring that no Australian student is left behind. It is true that the government has announced a two per cent efficiency dividend in the year 2014 and a 1.5 per cent efficiency dividend in the year 2015 on university funding. This efficiency dividend will help fund A National Plan for School Improvement, which is a once-in-a-lifetime opportunity to properly resource Australian classrooms, teachers and schoolchildren. Despite the efficiency dividend, real funding—

Opposition senators interjecting—

Senator FARRELL: Listen to this—despite the efficiency dividend, real funding per student is still projected to increase to over $18,100 in 2017. Under Labor, funding for students to go to university has increased by 75 per cent—

Senator Mason: Not per student, Don.

Senator FARRELL: No, not per student. It has increased from $3.5 billion when you left government to $6.1 billion in this year. As a result of the record funding, 190,000 more students are now going to university compared to when you were in government. That is about the number of people in the town of Townsville. (Time expired)

Senator Bernardi interjecting—

The PRESIDENT: Order! I am waiting to give Senator Mason the call. He is entitled to be heard in silence.

Senator Bernardi interjecting—

The PRESIDENT: Senator Bernardi, I am waiting to call your colleague, who is sitting directly in front of you. Senator Mason deserves to be heard in silence.

Senator MASON (Queensland) (14:17): Mr President, I ask a supplementary question. Is the minister aware of the Prime Minister's views on education stated in her 30 January 2013 National Press Club address, where the Prime Minister said:

I believe in this as a moral cause—a crusade—but I also believe that our future prosperity is inextricably linked to us winning the education race.

I will fight to get this done.

Having slashed higher ed by $3.3 billion, or five per cent, over six months, how could the Prime Minister possibly claim this?

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:17): Thank you for that question. The fact of the matter is that real funding per student has increased under the Labor government and will continue to increase after the efficiency dividend has been taken into account. In 2007, real funding per student was $16,147.
In 2012, it was $17,659. With the efficiency dividend taken into account, real funding—this is after you have taken out inflation—per student is projected to exceed $18,000 in 2017. This will be a real funding increase in excess of 10 per cent. The suggestion that you should only look at one funding source is fanciful and is out of touch with reality. (Time expired)

Senator MASON (Queensland) (14:18): Mr President, I ask a further supplementary question. Only two months ago the then Minister for Tertiary Education, Skills, Science and Research, Mr Bowen, said that 'universities are entitled to assume they will be at grave risk under a Liberal government' and that 'the sector is entitled to conclude that university funding will be a prime target' for the coalition. Will the minister now apologise to Australian universities for running a cynical scare campaign in preparation for its own recent $2.3 billion cuts?

Honourable senators interjecting—

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

Senator FARRELL (South Australia—Minister for Science and Research and Minister Assisting on Tourism) (14:19): Thank you, Senator Mason. No, I will not apologise, because we have nothing to apologise for. Let me go through those figures again. Perhaps you did not understand what I said when I answered your last question.

Senator Mason: That's not right.

Senator FARRELL: Well, you come up with your own figures, then, Senator Mason. These are the accurate, correct figures. In 2007, when you left government, per student, funding was $16,147. In 2012 it was $17,659. And, by 2017, the projected figure is $18,100. We are delivering.

Senator Mason interjecting—

Senator FARRELL: But, Senator Mason, if you do not like—

The PRESIDENT: Senator Farrell, you should address your comments to the chair and not across the chamber to Senator Mason.

Senator FARRELL: Thank you, Mr President. I shall do so. Let's hear what you are going to do to higher education, Senator Mason. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Every senator is entitled to be heard in silence.

Sri Lanka

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:21): My question without notice is to the Minister for Foreign Affairs, Minister Carr. Minister, are you aware of the Rajapaksa government's compulsory acquisition of Tamil land in Sri Lanka, and in particular of the petition lodged in the appeals court against the latest proposed land acquisition, P1, which seeks to appropriate 6,381 acres of land for government forces for no public purpose, land which contains the traditional homes of Tamils who have been kept in camps and repeatedly refused permission to return? If so, what representations have you made to the Rajapaksa government regarding such land acquisitions, displacement of people and fuelling of people seeking asylum? If you have not made representations, why not, and will you do so?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:22): We have consistently made representations to the government of Sri Lanka on human rights. We make no apologies for that and we make no apologies for a policy of engagement rather than isolation of the government of Sri Lanka to
achieve the implementation of the human rights agenda that that government has set itself.

Most recently, we co-sponsored the Resolution on Promoting Reconciliation and Accountability in Sri Lanka in the UN Human Rights Council in Geneva on 21 March. Australia was a co-sponsor of that resolution. When I met President Rajapaksa in December, I raised the importance as Australia sees it of the government of Sri Lanka delivering on its own committed benchmarks spelt out in the Lessons Learnt and Reconciliation Commission report. We will continue to engage the government of Sri Lanka about the importance of reconciling and settling the issues after a 3½-decade-long civil war.

I want to emphasise that that civil war was traumatic for the people of Sri Lanka. There is not one narrative that explains the civil war. It is a safe assumption that atrocities were committed by both sides in that civil war. Australia will continue whenever we meet, at foreign minister level, at the level of the President and in meetings with other ministers, to raise our concern about human rights in that country.

I am not aware of the land acquisition policy. I am happy to get advice from our high commission in Colombo. Our high commission, I might add, has a record of pressing these issues at every opportunity with the government in Colombo. Again, that is a legitimate concern. I commend the government of Sri Lanka on taking a responsible approach on the illegal people-smuggling activities—(Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:24): Mr President, I ask a supplementary question. Mr President, I ask a supplementary question. Minister, Navi Pillay, the UN High Commissioner for Human Rights, reported this year on extrajudicial killings, enforced disappearances, militarisation and land grabs. Do you accept the report is evidence based? If so, are these practices acceptable to Lanka because she stalled legislation that sought to grant greater political and financial power to President Rajapaksa's younger brother, the economic development minister, is the Australian government confident of the independence of the judiciary in Sri Lanka or that the rule of law is being upheld in Sri Lanka or, indeed, will be upheld in the appeals court, where this petition on land grabbing is being held? If you are confident, why have you got that confidence? (Time expired)

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:25): It is not up to me to express confidence in how the court system in Sri Lanka will work. I am not in a position to do that. If there are matters of concern to us, we will raise them with the government. I raised with Foreign Minister Peiris our concern at the dismissal of the Chief Justice of Sri Lanka. I did that with a phone call to him rather than a public statement. I raised as well the question of judicial independence when I was in Colombo in December. The government presented an explanation of its criticisms of members of the judicial system. But it is not up to us to make a determination. We make representations. Sri Lanka will have to answer in various international fora, like before the Human Rights Council resolution, initiated with our support and our co-sponsorship, and answer to its own people. I emphasise again that the—(Time expired)
the Australian government? If not, why are we attending CHOGM and why are we sending back asylum seekers?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:26): Why are we sending back asylum seekers? Because they have arrived illegally as the result of work by people smugglers. That is why they are being sent back. Sri Lanka deserves to be commended for taking back people who have come here without a defensible claim of asylum. That is why they are being sent back.

Moreover, we have investigated four allegations of mistreatment. Two were found by our high commission to be absolutely invalid and two are still being investigated. So, of the thousands returned, there have been four complaints—four allegations about mistreatment. The fact is—

Senator Milne interjecting—

Senator BOB CARR: I am getting on to that other part of the question. It is precisely because of those concerns expressed by the Human Rights Commissioner that we co-sponsored the resolution in the Human Rights Council to have these inquiries—that is precisely why we did that. Our record on this is commendable, unimpeachable—

(Time expired)

Budget

Senator CORMANN (Western Australia) (14:27): My question is to the Minister representing the Treasurer, Senator Wong. Given that it is now obvious that Labor's complex mining tax is a complete failure, with revenue collections 95 per cent below the Treasurer's original forecast, why should anyone believe the government's latest prediction that revenue from the mining tax will increase by an incredible 1,000 per cent over the current forward estimates?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:28): I would make a couple of points. The first is—

Senator Cormann: One thousand per cent!

The PRESIDENT: Order!

Senator Jacinta Collins: She can't even make a point.

Senator Cormann: She should answer the question, not make a point.

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

Senator WONG: I would make a couple of points in response to the question. The first is that, whatever criticisms the senator has of the MRRT, the revenue write-downs that are being seen in the federal budget are far bigger than what we see in the context of the MRRT. In other words, the write-down on the MRRT revenue is a fraction of the total write-down that the government has confronted in putting this budget together—a fraction of the total write-down. I would remind the senator: it is true that the MRRT has been written down, but it is also true that you see, in aggregate, much bigger write-downs from other profit-based taxes across the board. So the fiction that Senator Cormann continues in this question is that, if there were a different MRRT, the budget position somehow would change. The reality is that the revenue write-down from the MRRT is only a fraction of the $60 billion that confronts whoever is working on the budget. They would be the same figures if Senator Cormann were in government.

In terms of the MRRT, the budget makes clear that the revised projections are for a net of $5.5 billion over the new forward estimates. Obviously, resource rent taxes are, by their nature, difficult to forecast. Some
volatility in revenue relative to the estimates is to be expected. I would make the point that Treasury's outlook is consistent with forecasts by the independent Parliamentary Budget Office, as well as market economists like Deloitte Access Economics.

**Senator CORMANN** (Western Australia) (14:30): Mr President, I ask a supplementary question. How can the government possibly assert that revenue from the mining tax will increase by a staggering 1,000 per cent over the next four years, when the government is predicting at the same time that there will be no major change to our terms of trade—if anything, there will be a slight reduction in our terms of trade—and that the Australian dollar will remain high?

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:31): I suspect that Senator Cormann should also then be yelling out to the Parliamentary Budget Office, which projects revenue slightly higher than Treasury and Deloitte Access Economics—who he has previously liked to quote—who also projects a revenue forecast that is slightly higher. Obviously, the volatility of resource rent taxes is an intrinsic aspect of their design. The PRRT is also a profits based tax. It has been around for about 25 years. The volatility of collections under that revenue head exceeds that of any other revenue head.

I would also like to make the point that the MRRT is less than a year old. We have seen some recovery in the spot prices. It will take time for those to be fully reflected in mining contracts and therefore in revenue. We have also seen an increase in capex and—(Time expired)

**Senator CORMANN** (Western Australia) (14:32): Mr President, I ask a further supplementary question. How can anyone have any confidence in the revenue estimates in this budget, when they are based on such unbelievable revenue assumptions and when this government's previous revenue forecasts have turned out to be so wrong?

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:32): Is that it? I mean, seriously! The opposition's response to the budget, which lays out a plan for the future, is to try and distract attention away from their failure to come clean with the Australian people about what their real plans are. Let there be absolutely no doubt about this: the commission for an audit—which the opposition is proposing—is a smokescreen to cover up a raft of Liberal cuts to health, education and services that Australians need.

They come in here and try to distract attention from it by saying, 'The figures are actually wrong.' What they are really trying to do is distract attention from their plans. Their plans are the same plans that we know Liberals always have: cut too hard and cut in the wrong places—just like you see in Queensland. If that is not right, why don't you come in here and tell everyone what you would really cut?
14 budget builds on federal Labor's record investment in the nation's roads, rail and urban public transportation. We have already doubled the budget for roads; we are building and upgrading over 7,500 kilometres of road. The government has increased rail spending tenfold and is building—

Honourable senators interjecting—

The PRESIDENT: Order!

Senator LUDWIG: It is good news. We have also committed more in public transportation infrastructure than all of our predecessors since Federation combined. In five short years, Labor has turned around declining investment in the nation's infrastructure and begun building for the future. We have replaced the neglect, buck-passing and short-termism by the Liberals and Nationals with a comprehensive national plan—unlike what the Liberals have demonstrated. That is why, in this budget, the federal Labor government is injecting a further $24 billion into our Nation Building Program. This takes our investment in the nation's road, rail and urban public transport to a record $60 billion over the 11 years to 2018-19. But the job is not finished there; there is more to be done.

This year's budget will get the missing link between the F3 and M2 in Sydney to market within months. We will assist the New South Wales government to deliver the M4 and M5 extension, in partnership with the private sector. In Brisbane, in my home city, Labor will upgrade and widen the Gateway Motorway to six lanes between Nudgee Road and the Deagon Deviation. In Melbourne, we are investing to widen the M80 to a minimum of three lanes, in both directions, and to install the latest technology for managing traffic flows along the entire corridor. In Adelaide, we will upgrade and widen South Road between Torrens Road and the River Torrens. In Perth, we will see the construction of the Swan Valley bypass, which will replace the Great Northern Highway as the main freight route for going in and out of the city from the north. (Time expired)

Senator GALLACHER (South Australia) (14:36): Mr President, I ask a supplementary question. Can the minister provide an outline of the government's investment in our regional roads and highways?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:36): I thank Senator Gallacher for his interest in rural infrastructure as well. Labor's investment in Australia's vital infrastructure extends beyond the limits of the cities—where the Liberals stopped. In fact, two-thirds of our infrastructure budget will be for projects in rural and regional Australia. The 2013-14 budget builds on what is already the largest road construction project since the creation of the National Highway Network some 40 years ago. This budget locks in the funding for Labor's $4.1 billion plan for a better and safer Bruce Highway to begin; it will continue and complete a range of improvements to this vital road. It continues the substantial progress towards the full duplication of the Pacific Highway. I add that that is one of the largest and most complex road construction projects ever undertaken in this country. It delivers a dedicated package of works along the Midland Highway in Tasmania. All of this is about supporting—(Time expired)

Senator GALLACHER (South Australia) (14:37): Mr President, I ask a further supplementary question. Can the minister explain how important it is for the
government to invest in these infrastructure projects?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:37): This government has a plan for the future. Investing in roads and rail increases productivity, reduces congestion and increases time spent at home. I heard some little laughs from the opposition during the last question—very concerning from the doormats to the Liberal Party. The Liberals and Nationals only know one thing when it comes to investing in the nation’s infrastructure: neglect, neglect and neglect. Quite frankly, they are not up to the job of investing in nation-building projects about relieving congestion and ensuring that we have good-quality roads and highways. After 12 years of the Howard government, a lack of investment cut almost one percentage point off annual growth and more than $2 billion was slashed from the federal roads budget atop the slashing of the $1 billion from the health budget. Australia ranked 20th out of the 25 OECD countries when it came to investing in public infrastructure—(Time expired)

Animal Welfare

Senator IAN MACDONALD (Queensland) (14:38): My question is about a catastrophic animal welfare issue and it is to the Minister for Agriculture, Fisheries and Forestry. I ask Senator Ludwig: as agriculture minister and as a Queenslander, what submissions did he make to the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, for permission to allow grazing on national parks for the up to 300,000 head of cattle that are at risk of a horrible death from starvation as a result of the live cattle ban, bushfires and drought? Does the minister agree with the Queensland RSPCA, which said that the Queensland government's decision to allow access to national parks was "a common-sense solution to a potentially catastrophic animal welfare event"?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:40): There have been, to put it in context, calls for national parks in Queensland to be used for grazing for drought affected cattle. An article to that effect, which seems to be where Senator Macdonald has got his information from, claims that the environment minister, Tony Burke, has dealt with this.

Australian and Queensland national park estates were established for good reasons. This form of land tenure offers real protection to threatened ecosystems and species. But any decision to open them up for grazing, even where this was the former principal land use, needs to be carefully considered by all parties. While the management of national parks in Queensland lies within the responsibility of the state government, many parks have been established to protect matters of national environmental significance. Under the Commonwealth Environment Protection and Biodiversity Conservation Act, actions that have actual environmental significance—

Senator Ian Macdonald: Mr President, I rise on a point of order on the grounds of relevance. I asked the minister what submissions he made, firstly. Secondly, does he agree with what the Queensland RSPCA said? Did you make submissions, Minister? What were they? Do you agree with what the Queensland RSPCA said?

The PRESIDENT: The minister is answering the question. The minister still has 54 seconds remaining.
Senator LUDWIG: It is very important to ensure that we get this right, because the tenor of the question is about grazing in national parks. Of course I have had discussions with Minister Burke about this issue. But, broadly, the issue involves matters under the EPBC Act. The administration of the EPBC Act is a matter for my colleague Mr Burke. We have not received any proposal from Queensland about this at all.

Senator Ian Macdonald: That is a lie!

The PRESIDENT: Order! You need to withdraw that. You cannot accuse—

Senator Ian Macdonald: I have a letter here from the Queensland government. That is an outright lie.

The PRESIDENT: Order! That is a different issue. You cannot use that language in the chamber. You need to withdraw the language. If you wish to pursue the issue—

Senator Ian Macdonald: Mr President, I withdraw the language, but it is a clear untruth. Here is the letter.

The PRESIDENT: That is something that you can pursue later.

Senator LUDWIG: Predominantly it is a matter for Minister Burke to consider. It would be inappropriate for me to comment on this matter. But I can assure you that I am aware of the issues that are facing producers in that region. When I was in that region—

(Time expired)

Senator IAN MACDONALD (Queensland) (14:43): Mr President, I ask a supplementary question. Is the minister aware—

Honourable senators interjecting—

The PRESIDENT: Order! Just wait a minute, Senator Macdonald. You are entitled to be heard in silence. I will ask you to start again.

Senator IAN MACDONALD (Queensland) (14:43): Is the minister aware that the relevant properties on the National Reserve System proposed to be grazed are former beef cattle properties bought jointly by the state and Commonwealth and are not pristine bush but are in proximity to the recently declared drought areas and are in fact suitable for agistment? Why does the Gillard government care more about grass than the fate of live animals?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:43): I reject the tenor of the question. If the Queensland government and Senator Macdonald cared about graziers in the Richmond area and those northern areas, they would have already signed up to Farm Finance, which we announced in the budget. I have asked them to, but I have not heard a peep out of Senator Macdonald on this issue. I have not heard a peep, not about providing assistance to graziers. All he wants to talk about are issues that do not actually concern the department. This is about the EPBC Act. What he wants to do is to go off on a frolic of his own across into grasslands, but let me say that if you want to provide real help to farmers and if you want to support farming communities, why don’t you make representations to the Campbell Newman government about supporting farm finance and ensuring that we do get real outcomes for farmers in those regions? We can provide them with up to $650,000 loans; we can provide them with debt mediation legislation—

(Time expired)

Senator IAN MACDONALD (Queensland) (14:45): Mr President, I ask a further supplementary question. I ask the minister why did he deliberately mislead the Senate in saying that no submission had been made by the Queensland government to the
federal government, when I have a copy of the letter here that I can table? Secondly, Minister, what do you propose to do about the 300,000 head of cattle that are about to die a horrible death because of your live cattle ban and the natural events of bushfires and drought? What are you going to do about those cattle to give them feed?

The PRESIDENT: Senator Macdonald, you will need to withdraw the imputation contained in the question.

Senator IAN MACDONALD: Mr President, did you mean the bit where I said ‘why did he deliberately mislead the Senate’?

The PRESIDENT: Yes.

Senator IAN MACDONALD: Okay. Can I rephrase it?

The PRESIDENT: Yes, you can, but you need to withdraw that.

Senator IAN MACDONALD: I withdraw that and I will replace it with: why did you just tell the Senate that the Queensland government had not made a submission when you should have known, as I have here a copy of the submission by the Queensland government to the Gillard government about this issue? I will repeat the second part of my question: what are you going to do about those 300,000 live cattle—

Government senators interjecting—

The PRESIDENT: Order! Order! Senator Macdonald, you have withdrawn. When there is silence we will proceed.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:46): I stand by what I said. I said I have not received the letter and my advice is that Minister Burke has not received it, either. If they have sent it to Senator Macdonald to deliver it to us, that is probably why it will never arrive. It will get stuck in his office.

Let me say that the Gillard government has provided significant support for regional Australia. In addition to that, to deal with some of the head winds, we put together a farm finance package. So, if Senator Macdonald does want to provide assistance and does want to put his shoulder to the wheel to help some of those producers do some of that work—quite frankly I doubt that is his real intent in any event—he can encourage Minister McVeigh and the Campbell Newman government to sign up to farm finance. That will— (Time expired)

West Papua

Senator MADIGAN (Victoria) (14:47): My question is to the Minister for Foreign Affairs, Senator Bob Carr. Minister, in light of the continuing revelations of the persecution of the West Papuan people by the Indonesian authorities, including the detailed and distressing reports of the removal of West Papuan children from their families and their culture for education and indoctrination into Islam in the pesantren schools in Jakarta and other areas of Indonesia—and in light of the fact that much of our aid to Indonesia is being spent on the funding of schools and with the recent budget announcement that Australia's aid to Indonesia will increase by $105 million to $646 million this year—can the minister guarantee that none of Australian taxpayers' money given to Indonesia in foreign aid will be used to fund Indonesia's oppression of the human rights of the West Papuan people?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:48): No Australian aid money is being used to oppress the Papuan people. The allegation is wrong; it is based on fallacious propaganda. Not even proponents of Papuan independence subscribe to this view. The Australian government agrees with the Indonesian president, President Yudhoyono,
that full implementation of special autonomy is the best way to deliver durable peace and security for the people of Papua. Australia recognises the territorial integrity of Indonesia through the 2006 Lombok Treaty. We do not see special autonomy as a step towards Papuan independence.

Contrary to Senator Madigan's allegations, Australians should all be proud that our aid to Indonesia is improving school quality by building 2,000 junior secondary schools, training midwives so that more than 40,000 births can be attended and delivering an extra 9,000 sewerage connections in communities without access to water or sanitation. This aid will establish 300,000 new secondary school enrolments by 2016. Some 20,000 people in Papua and West Papua will receive HIV treatment through our aid program. Even Senator Madigan should acknowledge that the quickest way out of poverty is access to education and good health services. Let me be very clear: the Australian position, under governments of different persuasion, has been that Indonesian sovereignty in the provinces of West Papua is absolute and uncontested, and only reckless Australians would argue for any other proposition. Only reckless, unthinking Australians would defy this country's national interests and urge the dismemberment of Indonesia. That is an appalling thing to do. It takes no account of this country's interests or of the interests and welfare of the people of Indonesia or of those in Papua.

Senator MADIGAN (Victoria) (14:50): Mr President, I ask a supplementary question. Minister, in recent reports on the removal of West Papuan children from their homes, it was stated that the Indonesian authorities were using Hercules C130 planes to fly these children to Jakarta and elsewhere. Can you advise whether the C130s or any other planes or equipment used in these removals—or in fact the forced removal of any West Papuan people from their country—have been gifted or sold to Indonesia by the Australian government?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:51): First of all, we have no evidence of the extraordinary allegation that children are being taken from their homes—forcibly removed—and inculcated in Islam in the rest of Indonesia. We have no evidence of that. That is the first point I want to make and underline. I am advised that none of the Australian C130 aircraft have been delivered to Indonesia yet. Through the Defence Cooperation Program with Indonesia, Australia has agreed to provide up to four of them. The contribution was to support humanitarian assistance and disaster relief operations so that Indonesia could respond better to natural disasters. None of the Australian C130 aircraft have been delivered yet. One of the aircraft is being repaired, but delivery to Indonesia is some time off. The suggestion that there were forced removals of West Papuan people has never been established.

Senator MADIGAN (Victoria) (14:52): Mr President, I ask a further supplementary question. In 2008, Prime Minister Rudd rightly apologised to the members of the stolen generation for the actions perpetrated against them and stated that the injustices of the past must never happen again. Minister Carr, can you advise whether the government consider these injustices to be limited to our own shores or whether they have considered at what point they will have to apologise to the stolen generations of West Papua for the tacit approval of these injustices by the silence of successive Australian governments?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:53): I just asserted—I hope my language...
was clear enough—that no evidence has been presented to us of the forced removal of children from homes in the Papuan provinces and their religious inculcation elsewhere in Indonesia. We have not seen evidence of it. Our embassy in Jakarta takes a keen interest in all human rights questions that arise out of Papua. It takes a keen interest and investigates them. We maintain a dialogue with Indonesia about this. In my meetings with the Indonesians—with the President, with the Foreign Minister—our Indonesian interlocutors have raised the matter of Papua before I have been able to get to it. The President has underlined his commitment to special autonomy, and we agree with his interpretation that economic growth, the achievement of prosperity, is the best path forward—linked to special autonomy—for the people of those two provinces.

Agriculture

Senator McKENZIE (Victoria) (14:54): My question is to Senator Ludwig, the Minister for Agriculture, Fisheries and Forestry. Minister, late last week, a ‘Save SPC’ community rally was held in Shepparton, Victoria, bringing together the AMWU, community members and over a hundred local fruit growers. As you would be aware, the Goulburn Valley's largest fruit-packing company, SPC Ardmona, announced a massive 50 per cent cutback in fruit processing. This is the latest in a string of similar disasters for the Australian food processing industry, an industry that has suffered 12 straight months of contraction. Over 1,200 horticulture processing jobs have been lost, and 11 fruit and vegetable processors have been closed. Many of these jobs are in the Goulburn Valley, Victoria, with SPC’s contribution to wages being close to $26 million within the local community alone. What action is the government taking to support local fruit growers and workers in this region?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:55): There are a couple of issues there. I might deal with the SPC Ardmona issue, seeing that it was raised. I am aware of the challenges in that region around Shepparton. But the high Australian dollar is and has been presenting difficulties for our agricultural industry, including the specific ones faced by individual processors such as SPC Ardmona. SPC Ardmona have written to the Prime Minister requesting that the government impose safeguard measures in the form of increased tariffs. That is dealing with the processor and that is a matter that will fall, ultimately, within another portfolio area for determination.

In terms of helping, in particular, farming communities in those regions, the greatest help that can be provided very quickly on the ground is the Farm Finance package—and I would like to hear from those opposite how much effort they are making to encourage the Victorian and New South Wales governments to support the Farm Finance package, because it will allow for diversification and consolidation. It will allow those people who want to choose different opportunities to use up to $650,000 worth of concessional loans to provide the support and assistance they need so much. Certainly, in the travels I have undertaken in those areas, people say that concessional loans of that nature will allow them to continue to pursue other opportunities in those regions, because they are good, fertile areas and they have opportunity with both land and water. In this instance, they are flying into some pretty tough headwinds. That is certainly acknowledged in those regions. The Liberal Party have two questions to answer—(Time expired)
Senator McKENZIE (Victoria) (14:57): Mr President, I ask a supplementary question. I know that the minister has received a formal request for emergency safeguard action from SPC Ardmona. Given that the matter is extremely urgent, what is the government's progress on this request? When can SPC Ardmona expect an answer, given that the request is now over two weeks old and this issue is causing great concern within the local community?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:57): The Department of Agriculture, Fisheries and Forestry has reviewed the request to determine whether there is a case for imposing provisional and/or full safeguard measures. On the basis of that review, I have referred the matter—as I think I said earlier; Senator McKenzie might listen to my earlier answer—to the Minister for Trade, the Hon. Dr Craig Emerson. I understand it is a matter for Dr Emerson to consider, and I have responded to SPC Ardmona in those terms. I will not be so bold as Senator Macdonald and seek to table the letter or claim that SPC Ardmona have already received the letter. I will check to make sure that has been done. Senator McKenzie might do the same, and check with SPC Ardmona today whether or not they have received a letter, so that her information is up to date. (Time expired)

Senator McKENZIE (Victoria) (14:58): Mr President, I ask a further supplementary question. Minister, what plans does the government have to prevent the possibility of a major pest biosecurity disaster that could eventuate if fallow orchards are not managed effectively and then become a breeding ground for insect infections through the rest of the region, destroying yet more fruit and putting more local businesses and jobs at risk as the fruit rots on the ground?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:59): This is an important issue. We do have within DAFF a very strong biosecurity section but ultimately biosecurity for domestic issues, as Senator McKenzie should know, does fall within state responsibility. I can say, with some encouragement, that we do have a framework in place that the state and territory ministers signed off at the last COAG meeting. Why? Because it is incredibly important that we do deal broadly with biosecurity issues such as those involved in pre-border, border and post-border incursions.

I am not sure that the tenor of the question was worrying about biosecurity; in fact, I think it was worrying more about outcomes. Farm Finance is one of those outcomes that will help producers. Perhaps Senator McKenzie could put her shoulder to the wheel—I have asked Senator Macdonald to do it. Nobody has responded and said yes yet. (Time expired)

Senator Conroy: Mr President, I ask that further questions be place on the Notice Paper.

ANSWERS TO QUESTIONS ON NOTICE

Consideration by Estimates Committees

Senator JOHNSTON (Western Australia) (15:00): Pursuant to standing order 74(5), and with notice having been given to the relevant minister's office, I ask the Minister representing the Minister for Defence, Senator Bob Carr, for an explanation of why answers have not been provided to 104 questions on notice from the February 2013 additional Senate estimates.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs)
I am advised that in financial year 2012-13 the government has received 253 Senate questions on notice and answered 241. That is a completion rate of 95 per cent of the questions on notice. Of the 111 Senate questions on notice received in calendar year 2013, the government has answered 99—22 were answered between February and March; 77 have been answered in May—and only 12 remain unanswered as at 16 May. From 1 July 2012 to today, 16 May, Defence has received a total of 664 questions. All 253 Senate questions except for 12 have been answered; all 95 House of Representatives questions have been answered; and 213 committee questions have been answered of 316 asked.

The government and Defence continue to respond to large numbers of questions on notice from parliament and its committees. Many of the questions asked relate to complex and highly technical defence capability management issues. Accordingly, the effort required to address a number of these questions is significant. While it is important to ensure that answers to these complex and technical questions are correct, I recognise that there is room for improvement in relation to time lines for Defence's responses. Defence will continue to work to deliver more timely responses to questions on notice.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Animal Welfare

Senator IAN MACDONALD (Queensland) (15:03): I move:

That the Senate take note of the answers given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) and the Minister for Science and Research (Senator Farrell) to questions without notice asked by Opposition senators today.

Contrary to the slur on me by the Minister for Agriculture, Fisheries and Forestry, which was not corrected by the President, that I had got the letter and had not passed it on, the letter I was quoting from, from the Minister for National Parks, Recreation, Sport and Racing in Queensland, the Hon. Steve Dickson, was sent directly not only to Mr Burke but also to Senator Ludwig. Those letters were written on Tuesday, and they were also posted on Tuesday.

That does not get to the substantive issue, which is: why is the Gillard government more interested in growing grass than in the fate of 300,000 live animals? You hear the Greens and the Labor Party carrying on about cruelty to animals—here is cruelty on an unprecedented scale: 300,000 cattle are about to die for reasons of natural calamity, drought, bushfire and the stupid decision of the Gillard government some time ago to ban live cattle exports without any warning.

Forget about relief to farmers, important though that is. It is important, and the Queensland government will be doing what it can to help, but that is another question and I do not want to get distracted. The rules about that, and what relief will do, really will not help the landowners and they certainly will not help the fate of 300,000 live animals. Where are the Greens? I do not even see them in the chamber. I would have thought they would be jumping up and down on their Senate desks asking what the government is doing about the fate of these 300,000 animals that are going to die not a death from having a leg broken or being mistreated for five minutes but a lingering, horrible death from starvation.

The Queensland government—applauded, I might say, by the Queensland RSPCA—has a practical and sensible solution. Their plan is to put these cattle into areas that only recently were locked up by the previous
Queensland government and the Gillard government as part of the nature reserve system. They have grass in them and they are in proximity to the areas that have been drought declared. They are suitable for the agistment of cattle. So there is a solution at hand—an easy solution. Sure, we want to preserve in Australia what we need to preserve, and that can be done. But carefully moving these cattle into national reserve systems can save them, and that will help with the financial and social welfare of the people who own those cattle and who are facing bankruptcy, loss of their homes, loss of their businesses and loss of their kids' schooling because of the live cattle ban, exacerbated by a following bushfire and then the drought.

Senator Ludwig says that he innocently misled the chamber, but he did not miss the opportunity of making some specious remark to me. As I say, I cannot understand why the President would pull me up for accusing Senator Ludwig of being a liar but not address his comment. But that is another issue.

Senator Wong: He is just a repeat offender.

The DEPUTY PRESIDENT: Senator Wong, I have not called you and I can deal with this matter. Senator Macdonald, you cannot repeat the accusation and, equally, you have to be careful about making remarks concerning the President. It would assist the chamber if you withdraw your last remarks and continue the debate.

Senator IAN MACDONALD: I withdraw them, Deputy President. I noted the President quite forcibly stopped me calling Senator Ludwig a certain term, but when Senator Ludwig accused me of being the messenger and holding on to these letters, no apology was sought. Quite frankly, I do not care what Senator Ludwig says about me, but it shows that Senator Ludwig—

Senator Wong: Mr Deputy President, I rise on a point of order. Is this on a point of order or has he gone back to his—

The DEPUTY PRESIDENT: No.

Senator Wong: This is a continued abuse of points of order by Senator Macdonald, who is incapable of withdrawing graciously. He always has to follow up with a lecture demonstrating just how ungracious he is.

The DEPUTY PRESIDENT: Senator Wong, there was no formal point of order. I dealt with the matter. Senator Macdonald complied with my request and Senator Macdonald is continuing with the debate.

Senator IAN MACDONALD: I can well understand why Senator Wong will do everything possible to stop me highlighting the fate of these 300,000 live animals, which are going to die a horrible death of starvation because of the actions of Senator Wong's government, the Gillard government, in not allowing the simple, practical solution put forward by the Queensland government, which is in touch with people and understands these issues. I do not want to make politics out of this. I just plead with anyone on the other side who might have any sense of compassion—I do not see any of them there—to do something to assist the Queensland government with a practical response to what is an animal catastrophe. (Time expired)

Senator CROSSIN (Northern Territory) (15:09): I rise to respond to taking note of answers this afternoon. I did think that, two days after handing down one of the most significant budgets in this country, we might have been taking note of the progress of this country and the two major reforms we announced on Tuesday night. Let me take this opportunity to put some facts on the record about grazing cattle in Queensland
national parks. Unlike you, Senator Macdonald, I do not have the privilege of any letter from Minister Ludwig or the Queensland government, but I do have a bit of background on this issue. Perhaps for the next couple of minutes we could very quietly and carefully put some facts down.

We know that there has been a call for national parks in Queensland to be used to graze drought-affected cattle. There has been the article in the *Australian* claiming that our environment minister, Mr Tony Burke, has rejected a plan to let starving cattle loose in conservation reserves and national parks in Queensland. Apparently the article says that that has infuriated the state government and drought-hit graziers. Mr Tony Burke is a former agriculture minister; obviously he makes those statements with some background from his former portfolio. I am led to believe that he has told the *Australian* that he did not have an interest in helping to wreck the states conservation areas. I have to say that Australia's and Queensland's national parks were established for very good reasons. This form of tenure offers real protection, not to grazing drought-affected cattle but to protect threatened ecosystems and species. So any decision to—

Senator Heffernan: Mr Deputy President, I raise a point of order. The growth of the number of feral pigs in national parks is a disgrace.

The DEPUTY PRESIDENT: Senator Heffernan, that is not a point of order.

Senator Heffernan: I know it is not. There are 800,000 feral pigs in the Northern Territory.

The DEPUTY PRESIDENT: Senator Heffernan, that is a debating point.

Senator CROSSIN: Let us bring feral pigs into the argument. Senator Heffernan, come back! Now you are talking about something I can talk about and that is pig shooting in the Northern Territory. So sit right down because now you are on the program! I actually know about feral pigs and pig shooting in the Territory. You should know that. So come back down!

Senator Heffernan: I have got to get out of here!

The DEPUTY PRESIDENT: Senator Crossin, do not talk across the chamber, please, and do not encourage Senator Heffernan. And Senator Heffernan, you cannot speak while not in your seat.

Senator CROSSIN: Senator Scullion could well assist me, not that I have actually been pig shooting.

Opposition senators: Oh!

Senator CROSSIN: Do I look like a sophisticated lady who would go pig shooting? I have shared many a beer with many people, probably at the Humpty Doo pub, swapping stories about pig shooting. Senator Macdonald, if you want to ask questions about pig shooting and starving cattle, I might be able to help you. Lately in the Northern Territory we have had the issue of starving horses. I am giving it my best shot here, seeing that I would really like to have talked about the budget and given that I really want to know whether Mr Abbott this evening is going to commit to the $70 million we have committed to build the hospital at Palmerston in the Northern Territory and the $38 million for a new paediatric ward. That is the crucial issue on my mind today.

As you can well imagine, I am trying to establish the very fine line between protecting national parks and assisting farmers in Queensland, even though they may have 300,000 starving head of cattle. The administration of the EPBC Act is a matter for my colleague Minister Burke and I am advised that he is yet to receive a proposal from the Queensland government. I
understand Mr Burke has been clear that national parks should be there for people to enjoy nature and not for cattle grazing. So we have announced the Farm Finance package. We are trying to support Australian farmers and graziers who face enormous challenges, including producers in Queensland. We want to ensure that farmers are equipped to deal with all of the differences they face in the climate, rather than to look for an ad hoc solution to open up a national park in a conservation area. As I said, we announced a national drought reform measure in the budget and that is the Farm Finance package. That is the way to resolve this issue—to support those producers. *(Time expired)*

Senator MASON (Queensland) (15:14): What has characterised this government from the word go, going right back to 2007, is the great chasm between its rhetoric—its sparkling rhetoric at times—and its policy implementation. That has been the problem of this government since the beginning. It is always overpromising and it is always underdelivering. Someone else—and it will be a coalition government—will, in the end, have to pick up the pieces. When you go back, it does not matter whether you look at computers in schools, pink batts, overpriced school halls or any of the rest of it—today it is about the NBN—it is the same thing. There is always sparkling rhetoric and there is always underdelivery, tomorrow's headlines being more important than tomorrow's outcomes and tomorrow's achievements. It is spin over substance.

I have always accepted that the Prime Minister, Senator Kim Carr and Senator Chris Evans are genuinely concerned about education, higher education in particular. I accept that they all believe that it is transformative and that they take it very seriously. I have always believed that. But, if you make promises, you must properly fund them; otherwise, it is just empty rhetoric. If you come forward with a profound policy change—and uncapping the number of undergraduate places at Australian universities is a significant policy change—you must adequately fund those places. If you do not, it is merely empty rhetoric and you are leading undergraduate students along a rocky path. They are not being properly resourced. I accept that it is important we encourage kids from disadvantaged backgrounds, kids from rural and regional areas and Aboriginal kids to go to university—but only if the project is properly resourced and quality and standards are maintained.

In my question today to Senator Farrell, I argued implicitly that funding per student had fallen. I draw the chamber's attention to a publication put out by Universities Australia, *A smarter Australia: policy advice for an incoming government*. On the final page it says:

Despite recent, significant, and much-welcomed increases, base funding per student has fallen in real terms from 2008 to 2013 by 1.6 per cent, and has fallen 22 per cent since 1995. Without arresting this decline, Australia will continue to fall behind.

That 1.6 per cent fall in real terms was before this budget. This budget cuts funding to higher education across the board by five per cent.

This is the problem. If you want to uncap the system and let many more students come in, you must adequately fund it. It is the worst possible outcome to have kids who are less academically prepared and then to fund the system inadequately. In fact, you really need to do the opposite. What is happening today is that more young Australians who are less academically prepared are going to university, putting far greater stress on the system. You must adequately resource that system; otherwise, what happens? The
quality and the standards in our Australian universities fall. I know that every senator in this chamber shares the view that our universities are essential not only as a source of productivity and innovation—key contributors to our economy—but as Australia's largest services export industry. Brand Australia cannot suffer a decline in standards and quality.

What worries me about the current government's approach is this: if you continue to allow more and more students in and funding declines per student, you will have a decline in quality and standards. That might cause the export industry to decline. That is bad enough, that exports are compromised, but worse is that those students—students the government, Australia, has encouraged to go to university—will not be properly serviced. In the end, it is not only bad economically—although that is bad enough—but very bad socially. Our students deserve much better.

Senator THISTLETHWAITE (New South Wales—Parliamentary Secretary for Pacific Island Affairs and Parliamentary Secretary for Multicultural Affairs) (15:20): I am pleased that Senator Mason has raised the issue of higher education, animated as his contribution was. When it comes to education there are clear and stark differences between the approach of the Gillard government and that of the opposition. The stark differences are best underlined by the following anecdote.

Last year, I had the good fortune to visit Mungindi, a town on the border between Queensland and New South Wales. I was up there to open their brand-new trade training centre, a $2.5 million investment by the Gillard government in an education pathway for students at Mungindi Central School. Mungindi is a town with deep social problems. It has a very large Aboriginal and Torres Strait Islander population.

At the conclusion of the ceremony to open the trade training centre—the centre will provide hospitality trade training and metalwork trade training—I was talking to a young Indigenous girl. She was telling me how excited she was about the prospect of becoming a chef. She had finally decided what she wanted to do in life and she was now working hard to become a chef—this was a young girl in year 10. The school had built a vegetable patch out the back of the school, so they were not only teaching the students to cook but teaching them how to cook healthy food. This young Indigenous girl, this year 10 student, was telling me that she now goes home and teaches her mother how to cook healthy food. She was telling me that her mother had never been taught how to cook healthy food. It was not the way that they did things in her family. That is real social change, brought about by this government's investment in vocational education and training in schools for those people who may not be academically minded, providing them with an opportunity to aspire to a form of education that is suitable to their circumstances.

What people have to understand is that the Leader of the Opposition and the Liberal Party, those opposite, have announced that they will cancel the Trade Training Centres in Schools Program should they come to office. They will cancel that program that has been so innovative and has been providing opportunities for young people, like that young Indigenous girl from Mungindi that I spoke to, to get a better education. That is the difference between Labor and the opposition when it comes to education.

We know that we have a problem with school education in this country. The results
demonstrate that Australian students' performance is slipping down the scales internationally when we are compared to other nations. We are slipping as a nation. So we as a government determined that we would deal with this, and we asked the Gonski panel to consult widely on this issue and come up with a set of recommendations. They did. They consulted throughout the country, with academics, with principals, with teachers, with parents and with students, and they developed a new model for funding education in this country. Labor is delivering that model, and we wait to hear, hopefully tonight, what the opposition will say in respect of funding decent education in this country.

Senator Mason raised the point of university education, and I am glad he did, because this Labor government has done more to advance university education and, importantly, the accessibility of university education for students from all backgrounds throughout this country than any other government in this nation's history. We have grown university funding by close to 60 per cent. Through the Commonwealth Grant Scheme, funding for universities has increased from $3.5 billion in 2007 to $5.8 billion in 2010, a 66 per cent increase. We have uncapped university places, so there are now around 150,000 extra students attending university throughout Australia because of the changes that this government made. And we introduced a more generous rate of indexation for higher education funding in 2012, resulting in indexation growth of 3.8 per cent in 2012 and 3.9 per cent in 2013. That is this government's commitment to funding education at all levels within our society. (Time expired)

Senator RONALDSON (Victoria) (15:25): I rise this afternoon to refer to a press release put out by Catherine King, the member for Ballarat in the other place. With great fanfare on Tuesday night, Ms King announced that the budget provided $9.1 million for the Ballarat freight hub. The press release said:

The Federal Budget delivered tonight includes funding of $9.1 million towards Stage 1 …

Then Ms King yesterday said: 'Under this Labor government, the funding is on the table. It is there this financial year.' And on radio 3BA yesterday, I understand, Ms King said: 'The Ballarat freight hub to come into effect next year, which is, you know, only a short, you know—we're almost halfway through the year now, so it's to come into effect next year; in other words, in seven months time.'

So what actually was put into the budget, do you think, Mr Deputy President? What I can tell the chamber is that there is no funding this year for the hub. We know there is no funding. As John Fitzgibbon, the Liberal Party candidate for Ballarat, said, this is an important project, but what Mr Fitzgibbon said, and what I say, is that the minister responsible was being completely untruthful when she said that this would be funded this year. It was an untruth. It is no secret that Ms King is joined at the hip with the Treasurer, Wayne Swan, and with the Prime Minister, Julia Gillard. As we know, she was given an eleventh-hour job because of her support for Ms Gillard. But the reason that she is joined at the hip is that she suffers from the same malaise as the Prime Minister and Mr Swan, and that malaise is: all spin and no substance.

In the time left to me, I will briefly go through the budget papers so that the utter fallacy of Ms King's press release can be seen by all who would like to have a look at it. What Ms King's own department said is this:

Accordingly, after consulting with the State Government and Infrastructure Australia, we are
now in a position to release a preliminary schedule of new projects to be funded and delivered over the five year life of our next Nation Building Program (2014-15 to 2018-19).

There was no funding allocated for this precinct, for this hub, in this year's budget. The very best that Ms King, if she were being truthful about this, could have said was that, if this second Nation Building Program money is funded in next year's budget, then there may be funding allocated between 2014-15 and possibly as late as 2018-19—not in this financial year. It was a complete untruth, a deliberate attempt by Ms King to get herself elected, when everyone knows that Ms Catherine King is now Canberra's representative in Ballarat and she is no longer Ballarat's representative in Canberra. Ms King has abrogated her responsibility to the people of the Ballarat electorate. Fortunately, we have someone there by the name of John Fitzgibbon, the Liberal Party candidate, ready, willing and able to stand up and start representing his community. If Ms King thinks she can get re-elected on the back of a complete untruth about a so-called budget measure, then, quite frankly, I think she is sadly mistaken.

I also want to speak about another broken promise of this government. The member for Eden-Monaro, Dr Michael Kelly—I think he goes by the title of 'Dr' these days—has been running around with the military superannuants for about four weeks before the budget, saying, 'Listen—don't talk about it; I'm going to get this fixed. I'll get this fixed.' Do you think this budget had anything in there for the fair indexation of DFRDB and DFRB military superannuants? No, they did not. So Mr Kelly from the other place—(Time expired)

Question agreed to.

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**Sri Lanka**

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:30): I move:

That the Senate take note of the answer given by the Minister for Foreign Affairs (Senator Bob Carr) to a question without notice asked by Senator Milne today relating to Sri Lanka.

We are, in Australia, having a number of people from Sri Lanka seeking asylum, and the Australian government, together with the coalition, are turning them back and sending them away, and there is very little analysis of what is actually going on and the human rights abuses that are taking place in Sri Lanka right now. Of course there were atrocities during the civil war and there deserves to be an international and thorough inquiry into those atrocities. But the pretence of this government seems to be that those atrocities are over. Well, we know they are not. The UN High Commissioner for Human Rights, Navi Pillay, has reported just this year on extrajudicial killings, enforced disappearances, militarisation and land grabs, and it is one of those land grabs that Senator Carr seemed to know nothing about.

Let me tell you, Mr Deputy President, that in the appeals court in Sri Lanka there has been a petition filed against an acquisition notice marked 'P1' that advocates the appropriation of 6,381 acres of Tamil land that contains their traditional homes. The petition is against the government compulsorily acquiring land to be taken over by government forces for no public purpose. In other words, people are being displaced, driven off their land, by the Rajapaksa regime. A petition is going to the appeals court.

But there is no rule of law in Sri Lanka anymore. There is no independence of the judiciary. The chief justice was impeached only recently because she stalled through the courts a move by the Rajapaksa regime to
extend the powers of the President's younger brother, who happens to be the Minister for Economic Development in that country. We are seeing academics disappear in white vans. People are pulled off the street and shoved into white vans without numberplates. They disappear. They are tortured. Many do not return. Several are just dumped back on the streets after they have been tortured. This is going on right now. That is why people in that country are trying to get away and seek asylum. If they had been—and they were—displaced after the civil war, they were sent to camps. While they are in camps they are not allowed to go back to their traditional lands, and in move the Rajapaksa, acquire that land and take it from them, or, alternatively, dump people back on land that has been totally destroyed without any infrastructure. That is what is going on.

Other countries around the world are really concerned about this, and the minister acknowledged that Australia co-sponsored a motion in Geneva at the Human Rights Council—after Australia worked with other countries to water it down, I might say, but at least it went through; we got that petition through. Yet the minister says he can believe the Rajapaksa regime, that he works cooperatively with the Rajapaksa regime, and that Australia is going to go to CHOGM. Australia should stay away from the Commonwealth Heads of Government Meeting as the Canadians are going to do, because by going there you are legitimising the human rights abuses and the land grabs going on in Sri Lanka right at this time, which are displacing people and leaving them with nowhere to go. I would ask that the Australian government seriously look at what happens to this petition in the appeal court against compulsory acquisition of land. This is an area two-thirds the size of Colombo that is currently being compulsorily acquired and taken away from its rightful owners.

Just here this morning we had the government and coalition get together to excise the whole country of Australia from the migration zone to stop people from Sri Lanka trying to seek asylum because a number of them arrived in a boat at Geraldton, and they have been sent back with virtually no proper assessment of their asylum-seeking claims and rights. That is the sort of country we have turned into, and we are supporting the Rajapaksa. As one of the members of the House of Commons asked of the government in the UK recently: are you happy for the person who is going to chair the Commonwealth meeting in Sri Lanka to be a person who is accused of war crimes? Is that a particularly good idea? It is absolutely appalling that we are not taking a stand against the Rajapaksa and instead are pouring money into the Rajapaksa regime and turning a blind eye to what is going on. The test of this will be: what does the government do in relation to this particular petition in the appeals court against compulsory acquisitions?

Question agreed to.

COMMITTEES

Government Response to Report

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:35): I present five government responses to committee reports as listed at item 14 on today’s Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

Australian Government response to the Senate Standing Committee on Finance and Public

Recommendation of the Senate Standing Committee on Finance and Public Administration:

Recommendation 1

2.52 The committee recommends that a list of all departments and agencies required to report on social exclusion outcomes should be published on the social inclusion website.

Australian Government response:

Agree. A list of the departments reporting on social inclusion strategic change indicators was published on the Government’s social inclusion website (www.socialinclusion.gov.au) on 13 December 2012.

Australian Government response to the Legal and Constitutional Affairs Legislation Committee report: Crimes Amendment (Fairness for Minors) Bill 2011 DECEMBER 2012

Background

On 25 November 2011, the Senate referred the Crimes Amendment (Fairness for Minors) Bill 2011 to the Legal and Constitutional Affairs Committee for inquiry and report. The Committee held a public hearing on 16 March 2012, and released its report on 4 April 2012, with four recommendations. Senator Sarah Hanson-Young prepared a dissenting report, with three recommendations.

The Australian Government Attorney-General’s Department (AGD), in collaboration with the Commonwealth Director of Public Prosecutions (CDPP) and the Australian Federal Police (AFP), made a joint submission to the inquiry (the Commonwealth submission). Commonwealth officers also gave evidence at the Committee hearing.

The Commonwealth’s submission recommended that the Senate should not pass the Bill. In summary, Commonwealth agencies considered the Bill’s proposal to impose strict timeframes for age determination and laying charges would not be practical or achievable. The limitations on laying charges would also be inconsistent with section 15B(1)(a) of the Crimes Act 1914, which permits the Commonwealth to commence prosecutions for serious Commonwealth offences at any time.

Further, Commonwealth agencies considered the proposed presumption of age and associated detention arrangements would jeopardise the Commonwealth’s ability to flexibly manage detainees on a case-by-case basis, taking into account a range of factors in accordance with ‘the best interests of the child’ principle under the United Nations’ Convention on the Rights of the Child.

This paper sets out the Australian Government response to the Senate Committee’s majority and dissenting reports.

Government Response: Majority Report

Recommendation 1

The committee recommends that the Australian Government review the Australian Federal Police’s procedural and legislative requirements in dealing with persons suspected of people smuggling offences, with a view to facilitating the prompt laying of charges where appropriate.

Agreed in principle.

The AFP has worked hard to reduce the amount of time taken to investigate people smuggling offences and prepare a brief of evidence, setting a benchmark of 90 days to lay charges.

As a result of continuing efforts to reduce time in detention, the AFP advises that for the period from 1 January 2012 to 12 November 2012, the average period of investigation from the date of formal referral of crew by DIAC to the date of charging by the AFP is 74 days.

The Government is committed to further reducing delays in the investigation and prosecution of people smuggling offences. Commonwealth agencies are developing solutions to address delays, including obtaining identity documents from Indonesian consular officials in the first instance, pending a mutual assistance request. These documents may then inform the AFP’s decision about whether to give a person the benefit of the doubt about their age, prior to laying charges.

Unfortunately, there are often delays to the investigation process caused by environmental
factors, which are difficult to avoid. For example, weather conditions may cause delays in conveying items of evidence, such as mobile phones and GPS equipment, which require forensic analysis by experts and equipment on mainland Australia. There may also be delays in securing interpreters of specific dialects required for interviews or investigations.

In addition, passengers on board people smuggling vessels are sometimes initially unable or unwilling to provide statements, which are necessary to proceed with most people smuggling prosecutions.

**Recommendation 2**

The committee recommends that the Australian Government introduce legislation to expressly provide that, where a person raises the issue of age during criminal proceedings, the prosecution bears the burden of proof to establish that the person was an adult at the time of the relevant offence.

**Agreed.**

Under the *Migration Act 1958*, penalties for aggravated people smuggling offences do not apply to persons where it is ‘established’ on the balance of probabilities that they are under the age of 18 years. However, the legislation does not specify whether the prosecution or the defence bears the burden of proof.

There has been some inconsistency in the courts as to who bears the burden of proof. However, in practice, the CDPP has assumed the obligation of establishing whether the person is a minor or an adult, in cases where the defendant raises age as an issue.

The Government will consider amendments to the Migration Act that would codify current practice by specifying that the prosecution bears the onus of proof in establishing age, where age is contested during a prosecution.

**Recommendation 3**

The committee recommends that the Australian Government review options to support the capacity of the legal representatives of persons accused of people smuggling offences who claim to be underage at the time of the offence to gather evidence of age from their place of origin.

**Disagree.**

Commonwealth agencies facilitate access to legal aid by accused people smugglers as soon as the AFP requests to interview them. Commonwealth funding for legal aid in each State and Territory is provided through the Expensive Commonwealth Criminal Cases Fund. As part of this funding, legal aid representatives are entitled to claim the costs of reasonable disbursements, including costs associated with calling expert witnesses and gathering evidence of a defendant's age in their country of origin. To date, all costs claimed by legal aid commissions, including the costs of travel to Indonesia to collect identity documents, have been approved for reimbursement.

**Recommendation 4**

The committee recommends that the Senate should not pass the Bill.

**Government response: Dissenting Report**

**Recommendation 1**

The Bill be amended to require facilitation of timely access to legal advice, and that regulations require that children are afforded communication with their family.

**Agreed in principle.**

To address the issue of clients having access to legal advice in a timely fashion, the AFP has amended its practises concerning minors and provides those accused of people smuggling offences the opportunity to speak with legal representatives at the first available opportunity following referral from DIAC.

People smuggling crew held in immigration facilities are permitted to make domestic and international phone calls, and are allowed to try several different numbers until they make contact with their family or friends. These calls last approximately two minutes, to enable them to let the receiver know of their wellbeing. Individuals are permitted further additional time on a case by case basis. Due to poor mobile coverage in some countries, telephone contact is not always possible, which is typically understood by those trying to contact people in particular countries.

Internet access is also provided in immigration facilities after people are accommodated.
The only time phone calls are not attempted on the day of arrival is when a significant number of individuals arrive on the same day, as there is no distinction in the allocation of phone calls between people smuggling crew and other passengers arriving by boat. In situations like this, phone calls are generally completed over two or three days. DIAC considers these phone calls to be very important and it is a priority for these calls to be made as soon as possible.

The States and Territories are responsible for the management of individuals on remand or serving sentences for Commonwealth offences. This includes facilitating communication between detainees with both their families and legal representatives. All jurisdictions allow domestic phone calls, and most allow international calls. A table comparing the facilitation of contact by State and Territory correctional facilities between prisoners and their family or legal representatives is at Attachment A.

Recommendation 2

Item 3 of Schedule 1 of the Bill be amended so that proposed new subsection 3ZQAA(3) of the Crimes Act 1914 provides that the 30 day limit on bringing an application to a magistrate to determine a person's age applies from whichever is first of:

(a) The date the person is taken into immigration detention; or
(b) The date on which the person first asserts that he or she was a minor at the time of the alleged offence.

Disagree.

The recommended amendment does not change the practical effect of proposed new subsection 3ZQAA(3) in its current form.

Currently, the proposed subsection requires investigating officials to make an application to a magistrate to determine a person's age within 30 days of the person being taken into immigration detention. The recommended amendment to the subsection would require the 30 day timeframe to commence on either the date the person is taken into immigration detention, or the date on which the person first claims to be a minor; whichever is first.

In practice, a person will very rarely (if ever) be in a position to claim to be a minor before being taken into immigration detention. This is because immigration detention of people smuggling crew under section 189 of the Migration Act 1958 commences at the point of interception by Border Protection Command (BPC) personnel. Unless a member of a people smuggling crew is able to communicate their age to BPC personnel (or potentially to any Australian Government official) at least one day or more prior to their interception, the commencement date for the application period will always be the date of interception. Accordingly, even if earlier notification of the person's claim was possible, the timeframe would be almost identical.

As such, the Commonwealth's concerns with the provision as set out in the joint submission are still applicable. In particular, the reference to 'magistrate' alone excludes the possibility of a superior court judge hearing an application. Further, the proposed provision does not clarify the meaning of 'application', which could be referring to the filing of an originating application, the age determination hearing before a magistrate, or both.

In addition, the period of 30 days to conduct an age investigation and make an application to a magistrate is impractical and will be, in some cases, impossible to comply with. The provision also retains the presumption of age in the defendant's favour, which has serious implications where the person is an adult and who, as a result of his claim alone, will automatically be required to be detained with minors.

The Commonwealth notes that other significant issues of concern about the Bill's remaining provisions, as set out in the Commonwealth's joint submission, have not been addressed by the recommendations made in the dissenting report.
Recommendation 3

That the Bill be passed by the Senate.

Attachment A: State and Territory correctional services facilitation of communication between prisoners and their families, and between prisoners and legal practitioners

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On 19 June 2012, the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill (the Bill) was referred to the Senate Legal and Constitutional Affairs Legislation Committee (the Committee) for inquiry and report by 13 September 2012. The Committee held a public hearing in Canberra on 29 August 2012.
The Bill was passed by the Senate on 27 February 2013.

BACKGROUND
This Bill would amend the existing people trafficking, slavery and slavery-like offences contained within Divisions 270 and 271 of the Criminal Code, the reparations provision in Part IB of the Crimes Act 1914, and make consequential amendments to the Proceeds of Crime Act 2002, the Migration Act 1958 and Telecommunications (Interception and Access) Act 1979 as follows:

- establish new offences in the Criminal Code of forced marriage and harbouring a victim, as well as standalone offences of forced labour and organ trafficking
- seek to ensure that the slavery offence applies to conduct which renders a person a slave, as well as conduct involving a person who is already a slave
- extend the application of the existing offences of deceptive recruiting and sexual servitude so they apply to non-sexual servitude and all forms of deceptive recruiting
- increase the penalties applicable to the existing debt bondage offences, to ensure they are in line with the serious nature of the offences
- broaden the definition of exploitation under the Criminal Code to include all slavery-like practices
- amend the existing definitions to ensure the broadest range of exploitative conduct is criminalised by the offences, including psychological oppression and the abuse of power or taking advantage of a person's vulnerability, and
- increase the availability of reparations to victims.

Recommendation 1
3.84 The committee recommends that the Attorney-General's Department revise and reissue the Explanatory Memorandum to clarify that the proposed slavery and servitude offences in the Bill apply to circumstances of slavery and servitude within intimate relationships (including marriage and de facto relationships).

On 8 October 2012, the Government tabled an addendum to the Explanatory Memorandum for the Bill in the Senate, which takes this recommendation into account. The addendum makes it clear that the new offences apply irrespective of whether the relevant conduct occurs in the victim's public or private life. Provided the elements of the offence are established, it is immaterial whether the victim and the offender are married or in a de facto relationship.

A copy of the addendum to the Explanatory Memorandum for the Bill is attached.

Recommendation 2
3.88 The committee recommends that the Australian Government further investigate the establishment of a federal compensation scheme for victims of slavery and people trafficking.


Article 6.6 of the Trafficking Protocol states that each Party shall 'ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered'. Under Australia's domestic legal system, compensation for victims of crime is generally a matter for States and Territories. Each State and Territory has a victims' compensation scheme, which may be available to victims of people trafficking, slavery and slavery-like practices. A number of these victims have accessed compensation from these State and Territory schemes.

As such, the Government's view is that Australia has implemented measures that allow victims to obtain compensation, in accordance with Article 6.6 of the Trafficking Protocol. Given these considerations, the Government does not support establishing a Commonwealth victims' compensation scheme at this time.
Recommendation 3

3.95 The committee recommends that the Australian Government review the People Trafficking Visa Framework and the Support for Victims of People Trafficking Program, and consider establishing an ongoing visa and access to victim support mechanism which is not conditional on a victim of people trafficking providing assistance in the criminal justice process.

Australia's anti-people trafficking strategy (the strategy) is designed to ensure a balance between victim welfare and criminal justice processes. Prosecutions for people trafficking, slavery and slavery-like practices rely heavily on witness assistance and testimony, and the complete de-linking of witness assistance and visa provisions from the criminal justice framework may affect the success of trafficking-related prosecutions.

The Government is committed to the continuous improvement of the Support for Trafficked People Program (the Support Program), aiming to provide a flexible, compassionate victim-focused program that is tailored to the individual needs of each client. The new funding agreement, commencing from 1 July 2012 with the current service provider, will provide greater flexibility and accountability in the delivery of the Support Program, to meet the individual needs of clients.

Over the life of the strategy, significant enhancements have been made in response to community sector feedback. In particular, a number of changes were made to the strategy in 2009 following extensive consultation with the community. The changes, which are outlined below, are in line with international best practice and the UN High Commissioner for Human Rights' Recommended Principles and Guidelines on Human Rights and Human Trafficking:

- enabling all identified suspected victims of trafficking, slavery and slavery-like practices who are unlawful non-citizens to access the Bridging F visa (BVF) irrespective of whether they are assisting police, and extending the validity of that visa from 30 days to 45 days
- reducing the Witness Protection (Trafficking) visa process from two stages to one stage by removing the Witness Protection (Trafficking) (Temporary) visa
- including offshore immediate family members in the offer of a Witness Protection (Trafficking) (Permanent) visa
- lowering the certification threshold for the Attorney-General to issue a Witness Protection (Trafficking) Certificate from a 'significant contribution' to a 'contribution'
- a period of up to 90 days of assistance is now available to victims who are willing but not able to assist with an investigation or prosecution for an offence of trafficking in persons, and
- all individuals receive an additional 20 days of support as they leave the Support Program.

To monitor and resolve operational matters, respond to new and emerging issues, and continue to explore ideas for enhancement of the strategy, the Australian Government has established an Operational Working Group, which is comprised of the Attorney-General's Department, the Australian Federal Police, the Office of the Commonwealth Director of Public Prosecutions, the Department of Families, Housing, Community Services and Indigenous Affairs, and the Department of Immigration and Citizenship. The Operational Working Group meets approximately every six weeks.

In addition, the strategy is also regularly reviewed externally by a number of bodies, including through the United Nations. In 2011 the strategy was reviewed both by the UN Special Rapporteur on Trafficking in Persons, especially women and children, and through the Universal Periodic Review process where United Nations Member States' human rights records are reviewed once every four years. Both of those reviews recognised Australia's role as a leader in regional efforts to combat trafficking.

Given these processes, and the extensive consultation on both the Visa Framework and the Support Program which led to enhancements in 2009, the Government does not propose to formally review the Visa Framework or the Support Program at this stage.
Recommendation 4

3.96 Subject to Recommendation 1, the committee recommends that the Senate pass the Bill.

The Australian Government notes this recommendation.

ATTACHMENT

CRIMES LEGISLATION AMENDMENT (SLAVERY, SLAVERY-LIKE CONDITIONS AND PEOPLE TRAFFICKING) BILL 2012

ADDENDUM TO THE EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General, the Hon Nicola Roxon MP)

THIS MEMORANDUM TAKES ACCOUNT OF RECOMMENDATIONS MADE BY THE SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE REPORT TABLED ON 13 SEPTEMBER 2012

NOTES ON CLAUSES

Schedule 1 — Criminal Code Amendments

Item 12

Section 270.5—Servitude offences

After "The new offences apply to all forms of servitude, regardless of whether the servitude is sexual in nature." on page 16, insert, "The new offences apply irrespective of whether the proscribed conduct occurs in the victim's public or private life. For example, provided the elements of the offence are established, it is immaterial whether the victim and the offender are married or in a de facto relationship."

Section 270.6A—Forced labour offences

After "Whether the offence applied in a particular circumstance would be determined by the nature of the relationship between the victim and their 'employer', and not by the type of activity performed, however hard or hazardous, or the legality or illegality of the work under Australian law." on page 20, insert, "The new offences apply irrespective of whether the proscribed conduct occurs in the victim's public or private life. For example, provided the elements of the offence are established, it is immaterial whether the victim and the offender are married or in a de facto relationship."

Section 270.7B—Forced marriage offences

After "Where a person has been transferred, sold or inherited into a marriage with no right to refuse, this may also amount to an offence of slavery." on page 25, insert, "Where a person freely and fully consented to enter into a marriage, but was later coerced, threatened or deceived into remaining in the marriage, or the powers attaching to the right of ownership were exercised over the person, this may also amount to a servitude or slavery offence, or a domestic violence offence under State and Territory legislation."

Australian Government response to the Senate Legal and Constitutional Affairs References Committee report:

Detention of Indonesian minors in Australia

DECEMBER 2012

BACKGROUND

On 10 May 2012 the Senate referred the matter of detention of Indonesian minors in Australia to the Legal and Constitutional Affairs References Committees for inquiry and report.

The inquiry considered:

(a) whether any Indonesian minors are currently being held in Australian prisons, remand centres or detention centres where adults are also held, and the appropriateness of that detention;

(b) what information the Australian authorities possessed or had knowledge of when it was determined that a suspect or convicted person was a minor;

(c) whether there have been cases where information that a person is a minor was not put before the court;

(d) what checks and procedures exist to ensure that evidence given to an Australian authority or department about the age of a defendant/suspect is followed up appropriately;

(e) the relevant procedures across agencies relating to cases where there is a suggestion that a minor has been imprisoned in an adult facility; and

(f) options for reparation and repatriation for any minor who has been charged (contrary to current government policy) and convicted.
The Attorney-General's Department (AGD) made a submission to the inquiry in collaboration with the Australian Federal Police (AFP). The Commonwealth Director of Public Prosecutions (CDPP) and the Department of Immigration and Citizenship (DIAC) also lodged submissions. Officers from AFP, AGD, CDPP and DIAC appeared before the committee on 24 August 2012.

The Committee reported on 4 October 2012, providing seven recommendations to the Australian Government. The Chair of the Committee also presented a minority report with fifteen recommendations. This document provides a coordinated Government response to the inquiry recommendations.

**Government Response: Majority Report**

**Recommendation 1**

Subject to the advice of the Office of the Chief Scientist regarding the utility of wrist X-rays as an age assessment tool, and noting evidence received by the committee raising significant doubts about this procedure, the committee recommends that the Australian Government consider removing wrist X-rays as a prescribed procedure for the determination of age under 3ZQB of the Crimes Act 1914 and regulation 6C of the Crimes Regulations 1990.

Agreed in principle.

On 11 January 2012 the Chief Scientist, Professor Ian Chubb AC, advised AGD on the available scientific methods for determining chronological age. The advice confirmed that wrist X-rays did not allow for precise estimation of chronological age; that results vary with ethnic and socio-economic conditions; and that there were ethical considerations.

The 'observed variation' of two years for wrist X-rays, identified by the Chief Scientist, further indicated that the science of wrist X-rays and statistical analysis from that science was a contested issue that required further expert consideration.

Between January and June 2012, AGD consulted further with the Office of the Chief Scientist on a number of age determination issues. This included seeking assistance on identifying available experts to assist the Commonwealth with the science of age determination, in particular to critically analyse the scientific and statistical basis for using wrist X-rays as an age determination procedure.

On 29 June 2012, the Office of the Chief Scientist provided AGD with advice relating to statistics and wrist X-rays from Professor Patty Solomon. In her report, Professor Solomon concluded that there is not enough scientific data in either the Greulich and Pyle Atlas or the TW3 Manual for those experts to draw sufficiently precise inferences of chronological age for young Indonesian males.

In order to address this issue, AGD is considering options for legislative amendments to remove wrist X-rays be removed as a prescribed procedure for age determination in the Crimes Act and Crimes Regulations.

**Recommendation 2**

The committee recommends that the Australian Government formalise arrangements for the Government of Indonesia to expedite the process of gathering evidence in Indonesia relating to the age of individuals who claim to be minors and are detained in Australia suspected of people smuggling offences.

Agreed.

The Foreign Evidence Act 1994 provides a mechanism for adducing material received from a foreign country in response to a mutual assistance request. The process can be complicated where a request is made to a country where government records, including birth, marriage and other identity records, are not centrally held. Even where a mutual assistance request is urgent and prioritised, it can take up to several months to receive the material sought. This mutual assistance process is assisted by the bilateral mutual assistance treaty with Indonesia, the Treaty between Australia and the Republic of Indonesia on Mutual Legal Assistance in Criminal Matters, done at Jakarta on 27 October 1995.

Since July 2011, the AFP has sought documents from the Indonesian National Police (INP) on a police-to-police basis. Recently the AFP commenced seeking documents from Indonesian
consular officials in Australia. Where documents received through these processes indicate the person may be a minor, the AFP considers this material in deciding whether to give the person the benefit of the doubt. However, INP officials have advised the AFP that a mutual assistance request is required to obtain documents for use as evidence in prosecutions (in most cases, documents indicating the person is an adult).

The AFP continues to utilise all avenues available to it to expedite the process of gathering evidence relating to the age of Indonesian individuals detained in Australia suspected of people smuggling offences.

The defendant's legal representatives may also seek to present as evidence documents obtained from Indonesia containing information about the defendant's age or affidavits from relatives. The costs of obtaining this evidence are covered as a disbursement within a grant of legal aid.

Credible documentary evidence is not always available to support the claims of people smuggling crew about their age. Only 55 per cent of Indonesian births were recorded between 2000 and 2008. There are at least three different calendars used in parts of Indonesia, and it is commonly the case that Indonesian crew may not know their age or date of birth, and that there may be no documentation of their age or date of birth.

This recommendation reflects Australia's existing practice for making formal and informal requests for assistance to Indonesia; however any requests by Australia for the process to be expedited would be a matter for Indonesia to consider. It will always take time to obtain documents given the dispersed nature of the Indonesian archipelago, and in some cases documents may not exist.

Recommendation 3

The committee recommends that the Migration Act 1958 be amended to require that individuals suspected of people smuggling offences who claim to be minors be offered access to consular assistance as soon as practicable after their arrival in Australia.

Agreed in principle.
Recommendation 5
The committee recommends that DIAC:
- explicitly inform each Indonesian crew member suspected of people smuggling of their right to contact relatives in Indonesia as soon as practicable after their arrival in Australia; and
- take proactive steps to assist all crew who claim to be minors to contact their families in Indonesia within seven days, or as soon as practicable, after their arrival in Australia.
Agreed.
This recommendation reflects existing practice.
People smuggling crew held in immigration facilities are permitted to make domestic and international phone calls, and are allowed to try several different numbers until they make contact with their family or friends. These calls last approximately two minutes, to enable them to let the receiver know of their wellbeing. Individuals are permitted further additional time on a case by case basis. Due to poor mobile coverage in some countries, telephone contact is not always possible, which is typically understood by those trying to contact people in particular countries.
Internet access is also provided in immigration facilities after people are accommodated.
The only time phone calls are not attempted on the day of arrival is when a significant number of individuals arrive on the same day, as there is no distinction in the allocation of phone calls between people smuggling crew and other passengers arriving by boat. For example, in one instance 230 clients arrived at one time and it was not possible to make all 230 calls on that day. In situations like this, phone calls are generally completed over two or three days. DIAC considers these phone calls to be very important and it is a priority for these calls to be made as soon as possible.

Recommendation 6
In accordance with Recommendation 2 of the Senate Legal and Constitutional Affairs Legislation Committee's report into the Crimes Amendment (Fairness for Minors) Bill 2011, the committee recommends that the Australian Government introduce legislation to expressly provide that, where a person raises the issue of age during criminal proceedings, the prosecution bears the burden of proof to establish that the person was an adult at the time of the relevant offence.
Agreed.
Under the Migration Act 1958, penalties for aggravated people smuggling offences do not apply to persons where it is 'established' on the balance of probabilities that they are under the age of 18 years. However, the legislation does not specify whether the prosecution or the defence bears the burden of proof.
There has been some inconsistency in the courts as to who bears the burden of proof. However, in practice, the CDPP has taken on the obligation of establishing whether the person is a minor or an adult, in cases where the defendant raises age as an issue.
AGD is considering options for amendments to the Migration Act that would codify current practice by specifying that the prosecution bears the onus of proof in establishing age, where age is contested during a prosecution.

Recommendation 7
In accordance with Recommendation 2 of the Senate Legal and Constitutional Affairs Legislation Committee's report into the Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012, the committee recommends that the Australian Government facilitate and support further deterrence and awareness raising activities in relation to people smuggling offences, with a focus on relevant communities in Indonesia.
Agreed.
At the Australia-Indonesia Leaders Meeting on 3 July 2012, it was noted that Australia and Indonesia will conduct a joint public information campaign in Indonesia to prevent potential crew from being used by international people smuggling networks by helping them to understand the consequences, both in Australian and Indonesian law.
This campaign has commenced with two information sessions held in Bali and Kupang from 17-19 September 2012 for local Indonesian stakeholders and representatives.
The next phase of the awareness raising campaign is currently under development.

Government response: Chair's further findings and recommendations

Recommendation 1
The Chair of the committee recommends that the Attorney-General's Department undertake a review of all cases since 2008 where Indonesian minors may have been detained in Australia on suspicion of people smuggling offences, in order to determine:
- the number of minors who have been inappropriately detained in Australia; and
- the length of time for which those individuals were detained.

Disagree.
On 2 May 2012, the Attorney-General announced a review of convicted crew whose age was raised as an issue at some stage during the investigation and/or prosecution. A total of 28 cases were reviewed after being identified by the Australian Human Rights Commission, the Indonesian Embassy and the CDPP.
On 29 June 2012, the Attorney-General announced that the outcomes of the review were that:
- 15 crew were granted early release from prison on licence as there was a doubt they may have been minors on arrival in Australia
- two crew were released early on parole
- three crew completed their non-parole periods prior to the commencement of the review and
- eight crew were assessed as likely to be adults on arrival as there was no evidence supporting suggestions they were minors at the time of arrival.

There have been 1115 crew arrive in Australia since 2008. As at 30 November 2012, 197 crew have been returned on the basis that they may have been minors. AGD has reviewed all cases were crew in Australian prisons had been convicted and age was raised as an issue at some stage during the proceedings.

Recommendation 2
The Chair of the committee recommends that the Australian Government, in conjunction with state and territory governments, sufficiently resource Australia's eight legal aid commissions to enable legal aid lawyers representing suspected people smugglers who claim to be minors to travel to Indonesia to obtain relevant evidence relating to the age of their clients.

Agreed.
This recommendation reflects existing practice. Legal aid commissions can seek reimbursement of costs incurred for providing representation to people smuggling defendants (including travelling to Indonesia to seek documentary evidence of age) through the Expensive Commonwealth Criminal Cases Fund, which is administered by the Attorney-General's Department.

Recommendation 3
The Chair of the committee recommends that the Australian Government introduce legislation to appoint an independent legal guardian for individuals suspected of people smuggling offences who claim to be minors, to represent their best interests while their age claims are assessed.

Disagree.
Interviews for individuals suspected of people smuggling who claim to be minors are undertaken in the presence of an Independent Observer who provides support to ensure the well-being of the individual. This applies whether the interview is to determine a person's age, identity or to establish information relevant to their travel to Australia. A legal representative is not present at these interviews.

However, in the criminal investigative context, current practice reflects the need for an independent person or guardian during a criminal investigation. Under s23K of the Crimes Act, if an investigating official believes on reasonable grounds that a person who is under arrest or a protected suspect is under 18, the official must not question the person unless an interview friend is present while the person is being questioned and, before the start of the questioning, the official has allowed the person to communicate with the interview friend in circumstances in
which, as far as practicable, the communication will not be overheard.

An interview friend means:
(a) a parent or guardian of the person or a legal practitioner acting for the person; or
(b) if none of the previously mentioned persons is available—a relative or friend of the person who is acceptable to the person; or
(c) if the person is an Aboriginal person or a Torres Strait Islander and none of the previously mentioned persons is available—a person whose name is included in the relevant list maintained under subsection 23J(1); or
(d) if no person covered by paragraph (a), (b) or (c) is available—an independent person.

Indonesian consular representatives are also able to advocate on behalf of Indonesian crew given their consular functions include safeguarding the interests of their minor nationals (Vienna Convention on Consular Relations), provided that the individual accepts consular assistance.

Recommendation 4
The Chair of the committee recommends that the Migration Act 1958 be amended to require that legal assistance be provided to all individuals suspected of people smuggling offences who claim to be minors within three days of their arrival in Australia

Disagree.

Legal Aid Commissions are currently informed when crew arrive in Australia and offer assistance as soon as practicable. However, it is not appropriate to include time frames in the legislation.

Recommendation 5
The Chair of the committee recommends that the government appropriately resource National Legal Aid to station a full-time independent legal aid representative on Christmas Island, to provide legal assistance in person to all foreign boat crew who arrive there suspected of people smuggling offences.

Disagree.

National Legal Aid (NLA) is not funded by governments to provide legal assistance services. NLA is a non-statutory representative group comprising the directors of all eight legal aid commissions.

Under the National Partnership Agreement on Legal Assistance Services (NPA), the Australian Government funds legal aid commissions to deliver Commonwealth legal aid service priorities, including certain migration matters. The NPA does not fund legal assistance for external territories. The Legal Aid Commission of Western Australia is funded by the Territories Division of the Department of Regional Australia to provide legal assistance services on Christmas Island. Those arrangements cover the provision of assistance to people who are residents of Christmas Island, and any person on Christmas Island who is charged with a criminal offence.

Recommendation 6
The Chair of the committee recommends that the Crimes Act 1914 be amended to require that an individual suspected of people smuggling offences who claims to be a minor can only be detained in Australia for a maximum of 14 days before being charged or released from detention.

Disagree.

The Government is keen to avoid delays in investigations for persons suspected of people smuggling offences who say that they are minors. The AFP requires adequate time to consider all relevant factors when making a decision to charge a person, and has worked hard to reduce the time taken to investigate people smuggling offences and prepare a brief of evidence, setting a benchmark timeframe of 90 days from interception to laying charges.

As a result of continuing efforts to reduce time in detention, the AFP advises that for the period from 1 January 2012 to 12 November 2012, the average period of investigation from the date of formal referral of crew by DIAC to the date of charging by AFP is 74 days.

The Government is committed to further reducing delays in the investigation of people smuggling offences. Commonwealth agencies are developing solutions to address delays, including seeking identity documents from Indonesian consular officials in the first instance, pending a mutual assistance request. If available, these
documents may then inform the AFP’s decision about whether to give a person the benefit of the doubt about their age, prior to laying charges.

Unfortunately, there are often delays to the investigation process caused by environmental factors, which are difficult to avoid. For example, weather conditions may cause delays in conveying items of evidence, such as mobile phones and GPS equipment, which require forensic analysis by experts and equipment on mainland Australia. There may also be delays in securing interpreters of specific dialects required for interviews or investigations.

In addition, passengers on board people smuggling vessels are sometimes unwilling or unable to provide statements, which are necessary to proceed with most people smuggling prosecutions.

Recommendation 7
The Chair of the committee recommends that the Migration Act 1958 be amended to require that, where Criminal Justice Stay Certificates are issued in respect of individuals suspected of people smuggling offences who claim to be minors, those certificates should be the subject of periodic judicial review.

Disagree.
A Criminal Justice Stay Certificate (CJSC) operates to stay a non-citizen’s removal and does not authorise or provide a legal basis for the non-citizen’s detention. As set out in the written submission to the Senate Committee provided by AGD and the AFP, the person is detained pursuant to relevant provisions of the Migration Act (s189 and s250). If a CJSC is in force the Minister of Immigration and Citizenship may consider in his absolute discretion whether it is appropriate to issue a criminal justice stay visa which would entitle the person to be released from detention. The AFP and CDPP are the competent authorities in relation to investigations and prosecutions, and the Attorney-General’s delegate may issue at the request of these agencies a CJSC to stay a person’s removal. The Attorney-General’s delegate necessarily relies on advice from these agencies as to whether the presence in Australia of a non-citizen is required for the purposes of the administration of criminal justice. AGD currently has procedures in place for the review of CJSCs, and in response to a recommendation made by the Australian Human Rights Commission has refined its procedures for review of CJSCs to include guidance on regular follow up with the AFP or CDPP, as relevant, for confirmation of the continuing need for the CJSC to ensure cancellation of certificates promptly once a person is no longer required. The Government considers its existing procedures for review of CJSCs to be appropriate.

Recommendation 8
The Chair of the committee recommends that an individual detained in Australia on suspicion of people smuggling charges who claims to be a minor must be held in community detention rather than immigration detention facilities while their case is considered, unless there is a clear reason why this would be inappropriate.

Disagree.
Under s197AB of the Migration Act, only the Minister for Immigration and Citizenship can approve a community detention placement for people in immigration detention. However, this is a non-compellable power and, in considering whether to make such a determination, the Minister must consider that it is in the public interest to do so. A blanket determination covering all people suspected of people smuggling offences who claim to be minors is inconsistent with the terms of the relevant provisions.

Recommendation 9
The Chair of the committee recommends that the Crimes Act 1914 be amended to require that an investigating official may only make an application to a magistrate or judge to determine the age of an individual charged with a people smuggling offence who claims to be a minor within 30 days of:
- the suspect being taken into immigration detention in Australia; or
- the suspect first making a claim that they are a minor

Disagree.
The proposed time limit of 30 days is insufficient for investigating officers to gather a thorough brief of evidence, particularly where the collection of evidence requires evidence being provided by the person's country of origin. The operational stages of the investigatory and age assessment process are outlined in the response to recommendation 6. Not only would the proposed time limit impact the ability of the AFP's to properly investigate an alleged offence it could jeopardise the ability of defendants to obtain evidence to substantiate their claims.

A person in immigration detention, or in remand in a criminal justice detention facility, can claim to be a minor at any time. It is not always the case that detainees claim to be minors at the point of interception, and it is not uncommon for claims about age to be made after the person has been detained for a period of time. Often challenges to the court's jurisdiction on the basis of age are made late in the proceedings, and in some cases claims about age are raised several times. Some age determination hearings are on the application of the defence. The defence has also, on occasion, asked that age determination proceedings be delayed while the defence gathers information.

The recommendation does not take into account these circumstances, nor does it clarify how the criminal proceedings would be dealt with should these circumstances arise. It is also unclear what should occur if an application for an age determination was not made within 30 days. Age is a fundamental question going to jurisdiction and cannot be ignored regardless of when an application is made.

Recommendation 10

The Chair of the committee recommends that the Commonwealth Director of Public Prosecutions review its procedures to ensure that all age-related evidence in its possession is made available to the court during age determination hearings.

Disagree

Under the policy framework announced on 8 July 2011, the AFP is to request documents containing information about the age of persons who say they are minors from their country of origin as soon as possible. However, the Government notes that it is not always possible to obtain such documentation given that other countries do not have the same requirements for identification documentation as Australia.

Based upon operational experience and expert advice, there are limitations in terms of the reliability of identity documents, as well as challenges posed by cultural and religious practices. As a result there can be issues with the admissibility of documents.

The CDPP's policy in relation to evidence in age determination hearings in people smuggling prosecutions is set out in the CDPP's Director's Litigation Instruction Number 2, which provides:

Evidence

(16) If a matter proceeds to an age determination hearing and the defendant seeks to:

• call evidence from the defendant's family or other persons from the defendant's place of origin, whether in person, by audio or by audio visual link; and/or

• the defendant seeks to call evidence to make admissible documents that the defendant wishes to tender during the hearing

the responsibility for making any arrangements to call such evidence will rest with the defendant's legal representatives, however the CDPP will cooperate as much as it is reasonably able to do so with the defendant's legal representatives.

(17) If a witness is unable to give evidence to the Court in person or by audio or audio visual link or if a defendant is unable to call the necessary evidence to make a document admissible, then generally the CDPP will not dispute the admissibility of any affidavits from the defendant's family or from other persons from the defendant's place of origin that the defendant wishes to tender nor the admissibility of any documentary evidence the defendant wishes to tender. It may be appropriate for comment to be made about the weight the Court should give to any evidence.

(18) The prosecutor may however dispute the admissibility of an affidavit or document; the information contained in the affidavit or document; call evidence or seek to cross-examine...
on the affidavit or document, if there are very cogent reasons for doing so.

(19) Any decision to dispute the admissibility of any such affidavits or documents should be discussed with the Deputy Director of the relevant Regional Office, and if necessary, raised with the Director.

This is a very unusual and permissive stance to be taken by a prosecuting entity, which has been taken as a result of practical issues confronting the CDPP in relation to documentary material from Indonesia. The CDPP does not have a similar approach in any other area of its practice.

This position only relates to the material that the defendant wishes to tender. The CDPP cannot require or expect that defence representatives will allow the CDPP to tender documentary material which is not admissible. Accordingly, the CDPP cannot ensure that all age-related material in its possession is made available to the court during age determination hearings.

Recommendation 11

The Chair of the committee recommends that the Australian Government issue an apology to those Indonesian nationals who were detained or convicted and imprisoned in Australia for involvement in people smuggling offences, only to be later released due to concerns that they were minors at the time of offending or upon completion of their sentence.

Disagree.

In making decisions about investigation and prosecution of people smuggling crew Australian Government agencies act in good faith on the most reliable evidence available at the time. Assessing age is complex and difficult, as noted in the report. People may make claims to be minors at any stage of a prosecution.

Under the Government's current policy, in cases where age is not able to be clearly established, the person being investigated or prosecuted is given the benefit of the doubt and returned to their country of origin without charge. People being removed on this basis may in fact be adults, but they are being returned because there is a doubt whether they are adults or minors.

Recommendation 12

The Chair of the committee recommends that the Australian Government:

- recognise the right of Indonesian minors who were wrongly detained or imprisoned in Australia to be paid appropriate compensation;

- initiate a thorough and transparent process to identify individuals who were wrongly detained, or convicted and imprisoned, in Australia on people smuggling charges, only to be released due to concerns that they were minors at the time of offending or upon completion of their sentence;

- inform these individuals of their right to seek reparation for any periods of inappropriate detention or imprisonment; and

- establish an appropriate administrative mechanism, subject to judicial review, for determining rights violations associated with these cases and enabling compensation payments to be made to these individuals.

Disagree.

The offence of people smuggling applies equally to adults and minors: age is not relevant for this crime. Minors do not belong in adult prisons, which is why on 2 May 2012, the Attorney-General announced a review of convicted people smuggling crew whose age was raised as an issue at some stage during the investigation and/or prosecution. A total of 28 cases were reviewed after being identified by the Australian Human Rights Commission, the Indonesian Embassy and the CDPP.

On 29 June 2012, the Attorney-General announced that the outcomes of the review were that:

- 15 crew were granted early release from prison on licence as there was a doubt they may have been minors on arrival in Australia
- two crew were released early on parole
- three crew completed their non-parole periods prior to the commencement of the review and
- eight crew were assessed as likely to be adults on arrival as there was no evidence supporting suggestions they were minors at the time of arrival.
Australia has a fair system in place for assessing the age of people smuggling crew who claim to be minors, where all individuals who claim to be minors have their cases assessed on an individual basis. If there is insufficient evidence to establish whether the person is an adult or a minor, the person is given the benefit of the doubt and removed to their country of origin, unless exceptional circumstances apply.

People are free to make claims at any time against any government if they believe that a government has acted wrongly. Governments have a duty to properly consider such claims, as well as to properly defend themselves if such claims have no basis.

Recommendation 13
The Chair of the committee recommends that the Australian Government investigate options for providing culturally appropriate psychological support for Indonesian minors who suffered psychological trauma as a result of being wrongfully detained in Australia on suspicion of people smuggling.

Disagree.

The offence of people smuggling applies equally to adults and minors: age is not relevant for this crime. Indonesian crew of people smuggling vessels will be detained while consideration is given to whether they should be prosecuted for this offence.

Recommendation 14
The Chair of the committee recommends that the Attorney-General's Department request that the states and territories afford persons convicted of people smuggling the right to remit a portion of any income earned in prison to their relatives in Indonesia.

Disagree.

Parliament passed legislation expressly providing that those convicted of people smuggling offences should be liable to repay the costs of their detention. Such people are also liable to pay the costs associated with their removal (see Recommendation 15). State and Territory correctional authorities have been asked to prevent convicted people smuggling crew from remitting money overseas so that DIAC can implement the debt recovery procedures that apply to this cohort under the Migration Act. The calculation of these individual debts can only be finalised once the person is released from custody and the full costs of each case are known. Allowing overseas remittances for this cohort will compromise the outcome of this lawful debt recovery.

Recommendation 15
The Chair of the committee recommends that the Australian Government immediately reverse the policy of seeking to recover the costs of detention and removal from Australia from Indonesian boat crew convicted of people smuggling offences.

Disagree.

The Migration Amendment (Abolishing Detention Debt) Act 2009 amended the Migration Act and removed liability for immigration detention and related costs for people in immigration detention. However, it remains Government policy that those engaged in people smuggling should not profit from such an activity. Hence, those people convicted of people smuggling continue to incur liability for both a detention and a removal debt. The Migration Act allows DIAC to freeze funds of people smugglers, and issue a garnishee notice to a third party, to recover that money as a means of meeting their Commonwealth debt. Under current arrangements, the extent to which removal and detention debts are recoverable depends on whether the person has funds available and the legal basis for the person's detention in Australia. DIAC is currently able to recover both detention and removal debts from crew who on their arrival were detained under section 189(3), because of section 250, of the Act as a suspected people smuggling offender, and who have not subsequently been issued with a Criminal Justice Stay Visa (CJSV). Crew who have been issued a CJSV under past procedures are only able to have debts recovered on a voluntary basis under the same arrangements in the Migration Act that apply to all unlawful non-citizens who are being removed from Australia.
Recommendation 2: The Committee recommends that new and revised extradition agreements should explicitly provide a requirement that the requesting country provide annual information concerning the trial status and health of extradited persons and the conditions of the detention facilities in which they are held.

The Government does not accept this recommendation.

The Government notes that the Committee made a similar recommendation in its Report 110 (Recommendation 4), and the Government's response to Report 110, which was tabled in February 2012, did not accept that recommendation. In considering Recommendation 2 of the current Report, the Government has carefully considered its previous response to Report 110 and the operation of Australia's extradition framework since that response. The Government has concluded that Australia's current extradition arrangements and policies remain appropriate and effective at this time.

The Government reiterates its view that the most appropriate time at which to examine any potential human rights concerns is before extradition occurs, during the extensive review process. This is consistent with Australia's obligations under international human rights law and with international extradition practice. As noted in the Government's Response to Report 110, the extradition process in Australia includes extensive procedural safeguards, which are included in the Extradition Act 1988 and in bilateral treaties. For example, Australia will not extradite a person if there are substantial grounds for believing that he or she would be in danger of being subjected to arbitrary deprivation of life, application of the death penalty, or cruel, inhuman or degrading treatment or punishment.

In addition, since the time of the Government's response to Report 110, the Parliament has enacted the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Act 2012. This Act contains a number of significant amendments to further strengthen the protections in the Extradition Act 1988. These amendments include a new ground for refusing extradition where the person may be punished, or discriminated against, upon surrender on the basis of his or her sex or sexual orientation, as well as amendments to strengthen protections in situations where a person may be subjected to torture. The Government will continue to closely monitor the operation of Australia's extradition framework, and will examine the need for any further amendments as required.

As noted in the Government's Response to Report 110, the Government has established monitoring mechanisms in relation to Australian nationals who have been extradited overseas. The Government is able to conduct this monitoring because of the consular rights provided for under the Vienna Convention on Consular Relations and the resources provided to support Australia's consular network. In 2011-12, the Department of Foreign Affairs and Trade provided consular assistance to 236 Australian nationals serving prison sentences overseas. In addition, when a foreign national is extradited from Australia to a third country, the Government has agreed to formally advise that person's country of citizenship of his or her detention and extradition, subject to that person's consent (noting the constraints on the disclosure of personal information under the Privacy Act 1988).

As also noted in the Government's Response to Report 110, the Government has agreed to include additional information on persons extradited from Australia in the Annual Reports of the Attorney-General's Department, including information on:

- extradition requests granted by Australia and the categories of the relevant offences by reference to the countries which made the request
- the number of Australian permanent residents extradited, and
- any breaches of substantive obligations under bilateral extradition agreements noted by Australian authorities.
Accordingly, in 2011-12, the Attorney-General’s Department Annual Report included the following information:

- 10 extradition requests were granted by Australia in 2011-12. This included:
  - Jurisdictions to which extradition was granted: United Kingdom (6), Hong Kong (1), Indonesia (1), Ireland (1), United States (1)
  - Offence categories: Child sex and child exploitation offences (4), Drugs (1), Theft and/or fraud (3), Corruption (1), Culpable driving (1)
  - Citizenship of person extradited: Australia (5), Hong Kong (1), Ecuador (1), United Kingdom (3), United States (1)
- No permanent residents were extradited in the reporting period.
- No breaches of substantive obligations contained in bilateral extradition treaties were noted in the reporting period.

1 One person was a dual Ecuadorian-United Kingdom national.

**Appropriations and Staffing Committee Report**

**The DEPUTY PRESIDENT** (15:36): I present the 55th report of the Standing Committee on Appropriations and Staffing on the estimates of the Department of the Senate for 2013-14.

Ordered that the report be printed.

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:36): by leave—I move:

That the Senate adopts the recommendations of the 55th report of the Standing Committee on Appropriations and Staffing in relation to the transfer of the information and communications technology functions and resources of the Senate department to the Department of Parliamentary Services.

Question agreed to.

**DOCUMENTS**

**National Close the Gap Day**

**The DEPUTY PRESIDENT** (15:37): I present a response from the Minister for Indigenous Health, Mr Snowdon, to a resolution of the Senate of 21 March 2013 concerning National Close the Gap Day.

**AUDITOR-GENERAL’S REPORTS**

**Report No. 35 of 2012-13**

**The DEPUTY PRESIDENT** (15:37): In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 35 of 2012-13: Performance audit: Control of credit card use: Australian Trade Commission; Department of the Prime Minister and Cabinet; Geoscience Australia

**COMMITTEES**

**Publications Committee Report**

**Senator McEWEN** (South Australia—Government Whip in the Senate) (15:38): On behalf of the Chair of the Publications Committee, Senator Carol Brown, I present the 25th report of the Publications Committee. Ordered that the report be adopted.

**Delegated Legislation Monitor**

**Senator McEWEN** (South Australia—Government Whip in the Senate) (15:38): On behalf of the Chair of the Standing Committee on Regulations and Ordinances, Senator Furner, I present Delegated Legislation Monitor No. 5 of 2013.

**Estimates**

**Additional Information**

**Senator McEWEN** (South Australia—Government Whip in the Senate) (15:38): I present additional information received by committees relating to estimates.
Environment and Communications References Committee
Correction
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:38): On behalf of the Chair of the Environment and Communications References Committee, Senator Birmingham, I present a correction to the report of the committee on the silent number fee prohibition.

Ordered that the document be printed.

Corporations and Financial Services Committee
Report
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:39): On behalf of the Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Boyce, I present the report on the statutory oversight of the Australian Securities and Investments Commission No. 2 of 2013.

Ordered that the report be printed.

Senator KROGER: by leave—I move: That the Senate take note of the report.

Question agreed to.

Senator KROGER: If I could just make a couple of very brief comments. This was an inquiry that took place over quite a period of time. There was a significant number of submissions and a number of hearings that took evidence. It was particularly interesting because Australia has focused on investing in a lot of aid in Afghanistan since 2001, in helping with the reconstruction of many areas of Afghanistan and, in particular, investing a lot of those funds in the Reconstruction Task Force Fund. It was a particularly interesting inquiry, largely because of the number of projects that the Australian Defence Force have directly been involved in. It is one that I commend senators to have a look at. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Law Enforcement Committee
Reports
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:42): On behalf of the Deputy Chair of the Parliamentary Joint Committee on Law Enforcement, Senator Nash, I present three reports of the committee, together with a Hansard record of proceedings, additional information and submissions received by the committee.

Ordered that the reports be printed.

Senator KROGER: by leave:
I move that the Senate take note of the reports.

I seek leave to continue my remarks.

Leave granted; debate adjourned.
DOCUMENTS

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

Details of the documents also appear at the end of today’s Hansard.

COMMITTEES

Membership

The DEPUTY PRESIDENT (15:43): The President has received letters from party leaders requesting changes in the membership of committees. I call the minister.

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:43): by leave:

I move:

That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation and References Committees—

Appointed—Participating member: Senator Lines

Economics Legislation and References Committees—

Appointed—Participating member: Senator Lines

Education, Employment and Workplace Relations Legislation Committee—

Appointed—Participating member: Senator Lines

Education, Employment and Workplace Relations References Committee—

Appointed—

Participating members: Senators Lines and Rhiannon

Substitute member: Senator Wright to replace Senator Rhiannon for the committee's inquiry into the effectiveness of NAPLAN

Environment and Communications Legislation and References Committees—

Appointed—Participating member: Senator Lines

Finance and Public Administration Legislation and References Committees—

Appointed—Participating member: Senator Lines

Foreign Affairs, Defence and Trade Legislation Committee—

Appointed—

Participating members: Senators Lines and Ludlam

Substitute member: Senator Whish-Wilson to replace Senator Ludlam for the committee's inquiry into the Export Market Development Grants Amendment Bill 2013

Foreign Affairs, Defence and Trade References Committee

Appointed—Participating member: Senator Lines

Gambling Reform—Joint Select Committee—

Appointed—Participating member: Senator Lines

Legal and Constitutional Affairs Legislation and References Committees—

Appointed—Participating member: Senator Lines

National Broadband Network—Joint Standing Committee—

Appointed—Participating member: Senator Lines

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—Participating member: Senator Lines

Rural and Regional Affairs and Transport References Committee—

Appointed—

Participating members: Senators Lines and Whish-Wilson

Substitute member: Senator Di Natale to replace Senator Whish-Wilson for the
committee's inquiry into sports science in Australia.

Question agreed to.

**BILLS**

**Court Security Bill 2013**

**Court Security (Consequential Amendments) Bill 2013**

First Reading

Bills received from the House of Representatives.

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:44): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:44): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**COURT SECURITY BILL 2013**

Federal courts and tribunals, due to their very nature as forums to resolve intractable disputes, bring together people who are in conflict. Proceedings are often emotionally charged, and can involve actual or threatened violence.

It is essential that the federal courts and tribunals are supported in their efforts to prevent, as far as possible, security incidents arising on their premises, and to respond quickly and appropriately to control incidents when they do arise.

Court users, particularly those involved in cases in the Family and Federal Magistrates courts, have the fundamental right to access facilities and have their cases heard without the threat of violence and intimidation.

**Current court security arrangements**

Security at most federal court and tribunal premises is provided by contracted security guards, and this has been the case for many years.

The current legislative framework for security at federal court and tribunal premises is Part IIA of the Public Order (Protection of Persons and Property) Act 1971. However, this legislation is out of date, in that it assumes the presence of police officers on court premises. It also does not contain an appropriate range of powers – and safeguards on the exercise of these powers – sufficient to meet the security needs of the modern court environment.

Security officers are uncertain of their powers to confiscate materials or temporarily detain violent people.

**Legislative framework established by this Bill**

This Bill contains a comprehensive framework to enable the federal courts and tribunals to manage the wide range of security issues they face in different locations across Australia.

It allows courts to appoint persons as security officers and authorised court officers and clearly sets out the powers that these officers are able to exercise.

The powers build on those currently contained in the Public Order Act and those available to the courts under the common law as occupiers of premises.

The powers include screening and search powers, powers to give certain directions, and a limited range of powers supported by the use of necessary and reasonable force.

Only appropriately trained and licensed security officers will be able to use force in exercising powers under the Bill, and these officers will only be able to use force in clearly defined circumstances.

Recognising that security officers may not be present at all court locations, in particular when the courts are in regional circuit locations, the Bill...
allows authorised court officers to exercise a
limited range of basic security powers.

The Bill creates a number of offences relating
to court security, and provides for the
administrative heads of the federal courts to seek
protection orders on behalf of judicial officers
and court staff or in the interests of court security.

The Bill contains important safeguards around
the exercise of powers. These safeguards include
licensing and training requirements for appointed
officers, identification requirements, complaints
mechanisms, and oversight by the
Commonwealth Ombudsman.

The measures under the Bill balance a person’s
right to enter and remain upon court premises,
with the right of other court users, judicial
officers, court staff and members of the public to
a safe and secure court environment.

The Bill has been developed in close
consultation with the federal courts and tribunals.
It responds to concerns raised by the heads of
jurisdiction of the federal courts that the Public
Order Act does not meet the security needs of the
modern court environment.

The Bill is tailored to ensure that the courts
can reduce, as far as possible, the risk of security
incidents arising on their premises, and to
appropriately respond to incidents that do arise.

**Police presence for court security**

It is expected that courts will continue to call
for police assistance to deal with serious security
incidents.

However, events at court premises can escalate
with little warning. It is, therefore, vital that there
is an effective legislative framework in place to
ensure that courts are able to take preventative
security measures such as screening, and, where a
security incident has arisen, to enable the courts
to continue to operate in a safe and secure manner
before police arrive.

The Bill has been carefully drafted so as to be
flexible to a range of different guarding
arrangements. This is appropriate given the
different security needs of different courts and
tribunals.

**Conclusion**

Effective court security arrangements are a
critical precondition for the effective
administration of justice.

This Bill will modernise the legal framework
for federal court and tribunal security
arrangements and thereby ensure that our courts
and tribunals are safe and secure places for the
public to have their disputes heard.

I commend the Bill to the House.

**COURT SECURITY (CONSEQUENTIAL
AMENDMENTS) BILL 2013**

I am pleased to introduce the Court Security
(Consequential Amendments) Bill 2013.

The Court Security Bill 2013 provides a new
framework for court security arrangements for
federal courts and tribunals. The new framework
will meet the security needs of the modern court
environment by providing a range of powers for
security officers and limited powers for
authorised court officers to ensure that court
premises are safe and secure environments.

The Court Security Bill will replace the current
security framework for federal courts and
tribunals under the Public Order (Protection of
Persons and Property) Act 1971, which no longer
meets the security needs of the modern court
environment.

This companion Consequential Amendments
Bill allows proper implementation of the new
framework.

This Bill will achieve this by removing the
existing provisions in the Public Order Act that
would otherwise overlap with provisions in the
Court Security Bill.

Debate adjourned.
Customs Tariff Amendment (Incorporation of Proposals) Bill 2013
National Measurement Amendment Bill 2013
Social Security Legislation Amendment (Disaster Recovery Allowance) Bill 2013
Veterans' Affairs Legislation Amendment (Military Compensation Review and Other Measures) Bill 2013

First Reading

Bills received from the House of Representatives.

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:45): These bills are being introduced together, and after debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:46): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

CUSTOMS TARIFF AMENDMENT (INCORPORATION OF PROPOSALS) BILL 2013


Schedule 4 lists a range of goods and circumstances for which concessional rates of import duty are granted.

Following a review of the Schedule by the Better Regulation Ministerial Partnership, the Customs Tariff Amendment (Schedule 4) Act 2012 was passed by the Parliament in 2012. This act commenced on 1 March 2013.

This bill makes minor amendments to this act, and were previously given effect through the tabling of Customs Tariff Proposal (No. 1) 2013 in the House of Representatives on 14 February 2013.

The items to be amended are items 20, 21, 27, 30 and 35 in the revised Schedule 4.

The amendments fix typos or change wording so it is consistent with the intentions of the schedule, and have come about from both industry and inter-department feedback on the bill that passed last year.

The changes include:

- Item 20: This item combines previous items 20A and 20B. New item 20 applies to goods exported for repair or renovation, subject to certain conditions. Old item 20B applied specifically to goods subject to a batch repair process.
  
  However, the term "batch repair" was not specifically mentioned in the new item 20, thus leading to confusion as to whether goods subject to a batch repair process have access to the concession or not. The bill will amend item 20 to specifically reference "batch repair" in the item.

- Item 21. This item previously applied to goods imported for repair, alteration or industrial processing that are to be exported having undergone one or more of these processes.
  
  Following consultation with the Department of Industry, Innovation, Science, Research and Tertiary Education, this bill will remove the term
"industrial processing" from item 21. This amendment will better reflect Australian Government policy that encourages all goods imported for industrial processing and subsequent exportation to use the Tradex Goods Scheme under item 21A of Schedule 4. Goods specified in a Tradex Order under the Tradex Scheme Act 1999 can then be better recorded and monitored for industry assistance purposes.

- Item 27. New item 27 originally applied to "Samples, as prescribed by by-law, whose value is less than the amount prescribed by by-law".

The bill will give effect to an amendment that removes all references to "value" and "amount" from the item. This amendment will then allow the nature of representative sample goods that have access to this concession to be defined more clearly in the associated by-law(s).

- Item 30. The text of item 30 was amended in the revised Schedule 4 to replace the reference to "invalid carriages" with "wheelchairs", excluding other forms of invalid carriages, such as mobility scooters.

The bill will give effect to the amendment of item 30 that replaces "wheelchairs" with "invalid carriages", thus returning the item to its intended scope and application.

- Item 35. This item applies to parts and materials for use in the construction, modification or repair of vessels exceeding 150 gross construction tons. The Customs Tariff calculates duty paid on vessels in accordance with the measurement "gross construction tons".

However, a typographical error was made in the drafting of item 35 which changed gross construction "tons" (T-O-N-S) to gross construction "tonnes" (T-O-N-N-E-S). The bill will correct this.

While these changes are minimal, they ensure our Customs Act is clearer. I commend the bill to the house.

THE NATIONAL MEASUREMENT AMENDMENT BILL 2013

The National Measurement Amendment Bill 2013 is a bill to amend the National Measurement Act 1960. It introduces changes appropriate for the long-term operation of Australia's national trade measurement system, which has been in operation since July 2010. In Australia, an estimated $400 billion worth of trade based on some kind of measurement takes place annually. Australia's trade measurement system provides the infrastructure needed to ensure that buyers and sellers both get a fair result. It provides assurance that the quantity of pre-packaged goods is correct and that measuring instruments used for trade are sufficiently accurate.

Trade measurement is a part of everyday life. We are interacting with the trade measurement system whenever we buy products such as fuel or groceries on the basis of prices set in dollars per litre, or dollars per kilogram, or dollars per metre. These prices are set by the product's volume, weight, or length.

Trade measurement rules also govern pre-packaged goods and are significant for the export of commodities, as well as measurements of gold, precious gems and the quality of agricultural products.

The National Measurement Institute (the NMI) is responsible for overseeing the operation of Australia's trade measurement system. As part of its "trade measurement compliance inspection program", the NMI employs trade measurement inspectors who inspect businesses nationwide for compliance with the act. The proposals in the bill will facilitate their work and the ability of business to comply with the act and its regulations.

Key amendments proposed in this bill deal with situations where NMI inspectors find minor non-compliance issues concerning a measuring instrument used for trade or the sale of pre-packaged goods. Currently inspectors are required to obliterate the instrument's verification mark and cause the trader to immediately cease using the instrument. Where the non-compliance applies to pre-packaged goods, the items are immediately removed from sale.

These requirements can be unduly onerous to businesses and, in some situations, can disadvantage consumers. Forcing products off the shelves, or preventing the use of a measuring
instrument, can be a disproportionate response to a minor breach. It can also cause unintended difficulties for consumers, especially in rural and remote areas where the community may rely on a single retail outlet.

The proposed amendment gives an inspector the discretion to issue a notice to a trader to remedy the non-compliance and allow a 28 day period during which they may continue using the instrument or retailing the goods which are subject to the minor non-compliance. This change will give traders reasonable time to remedy any minor breaches and will retain consumer access to goods.

The National Measurement Amendment Bill 2013 introduces a number of other minor amendments to the act. They include:

- Enabling trade measurement inspectors to stop vehicles and request that they be moved to a reasonable location to be inspected. This carries over powers previously available to inspectors under the former State and Territory trade measurement systems.
- NMI inspectors who are undertaking a random inspection of a business will no longer be required to announce their presence to a trader. Random purchases are a useful tool in monitoring traders' compliance under the act and the amendment will support the purpose of detecting non-compliant behaviour.
- Clarifying the wording of the act to give greater certainty to customers about the measurement of an article. The Amendment clarifies that a measurement must be made in front of the customer or, where this is not the case, the measurement information must be provided to the customer in writing.
- Making it an offence to adjust a measuring instrument used for trade in a manner that will affect its accuracy without obliterating the instrument's verification mark.
- Providing for National Trade Measurement Regulations to determine the extent to which the definition of "use for trade" applies to the determination of fuel tax credits.
- Amending the definitions of utility meters to allow exempted meters to be verified by approved authorities. This is to facilitate the lifting of the exemption for particular sub-classes of meters in order to introduce trade measurement controls.
- Amending definitions of "reference standard of measurement", "Australian certified reference material" and "certified measuring instrument" to bring them into alignment and to clarify the period for which these standards have effect.

This Government is committed to maintaining a fair, effective and efficient national approach to trade measurement for business and consumers. The bill forms part of that commitment.

SOCIAL SECURITY LEGISLATION AMENDMENT (DISASTER RECOVERY ASSISTANCE) BILL 2013

This Bill introduces a new disaster recovery income support payment, the Disaster Recovery Allowance.

In recent years we have seen a trend of increasingly severe floods, cyclones, bushfires and storms. The recent summer has been no exception. Clearly the time for questioning the veracity of climate change is over.

These disasters have taken a physical, emotional and financial toll on all Australians. Most tragically, lives have been lost. We know that disasters in Australia are inevitable. We know that disasters in Australia are getting more prevalent. We know that disasters in Australia cost lives and livelihoods and we need to be prepared for this.

Ensuring that individuals across Australia are supported in the aftermath of these disasters is critical to the recovery of communities. The Australian Government stands ready to support disaster ravaged communities, providing the support they need to get back on their feet. The Government already provides a range of assistance, both by working with the States through the Natural Disaster Relief and Recovery Arrangements, and directly with the Australian Government Disaster Recovery Payment and a number of ex-gratia disaster payments.

The Australian Government Disaster Recovery Payment, or AGDRP, provides short term, one-off financial assistance to eligible Australians. It
This Government recognises that each event is unique and the needs of each community will be different. That is why the Disaster Recovery Allowance will focus on either the areas that are affected, or the industries that are affected, or both. This means that it can apply broadly across a region, or just to an affected industry, depending on the impact of the event.

To qualify for the Disaster Recovery Allowance, a person will have to be able to demonstrate that, because of the disaster, they have lost income on which they were dependent.

In most cases this will be a straightforward self-declaration by a person, ensuring the Disaster Recovery Allowance is administered quickly and effectively in the wake of a major disaster.

While we are committed to supporting disaster-affected workers getting back on their feet, we do not want to create a disincentive for people to go back to work. For this reason the Disaster Recovery Allowance will be subject to reductions. This will ensure that recipients are encouraged to return to work when possible, restoring that normality to their lives.

The Disaster Recovery Allowance will be payable for 13 weeks. For those who have not been able to find work at the end of this period, the Department of Human Services will help them transition to the Newstart or Youth Allowance, and they will have access to all of the existing Commonwealth programs that help people get back to work.

We recognise that sometimes the full impact of a disaster is not felt straight away, particularly economic impacts. For this reason, and to allow adequate time for applications, the claim period for the Disaster Recovery Allowance will stay open for 6 months after the disaster.

The Disaster Recovery Allowance will be taxable and subject to Beneficiary Tax Off-sets, consistent with other social security payments.

Introduction of the Disaster Recovery Allowance reflects the Australian Government’s commitment to supporting communities affected by disasters. The Disaster Recovery Allowance is about more than individuals, it is about getting communities back on their feet. We are seeing again with the recent disasters in Queensland,
New South Wales, Victoria and Tasmania that Australians want to help each other out after a disaster, and they want to lend a hand. The Disaster Recovery Allowance makes sure that those people whose income has been hit by the disaster do not need to worry about getting food on the table, they can focus on what Australians want to be doing in that situation, which is helping their friends, their neighbours, their community in getting back on their feet and putting their lives back together.

Disasters will happen in this country. With the changing climate, conditions will become more extreme and disasters will happen more frequently. With each year this is becoming clearer. It is a reality we cannot ignore and we must be as prepared as possible for future events. That is why this Government is committed to improving the assistance we provide and the way it is delivered. With each year we, as a Nation, and as a Government, are getting better at preparing, mitigating and responding to disasters. This Bill is a further step in that process. It provides the Commonwealth with the ability to respond to disasters and to support the communities that are affected. These tools give us a greater sophistication in disaster recovery, they give us the certainty that the money is getting where it is needed.

VETERANS’ AFFAIRS LEGISLATION AMENDMENT (MILITARY COMPENSATION REVIEW AND OTHER MEASURES) BILL 2013

It gives me great pleasure to present legislation that will enhance Australia’s repatriation system and provide improved access to compensation and health care for Australian Defence Force members, former members and their families.

The Military Rehabilitation and Compensation Act 2004 – the MRCA – was introduced on 1 July 2004 and provides rehabilitation and compensation coverage for injuries, diseases and deaths caused by all types of military service after that date.

In the lead up to the 2007 Election, we undertook to conduct a review of the MRCA.

The review commenced in mid-2009, at which time, the MRCA had been in operation for five years.

Extensive consultation with the defence and veteran community was undertaken throughout the Review.

The report concluded that the objectives of the MRCA are sound.

It also confirmed that the unique nature of military service justified rehabilitation and compensation arrangements specific to the needs of the military.

However, not unexpectedly given the relative complexity and period of operation of the MRCA, the review found opportunities for improvements.

The Government announced its response to the Review as part of the 2012 Budget.

This bill will give effect to a number of initiatives that form part of the Government response to the Review of Military Compensation Arrangements.

In total, the Government will implement 96 of the 108 recommendations put forward by the Review.

A number of Review initiatives that do not require legislation have been implemented, or are being implemented, to assist our members, former members and their families.

Many of the measures in this bill will further enhance the benefits and services provided to the defence force community.

These amendments deliver on the Government’s commitment to continuing to improve and evolve our support for the veteran and defence communities, and their families, to better meet their needs.

Of significant benefit is the introduction of a Repatriation Health Card – For Specific Conditions, known as a White Card, to former members of the Australian Defence Force with conditions accepted under the Safety, Rehabilitation and Compensation Act, where they have a long term treatment need.

The new streamlined arrangements will replace the existing treatment arrangements under the Safety, Rehabilitation and Compensation Act which requires SRCA members to claim
reimbursement of treatment costs for their SRCA injury or ask their health care provider to invoice the Department of Veterans' Affairs.

This measure will provide a consistent method of access for all former members of the Australian Defence Force with long term treatment needs.

The bill will provide greater flexibility for wholly dependent partners of deceased members under the Military Rehabilitation and Compensation Act.

From 1 July 2013, instead of a single choice between receiving ongoing compensation payments or a lump sum payment, wholly dependent partners will be able to choose to convert either 25%, 50%, 75% or 100% of the periodic compensation amount to an age-based lump sum payment.

This increased flexibility will enable a wholly dependent partner to better meet their immediate and long-term financial priorities, and applies to future partners and to existing partners who have yet to make their choice as to how to receive their compensation.

The bill provides for an increase in the amount of compensation paid for financial advice for those persons who are required to make a choice under the Military Rehabilitation and Compensation Act about the nature of the benefits they receive. The maximum compensation available will increase from $1,592 to $2,400 and legal advice related to that choice can also be covered within the new limit.

The bill will also provide a one-off increase to the rate of ongoing compensation for eligible young persons under the Military Rehabilitation and Compensation Act. Ongoing compensation is one component of a package of compensation for this group.

The rate will be increased to match the rate payable for a dependant child under the Safety, Rehabilitation and Compensation Act.

This will result in an expected increase of approximately 50 per cent on the current rate.

Rehabilitation and transition management services under the Military Rehabilitation and Compensation Act will be enhanced to improve consistency across the three branches of the Defence Force and increase flexibility in rehabilitation management.

Improved consistency will be achieved by giving the Chief of the Defence Force overarching responsibility for rehabilitation for serving members.

Transition management services will also be made available to part-time reservists.

The responsibility for rehabilitation for part-time reservists will transfer from the Department of Veterans' Affairs to the Chief of the Defence Force to give more visibility to Defence of the rehabilitation needs of this group.

There will also be greater flexibility in the transfer of rehabilitation responsibilities between the Chief of the Defence Force and the Military Rehabilitation and Compensation Commission.

The bill contains provisions which will allow earlier payment of compensation for permanent impairment for claimants with more than one accepted condition under the Military Rehabilitation and Compensation Act.

Additionally, DVA will make greater use of the payment of interim permanent impairment compensation and will be able to include a payment for an imputed lifestyle effect when determining the level of interim compensation payable, which will result in increased compensation payments.

From 1 July 2013, the eligibility criteria for Special Rate Disability Pension under the Military Rehabilitation and Compensation Act will be expanded to include certain persons who are not currently eligible because the person converted their incapacity compensation payments to a lump sum or because the incapacity payment is reduced to nil because it is fully offset by Commonwealth superannuation.

This measure will also result in the person being entitled to additional benefits that are associated with eligibility for Special Rate Disability Pension, including a Gold Card, education assistance for eligible young persons and MRCA supplement.

The bill will make changes to the treatment of superannuation under the Military Rehabilitation and Compensation Act so that serving members and former members are treated equally.
Technical amendments will be made to the definition of 'Commonwealth superannuation scheme' under the Military Rehabilitation and Compensation Act to exclude contributions made by a license corporation and to include Commonwealth contributions into a retirement savings account.

The powers of the Veteran's Review Board will be enhanced to provide a remittal power to allow certain matters to be referred to the Military Rehabilitation and Compensation Commission for further consideration and determination.

The membership of the Military Rehabilitation and Compensation Commission will be increased by an additional member, to be nominated by the Minister for Defence.

This will assist the Commission in the management of the broad and complex occupational health, safety and compensation issues faced by the Defence Force.

The claims process for conditions accepted under the Veterans' Entitlements Act that are aggravated by service covered under the Military Rehabilitation and Compensation Act will be simplified.

Currently, a person must choose whether to claim the aggravation under either the Veterans' Entitlements Act or the Military Rehabilitation and Compensation Act.

The existing process is complex, resulting in confusion for clients and is administratively resource intensive.

From 1 July 2013, a simplified arrangement will be introduced resulting in all such claims being determined under the Veterans' Entitlements Act.

The bill will expand the definition of 'member' in the Military Rehabilitation and Compensation Act to include persons holding an honorary rank, persons who are an accredited representative of a registered charity and former members undergoing career transition.

Other measures in the bill will create an entitlement to travel expenses under the Veterans' Entitlements Act for certain partners of eligible persons, and make technical amendments to Veterans' Affairs Acts in relation to the appropriation of treatment costs for aged care services and administrative arrangements for payments to bank accounts.

The measures in the bill clearly demonstrate the Australian Government's support and high regard for our Defence Force members.

The Government is committed to continuously improving and adapting to the needs of veterans, serving and former members and their families.

These proposed changes will result in a positive outcome for many in the defence and veteran communities.

Debate adjourned.

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

**Agricultural and Veterinary Chemicals Legislation Amendment Bill 2013**

**Export Finance and Insurance Corporation Amendment (New Mandate and Other Measures) Bill 2013**

**Military Justice (Interim Measures) Amendment Bill 2013**

**Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013**

**Tax Laws Amendment (Countering Tax Avoidance and Multinational Profit Shifting) Bill 2013**

First Reading

Bills received from the House of Representatives.

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:47): These bills are being introduced together, and after debate on the motion for the second reading has been adjourned, I shall move a motion to have the bills listed separately on the Notice Paper. I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:44): I table revised explanatory memoranda relating to the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2013 and the Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2013 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AGRICULTURAL AND VETERINARY CHEMICALS LEGISLATION AMENDMENT BILL 2013

As part of building a seamless national economy, the Australian Government is committed to reform of the regulation of agricultural chemicals and veterinary medicines (or agvet chemicals). A single national regulator, supported by state and Northern Territory laws, has been in place since 1993. However, it is evident that its effectiveness is hampered by the legislative framework it must implement.

Access to a full range of safe agvet chemicals is essential for the wellbeing of the economy. Agvet chemicals are needed to control disease and to protect people, companion animals, infrastructure and the environment. They are necessary tools for our export focussed agriculture sector and for future food security. They allow safe and efficient food and fibre production.

It was the foresight of the Hawke and Keating Governments, working in partnership with their state and territory counterparts, that put in place Australia's first national regulator for agvet chemicals. It is now almost 20 years since this system began, and it has served the community well over this period. But as with all legislated systems, they can fall behind best practice.

Human understanding of the natural and chemical world changes every single day. For this reason, we must have a dynamic regulator, with a systematic, risk-based approach to protecting human health and the environment. At the same time, the regulator must take into account the views of the community.

It is clear that the community expects a rigorous scientific approach to agvet chemical assessments. But it also expects that these assessments will occur on a regular basis so they remain up-to-date. This is something the current system has failed to do.

We must recognise that many agvet chemicals are designed to kill pests and that they may be dangerous. This is the reason we have a product approval system in place to protect the community and the environment, those who use the chemicals, and those industries that rely on the use of these chemicals.

It is vital for these industries that the community retains its confidence in the methods used to produce food in Australia and to protect the environment. And for this reason it is vital that Australia has a strong, predictable regulatory system.

The Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 confirms that protecting human health and the environment is Australia's first priority in regulating agvet chemicals. The Bill amends the suite of agvet chemical legislation to further modernise, and improve the effectiveness of, the current system. It will provide better protection for human health and the environment, thus maintaining community confidence in our food and fibre production.

The Australian Pesticide and Veterinary Medicines Authority, known as the APVMA, is the regulator of agvet chemicals in Australia. The Bill amends the legislation administered by the APVMA to improve its effectiveness and responsiveness in regulating these chemicals. These amendments allow the APVMA to
maintain its status with the community as a trusted regulator.

The Bill will modernise the APVMA's administration. Perhaps more importantly, the Bill will require the APVMA to provide greater clarity around its requirements. The APVMA will develop and publish its principles and processes for regulating agricultural chemicals and veterinary medicines to complement these legislative amendments. This work has already begun within the APVMA and will continue into the future. The work to develop a risk framework, together with powers to reject poor quality applications, will encourage industry to make good quality applications. This in turn will allow the APVMA to do its job more efficiently and with greater predictability.

The amendments in the Bill enhance the consistency and transparency of assessments of agricultural chemicals and veterinary medicines. Legislative amendments enable the APVMA to align regulatory effort with chemical risk. The reforms implemented by the Bill will result in a more straightforward assessment process that is easier to understand, more cost effective to administer, and provide greater certainty to the community that agvet chemicals used in Australia are safe.

The Bill includes measures that implement an election commitment to ensure the ongoing safety of agricultural chemicals and veterinary medicines and improve the current chemical review arrangements. Introduction of a mandatory re-approval and re-registration scheme brings Australia into line with other countries which have similar schemes such as the United States and Europe. The scheme has been designed to complement the specific characteristics of the Australian agvet market, so it delivers the desired outcomes without unnecessarily resulting in withdrawal of safe and useful chemicals. This measure responds to community concerns by ensuring that approved or registered chemicals continue to meet appropriate health and safety standards.

Other measures in the Bill provide for greater transparency and predictability about reconsiderations. The measures in the Bill achieve this by, for the first time, providing for timeframes for reconsiderations and prescribing timeframes for when information is provided to the APVMA for reconsideration.

The amendments in the Bill remove any remaining trace of an impediment to the APVMA's use of overseas assessments and data. This is on the proviso that the assessments are conducted by agencies that are comparable to the APVMA, and that overseas data are relevant to Australian conditions, agricultural practices and animal husbandry.

Other measures in the Bill improve the ability of the APVMA to enforce compliance with its regulatory decisions by providing the APVMA with a graduated range of compliance and enforcement powers. This will improve the ability of the APVMA to efficiently administer its regulatory decisions to protect public health and safety and the environment. Not only will this allow industry to take greater responsibility for ensuring compliance, but it will not reduce the APVMA's ability to take strong regulatory action where this is necessary to protect the community, animals and the environment. Often, the only option currently available to the APVMA is to take a person to court, a process that is not appropriate for many behaviours. The APVMA needs to be able to ensure that registrants and companies comply with all elements of the law. Therefore, the sanctions cannot be such that they can merely be factored in as a cost of doing business. The additional measures are similar to those available to other regulators under Commonwealth laws and ensure that contemporary safeguards are in place for regulated entities.

The existing legislation compensates intellectual property owners for the impact of the product approval system by protecting submitted data in a number of situations. The current data protection provisions are improved by the Bill. The Bill also removes disincentives for business to invest in chemical product development and extends data protection eligibility to a wider range of data and increases the time that the data is protected. These measures ensure that innovators can obtain a fair return on their research investment.
The APVMA currently obtains the majority of its income from a levy it collects, based on the value of sales of registered agvet chemical products. While this arrangement is not unusual, it may lead to a perception of a conflict of interest. Therefore, the Bill provides for an agency other than the APVMA to collect the levy. However, in making any decision to change the way this levy is collected, the Government will consider issues of cost-effectiveness and efficiency.

The Bill modernises and updates the suite of Commonwealth legislation for agricultural chemicals and veterinary medicines. Recognising the scope of the changes, the Bill includes a requirement for a review to be conducted of measures in the Bill in five years, and all Commonwealth legislation for agricultural chemicals and veterinary medicines every ten years. This will ensure that legislative measures operate as intended and remain appropriate.

Current agvet legislation is criticised as being an impenetrable maze of complexity. This complexity not only makes it difficult to administer, it makes it hard for companies that need to engage with the regulator. In response, and consistent with its wider role of improving the clarity and accessibility of Commonwealth legislation, the government has done extensive revisions to the agricultural chemicals and veterinary medicines legislation to bring it up to contemporary standards for legislative drafting. The improvements in comprehension and utility delivered by these revisions are significant, with benefits particularly for improved efficiency in complying with and administering the legislation.

At any one time, the APVMA has several thousand applications in process. It also has a register of nearly 10,000 chemical products. The Bill includes appropriate transitional measures to allow processing to continue for those in the system.

Overall, the Bill will increase community confidence in the regulation of agvet chemicals, while reducing the unnecessary impost on business. The reforms to agvet chemicals legislation in the Bill will ensure that agricultural productivity can continue to improve and keep Australia at the forefront of innovative food and fibre production.

**EXPORT FINANCE AND INSURANCE CORPORATION AMENDMENT (NEW MANDATE AND OTHER MEASURES) BILL 2013**


When the Government announced its formal response to the Productivity Commission's report back in January it emphasized that Australian small and medium-sized enterprises will be the big winners following these reforms.

This bill will deliver for Australian small and medium-sized enterprises.

The response announced a number of changes to the operations of the Export Finance and Insurance Corporation (EFIC) that will help it to play an even more valuable role in the provision of export finance.

This bill will ensure that more of EFIC's resources are devoted to Australian small and medium-sized enterprises that face genuine barriers to accessing finance.

Supporting our small and medium-sized enterprises looking to expand their activities overseas will help demonstrate to the private sector that it is commercially viable to fund these exporters.

EFIC will also be given a limited expansion of its guarantee powers so it can better support Australian businesses integrate into global value chains, particularly in the Asian region.

Increasing participation in regional value chains will result in increased specialisation and productivity as Australian businesses focus more on high value-added activities.

The White Paper on Australia in the Asian Century recommended that EFIC's mandate be revised to ensure more of its resources are devoted to addressing market failures that impede Australian companies, particularly in emerging and frontier markets.
This bill helps deliver on our White Paper objectives.

While the Productivity Commission Report found that market failures are most likely to affect small and medium-sized enterprises with limited export experience, EFIC's new mandate will not preclude it from supporting larger firms where they too face market failures, particularly when doing business in emerging and frontier markets.

To ensure that EFIC does not have a competitive advantage over other businesses in the private sector, the Government also accepted the Productivity Commission's recommendation that EFIC should be subjected to the Government's Competitive Neutrality principles.

Consistent with the recommendation of the Productivity Commission and the 2003 Uhrig Review, the bill will also remove the requirement to have a Government Member on EFIC's Board of Directors, increasing the Board's independence from Government.

In conclusion, the amendments in this bill will provide EFIC with a new mandate that reflects the changing international trading environment and resulting challenges for Australian exporters.

It will benefit Australian small and medium-sized businesses in particular, recognising their increasing importance and prevalence in global and regional value chains.

Importantly, the bill will help us take a further step in delivering on our Asian Century White Paper objectives, conforming to Chapter III of the Constitution.

To ensure continuity of Australia's military justice system, the Military Justice (Interim Measures) Act (No. 1) 2009 was passed in September of that year. That Act amended the Defence Force Discipline Act 1982 to provide an interim response to the High Court decision in Lane v Morrison by returning to the service tribunal system that existed before the creation of the Australian Military Court.

The reinstatement of the pre-2007 military justice system was to allow for the consideration and development of options for a permanent military justice system which would meet the requirements of Chapter III of the Constitution and therefore be constitutional.

The Military Justice (Interim Measures) Act (No. 1) 2009 provided a tenure of up to two years for the Chief Judge Advocate and the Judge Advocates. This was extended for a further two years by the Military Justice (Interim Measures) Amendment Act 2011, which is due to expire in September 2013.

Legislation to establish a constitutionally sound Military Court of Australia was introduced into the 42nd Parliament, but lapsed when that Parliament was prorogued for the 2010 election.

On 21 June 2012, the Attorney-General introduced the Military Court of Australia Bill 2012, which would establish the Military Court of Australia under Chapter III of the Constitution and provide for, among other things, the structure, jurisdiction, practice and procedure of the Court.

The Military Court of Australia Bill 2012, and its companion Bill providing transitional arrangements and making amendments consequential to the creation of the Military Court of Australia, are still being considered by the Parliament. The Bills were the subject of an Inquiry by the Senate Standing Committee on Legal and Constitutional Affairs, which reported on the Bills in October 2012. The Committee recommended the Bills be passed.

A Minority Report recommended two amendments:

- Australian Defence Force (ADF) members be given the right to trial by jury for services
offences punishable by a term of imprisonment exceeding 12 months; and

- ADF Reservists and standby Reservists be permitted to sit as Judges on the Military Court to the extent permitted by Chapter III of the Constitution.

These dissenting recommendations are the subject of discussion between the Government and relevant Senators.

While the Military Court Bills remain before the Parliament, it is prudent to introduce the Military Justice (Interim Measures) Amendment Bill 2013 to continue the appointment, remuneration and entitlement arrangements for the Chief Judge Advocate and the full-time Judge Advocate for an additional two years or until the Minister for Defence declares, by legislative instrument, a specified day to be a termination day, whichever is sooner.

This will ensure the continuity of these key military justice appointments until legislation establishing the Military Court of Australia commences and is fully operational.

I commend the Bill.

SUPERANNUATION LEGISLATION AMENDMENT (SERVICE PROVIDERS AND OTHER GOVERNANCE MEASURES) BILL 2012

The Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2012 represents the final tranche of legislation implementing the MySuper and governance elements of the Government's Stronger Super reforms.

Stronger Super is the Government's response to the Review into the Governance, Efficiency, Structure and Operation of Australia's Superannuation System – the Cooper Review.

Together with other tranches of legislation already introduced, this Bill continues the Government's commitment to enhancing the governance and integrity of Australia's superannuation system.


The Bill implements a key recommendation of the Cooper Review to override any provisions in a fund's governing rules that stipulate that the trustee must use specified service providers or only invest in or through specified entities.

Where provisions like this are included in a fund's governing rules, superannuation fund trustees are prevented from selecting other service providers, insurance companies or investment vehicles, even where it would be in the best interests of fund members to do so.

A recent report by APRA found that situations where a trust deed required trustees to use a related insurance provider resulted in higher-cost insurance products provided to members.

The Bill will ensure a trustee is obliged to enter into arrangements which are in the best interests of members.

The Bill also implements the Cooper Review recommendation to give APRA the power to impose infringement notices as an alternative to criminal prosecution. This will allow APRA to impose a more appropriate and flexible range of penalties for minor breaches of the SIS Act.

The Bill will improve individuals' rights in relation to access to reasons for decisions from trustees. Currently, when members and beneficiaries make complaints to trustees, trustees are not required to provide reasons for their decisions. This Bill will ensure people have a right to obtain information from trustees in relation to decisions that affect them.

Requiring trustees to provide reasons for decisions in relation to death benefit complaints is particularly important given the statistics from the Superannuation Complaints Tribunal Annual Report for 2011 12 which show that death benefit complaints account for almost a third of all written complaints received by the Tribunal each year.

The Bill also provides more time for members and beneficiaries to lodge complaints with the Tribunal in respect of total and permanent disability claims. The increased time to lodge complaints aligns the treatment as closely as
possible with the courts and the Financial Ombudsman Service.

Another Cooper Review recommendation being implemented by this Bill is enhanced requirements for entities that are responsible for both superannuation funds and managed schemes – so-called dual regulated entities.

Currently, these entities only have to meet resource and risk management requirements, administered by APRA, that are focussed on the entity's superannuation business. This left a regulatory gap in respect of the entity's non-superannuation business.

The Bill will close this gap and these entities will need to also meet resource and risk management requirements, administered by ASIC, that seek to protect the interests of investors in the non-superannuation schemes they manage.

Following feedback from industry, these new requirements will commence a year later, from 1 July 2015. APRA and ASIC will work together and with industry on how the respective resource requirements will apply in practice.

The Bill also addresses concerns that have been raised about the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012 in relation to director liability.

This Bill inserts a requirement for persons seeking to take legal action against a director for a breach of their duties to first seek leave from the Court.

The Bill also extends the availability of a defence for directors and trustees if their breach was due to reasonable mistake. The defence will now cover breaches of MySuper duties.

In response to concerns raised in consultation, a further change is being made to the defences in relation to investment and management of reserves. The changes will clarify that each defence is available where a trustee or director can establish compliance with all of the covenants and MySuper obligations that are relevant to the particular loss or damage suffered.

These changes have been developed in consultation with industry and will better balance the rights of super fund members and the protection of directors and trustees against frivolous or vexatious litigation.

The Bill also makes consequential amendments to ensure the effective operation of the first three tranches of MySuper and governance legislation. In particular, the amendments recognise that various provisions in the existing legislation will in future be dealt with in APRA's prudential standards.

Full details of the amendments are contained in the Explanatory Memorandum.

I commend the Bill to the House.

TAX LAWS AMENDMENT (COUNTERING TAX AVOIDANCE AND MULTINATIONAL PROFIT SHIFTING) BILL 2013

This Bill amends the income tax law to protect the integrity of Australia’s income tax system. These reforms come forward at a time of unprecedented global recognition that base erosion and profit shifting must be addressed.

Last night, the OECD released its latest report on Addressing Base Erosion and Profit Shifting, which identified modern transfer pricing rules and effective anti avoidance rules as two of the key weapons in the fight against base erosion and profit shifting.

As the OECD report says, ‘What is at stake is the integrity of the corporate income tax.’

The Government is committed to taking steps where necessary to ensure the integrity and sustainability of the tax system.

Without these amendments, significant amounts of revenue that should be available for the benefit of all Australians would be at risk of not being collected.

Schedule 1 amends Part IVA of the Income Tax Assessment Act 1936 which is the income tax law’s general anti-avoidance rule. The amendments ensure that Part IVA continues to counter schemes that comply with the technical requirements of the tax law but which, when viewed objectively, are conducted in a particular way mainly to avoid tax. Without this, there would be significant scope for taxpayers to plan their way around the law’s intended operation and undermine the revenue base.
Part IVA applies when three elements exist. There must be a scheme; there must be a tax benefit obtained in connection with the scheme; and it must be reasonable to conclude that someone entered into the scheme for the sole or dominant purpose of obtaining a tax benefit in connection with the scheme.

Some recent cases have focused on the ‘tax benefit’ element of Part IVA’s operation. A tax benefit exists if a scheme produces a tax advantage (for example, reduced assessable income or increased deductions) being an advantage that would not have been obtained, or might reasonably be expected not to have been obtained, if the scheme had not been entered into.

There are two limbs to ‘tax benefit’. The first limb — concerning tax advantages that ‘would’ not have been obtained without the scheme — deals appropriately with cases where simply removing the scheme reveals a coherent taxable situation consistent with the substance of what happened.

The second limb — concerning tax advantages that ‘might reasonably be expected’ not to have been obtained absent the scheme — deals with cases where what is left after simply removing the scheme would not make sense or would be inconsistent with the taxpayer’s actual commercial objectives and instead requires a prediction about alternative ways that the substance of what happened might reasonably have been achieved.

The amendments reinforce the view that the two limbs of the tax benefit element of Part IVA are alternative tests; that there is not just one test that merely spans a spectrum of likelihood.

The amendments also ensure, in deciding whether an alternative to the scheme is reasonable, that regard is had both to the substance of the scheme and to the non tax results or consequences for the taxpayer that the scheme achieved. In making that decision, the tax consequences of the alternative are ignored.

The proper role for the tax benefit test is to compare the tax consequences of what the taxpayer actually did with the tax consequences of a reasonable alternative that achieves substantively the same thing. It makes little sense in an anti-avoidance provision to allow the tax consequences of what the taxpayer has achieved to act as a shield against the operation of Part IVA.

These amendments ensure that a taxpayer who, having achieved something from a scheme (tax results aside), cannot say they did not obtain a tax benefit by arguing that, absent the scheme, they would have pursued completely different objectives, or done nothing at all.

These amendments have been through an extensive consultation process. In addition to the Government’s usual public consultation on draft legislation, the design process included a lengthy series of consultations with a roundtable of academic, legal and tax experts, and advice from a number of senior counsel. As a result, the Government is confident that these amendments will ensure that Part IVA properly protects the integrity of the tax law without unnecessarily interfering with taxpayers’ normal commercial activities.

Schedule 2 to this Bill modernises Australia’s transfer pricing rules in accordance with the Government’s announcement in November 2011. It provides a new, comprehensive and robust transfer pricing regime that is aligned with internationally accepted principles.

The transfer pricing rules are critical to the integrity of the tax system. They ensure that an appropriate return for the contribution of Australian operations of a multinational group is taxable in Australia for the benefit of the broader community.

The transfer pricing rules do not depend on the existence of a tax avoidance purpose. Transfer pricing rules ensure an arm’s length tax outcome is achieved for non-arm’s length arrangements or transactions, even where those arrangements or transactions have a legitimate commercial purpose.

A key feature of the new rules is their alignment with international best practice as set out by the OECD. Alignment with international norms improves the integrity and efficiency of the tax system, and reduces compliance costs and uncertainty for taxpayers.
The OECD’s Transfer Pricing Guidelines are widely used by tax administrations and multinational enterprises globally. The amendments provide a clear legal pathway to the use of OECD guidance material to assist in applying the arm’s length principle.

As well as alignment with the OECD guidance material, several design features of the new rules will further promote efficiency and certainty.

The new rules operate on a self-assessment basis, bringing the transfer pricing rules in line with the overall design of the Australian tax system. In contrast to the old rules, which relied upon the Commissioner making a determination, taxpayers will now be able to self-assess their Australian tax position in accordance with the arm’s length principle.

Specific rules linking voluntary documentation with a reduction in administrative penalties are included under the new rules. This approach balances compliance costs for taxpayers with incentives to adequately document issues relevant to transfer pricing matters. It allows taxpayers to risk assess matters that could be the subject of administrative penalties and prepare documentation accordingly.

The new rules also introduce a time limit in which the Commissioner may amend a taxpayer’s assessment to give effect to a transfer pricing adjustment. Under the previous rules, the Commissioner had an unlimited period in which to amend an assessment. These rules reduce this period to seven years. Given that transfer pricing audits often require information from other jurisdictions and involve complex arrangements spanning several income years, this time limit strikes an appropriate balance between providing the Commissioner with the time required to conduct an audit, and providing taxpayers with increased certainty as to their tax affairs.

The new rules also maintain the existing interaction between the transfer pricing and thin capitalisation rules that were developed in close consultation with industry during amendments to the transfer pricing rules last year.

The Government has engaged extensively with industry, corporate, and community representatives over the course of the reforms to Australia’s transfer pricing rules. The Bill has benefited significantly as a result of the consultation process. I would like to acknowledge these important contributions to the policy design process.

The measures contained in this Bill are vital for maintaining the integrity of the Australian income tax system.

Robust and properly functioning integrity rules are critical to maintaining a healthy tax system so that the Government can continue to deliver the public goods and services that Australians expect and require, like world class health and education systems, a strong social safety net and public infrastructure.

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

Debate adjourned.

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

Ordered that further consideration of the second reading of these bills be adjourned to 17 June 2013, in accordance with standing order 111.

BUSINESS

Rearrangement

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:49): by leave—I move:

That consideration of government business order of the day no. 1 (Environment Protection and Biodiversity Conservation Amendment Bill 2013) be called on immediately and have precedence over all other business to 4.30 pm today.

Question agreed to.
BILLS
Environment Protection and Biodiversity Conservation Amendment Bill 2013
Second Reading

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

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:50): I feel as if I have given three speeches on the Environment Protection and Biodiversity Conservation Amendment Bill 2013. The issue is that the Environment Protection and Biodiversity Conservation Act will be utilised to give greater oversight over protection of the aquifers. It is something that we are supporting. I think this is very important for former Gunnedah mayor, John Lyle, for his wife, Suzie, for people such as Xavier Martin, and for other people on the plains around Breeza and other places east of the Condamine River—people who have a serious concern about that. So let’s clearly state that we are supporting. I think this is very important for former Gunnedah mayor, John Lyle, for his wife, Suzie, for people such as Xavier Martin, and for other people on the plains around Breeza and other places east of the Condamine River—people who have a serious concern about that. So let’s clearly state that we are supporting. After debate, after lobbying and after working hard on their behalf, we are supporting this.

But I think it also needs to be stated that you can understand the frustration that is held by the government when one of the so-called champions of this, Mr Windsor, seems to want to sit on both sides of the fence. That is clearly understood because he sold his place to a coal miner. He sold it not just for an ordinary price but for an extremely good price—almost $5,000 an acre. He has been highly sensitive about this. We could see that the other day when I was accosted in the media gallery about this issue. He wanted to, as he said, take it outside. Obviously, the impending threat of litigation, which of course you just do not have the resources to do—

Senator Wong: You should resign. If all you’re going to do is campaign for a New South Wales seat—

Senator JOYCE: Senator Wong, you should not interject. You should be polite. Quite clearly, Mr Windsor never went outside of parliament when in the past he accused the Deputy Prime Minister of Australia, John Anderson, of bribery. He did not go outside and make that allegation because it was fallacious, wrong and stupid; nor did Mr Windsor go outside and reassert allegations he made about Senator Sandy Macdonald. So it is a bit rich for him to be making statements about a coward’s castle, because it is a place where he has resided quite happily a number of times.

I noted in Mr Windsor’s letter to the editor on 28 July 2010 that he gave a number of points in seriatim and they run completely counter to the arguments that he is spreading around the district. He gives an explanation for why they could mine coal on his family’s place. It has been in his family for I do not know how many generations, but they grew a very good crop of sunflower there, so it must be decent land. He runs this explanation of why coal mining is quite appropriate there but just down the road it is not. The argument was on the premise of the EPBC Act and water aquifers. In fact, he states himself in his letter to the editor:

10. A gravel ridge is the type of land that should be mined, not the fertile land of the Liverpool Plains.

The problem with that is that Shenhua and BHP were looking at mining on gravel ridges and he was one of the people protesting against it. You cannot have it both ways. You cannot decide one day because it works in your favour financially that you agree with mining so you can get paid $5,000 an acre for country which sales data of about that time indicates should get you, at best, $2,000 or $3,000 an acre—so you got way above the
market for it—and then stand literally down the road and have a completely different position. It just makes you look like a total and utter hypocrite.

Point 7 of his letter to the editor says:
It is believed there will be an application to extend the Coal Company's mining area at some time in the future—that application may impact on "Cintra" land if approval were to be given. The Coal Company has a legitimate right to make such an application.

So he knew full well that his family's place was going to become a coalmine. It is a point of interest as to how that application went. Who approved it and why? A fair question to ask is: which state ministers at that point in time were part of that approval process? There might be nothing to answer for or there might be further questions to ask, but I think that is a fair question that can be asked in this chamber; it is a fair question that needs an answer. If the answer makes sense, the issue rests; but, if the answer does not, further questions need to be asked. That would be fair enough as well.

Mr Windsor says:
4. The Coal Company has purchased a number of properties within what is called the "zone of affectation" of mining activities.
5. Most of these properties will not be mined.

Why does he say that? Coalmining companies generally buy country because they have an expectation that there is coal somewhere around it. There may be buffer areas, but most of them will be mined. If you go through Werris Creek now, what you see is a massive mine. If someone had concerns about water tables, they are certainly not showing much concern there. It just seems peculiar that you could say, 'We'll just close our eyes and pretend that mine on the edge of Werris Creek doesn't exist. We'll pretend it's not there.' If you stand behind the mining industry, that is well and good. I believe in the mining industry, I think Australia would be broke without the mining industry, but I have no coalmine on my family's place. There is not one there.

To return to this piece of legislation, we need to make sure that we afford these people protections. A principle that we stand behind with coal seam gas, because a lot of this is pertinent to coal seam gas, is that there will be no coal seam gas extraction on primary agricultural land. If you are getting $5,000 an acre—if that is its true value; if that is really what it was worth—that sounds like primary agricultural land to me. That is a pretty good price. In other areas, you would have to be buying irrigation country for that amount. I do not know how you would go right now—if you were willing to buy land at $5,000 an acre, I reckon you would be buying the best land in the district. In fact, I think you would be buying the best land in the district with a lot of change left over. I do not know why someone would pay you $5,000 an acre. They get the land and you get the money—but anyway.

You should not be mining on primary agricultural land. You should not be destroying aquifers. When they put a coalmine down on a place, they never really questioned it much then. You should not be near—and this is pertinent—to domestic dwellings. I can assure you that this mine on Mr Windsor's place is right on the edge of town. It is right next to a residential area. I used to live there. I lived at 31 Gordon Street, Werris Creek. That was my house—it was the first house I bought for myself and my wife. My local member was Tony Windsor, in state politics at that time, I think. If you are on the land—

Senator Wong: So the Senate is just where you give campaign speeches?

Senator JOYCE: If you want to make a speech, Senator Wong, you should stand up
and make one. Otherwise you are just a rude person.

**The DEPUTY PRESIDENT:** Order!

**Senator Wong:** Why won't you resign if you can't represent the state of Queensland?

**The DEPUTY PRESIDENT:** Order! Senator Wong, stop interjecting.

**Senator Cormann:** Touchy, touchy—worried about the Labor Party in New South Wales!

**The DEPUTY PRESIDENT:** Order on my left too! Senator Wong, please desist. Senator Joyce, direct your remarks to the chair.

**Senator Joyce:** Thank you very much, Mr Deputy President. I can understand why some people might want to protect their colleague in the Green-Labor Party-Independent alliance. They have worked very closely together for a number of years. They have been very close, at a state level and at a federal level—at a state level in trying to make sure that their interests are looked after, and at a federal level in making sure that their interests are looked after.

We do not believe it should be on prime agricultural land. If you are selling something for $5,000 an acre, that would sound to me like prime agricultural land, because I do not know where you would be buying land, I really do not, for $5,000 an acre, even today—not for dryland farming. I would say that that would be one of the top prices you could possibly pay. Would that be a fair comment, Senator Heffernan? Senator Heffernan nods. He knows this country.

As far as aquifers go, I reckon putting in a coal mine would raise a few questions. Now, the big one is: should it be next to towns? This mine is on what was Mr Windsor's place. He has got it back now on a peppercorn rent. He also got the next-door neighbour's place on a peppercorn rent. It is an awfully good trick, except the neighbour wanted it back himself on a peppercorn rent—but I think Mr Windsor has got it. It is right next to town, so that is a bit of a problem. The final thing is: a fair return should go back to the landholder. I must admit, he ticked that box. He got that one right. He got a very fair return back to the landholder. So maybe on one issue, a fair return to the landholder, we and Mr Windsor are on the same ticket. We have to make sure that in dealing with this industry we acknowledge that.

Mr Windsor is working with mining companies. He has sold his place to a coalmining company. He got a very good price for his place and has obviously of late had a very strong working relationship or has been in discussions with Mr Palmer. Good luck to him! That is all right; I have no problems with that. It is clear to see that having a strong working relationship with mining and being the strong benefactor of what has happened in mining makes sense. This is obviously one of the questions that people ask: who were the ministers at the time?

**Senator Cormann:** We have seen a bit of mining in New South Wales lately.

**Senator Joyce:** Yes. If there is nothing that needs to be answered, that is fair enough. We just need to clear the air; that is all. We just need to clear the air and get it off the cards. It is now very important that this piece of legislation goes through and that the people around Kiruna, the people around Breeza, the people around Nea, the people around Werris Creek and the people around Quirindi clearly understand that we support this legislation—because they will be reading this; you can bet your life on it—and that Xavier Martin, John Lyall and even Tim Duddy understand that we are in support of this legislation. They can communicate to the
people of the area that we support this legislation and, in supporting this legislation, that we clearly show that the coalition in New England are trying to work to resolve issues. Hopefully, they will have a strong hand in a future coalition government to continue the work that needs to be done to make sure that we get the proper balance right.

Senator McKENZIE (Victoria) (16:03): I rise to contribute to the debate on the Environment Protection and Biodiversity Conservation Amendment Bill 2013. That is not to be confused with the EPBC Amendment Bill 2012. I have both reports here. They say slightly different things, I admit, from the government's perspective. Nonetheless, I am a member of the Senate Environment and Communications Legislation Committee and, throughout the inquiry into this piece of legislation, the committee received 235 submissions from across industry, environmental groups and community. There was a keen interest in discussing this particular matter.

The bill seeks to amend the EPBC Act by creating a new manner of national environmental significance under the act. Currently, there are eight matters of national environmental significance, including World Heritage properties, Commonwealth marine areas, wetlands, national heritage places and the like. The amendments go to set out requirements and civil offences regarding actions which could have a significant impact on water resources, from coal seam gas to large coalmining developments.

The impact of coal seam gas on regional communities is of great concern to the Nationals and the coalition generally. To get the balance right between farmers, community and the environment is paramount. It is summed up best by the Nationals leader, Warren Truss, in 2011, when he stated:

A properly managed coal seam gas industry represents an unprecedented opportunity for regional Australia. Poorly managed it could tick every box of a social and environmental disaster.

This is why we have developed some core principles around the development of the industry, in direct response to community concerns.

The core principles go to the heart of the concerns about inappropriate developments. I think Senator Joyce has already touched on these. Firstly, no coal seam gas development should proceed where it poses a significant impact on groundwater or surface water; it has to be safe for the environment. Secondly, prime agricultural land is our most precious asset; its value drives our regional communities and our export industry. We do not want to see any negative impact on that. Thirdly, regional Australia is home to many thousands of locals living in our towns, cities and districts. We think that the development of the coal seam gas industry needs to take the concerns of those householders into account. Fourthly, we believe landowners are entitled to appropriate returns for access to and use of their land that goes beyond mere compensation. Finally, there needs to be a recognition that, as regional communities are the areas contributing to the development of this resource, it is only fair that they receive a fair share of revenue generated by the industry so that they can reinvest that in their communities.

We have been upfront in outlining our desire for appropriate development of this industry, recognising that it also brings much needed jobs and economic stimulus to regional areas. But, again, I reiterate that it must be balanced. That is why we are not opposing this bill. However, there were numerous issues raised throughout the inquiry, which included several suggested
amendments that the government could consider. They are sensible amendments, supported by both sides of this debate—those sides being environmentalists and industry.

Both recognise that there was no consultation in the construction of this bill—that is, with any of the groups involved: farmers, industry or environmental groups. That evidence is borne out in our Senate committee report. This suggests that once again the federal government has sought to play politics instead of being guided by principles. Look at how that particular strategy has gone so far: five years of politics ahead of policy and principles has resulted in bills requiring significant amendment and having unintended consequences, and a legislative agenda that reads like a stakeholder wish list—I would cite the latest tranche of the Fairwork amendments as an example—as the national long-term interest of this nation is butchered on the altar of the Labor Party's desperation to cling onto power.

The desire to cling on to power overrides good policy process. There is no regulatory impact statement with this bill; there was no consultation with stakeholders, states, industry, farmers or environmental groups. The minister himself stated six months ago that the Commonwealth government had no constitutional powers to make such laws that would seek to regulate coal seam gas—and he was right. Yet the Greens foreshadowed amendments using the executive power under our Constitution, and I look forward to Senator Waters moving those later on in this debate so we can have a conversation about them. But it was clear that the government consulted with someone—their powerful allies and co-conspirators in the ALP government's longevity and negative legislative agenda. These powerful allies in this game of national and moral fiscal malaise are none other than Tony Windsor, the member for New England, and the Greens.

This bill and its process of development has been categorised by haste, lack of consultation, lack of a regulatory impact statement and lack of clarity, which was raised over and over again throughout the inquiry. There is ambiguity about the impact it will have on the process of environmental legislative reform that is already underway that states are having a national conversation about on how we can get better at this as a team. Mr Windsor's determination to support them is a perfect example of this government's determination to hang on to power for as long as it can. It is a very powerful alliance, indeed.

Nobody disputes the importance of getting the balance right. What is a point of debate, as the report rightly states in the government majority section, is that the regulation of coal seam gas is 'primarily a matter for states'. This bill supersedes the cooperative process already in place and already being conducted to deal with the issues of coal seam gas developments. That is precisely why the national partnership on coal seam gas and large coalmining proposals is important—a COAG process working collaboratively with the states to bring state environmental laws up to federal standards without impacting on their sovereignty. It has been, according to stakeholders in the process, circumvented by this bill. I refer specifically to the evidence given to the committee by the NFF representative Ms Kerr.

This process has been time consuming and people have approached it in good faith, but they are now left wondering as to the status of the review due next year and what role that will play. I know the Greens do not like state parliaments. Our federated structure is an anathema for them—ironic, really, as they
sit here in the states' chamber in federal parliament.

As Senator Birmingham noted in his contribution to this debate, the coalition supports the work of the independent scientific committee as it provides up-to-date advice to both state governments, who are tasked with approving and assessing coal seam gas developments, and, indeed, the federal minister on matters deemed appropriate. This is a good initiative; we support it. To make the coalition out to be environmental vandals because we support scientific oversight and a collaborative approach to the national partnership on coal seam gas which brings the stakeholders together makes the hypocrisy of the Greens and Mr Windsor clear.

I recognise that the development of the coal seam gas industry in New South Wales is a significant issue to local landowners and communities; however, using the federal EPBC Act as a method for riding roughshod over the rights of states to regulate what occurs within their boundaries is an abuse of Commonwealth power. As Fiona Simson, President of NSW Farmers, stated to a question about her preferred option for how to deal with the issues of coal seam gas development in New South Wales:

My preferred option, and our association's preferred option, remains that the state government provide the protections that it promised it would prior to coming into office. We feel that that could quite easily happen through some of the instruments are currently in place—by making the aquifer interference policy enforceable, for instance.

Mr Gregson from the New South Wales Irrigators' Council said:

I think it would be our preference if New South Wales were to revisit its perspective and make its good set of rules applicable to at least someone so that we do not have to have the difference between the two jurisdictions.

It is clear, I think, that harmonisation is the way forward, rather than regulating all to fix one.

It may be news to the Greens that some states have taken a different approach to mining development. I would like to highlight one such state involved in this debate which has taken a different approach, one reflective of the coalition's stance on the development of our regions with respect to the mining industry—my home state of Victoria. It will now be subject to additional legislation and regulation and will be unable, if the Windsor amendment is passed, to seek bilateral agreements with the Commonwealth simply because New South Wales could not get it right. There is no coal seam gas production in Victoria and still no confirmed commercial reserves. However, the Victorian government is taking a very careful approach to the issue of coal seam gas and is determined not to rush into anything. It will not put at risk the water aquifers, agricultural production and liveability that are the hallmarks of the magnificent regional areas of Victoria. It has taken a strong, responsible approach to managing issues associated with coal seam gas. While further work is being undertaken at a Commonwealth and state level to better understand and manage the prospect of coal seam gas development, the state coalition has taken decisive action to protect local communities, including: a hold on approvals to undertake hydraulic fracturing as part of onshore gas exploration; a hold on the issuing of new exploration licences for coal seam gas; and a ban on the use of BTEX chemicals in hydraulic fracturing in Victoria.

This action is in addition to Victoria's already tough regulatory framework that includes Victoria's environmental protection policy under the Environment Protection Act 1970, which does not allow discharge from exploration and mining activities that will
pollute groundwater. The Victorian state government is responsibly investigating approaches to ensuring both ongoing gas supplies and energy security with respect to natural gas development. That includes unconventional sources such as tight gas, shale gas and coal seam gas.

While some in the community would like to see the government permanently ban these industries, the state government does not believe that is a responsible approach. Despite the potential economic benefits of unconventional gas, protection of the environment is the state government's first priority. It goes right against the claims of the Greens that somehow state governments are subject to a conflict of interest around the approval of coalmining activities in terms of the state royalties they collect. But the Victorian state government has taken the sensible approach by participating in the national partnership conversation and is looking at what has happened under previous and current governments in Queensland and New South Wales. It is looking at a way to better regulate the development of the coal seam gas industry, and particularly its impact on regional communities. To legislate for all and to regulate all because of the bad behaviour of a few undermines all the potential good that could come from appropriately developed coal seam gas projects.

I would like to briefly mention Labor's record in Victoria. Licences to explore for coal seam gas have existed in Victoria for the last 12 years. It was the former Labor government that granted those exploration licences. Over 70 per cent of the 24 current exploration licences were issued under the former Labor government. Fracking was last approved and undertaken under the former Labor state government in 2009. It is interesting that Senator Cameron is not here spruiking the track record of the New South Wales Labor government on this issue. I look forward to him arriving in the chamber and standing up for the decisions made by the former New South Wales state Labor government with respect to mining development and more specifically to coal seam gas development throughout regional New South Wales. And where are Queensland senators? I am looking—Senator Feeney, Senator Brown, but no Queensland senators from the Labor Party. Senator Waters, I am more than happy if you want to stand up and spruik former Premier Bligh's track record on approvals and assessment of coal seam gas projects in Queensland, but I am guessing you will not be wanting to do that. Correct. Any Queensland Labor senators should head on down. We would love to hear your take on coal seam gas mining project development approvals and assessments in Queensland.

It is a bit rich that this bill is before us now. The fact is the concerns outlined by Senator Birmingham and the issues canvassed throughout the committee's report are specific to some state governments and that was made very clear in the evidence, but not all state governments—and not even a majority of state governments, just a handful. Here we are legislating in an area where we do not know what the unintended consequences are. There is ambiguity around definitions, which I hope to get to. A number of issues were raised during the inquiry that are not dealt with in the bills or in the amendments before us. Regarding the issues raised, I will touch on three, and they are clarity, overriding state processes and unintended consequences.

Clarity in definitions is important, and it is particularly important when writing laws—because lawyers get paid a lot of money to argue about what various clauses and words mean. The definitions frame and define what and whom is covered by various pieces of
legislation. Submitters from both sides of this debate were concerned about the lack of clarity in this bill. The specific classic was what defined 'a water resource' under this legislation. Was it any dry gully? Did it refer to any water resource? Apparently, it did. Tracey Winters had this to say:

But the effect of this bill is to extend water resources—for example, a dry gully, every dry gully in the country, because a watercourse is defined as every watercourse, whether it is flowing or not. So this bill would make every dry gully in the country a matter of national environmental significance.

Even so, the government's committee report stated that:

It is most unlikely that all dry gullies would be included.

But once it is law, it is law. While Senator Cameron and other senators who support the majority report into this piece of legislation might think that it is enough to put a line in a Senate committee report that it is unlikely that dry gullies would be considered a water resource under this piece of legislation, I would prefer to see that articulated in the bill, because once it is law it is law. I wonder what the perspective of our catchment management authorities, our local farmers and local councils would be if this were the case. I guess we can leave it for the lawyers to sort out.

There was no clarity either around whom is affected. What do large coalminers look like? A lack of transparency continued about how far the trigger should go. Should it cover other industries? I was particularly interested in this aspect. At the moment it only covered coal seam gas and large coalmining industries but it was of particular concern to the National Farmers Federation that this particular trigger could end up covering other types of regional industries. Apparently, according to Mr Knowles from Economists at Large, it should apply to other industries. It absolutely should. In fact, when he was asked to apply this trigger to agriculture, Mr Knowles said he thought it was a 'logical and equitable approach to take'. The whole push behind this is not just for coal seam gas and large coalmining developments but also for any industry's impact on a water resource, however that is defined. Why should the farmers in Western Australia or South Australia or Victoria or Tasmania be subjected to this ambiguity? Because the government needed once again the political support of Windsor and Waters. This was not one of the recommendations of the Hawke review—the massive review of the EPBC Act. It was not there. The experts did not find it there. It was not part of the government's response to the review. So, the government had the opportunity to say: 'You know what? We think we should do this. We think this should be how the EPBC should look.'

Did the government put it in their response? No, they did not. I may be cynical! The refusal to work with the states and stakeholders towards an agreed national response to the very real challenges that the coal seam gas industry and its development pose for regional communities changed when the politics changed. Waters and Windsor wanted it as a wedge—that is clear—and Burke brought it on.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! Senator McKenzie, I remind you to refer to members and senators by their correct titles.

Senator McKENZIE: Minister Burke brought it on. Clearly, we will be backing regional communities, as we always do. I have appreciated the opportunity to highlight once again this government's inept handling of the legislative process—the rushed and reckless approach to regulation as they conspire against the national interest and our institutions, and against their own stated objectives with respect to environmental
legislation, in an effort to maintain their hold on power, hand in hand with their most complicit allies, Windsor and the Greens.

The ACTING DEPUTY PRESIDENT: I remind senators that at 4.30 the debate on this bill will be interrupted to move to general business.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:23): In speaking on the Environment Protection and Biodiversity Conservation Amendment Bill 2013, I have to say what a lot of politics has been dragged into this whole debate. Yesterday I listened to Senator Waters talking about food security. The Greens do not care about growing food, and their history proves that. Go back to the Native Vegetation Conservation Act—of which Senator Heffernan would be well aware—which the then Premier of New South Wales, now Senator Bob Carr, brought into New South Wales to stop farmers ploughing even country that had not been farmed for 10 years. They could have grown some wheat crops on it. They could have grown more food. New South Wales could have yielded a lot more food to human consumption. But no—the Native Vegetation Conservation Act brought that to a complete stop, and it was driven by the Greens in the New South Wales parliament. Then Premier Bob Carr said his government would be the greenest New South Wales had ever seen. That he was. He cuddled up to the Greens and put all the environmental costs on to the farmers.

It is interesting that it was the then minister, one Kim Yeadon—John Laws used to call him by his full name, Kimberley Maxwell Yeadon—one of Premier Carr’s senior staffers, who drove the SEPP 46 and then the Native Vegetation Conservation Act, with no compensation to farmers when they could not grow food, driven by the Greens. And who was one of the chief advisers? One Senator Penny Wong. That is where she came from, in her pre-Senate life. This was a Greens-Labor stooge of a policy to blame those terrible farmers, those 'environmental vandals', as they refer to the farmers—who actually feed everyone in Australia plus millions of other people around the world.

That is what has come into this whole debate, once again: politics. It is not about the environment, it is about politics. We have seen the Greens just recently up at Liverpool Plains, the fly-in fly-out visitors to regional Australia. None of them live out there.

Senator Di Natale: I do! Get it right.

Senator WILLIAMS: I did not realise—

The ACTING DEPUTY PRESIDENT: You will ignore the interjections, Senator Williams.

Senator WILLIAMS: I will ignore the interjections. Put it this way: none of them live up near Liverpool Plains. If Senator Di Natale lives in regional Australia, he would be a rarity in that group, I can assure you. On 25 April, an article in the Namoi Valley Independent said:

Greens leader Senator Christine Milne is questioning why Shenhua Watermark Coal was granted a coal exploration licence on farmland that she believes could be vulnerable to water contamination from mining.

What is amazing is that this delegation led by Senator Milne did not go and visit Shenhua Watermark Coal:

Shenhua Watermark Coal issued a statement yesterday, saying it had not been consulted about the visit or asked to provide a tour of the proposed mine site.

Don't go and look at the facts; let's play politics with the issue. The article said:

It said when the company did invite the delegation to visit, the request was rejected.
Shenhua also said in its statement:

'This is extremely disappointing as our tour would have allowed her to see first hand how the project is avoiding any disturbance on the region’s black soil Liverpool Plains and highly productive aquifers which are used by local farmers …

Contrary to Ms Milne’s comment, the Watermark Project is actively managing the farms we have acquired and the overall loss of agricultural output will be minimal as a result of mining.'

I have spent all of my life in rural Australia, and being a member of the National Party of New South Wales I know we are the last people who want to see any damage done to the Liverpool Plains or any other farming country in Australia. There is very little of the sort of magnificent country of the Liverpool Plains, about three per cent, on this planet.

This bill is giving more authority to the federal government, but we on this side of the parliament supported the $150 million scientific study. We actually got the amendments through the Rudd government, from this place—despite the bashing we got from some—that said you could not mine coal seam gas in the Namoi Valley until a water study was carried out. It was the coalition that pursued that and, in conjunction with the Labor Party, we achieved that. So they could not move from exploration to mining without a water study being carried out. It was the Labor Party and the coalition that put that in place. The Greens opposed it because they wanted the water study done before exploration. If that were the case, no exploration would ever be done. Let's be fair dinkum here. The four-wheel-drive utes and tractors that people drive around their farms are not made out of tree bark and leaves; they come from mining. That is why mining has served our country well, as has agriculture. Mining represents a renewable resource that will hopefully go on for as long as mankind lives on this planet.

But the problem is the politicisation of this issue. The Nationals leader, Warren Truss, made it quite clear when he announced our five-point plan for coal seam gas in November 2011. We said:

- No coal seam gas development should proceed where it poses a significant impact to the quality of groundwater or surface water systems—
or the environment more generally.
- Prime agricultural land … must be protected from activities that destroy its capacity to deliver food security …

We know that some in this place like to just lock it up for national parks. We have seen the record of the Labor Party and the Greens on that. We could go to Toorale Station, Senator Heffernan, couldn't we? Ninety-three thousand hectares of good grazing country and good farming country—with some irrigation—is now a national park. Our coal seam gas policy continued:

- Coal seam gas development must not occur close to existing residential areas …
- Landowners are entitled to appropriate pecuniary returns for access to their land …
- The regions that deliver much of the wealth from coal seam gas developments deserve to see a fair share of the generated revenues reinvested in their communities …

That is what was put out a long time ago and has been stated for a long time now. We have made it quite clear where we stand on this. We must tread with extreme caution. One thing we cannot do in this place is destroy the environment for future generations, especially the land and water needed to grow food. If you do not have healthy soil, you do not grow healthy food. If you do not have healthy food, you do not have healthy humans. It is actually a health issue.
The ACTING DEPUTY PRESIDENT: Order! It being 4.30 pm, the debate is interrupted.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Animal Welfare

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (16:30): by leave—During question time today I advised Senator Macdonald that the government had not received a proposal from the Queensland government to consider grazing in Queensland national parks in the context of the Environment Protection and Biodiversity Conservation Act 1999. What I said at the time was accurate.

Since that time I have been advised that a letter was sent by the Queensland minister for national parks, Mr Dickson, to my electorate office in Brisbane. I am also advised that the date recorded for receipt of that letter is today, 16 May 2013. My ministerial and electorate office staff have searched fax machines and emails and have not found a copy sent by fax or email. I note that a letter was addressed to Mr Burke at a post office box in Roselands in New South Wales. At the end of question time Mr Burke's office advised my office that the proposal had not been received at his post office box, or by fax or email at either his electorate or parliamentary office.

In the normal course of events, the letter having been sent to my electorate office in Brisbane today, it would have been sent overnight for tomorrow. In view of the fact that I wanted to make sure that the record was accurate I asked for leave to make a statement—in the normal course of events I would have brought it to the attention of the Senate after the next question time but that will not be for some time. I thank the Senate for the opportunity to clarify the record.

MOTIONS

Gambling

Senator DI NATALE (Victoria) (16:31):

I move:

That, in order to preserve the integrity of the sporting experience and protect Australian children, the Senate notes the need for law reform, including measures such as:

(a) banning the broadcast advertising of live gambling odds for sports betting;

(b) banning the advertising of sports betting services on television and radio during children’s viewing hours, before 9 pm; and

(c) banning the paid promotion of sports betting services by sporting commentators and their guests during sports broadcasts.

It is fair to say that Australians love sport—it is at the centre of our culture and we are indeed a sporting country. We love to play sport, we love to watch sport. From playing backyard cricket at Mum's to packing the stands of the MCG for the AFL grand final, sport is part of the fabric of our lives. It has played an important role in my own life. I vividly remember as a 10-year-old swimming for the Preston swimming club diving into the ice-cold water of the 50-metre outdoor swimming pool on St Georges Road in Preston each Sunday morning, looking at the stopwatch and trying to beat my personal best time. I remember growing up in Reservoir, in the northern suburbs of Melbourne, and the fierce rivalry of the Dudge St versus Tormey St cricket matches. I remember Dad being confused about the strange game of AFL and wanting his boy to play soccer, and cheering from the sidelines during my stint at the North Reservoir soccer club. I remember coming to love that strange game from the moment, downstairs on a fuzzy black-and-white television, I watched my beloved team, the mighty Tigers, thrash
Collingwood in the 1980 grand final. It was a journey that led me to play VFA footy, firstly with Coburg—incidentally under the tutelage of Phil Cleary, a former member of this parliament—and later with the Oakleigh football club.

My football days are over and in my middle age I have discovered other pursuits—the joy of surfing, along with my colleague Senator Whish-Wilson; I cycle when I can; I play a bit of golf; I enjoy the odd game of cricket. When I do roll the arm over it is with the Deans Marsh Swamp Rats who, like many country sporting teams right around regional Australia, are an integral part of the local community. My experience is no different from that of many Australians. It is why we make sport a priority in public policy. The Commonwealth spends over $170 million each year on elite sports through the Australian Institute of Sport, and Australia is famous around the world as a sporting nation. Despite being a small country we are consistently near the top of the Olympic medal tally. Over the years we have been world champions at cricket, we have led the tennis world and we now have an Australian golfing champion in Adam Scott. We have come mighty close to beating the world's best in the game of soccer.

I understand that some people worry that we are a nation that is too obsessed with sport and that this obsession overshadows more important, more noble pursuits such as the arts and sciences.

Senator Xenophon: Sport is noble.

Senator DI NATALE: Yes, sport is noble and participation in sport brings many good things, such as the tremendous health benefits of physical activity and learning to work in a team environment and to respect rules and the umpire's final decision. Sport is a great leveller. It does not matter who you are or where you come from, sport brings people together to share in the sheer joy of it. That is not to say that we cannot do better to resource and recognise the great achievements of our artists or our scientists. We can and should do both. After all, it was the Greeks who gave us the marathon and the Olympics along with Aristotle, medicine and the foundations of our modern democracy.

Because Australians love sport so passionately, it is big business. Our major sporting codes such as Australian rules football and rugby league have billion-dollar television deals. The Collingwood Football Club alone recorded a profit of almost $8 million last year. The huge profits and increasing professionalism of our major sporting codes have their downsides. Personally, I could do without the hype associated with going to a game of football—overseas imports such as home and away jumpers that change each year just to bring in more revenue and breaks in play being filled with a blast of music over loudspeakers. I find it more than a trifle irritating, and sports like AFL are such great tests of strength, athleticism and endurance that they do not need those sorts of embellishments to survive.

There has been another much more important, more insidious and more corrosive change to our major sporting codes in recent years. It is now virtually impossible to watch any major sporting contest in this country without being urged to bet on the outcome either during the advertising breaks or by commentators during the event. Statistics reinforce the size and scope of the problem. Online betting, of which sports betting is a major component, has risen from $2.4 billion in 2007 to almost $10 billion in 2012. It is estimated that billions more are wagered by Australians on unregulated, offshore gambling sites.
Until recently gambling was over there; it was the domain of bookies and horse racing; it was done in pokie venues and casinos. But now it is over here; it is everywhere; it is playing an increasing role in our major codes. Because of the potential for harm, there are serious questions to be answered about just how much we want gambling to be part of sport.

I accept that having a bet is part of Australian culture and betting on sport is an enjoyable activity for many people, but for those who become problem gamblers it can be incredibly destructive. It has become increasingly difficult, if not impossible, to avoid repeated exposure to betting advertisements and gambling odds when watching sport. The number of sports betting ads on free-to-air TV quadrupled in the last two years. In 2012, there were 528 different ads collectively broadcast more than 20,000 times.

There has also been a blurring of the line between commentary and advertising when it comes to gambling. The recent inclusion of a certain ubiquitous bookmaker, who is now appearing on the ground during rugby league coverage, has caused outrage amongst sports fans. Fans of all sports have noticed a growing link between sports and gambling companies. At best, they find it irritating; at worst, they worry about the impact it will have on their kids. This barrage of ads is making parents worried about whether a day at the footy or turning on the rugby is still an appropriate family activity.

A recent inquiry by the Joint Select Committee on Gambling Reform looked into the issue. We heard some disturbing evidence. For instance, researchers who interviewed children found that advertising is working on them. Kids can name two or three sports betting companies, those companies whose advertisements they have seen hundreds of times. I have personally heard from parents who have had children write odds onto their own artwork depicting the footy or quote odds before a match. Let us remember this is a product aimed strictly at adults. But the fact that it is worming its way into the consciousness of children has many people worried, including me. I want my kids to be collecting footy cards, not recounting the odds of their favourite player winning the Brownlow Medal.

Gambling is not a harmless product. It is fun for some, but problem gambling costs the community dearly. It destroys lives. It leaves kids unfed, it breaks marriages and homes are lost. For a product with this potential for harm there is a very clear role for government to regulate. I do not propose a ban. I think it is perfectly appropriate that an activity that is so popular remains legal. Banning it would just drive it to unregulated markets overseas or to black markets onshore, leaving those sports open to corruption.

On the other hand, not regulating it could lead us down a dangerous road. If we do not act now, gambling will become so enmeshed in sport that we will never again separate the two. That can only have one consequence: more problem gamblers. We have tried self-regulation. Nearly two years ago the government gave an ultimatum to the industry regarding the repetition of live odds during sports: 'Either sort yourselves out and curb the practice or the government will act.' A year later, they reached an agreement and broadcasters have since publicised updates to their codes of conduct. These new codes are comical when compared to the extent of the problem. Promotion can continue as before during scheduled breaks; there will still be live betting odds; and, worse still, there is nothing stopping bookmakers and betting company representatives appearing during commentary sections of the broadcast.
These codes do not fix the problem. They allow the nexus between televised sport and gambling to continue its current trajectory—more exposure, more linking, more problem gambling, betting becoming an integral part of the game. The scope of the problem and the path we are on raise real potential for harm to children. We are still gathering evidence but it seems obvious that kids for whom gambling has become a normalised part of life are more likely to gamble later in life. That has been the experience of other harmful products such as tobacco. They will gamble and gamble heavily. Problem gambling behaviour is the inevitable result. That is why the time has come for this parliament to step in, to do something to curb this harm.

The motion before the chamber lists several important reforms that will help mitigate this potential harm. They are simple steps. They will not place an undue burden on industry but will start to disentangle gambling from sport. We must stop the brainwashing of children. Children are not the ostensible targets of gambling ads. The industry claims that they are not trying to recruit new customers from among their ranks. So it is right that children be the first priority of new reforms.

One obvious reform to prevent the over-exposure of children to these ads is to limit the times at which they may be broadcast. The loophole that allows gambling ads to be broadcast at any time of the day, so long as they are part of a sports broadcast, must be closed. How would we feel if gambling ads popped up during morning cartoons—next to the ads for Barbie dolls and Coco Pops? We would not accept it. But this is the situation we have now when it comes to the broadcast of live sport. The proposal to ban gambling ads before 9 pm is therefore a sensible one.

Adults will still see the ads—the industry can continue to advertise—but the number of children exposed to these ads will be significantly reduced.

The broadcast of live odds is one of the most intrusive ways for sports betting companies to promote their service. It is an inducement to gamble right then and there. As I said before, these numbers are noticed by children, many of whom now think that it is just part of the way the game works. There is no reason we should allow this barrage of numbers to continue. Sports betting companies can tell us to have a punt, but they do not need to be listing the odds to do it. So we should stop this practice completely.

The other important and necessary reform is to end so-called 'cash for comment'. The development that has generated the most outrage with sports fans is the inclusion of bookies as part of the editorial team. It must be a lucrative business, because the reaction of fans to the appearance of Tom Waterhouse on the rugby league broadcast was astonishing. It unleashed a torrent of fury. The goodwill this has cost the broadcasters and the sporting code is enormous. Many people have expressed their outrage to me personally and the social media light up any time this happens.

The broadcasters have contended that, by changing the logo on Tom Waterhouse's microphone, the distinction between commentator and sponsor is now crystal clear. But, for a young kid watching a game of footy, Tom Waterhouse the bookmaker is no different from Tom Waterhouse the commentator. When I saw a photograph of Mr Waterhouse signing kids' jerseys after a match, I have to say that was the last straw. The intent of the code is to separate commentary from betting—to separate the commentators from the bookmakers. But children are not equipped to make that distinction. How could they if that sort of
sporting broadcast is all they have ever known? It comes on top of the constant repetition of sports betting brand names at every opportune moment in the commentary. We have to stop this practice and we have to start talking about the sport instead of the betting.

The time has come for this parliament to take action. We can very easily legislate to stop this bombardment of betting odds. We can very easily legislate to close the loophole that lets ads run when kids are most likely to be watching. We need to turn sport back over to the experts, to the sports tragics and to the fans and not give it over to the bookmakers and the spruikers.

We are at a crossroad when it comes to sport. If we do not act now, a trip to the footy ground will soon be like a trip to the racetrack. We have the opportunity to take action. These are simple reforms, they are necessary reforms and they are popular reforms. With the stroke of a pen, we can let the sport do the talking and not the bookmakers. By passing legislation to implement these reforms, the parliament would be setting us back on the path to preserving the sports we love.

Senator STEPHENS (New South Wales) (16:48): I congratulate and thank Senator Di Natale for bringing this issue before the Senate. I share his concern about the extent to which the broadcast of live odds for sports betting is becoming an insidious practice. It drives me demented during sports broadcasts, especially during free-to-air television programs on a Sunday afternoon when I am trying to watch my footy team. I totally agree that it is a practice which intrudes on the fun that comes from sitting down with your family and supporting your local team. It certainly takes the notion of betting on two flies on a wall to a whole new level. That is what wagering used to be about, but now it has become a multibillion-dollar global industry that many people cannot resist. It is irritating in the extreme to be constantly bombarded by ads which actively encourage people to bet online or to use their smartphones. As such, it is a practice that I absolutely discourage.

It also worries me that the broadcast of live odds for sports betting is a honey pot for those who want to exploit athletes or animals or encourage match fixing. Seriously, what does it mean when someone can get live odds on whether the third conversion attempt will be unsuccessful? It is a big temptation for criminals and creates a risk that sporting codes have to get their heads around. Some codes have been dealing with these things for years—fighters taking a dive in the third round, soccer players feigning injury or horses being drenched, as we saw last week in Tamworth. We all recognise how easy it is to exploit such things through dodgy real-time gambling options.

Senator's Di Natale's motion seeks to ban the broadcast of all live odds for sports betting, ban gambling advertising before 9 pm and ban promotion of gambling by commentators during sports broadcasts. But, unfortunately, Senator Di Natale's motion is trying to shut the gate after the horse has bolted, if you will pardon my pun. Parliament and all levels of government have expressed concern to the broadcasting industry, which has finally acknowledged the level of community concern about the promotion of live odds during sporting broadcasts and has agreed to amend their codes of practice.

I think the broadcasting industry has been shamed into action to claw back the leeway it has given to sports betting agencies and to adopt what we have seen in America and some European countries for years. The industry now wants to demonstrate that it can
respond through voluntary codes of practice and has agreed that there will be no promotion of live odds by commentators at any time during sports broadcasts.

There will be no advertising of live odds during play, with clearly identified ads restricted to scheduled breaks in play such as half-time. Let us see if this is enough to curb the blatant behaviour of sports-betting promoters.

While the broadcasting industry has agreed to this action, I think that the role of government is to acknowledge how gambling is pervasive in our society and to try to address the issue of problem gambling in a more holistic way. In the *Monthly* magazine, back in 2011, Jonathan Horn wrote:

Neil Evans is the public face of Centrebet. His organisation will accept a bet on pretty much anything. Their federal-election markets garner such coverage that Evans is occasionally referred to as a ‘political analyst’. Centrebet has released markets on the national unemployment rate, the colour of Queen Elizabeth’s hat at her grandson’s wedding, and the World Sauna Championships held in Finland. On the flip side, their plan to offer betting on the permutations of the Australian stock exchange was recently rejected by ASIC.

Thank heavens for that, I would suggest. The article continues:

In March 2008, with James Packer’s Crown Limited bankrolling it, Betfair won a unanimous High Court decision which deemed it unconstitutional to prohibit bookmakers from advertising in one state and operating in another. Suddenly there were no state boundaries, the shackles were off and the land grab was on. “It was the most important thing to happen in 150 years of bookmaking in Australia,” says Betstar’s Alan Eskander. “It kick-started the life-cycle of our industry.”

Their market was voracious, if untapped. Australians are the most fearless gamblers in the world. A recent report in the *Economist* indicated that, on average, every adult Australian loses just under $1300 per year. As a nation, we drop $22 billion per year on the punt, nearly five times what we spend on foreign aid. “Australians love it,” Eskander says. “It’s how we’ve been brought up, it’s part of our culture, part of our folklore.”

In many respects, of course, Mr Eskander is right. We love two-up. Generations of Australians bet on the Melbourne Cup. We take lottery tickets. But what has happened since 2011 has taken betting to a whole new level.

So what are our responsibilities as legislators? Do we seek to legislate for good behaviour? Do we seek to regulate the industry? Do we seek to ban gambling, driving it underground and back to the good old days of SP bookmakers? Technology will beat us every time if that is the approach we take. We are not a nanny state. We expect people to be responsible for their actions and we acknowledge too that, for people who develop a gambling addiction, we need to take action and provide support. But the sporting bodies, the broadcasters and the gambling industry have an important role to play to ensure our sports do not become swamped with gambling messages, to the point where sport and gambling are seen as one and the same. Just like Senator Di Natale, I have had many, many people contact me about that blurred boundary. No one wants the conflation of gambling and sport—not the sports, not the Australian government and certainly not the community, which is making it clear that enough is enough. The government is acting to ensure that something is done about it, working with the broadcasters on amendments to the broadcasting industry coregulatory codes of practice, which are enforced by ACMA.

On 22 June last year, Minister Conroy announced that the government and the
commercial and subscription broadcasters had reached an agreement on reducing and controlling the promotion of live betting odds during sports broadcasts, and state and territory governments had committed to looking at the steps they can take to limit promotion of live odds at sporting grounds, such as on scoreboards or by ground announcers. The amendments to the code which have been developed between industry and the government will prohibit commentators from promoting any live odds at all during a broadcast and 30 minutes before or after the match begins and ends. They will restrict the promotion of odds to scheduled breaks in play such as half-time during the rugby or quarter-time in the AFL or at the end of a set of tennis. That means there will be no promotion of live odds when the match is actually in play. The amendments will also provide that the promotion of odds during a scheduled break in the play must be by a clearly distinguishable gambling representative. The proposed amendments to the code were released for public consultation on Monday, 22 April, for a four-week period, so I encourage anyone who has concerns about this to visit the websites of Free TV and ASTRA to have their voices heard, loud and clear.

Since the agreement between the government and the broadcasters last year establishing these principles, broadcasters have largely abided by them, even though the amended codes are not yet in place. That was until, as Senator Di Natale rightly tells us, the Tom Waterhouse advertisements and activities hit our screens with a vengeance this year. When Mr Waterhouse appeared in the first round of the NRL on Nine, I was dumbfounded. This was a step too far, in my view and, from the reaction everywhere else, in the view of most Australians. In his first-round NRL appearance, Waterhouse appeared to be a part of the commentary team and sat on the panel with the other commentators, providing comments on the game itself as well as promoting live odds, and he did not have any visible signs that he was representing Tomwaterhouse.com.

In March the NRL admitted to the Joint Select Committee on Gambling Reform that 'the lines were a little blurred' in that incident. A little blurred indeed! The NRL’s General Manager of Strategic Projects, Mr Mattiske, conceded that it was hard to tell whether or not Mr Waterhouse was part of the commentary team, and he said changes had now been made. He said:

… it is plain that, in the first round of the competition, the lines were a little blurred.

But:

… now… there is a very clear distinction between the commentary team and the promotion of sports betting.

Another witness to the inquiry said that Mr Waterhouse:

… now appears alone. There is a Tom Waterhouse microphone and big logo on the screen saying that he's an online bookmaker. … There is a significant change in the format of that. I wonder if that is going to be enough. The broadcasting industry and the sports industry are very keen to try to take further action to amend the code and to try to use a mandatory process to do that. The government, I think, are taking this view: to give credit where it is due, where the industry has said it is going to take action we will wait and see how these codes work before we consider to rush to legislate. There could be a role, too, for state and territory governments to place similar restrictions on other forms of advertising within their jurisdictions—as I said before, such as the promotion of live odds at the sporting grounds or during sporting events.

But it should be even easier for the public to find information about that code of
conduct. For example, it could be advertised on TV channels during the sports broadcasts and, while it is important that the public has an adequate opportunity to comment on the code, it is also important to make sure that those comments, and any expressions of concern, are not simply recorded but are actually addressed—that action is taken or change is made to the code to address community concern.

I go back to Senator Di Natale's question: can a 12-year-old distinguish between a sports commentator and Tom Waterhouse talking about the game? I do not think that many young kids can, and I would like to see that—as Mr Mattiske said, in answer to a question asked of him by Senator Xenophon about whether there was a conflict of interest in brokering a deal with Mr Waterhouse while at the same time trying to regulate sports gambling—'The integrity of the competition is our utmost priority. We would not allow any arrangements to threaten that.'

In fact, what we do know is that that activity by Mr Waterhouse would have been a breach of two of the restrictions in the code once it was implemented: the restriction on commentators and their guests promoting live odds; and the requirement for live odds to be promoted, when permitted, by a clearly distinguishable representative of a gambling organisation. As Minister Conroy said to the industry in 2011: lift your game; we are going to take action on this. And the broadcasters and the sports, to their credit, have responded to that. So what we want to see—and these are the changes to the codes that have been proposed and are being consulted on right now—is that commentators spruiking live odds, or gambling advertisements displaying the odds on television of who will kick the next goal after the last one was scored, cannot creep back into sports broadcasts.

It is an insidious change to the way in which we all think about community sports in Australia. It is an insidious and insulting change. It is one that I think threatens the way in which Australians react to their community sports and it is something that the government is very keen to ensure is eliminated. But we do not support the notion of actually legislating this ban.

Senator Di Natale's proposal, which goes to the issue of banning the advertising of sports betting services on television and radio during children's viewing hours before 9 pm, does actually go to prime-time television sports broadcasts, and therefore is something that we cannot support. We will watch and wait and ensure that the voluntary codes that are being proposed and entered into by the broadcasting industry are actually activated and that they are effective.
exhibited in this motion by the Greens to simply regulate this area in order to be able to solve this problem. It seems to be the case with the Australian Greens that there is no social problem too big or too small that is not capable of being remedied or cured with a healthy dose of regulation.

We acknowledge that sometimes some regulation is necessary, but we take the view that the case needs to be made, based on evidence, for that to occur. With great respect, Senator Di Natale in this debate has not demonstrated that case. He has pointed to a number of attempts that have been made in the Australian community to rectify these problems, but he is happy to dismiss those as being ineffective, even though—for example, in the case of the gambling industry's own attempts at self-regulation, only recently beefed up—the evidence is not yet available as to whether that is an effective means of dealing with these problems.

The Greens, I think it is fair to say, from the very outset of this debate have supported and promoted regulation as almost the first line of defence or the first line of attack in this area, and they are prepared to ensure that that agenda is prosecuted, notwithstanding the lack of evidence that it may be the solution to these problems. I say this as a representative of a party which has a proud record of action in the area of regulating, if necessary, to prevent social harm. Indeed, it was the Howard government which first regulated the effect of the operation of online gambling on Australian society. Indeed, when it made those decisions to regulate online gambling, it was the first government in the world to regulate online gambling—to the extent that that is possible. I believe it is appropriate for us to consider steps like that, based on evidence—not based on an impulse to want to impose rules on communities that otherwise may be able to find solutions to problems that afflict them and their customers.

Only a little over a year ago the coalition released a discussion paper on gambling reform, which made a number of important suggestions about ways of improving the response to harm in the Australian community relating to gambling. One of those suggestions was to do with restricting access to live betting odds—action which has, of course, since been taken up by the industry through self-regulation. Senator Di Natale, in his remarks, I think somewhat underplayed the extent to which the industry itself has been prepared to pick up these issues and address them through a self-regulatory approach, backed by ACMA, the communications agency, to make sure that there is an effective means of protecting the Australian community.

In the course of his remarks, Senator Di Natale made the point that a licensed person can come on air, during a live-broadcast game, and announce odds. Senator Di Natale would perhaps not be aware that the recent draft code of practice that has been developed by the industry—by the industry, not by government—has made it very clear that that cannot occur. The code allows for licensed people to make announcements about betting odds before a game, or during scheduled breaks, but not while a game is in play. That, again, is an initiative of the industry itself.

Senator Di Natale's motion makes reference to the need to ensure that we ban 'the paid promotion of sports betting services by sporting commentators and their guests during sports broadcasts'. He may also not be aware that the code makes it clear that the commentators cannot make such comments.

Senator Whish-Wilson: They can! Have you watched the Footy Show?
Senator HUMPHRIES: You will have your chance to wrap up this debate later on.

The ACTING DEPUTY PRESIDENT (Senator Cameron): Order! Senator Humphries, don't engage across the chamber; just ignore the interjections.

Senator HUMPHRIES: I will do my very best, Mr Acting Deputy President. So the very issues that Senator Di Natale raises in his motion are in fact being addressed by the Australian sports betting industry. And so it should, because this industry depends upon a measure of goodwill by the Australian community, by the punters who participate in these services, and I believe they want to play in a way which gives people a sense that they are honourable and decent players in a marketplace. I would submit that it is in their interest that they provide for that kind of self-regulation where appropriate, and I believe that is what they are attempting to do.

I note that the draft code of practice, which I referred to a moment ago, is presently out for public comment. The opportunity for public comment closes on 21 May—next week. Once a code of practice through that process is determined then it has to be registered by ACMA. So, again, it is an initiative of the industry but it has the backing of Australia's media regulator—and that is an appropriate arrangement.

Senator Di Natale made reference in his speech to the corrosive effect of sports betting and advertising of sports betting odds to children. I would agree with him that we need to take special care to ensure that children are not adversely impacted by such advertising. But, again, I think we need to be careful not to exaggerate the effect of that kind of phenomenon. Information presented to the recent inquiry into gambling reform by Free TV suggested that children aged between five and 17 made up less than 12 per cent of the total viewing audience of any of the top-10 sporting events in 2012, excluding the Olympic broadcasts. Of those children who were watching, the majority were co-viewing with an adult—around eight in 10 in the five-to-12 age group—so there is an opportunity there for parental guidance of children who might see that kind of advertising.

ASTRA, representing the pay-TV industry, in its own submission to that inquiry said that, on the basis of evidence they were able to produce, children under 18 comprised a very small proportion of the audience for live sporting events on subscription TV. They said that, of the 50 most-watched live sports broadcasts shown on STV in 2012, children under 18 comprised just 11.3 per cent of the total combined audience for those broadcasts, with less than one-third of those—or 2.3 per cent of the total audience—being children under 18 watching without an adult present.

Now, I accept that that still represents a large number of children who may be exposed to this kind of harm but, as is always the case, it is important to make sure that we do not deal with the problem in a disproportionate way. The restriction on the freedom to impart information to people able to maturely and carefully accept and use that information is a right that people have—one we should be very careful to withdraw merely because we have identified that some people may suffer some harm from that fact.

The coalition, as I have said, has demonstrated a concern about this by putting together a discussion paper from its working party. The working group on coalition reform has that information available online, and I suggest that those people who are looking for some innovative approaches look at that report. We welcome recent moves by the commercial television and radio
industries, and the subscription television industry, to address community concerns regarding live odds in sports through a revised code of practice which prohibits the promotion of live odds while a sporting event is in play. The code deserves to be considered by the public, and for comment to be made and considered, before a final version of the code is promulgated.

We take concerns about the promotion of live sports odds very seriously. We are concerned about making sure that children are protected, but we also believe it is important not to rush to conclusions. With the greatest of respect, the motion that Senator Di Natale has put forward today does rush to a conclusion before all the evidence is available. The coalition would not support the motion which is before the Senate tonight.

Senator WHISH-WILSON (Tasmania) (17:15): I will speak only for a short period of time tonight because I respect that there is a large list of speakers who are very passionate about this issue and would like to talk on it tonight. It is interesting—Senator Stephens talked about Australian culture, and there is no doubt that having a punt and having a bet is synonymous with Australian culture. Probably the best book I have ever read on Australian culture, and possibly one of the best books ever written in this country, is Cloudstreet, by Tim Winton. Just about everyone in this chamber has probably read it. I certainly hope they have. It is a fascinating book. It is a juxtaposition of two families—the Lambs family and the Pickles family. Sam Pickles, a man who loses his hand, is a really interesting character to follow in the book. Essentially his life is a constant struggle against a gambling addiction. It is fascinating to read about his gambling addiction. It is an addiction which so many Australians suffer from, and it is quite easy to understand why.

It suggests that a person will only get control over their gambling when they have started to make progress in working on the big worries in their lives, such as boredom, failure et cetera. It also suggests that a lot of Australians have strong values of not giving up easily and not quitting when the going gets tough and also have very strong competitive drives. These factors tend to work against problem gamblers, leading them to keep going until all their money is gone. The interesting thing about Cloudstreet is that what Sam Pickles used to look forward to was when the races occurred. That stimulus was what he required in his life. We know it is the same with the pokies. The stimulus that drives the problem of addiction to pokies is the noise, the flashing lights and so on.

The stimulus is obvious when you think about online gambling, but the next phase is to see gambling on television, in an area of content that Australians love and are totally attached to, including children, which is sports games. Why are we so fascinated with sport? It is a big part of our culture. Most of us grow up playing sport. If you have an addiction then it is quite obvious that while you are watching sports games it is going to be very hard to get away from that addiction and that stimulus is going to be in front of you the whole time.

I have discovered a couple of interesting things about sports gambling which suggest that it is possibly going to be an even more pervasive problem than other types of gambling, such as casino gambling. There was a really good article recently in LiveScience by Professor Ghose. He talks about a large study done by Tel Aviv University in Israel, and quotes from a statement by a study co-author:

"Sports gamblers seem to believe themselves the cleverest of all gamblers. They think that with experience and knowledge—such as player's..."
statistics, manager's habits, weather conditions and stadium capacity—they can predict the outcomes of a game better than the average person,”

He goes on to explain a very large study that he did in the UK around soccer. In the end he came to some startling conclusions:

"Casino gamblers are more appropriately characterised as obsessives, because they have less belief in themselves, and know that they will lose sooner or later. But they gamble anyway because they feel they need to," Dannon said.

By contrast, sports gamblers may need tailored cognitive therapy that rids them of the belief that they have more control over the outcome than they really do.

I was interested in that conclusion, so I went looking for real-life examples of severe problem addiction with sports gambling.

Probably the best story that I read was an article from the Roar, 'How sports gambling cost me love'. It was by Hayley Byrnes, who was married to a rugby league player. She talks about the culture within sport of sports players being addicted to sports gambling. She said:

I personally have spent the darkest of hours with a sports gambling addict. Without delving into too much personal detail out of respect to this person, I can however say that for over four years I battled weekly with a live in boyfriend’s gambling addiction.

In the end we both lost.

It wasn’t until one night in bed after a few weeks of living together with my partner that I started to have any indication there could be trouble in paradise. As we lay in bed, he sat up next to me, eyes fixed on the laptop.

“What are you doing on that so late?” I mumbled.

“Oh just watching a tennis bet,” he replied. 3am rolled around and he was still up, eyes glued to that screen watching live tennis scores like a heroin addict waiting for his next delivery.

The article goes on to say that eventually this couple did seek therapy. In that therapy, after not talking for the first two therapy sessions, her partner talked about the very first time that he gambled:

… as a 16-year-old kid he was led into the TAB by fellow teammates, unbeknownst to him at the time that one bet would cost him his football career, friendships and his first love.

It was a very compelling story about real lives.

I think Senator Humphries said gambling causes 'some' harm. I think even single individuals and single lives being ruined by gambling addiction is a lot of harm. There is plenty of evidence to show that there is more than some harm in our community. The risks are very real that we might see gambling addiction normalised, especially if we see it in sports advertising, which kids can watch. I want to use the word 'stimulus' again, because that is what we know drives, or certainly helps facilitate, gambling addiction.

On television at quarter time, at half-time, after the game and of course before the game, there is the temptation, the stimulus, to get people interested in laying a bet, in gambling. I do not have the compulsion myself, and I know lots of people who have healthy habits in terms of laying bets. But addiction, whether it is gambling, alcohol or heroin, is all the same. It is a physiological problem that is very difficult for people to combat and it takes a lot of effort to overcome.

We talk about the need for regulation. It is my understanding that the voluntary code on odds has been in place now for a couple of months and—let's make this very clear—it has been complied with. We recognise that, but the problem is still there. Nothing has changed. The advertising is still there and the odds are still there. Online betting has risen from $2.4 billion spent in 2007 to almost $10 billion in 2012. In 2012, 528 individual ads
were put forward which were collectively broadcast more than 20,000 times. This is big money. The TV rights for AFL is big money—it is huge money. Why do TV companies pay big money? It is obvious: they want eyeballs on the screen. What comes with eyeballs? Ratings. What comes with ratings? Advertising spend. This is all about how TV broadcasters can get advertising spend. It is obvious that, when there is a new, developing market out there—online gambling and sports gambling especially—tied directly to individual sports programs, it is going to be a big market and there is going to be lots of money in it.

My experience with large profits being available to both broadcasters and betting companies is that it spells trouble in terms of regulation, particularly self-regulation. Even the Liberal Party, who understand free-market economics, must recognise that there is a role for government to play when markets fail. One way we classically talk about market failure is when there are costs associated with a particular business activity. The costs associated with gambling are severe in lots of different areas when it comes to its impact on our community. We have looked at it right across the board. Where we see these costs associated with a productive activity, in this case a service, the government has a role to make sure those costs are minimised or those companies pay for those costs.

That is certainly not the Greens' understanding of the system at present, and that is why this motion has been moved by Senator Di Natale—to take very strong action and to not rely on a voluntary code that we do not believe has worked. It is time for regulation. We believe banning all live sporting odds is very important. We also believe that advertising should occur after 9 pm, when we know most children will not be watching advertising. We want to avoid this problem being normalised. We certainly want to see a ban on cash for comment, which, once again, to use Senator Stephens's comment, blurs the lines between what is sport and what is gambling. That is something we certainly cannot afford to introduce into our culture in this country.

Senator FURNER (Queensland) (17:25): I rise this evening also to speak on this notice of motion on sports betting reform. In his introduction, Senator Di Natale hit the nail on the head when he said that Australians love sport. That is pretty well right—we love our sport. What goes with sport in Australia? Australians love a flutter. They love a bet. You know, Mr Acting Deputy President, that in the next couple of weeks the greatest game of all, the State of Origin, will be played between New South Wales and that great state of Queensland.

Senator Mason: And we'll win again, won't we, Mark!

Senator FURNER: We will win again—I will take that interjection! Every year I have a bit of a flutter. I have a flutter with some of my friends in the chamber here—

Senator Polley: You have friends?

Senator FURNER: I do have some friends—as well as some of the people who work around this place and some of my staff, because it is in the nature of Australians to have a harmless flutter. But what has been raised tonight is correct: the addictions need to be recognised, when people take their gambling habits way too far. Both the Greens senators and Senator Stephens, I think, earlier indicated the problem with gambling in this country. Problem gamblers lose on average $21,000 a year. You would wonder how they can survive in their households or their communities with those sorts of losses in a year. That is why this government is acting decisively on this issue.
The government is taking action to reduce the promotion of live odds during sports coverage. Working with the broadcasting industry, we have proposed amendments to their codes of practice. Under those principles agreed between industry and the government, there will not be promotion of live odds by commentators at any time during a sports broadcast. That is what is being proposed, will be implemented and, I am convinced, will be successful in addressing this issue with live odds during sports coverage. There will also be no advertising of live odds during play, with clearly identified ads restricted to scheduled breaks in play, such as half-time. The government preference generally is for action to be taken through the co-regulatory framework to broadcasting regulation. For now, the government will evaluate the effectiveness of measures proposed by the broadcasting industry before considering any further action such as legislation in this space. For this reason, we do not support the Greens' motion at this time.

The government recognises that problem gambling and the relationship between sport and gambling is a serious issue. We have acted and we continue to act across a range of portfolios to address this issue. We understand the concerns in the community that Senator Di Natale proposes to address and has raised here this evening. Sporting bodies, broadcasters and the gambling industry all have an important role to play to ensure our sports do not become swamped with gambling messages to the point where sport and gambling are seen as one and the same. No-one wants that—not the community, not the sports and not the Australian government. So, once again, under the principles agreed between industry and the government, there will be no promotion of live odds by commentators at any time during a sports broadcast.

More broadly, this government has legislated to reform poker machine regulation. As we know, the legislation requires precommitment technology to be available on every one of Australia's 200,000 poker machines, introduces a voluntary precommitment system to help players set limits and keep track of their spending, and introduces a maximum daily withdrawal limit of $250 on ATMs in gaming venues. The government's minister, Senator Conroy, in March of 2013 responded to the review of the act that governs online gambling: the Interactive Gambling Act 2001. He has committed to the development of a national standard for harm minimisation and consumer protection for online gambling. He is working with the states and territories on a harmonised approach to regulating in this space.

Government has acted to stamp out match-fixing in sport. In 2011, the Gillard government reached an agreement with states and territories to introduce a national policy on match-fixing in sports. The government recognises that problem gambling is a serious issue, which is why we support responsible advertising by broadcasters and industry. That is why we have taken action to ensure that the promotion of live odds in sports broadcasts is reduced and controlled. The promotion of live odds during sporting events is unacceptable. The Commonwealth government has taken action to reduce and control the promotion of live betting odds during sport coverage.

The federal government has worked with the broadcasters on amendments to the broadcasting industry co-regulatory codes of practice, which are enforced by the ACMA. On 29 June 2012, the Minister for Broadband, Communications and the Digital Economy announced that the Australian government had secured an agreement with
commercial and subscription broadcasters to reduce and control the promotion of live betting odds during sports broadcasts. State and territory governments have also committed to look at the steps. They could take on a limited promotion of live odds on sporting grounds, such as on scoreboards or by ground announcers. People do not want odds shoved in their face when watching sport, and that is where these new restrictions address this issue.

This agreement, which was struck last year, forms the basis upon which the broadcasters have promised amendments to their codes of practice. Looking at how the proposed amendments restrict the promotion of live odds, the amendments to the code will prohibit commentators from promoting any live odds at all during the broadcast and 30 minutes before and after the match begins and ends. It will restrict the promotion of odds to scheduled breaks that are played during a sporting event, such as: half-time at the rugby, quarter-time at the AFL or at the end of a set in tennis. This means there will be no promotion of live odds when the match is actually in play. That is the last thing I want to see during a State of Origin match. It will also provide the promotion of odds during a scheduled break in play, where it will be clearly distinguished by gaming representatives.

Since the agreement between the government and the broadcasters in June last year that established these principles, broadcasters have largely abided by them—although the amended codes are not yet in place, with the exception of the Tom Waterhouse incidents. The amendments to the codes have been proposed by the broadcasters and were released for public consultation on Monday, 28 April for a period of four weeks. We encourage interested members of the public to go to the websites of the peak bodies for broadcasting Free TV, ASTRA and pay TV to find out more. If people choose, they can make a written submission to express their views on the proposed amendments. The amendments will then be submitted to the ACMA and, if approved, will be registered and enforced by the regulator.

The radio industry, through Commercial Radio Australia, publicly released its proposed amendments for comment in December last year. The consultation window for CRA's amendments has now closed. So the government's preference, in general, is for action to be taken through a co-regulatory framework for broadcasting regulation.

**Senator XENOPHON** (South Australia) (17:33): I am grateful to Senator Back for giving me this opportunity to speak. I promise to keep it down to eight minutes; I will do my very best to keep it within eight minutes. I support Senator Di Natale's motion and congratulate him for bringing it on. This proposal, in the bill that he has introduced recently, mirrors many of the proposals that I put in a bill that I introduced in this chamber in June 2011—the more, the merrier. To me, it will be a great day when we have a bill from either the coalition or the government, or both, mirroring what Senator Di Natale is trying to do and what I have been trying to do. It is because enough is enough: we have gone too far in relation to this.

This is a very serious issue. I refer members to the evidence given by Associate Professor Samantha Thomas, from the University of Wollongong. She is an expert researcher, who has researched the impact of this sort of pernicious, insidious gambling advertising on children. Her studies and surveys are extensive. In a snapshot: parents are concerned that kids are talking about the odds and not the games. There is an increase
of embedded memories, if you like, of advertising, where kids remember it. That is very disturbing. That kids are able to recall the brand name of gambling companies—children who are six, eight, 10 or 12 years old—is very disturbing.

We also have a situation with young men, where odds talk is being embedded into conversations as part of the culture. Young men feel pressured into gambling because of this pernicious advertising. Gambling is now part of the peer group: if they do not participate in it, they are not part of that group. That is sickening. Let us clear this up once and for all—and perhaps Senator Di Natale will have an opportunity to sum up the debate: the new whiz-bang proposed code, which is being proposed now, still allows for advertising before the game, of odds being spruiked before the game and at quarter-time, half-time, three-quarter time and after the game. It just stops those live odds. It is better than nothing—it is better than a kick in the head—but it does not deal with the issue, which is that we are being bombarded with gambling advertising. You will still be able to see the ads for the various gambling companies—Sportsbet, Sportingbet, Tom Waterhouse or whomever—during a game. Kids can see that as well.

That is very, very important. We must tackle this. What I proposed back in 2011, and what Senator Di Natale is proposing now, is not extra regulation, as Senator Humphries has characterised it. It is about closing a loophole. Currently, under the Commercial Television Code of Practice, the situation is that you cannot have gambling advertising during G-rated periods. This is the fundamental issue.

There is an inquiry about this. It is public knowledge that there is an attempt to get Tom Waterhouse to appear before the inquiry. I cannot comment to say anything other than that, but I would welcome him appearing. I would like to take a moment or two to quote what former Wallabies great, author and commentator Peter FitzSimons said in his column on 24 April in the Sydney Morning Herald. It is headed 'Waterhouse's submission is a joke that's not funny'. I will just quote a few paragraphs from that. It starts off with Mr FitzSimons saying:

Bring it in tight, Tom Waterhouse. Yes, yes, yes, it is me again, and no, I don't have particularly hard feelings because you're suing me for defamation at the moment. Nothing personal, what?

Nevertheless, because of that legal action, I have of course tried to temper my remarks when it comes to your statement to the joint select committee on gambling reform on Tuesday, where you robustly defended your ubiquitous presence on sports broadcasts across Australia, asserting your right to flog your sports betting operation as you please.

So let me, as delicately as I can muster, as carefully as possible, choose my words delicately... with malice towards none... with charity to all:

If you wrote the statement to the select committee, give yourself an uppercut. If someone wrote it for you, pretend you're Mark Bouris on Celebrity Apprentice and say loudly: "You're fired."

In that statement, you say you have, "No intention of targeting children through our advertising..."

What are the kids then? Collateral damage? Whether or not the kids are specifically "targeted" by your company is hardly the point? The point is that they ARE hit, regardless. The point is that while the government has the brains to have a ban on gambling advertising on programs children are likely to be watching, there remains the ludicrous
exception of sport, which millions of Australian kids watch for hours on end!
The point is that because of this exposure gambling chat in the playground is now endemic, and many young Australians think that gambling is glamorous instead of the brain-dead loser pursuit it actually is. So you didn't specifically target them? So what?
The outcome is equally devastating—a time-bomb that will go off when they have more than their lunch money to lose.
I congratulate Peter FitzSimons for those comments which reflect the overwhelming opinion out there in the community.
I spoke to Peter FitzSimons about his columns. He gets overwhelmed by the number of comments and people writing in to him or tweeting him. There is a strong, visceral community reaction to this. There is a revulsion about the way the odds are being rammed down our throats. When six-, eight- and 10-year-olds are talking to their parents in their homes about the odds and not about the game then you know we have gone too far. That is why we need to ban gambling advertising during G-rated periods.
I note what has been said about overregulation. But in May of last year I did a joint press conference with the opposition leader, Tony Abbott. I was very happy to do that joint press conference with him on the issue of online gambling. Statements that the opposition leader made about how we have gone too far were a very pleasing development. I disagree with the opposition leader on his stance on poker machine reform, but we have a lot of common ground in terms of online gambling. I do not think that what this motion is about, what my bill in 2011 was about or what Senator Di Natale's recently introduced bill was about is that far away from the comments of the opposition leader. The opposition leader's comments are very much in line with overwhelming community opinion.
We have had enough. Leave kids alone, for goodness' sakes. We have a ban on G-rated programs having gambling advertising, but there is an exemption for sporting programs. Let us close that exemption down. If the opposition and the government will not come on board, that is fine because I will make sure right up until 14 September, election day, that this is an issue. I will thank you both for giving me an issue to fight the election on. But I would rather it not be an issue. I would rather there be some unanimity in this chamber to reflect the overwhelming community opinion that we need to do something about what has become an insidious activity that is damaging our kids. Give us a break. Let's support a ban on gambling advertising and on the odds being pushed down our throats so that we can protect our kids.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (17:41): I appreciate the opportunity to comment on the motion put by Senator Di Natale. I have listened very carefully to the comments around the chamber. There is absolutely no difficulty. There is a unanimous view from everybody that we do not want to see a circumstance in which children are placed at risk.
However, recognition has not been given, in my view, by Senator Di Natale or Senator Xenophon to the voluntary action by those who actually produce and present this type of material. I speak, of course, of the draft code of practice regarding the promotion of live odds in sports coverage. We have a circumstance in which that document is out for public comment at this very moment. I do not know how many comments there have been, but I understand that it closes for comment on 21 May, which is only the beginning of next week. So we should have information very, very quickly as to what the reaction of the public is to the voluntary code of practice.
that has been put into place by those, both from Free TV and subscription television, who actually present sports broadcasting to the Australian community.

I would just like to reflect for a moment on what the size of the audience is—the size of the audience of children under the age of 18. This was advice presented to the Joint Select Committee on Gambling Reform this year by those two groups—Free TV and ASTRA. The Free TV figures are that around 12 per cent of the audience at home watching TV are between the ages of five and 17, with the balance being adults. Interestingly enough, between 70 per cent and 80 per cent of those children under the age of 17 are in the company of adults. The figures presented by the other organisation, ASTRA, were very similar.

Gambling is something which I am not associated with. I was involved in the horseracing industry for many, many years as a veterinary surgeon. Senator Mason would be interested to know that very early in my career an old fellow said to me, 'Chris, the only way you will make money following horses is with a broom and shovel.' I took that on board and I believed it, and I am very happy to say that neither my wife and I nor any member of our family is afflicted.

Senator Mason interjecting—

Senator BACK: I went into politics, but it took me some years, Senator Mason, before I did. The point I want to make very, very strongly is that there is a responsibility of parents and of carers toward the attitudes, the actions and the behaviours of children. I disagree with Senator Di Natale, because we are not going to wipe out this risk to children by totally banning—certainly until nine o'clock at night—the advertising of sports betting services on television and radio. In my view there is a responsibility of carers, of adults, of parents, of grandparents and of those responsible for children's behaviours and attitudes to influence them in relation to the wider community. We are assaulted these days, as you know, with vast media. We have smart phones, and people can gamble in any location using their smart phones. The other point that I want to make in relation to that comment is that there is not only online gambling in Australia but also operations overseas, which the Australian government has limited capacity to regulate.

Having been a member of the gambling reform committee from the time it was established, when Mr Wilkie originally sought the agreement of the Prime Minister to put it in place—and Senator Xenophon has always been active and involved in that—I have had it brought home to me, and my experience tells me, that if you deny people one form of gambling, if they want to gamble, they will find another way. The last thing we want is for people to be participating in uncontrolled, internet accessed gambling overseas where we have no control at all. We have no knowledge of where these participants are and we have no capacity as an Australian community to protect them. Of course nobody wants to see problem gambling in adults and we certainly do not want to see it in children.

I spent a good deal of my early life in the goldfields area of WA where two-up was a tradition—

Senator Mason interjecting—

Senator BACK: not necessarily to the extent that it is now, Senator Mason—and there has not been an epidemic of gambling as a result of children growing up in families where their parents may have tossed pennies.

When I look at this voluntary code there does seem to be some confusion. This voluntary code says in the appendix:

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CHAMBER
(2) During a Live Sports Broadcast, a Licensee must ensure there is no Promotion of Live Odds:
(a) by a Commentator at any time; or
(b) during Play.

I support that 100 per cent as I am sure others do. I have heard Senator Di Natale and Senator Xenophon question it and say that it is irrelevant because there is quarter time and half time in the case of Australian Rules and three-quarter time and half time in the other code north of the border. The simple fact of the matter is that, as we all know, during those periods of time in the household, or wherever else sport might be watched, it is the case that people move around, go out to get a drink, go to the toilet, or converse, and that may well be the time in which they discuss what the progress of the game is. For us to stand up here and support a total ban does not make common sense to me.

Of course, it is not just the voluntary code that will come into operation. Once it is in its final form it will be the subject of review and will then be the subject of registration by the Australian Communications and Media Authority, ACMA. It may be into the future—through you, Mr Acting Deputy President, to Senator Di Natale—that over time this is not seen to have achieved its goal or been strong enough in its objectives. Let us not rush into this. This is the best situation at the moment, in which industry has voluntarily, at short notice, determined to put this code of practice into place.

Senator Di Natale: It has done nothing.

Senator BACK: It is not doing nothing. I, for one, want to see the code come into existence in its final form. The coalition, of course, have a proud record when it comes to being the first to legislate to control online gambling in this country. As my colleague Senator Humphries said, we were the first in the world to so do. We are not blind to where the responsibility lies or where the opportunities lie. I say in conclusion—to allow colleagues the opportunity to comment—that I do not support the motion but certainly, as Senator Xenophon quite rightly said in reflecting his comments with our leader Mr Abbott, 'It is an issue which definitely requires control. Children have to be protected, but we have not yet got to the nanny state.'

Senator GALLACHER (South Australia) (17:50): I rise to make a contribution in this debate. I listened carefully to the outline of the issue from Senator Di Natale in relation to the outrage amongst sports fans. I cannot entirely agree with that. In my own household at least one non-sports fan does not like it, but, whenever I am enjoying a barbecue and watching the football, most of the other people are quite interested—but they are adults.

The argument is that there is a barrage of ads, disturbing evidence that kids can identify sports betting agencies and that the consciousness of children is being altered or informed. Well, that is just a very successful advertising campaign. That happens with breakfast cereals and with Coca-Cola, and it happens with everything. So I do not think you can say that sports betting is the cause of their altered consciousness; it is advertising that does it. The reality is that we will have a whole generation growing up in front of very large, interactive smart TVs with smart phones. Prohibition is not the way forward. We are a nation that stops for Melbourne Cup Day. There are sweeps in every school, in every workplace and in almost every household.

As Senator Stephens said, we are a nation of voracious gamblers. We do have a significant number of problem gamblers and we do not want to increase that number of problem gamblers. We certainly do not want
to encourage children to commence betting below the legal age or to have an appetite for betting. But, if you have ever taken your son to the Rugby League or the football, you would know that tickets have always been sold on the first try-scorer. You bought your ticket—in those days it might have cost 20c—and if you had the right number you won a prize: a meat tray or whatever. This type of betting on sports has been around. What we are experiencing now is the insidious nature of technology. We have smart phones and smart apps—download a smart app, get Tom Waterhouse on your iPhone or your other type of smart phone.

I understand the sincerity that, in particular, Senator Xenophon brings to the debate. He is absolutely right: he will campaign until there is no breath left in his body on these issues, because that is in his nature and that has certainly been his demonstrated track history. The reality is that we need to look at what the government is actually doing. The government is indeed taking action to reduce the promotion of live odds during sports coverage. We are working with the broadcasting industry who have proposed amendments. They have responded to community concerns. They have a very big and growing business. In their view, they have to get their act together, otherwise legislation could be introduced that will restrict their opportunity, but I do not believe they are out there trying to get kids to bet. I certainly do not believe that.

Under principles agreed between the industry and the government, there will be no promotion of live odds by commentators at any time during a sports broadcast. There will be no advertising of live odds during play, with clearly identified ads restricted to scheduled breaks in play, such as at half-time. The government's preference in general is for action to be taken through the co-regulatory framework of broadcasting regulation. For now, the government will evaluate the effectiveness of the measures proposed by the broadcasting industry before considering any further action, such as this type of legislation. In this space and for this reason we do not support, and I do not support, the Greens bill at this time.

The government recognises that problem gambling and the relationship between sport and gambling are very serious issues. We have acted and continue to act across a range of portfolios to address these issues. The concern that has been expressed here today, targeted towards one particular betting agency because he is the most highly visible agency and has made a real success of his business in a very short space of time, is probably flawed. We need to address the fundamentals.

I do not mind if my grandchildren learn about betting, because if you learn about betting you basically learn about losing. You do not get odds of 10 to one because it is a sure thing. You get odds of 10 to one because there is a nine times chance of losing. I do not think you can hide people, children or otherwise, away from the real world and then at the age of 18 turn them out for someone else to cultivate into a gambler. I do not mind having exposure at the right times. I do not think it is appropriate before the PG sort of rating period. I do not think we should be advertising gambling, as someone has already said in the debate, in the cartoon hours, but there is no doubt that kids will be watching football and nine o'clock is not going to stop them from watching football. If a game is scheduled to go a bit later, there are plenty of households in which children below the age of 18 or below the age of 10 do not go to bed until midnight. There are plenty of households which are fanatical about the round-ball game. A lot of that is played in the middle of the night. I do not think an arbitrary curfew
is the answer to this. I think education is the answer. I am not all that convinced that this exposure is 100 per cent detrimental. It may be detrimental to a certain number of very vulnerable people, but they will probably have that vulnerability with or without this type of activity by betting agencies.

Sporting bodies, broadcasters and the gambling industry all have an important role to play to ensure that our sports do not become swamped with gambling messages. At the end of the day, you want to see your team win. If you happen to bet on the way through and you are of a legal age, I do not have a problem with that. I do not think any government will ever change that ability. If you are of a legal age, your team is in the running and you want to have a punt, it will be available to you. What has attempted to be the subject of this debate is whether we have a younger and more vulnerable group of consumers who have been groomed and turned into problem gamblers. I do not think there is any evidence to say that is the case.

I heard Senator Back's story about growing up in Kalgoorlie. I grew up in the Northern Territory. Someone else mentioned that two flies could be bet on. I am certain that there have been occasions when I have been tempted to bet on one of those flies. It has not made me a problem gambler, it has not made my children problem gamblers and I do not have any friends or family who have turned into problem gamblers. I do not think there is any evidence to say that is the case.

What is really intriguing is whether having a smart TV or an iPhone—the ability to download a betting app to an iPhone and link it to a credit card or a betting account and to bet at any time—is essentially more addictive than what has always been the case, where you can walk to a TAB or an outlet like that to place a bet. I have a TAB very close to where I live and on occasion I have gone there and made a bet. I have noticed younger punters coming in and trying to pick a whole range of options regarding betting on the AFL, soccer, golf or whatever, but if they have sat down, worked out what they can afford to lose, filled out the correct ticket and are over 18, I am not sure that there is a problem. How they got to that stage seems to be what this debate is about. As people get to the legal age of being able to drink, vote, represent the country in the Army or go to the TAB, or bet in whichever way they want, I am not sure that regulations are ever going to change any of that. I am not sure that we can put up legislation or amendments in this place to have the effect that some people in this place want.

Sitting suspended from 18:00 to 20:00

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Animal Welfare

Senator IAN MACDONALD (Queensland) (20:00): Mr Deputy President, before we deal with the tabling of the speech by the Leader of the Opposition, I seek leave to make a very short statement in response to a statement that Senator Ludwig gave by leave at 4.30 pm.

Leave granted.

Senator IAN MACDONALD: I thank the Senate. During question time today Senator Ludwig denied that he and Mr Burke, and indeed the Gillard government, had received a proposal from the Queensland government in relation to the grazing in Queensland national parks of 300,000 drought affected cattle. Senator Ludwig came to the chamber at 4.30 this afternoon and said that he was also advised that the date recorded for the receipt of the letter that
the Queensland government alleged they sent was recorded as 16 May. Senator Ludwig said that his ministerial and electorate office staff had searched fax machines and emails and they have not found a copy of a fax or an email sent from the Queensland government. He also went on to say:

I note that a letter was addressed to Mr Burke at a post office box in Roselands in New South Wales. At the end of question time Mr Burke's office advised my office that the proposal had not been received at his post office box, or by fax or email at either his electorate or parliamentary office.

I have before me copies of emails from the Queensland government to Mr Burke at Tony.Burke.MP@aph.gov.au, dated Tuesday 14 May at 1.54 pm, sending a copy of the letter making the application for help that I referred to today. A similar letter was at the same time emailed to Senator Ludwig.

The fact that Mr Burke last night told the media that he had been approached, and he commented on the application, I think proves the fact that Mr Burke did actually receive that, contrary to what Senator Ludwig said in question time and contrary to what he said at 4.30 this afternoon in his statement by leave to the chamber.

Mr Deputy President, I will seek leave in due course to table this email from the Queensland minister's office to Mr Burke, dated 14 May 2013 at 1.54 pm. I conclude this statement by indicating that at 4.52 this afternoon my office received confirmation from the Queensland government that the emails had been delivered on Tuesday, with a copy of their email logs. I do not quite understand what that means, but apparently it is proof in jargon that the email to Mr Burke was received. I also understand—I am not sure how people can do this—that Senator Ludwig himself obtained the same email log at 4.48 pm, having made his speech denying all knowledge of the email in the Senate approximately 10 minutes before.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (20:04): I want to clarify whether Senator Macdonald has tabled the documents.

The ACTING DEPUTY PRESIDENT (Senator Parry) (20:04): If you will wait a minute, Minister. Senator Macdonald, you did seek leave to table those documents. Is leave granted?

Senator IAN MACDONALD: I seek leave to table the document showing the email to Tony.Burke.MP@aph.gov.au, subject to the other parties seeing the document.

Leave granted.

BUDGET

Statement and Documents

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (20:05): I seek leave to incorporate for the information of honourable senators the Leader of the Opposition's response to the budget speech delivered by Mr Abbott in the House of Representatives earlier this evening.

Leave granted.

The speech read as follows—

Tonight, I want to directly address you, the Australian people.

While it's easy, and understandable, that you should be pessimistic about this government, everyone should be optimistic about our country.

Our health researchers have saved hundreds of millions of lives through breakthroughs in everything from infectious diseases to cancer vaccines to ulcer treatments.

Our military personnel stand ready to protect people in some of the world's worst trouble spots.

Our universities are educating the future leaders of our region.
Our musicians, artists, actors and film-makers are making their mark all over the world.

Our resource exports have helped hundreds of millions to move from the third world to the middle class.

And, with the right product, our manufacturing, too, is capable of competing with the best in the world, even with the high dollar – as demonstrated by Cochlear, Blackmores, Murray Goulburn and RM Williams, whose boots I'm wearing tonight.

We are a great country and a great people let down by a bad government.

Bad governments always pass.

What should never dim is our faith that Australia's best years are ahead of us.

So my purpose tonight is to assure you that a Coalition government will do what's needed to restore the hope, reward and opportunity that should be your birth right.

Our Real Solutions Plan will build a strong and prosperous economy for a safe and secure Australia.

Margie and I know the pressure that every Australian – that each one of you – is under.

We're not crying poor but we run a household with power bills, rates, health and education costs to be paid all the time.

Margie runs a community-based occasional care centre which has to live within its means just like every small business and every family.

Governments' first job is not to make your life harder.

But this government has – with its carbon tax, broken promises, and skyrocketing debt.

Australian families are paying for this government's mistakes yet all you ever hear from the Prime Minister and the Treasurer are excuses and promises to do better next time.

Should the Coalition win the election, there will be no nasty surprises and there'll be no lame excuses.

No surprises and no excuses.

The Coalition's Plan has two objectives: first, to take the budget pressure off Australian households; and second, to strengthen our economy so that, over time, there's more to go round for everyone.

Only by delivering a strong economy can government deliver a sustainable National Disability Insurance Scheme and better schools.

You need certainty to plan your future and you need cost of living relief.

So tonight I announce a major initiative to ease the financial pressure on Australian families.

A Coalition government will keep the current income tax thresholds and the current pension and benefit fortnightly rates while scrapping the carbon tax.

The carbon tax will go but no one's personal tax will go up and no one's fortnightly pension or benefit will go down.

So with a change of government, your weekly and fortnightly budgets will be under less pressure as electricity prices fall and gas prices fall and the carbon tax no longer cascades through our economy.

This will strengthen our economy – because there'll less tax hitting Australian businesses but not their overseas competitors.

And it will help families – because you'll have tax cuts funded by smaller government, not by taking money out of one pocket to put it in the other.

Our plan starts with recognition of economic reality.

Government doesn't create wealth; people do.

Government doesn't spend its own money; it spends your money.

This year's spending is either this year's taxes or it's this year's borrowing – that's next year's taxes.

Government spending is not a free gift but something that everyone is paying for, now or in the future.

That's why good governments are at least as careful spending the money they hold on trust from the people as you are when making decisions that affect your family's budget.

Parents don't mortgage their children's future and neither should government.
Last year, the Treasurer began his budget speech declaring, and I quote: "the four years of surpluses I announce tonight are a powerful endorsement of the...success of our policies".

Well, surpluses would have been a vindication. But there are no surpluses. Not this year. Not next year. Not the year after that.

The Treasurer now says that there will be a surplus in four years' time.

That's four years after the Treasurer and the Prime Minister said that it had already actually been delivered and spent tens of thousands of your dollars boasting about it in letters to their constituents.

If a public company made these sorts of claims its directors would most likely face serious charges rather than asking to be re-elected.

If this had been the only dodgy promise, they might have got away with it but this government never gets it right.

It got the mining tax numbers wrong.

It got the carbon tax numbers wrong.

And last year's budget commitments to boost family payments and to cut taxes didn't even make it to this year's budget.

This year's supposed revenue shortfall went from $7 billion, to $12 billion to $17 billion in just two weeks – so how can ministers possibly predict a decade ahead?

The Prime Minister guaranteed there would be no carbon tax – but there is.

She guaranteed there would be a surplus – 165 times she guaranteed there would be a surplus – but there isn't and there never will be under the government.

After seven deficits totalling $220 billion, the Treasurer can hardly congratulate himself over an almost invisible surplus, if nothing goes awry, if he's still there, in four years' time, in his ninth budget.

The government originally said that the deficit was "temporary".

With seven in a row, the Second World War was more temporary than this government's deficits.

The government promised a surplus over the cycle but this isn't a cycle – it's a spiral, deeper and deeper into debt which is now surging towards $400 billion even on the government's own figures.

The last time a Labor Treasurer stood in this parliament to deliver a surplus was way back in 1989 so it's hardly surprising that this year's Labor surplus promises are no more believable than last year's.

In the second line of this week's budget speech the Treasurer said that it was a budget for jobs and growth.

In fact, unemployment increases and growth decreases.

The Treasurer spent much of his speech complaining that he was the victim of a sudden collapse in government revenue.

In fact, revenue is up 6 per cent this year and will be up 7 per cent next year.

Next year, revenue will be up $80 billion on six years ago.

That's right, the Treasurer has $80 billion more to balance his budget than Peter Costello ever had – yet Costello delivered surplus after surplus.

We have a $20 billion deficit now rather than the $20 billion surplus then not because revenue is down but because spending is up: by $120 billion.

Madam Speaker, in 121 days, there will be an election.

It will be a tipping point in the life of our country.

The choice could hardly be more stark: three more years of broken promises, nasty surprises and weak excuses.

Or change for the better with an experienced team that will not just rebuild the economy but also the bonds of trust that should exist between you and your parliament.

The last Coalition government grew GDP per person by well over two per cent a year – under
this government it's limped along at well under 1 per cent.

The former government grew jobs by two and a quarter per cent a year – or enough to create over 2 million new jobs within a decade.

Since then, they've grown by just 1.6 per cent a year.

With the Coalition, you could trust government to save.

With Labor you can be sure government will spend which is why worried households are saving at the highest rate in a generation.

During the Howard years, real wealth per person more than doubled – since then, it's actually declined thanks to weaker growth, subdued house prices and lower share prices.

Change won't come overnight but a Coalition government will do what's needed to strengthen economic growth and prosperity.

All the Coalition's main policies are designed to make it easier for you to get ahead and for businesses to be more productive.

We will abolish the carbon tax – because that's the quickest way to reduce power prices and take the pressure off cost of living and job security.

Let me repeat: We will abolish the carbon tax – because it's a kind of reverse tariff that hurts local businesses but not our overseas competitors.

There is no mystery to how this will happen.

What one parliament legislates, another parliament can repeal and the carbon tax repeal bill, should we be elected, will be the first legislation that a new parliament considers.

We will reduce emissions with targeted incentives, not clobbering business with the world's biggest carbon tax.

We will abolish the mining tax – because that's the quickest way to support investment and jobs.

We will cut red tape costs by at least $1 billion a year – to give small business a much-needed break – and we'll have parliamentary days dedicated to repealing laws, not passing them.

By cutting tax and regulation, we will boost productivity.

That will give Australian manufacturers the more level playing field they need to remain at the heart of a five pillar economy along with services, education, agriculture and resources.

We will have a once-in-a-generation commission of audit so that government is only as big as it needs to be to do what people can't do for themselves.

We will set up a root and branch review of competition policy to ensure that small business gets a fair go and small business will be a cabinet portfolio within the Treasury department.

There'll be an affordable and responsible Paid Parental Leave scheme because women should get their full wage while on maternity leave just as men should get theirs while on annual leave.

We will revitalise work for the dole because people who can work, should work, preferably for a wage but, if not, for the dole.

Within three years, the Coalition's NBN will deliver broadband speeds at least five times faster than the current average for $60 billion less than Labor's version.

We will start work within 12 months on Melbourne's East-West Link, Sydney's WestConnex, Brisbane's Gateway Motorway upgrade, Adelaide's South Road, and Tasmania's Midland Highway, as well as key roads in Perth and parts of the Bruce Highway, because when you're stuck in traffic jams, you aren't at work or at home with your family.

We will duplicate the Pacific Highway, finally, well within this decade.

We will establish a one-stop-shop for faster environmental approvals so that new projects can get up and going more quickly.

We will re-establish a tough cop on the beat, the Australian Building and Construction Commission, to deliver (as it previously did) $6 billion a year of productivity improvements in a troubled industry.

We will return the workplace relations pendulum to the sensible centre, under the existing Fair Work Act, with fairer rules for right of entry and for new projects.

And we will establish a new, two-way street version of the Colombo Plan taking our best and brightest to the region as well as bringing their best and brightest here.
It will be part of a foreign policy that's focussed on Jakarta, not Geneva.
All these commitments are affordable and deliverable.
We will deliver them in our first term of government, if we win, and will provide all the funding details after the pre-election fiscal statement is released.
But tonight, I set out specific savings to cover keeping tax thresholds and pension rates without a carbon tax to fund them.
The Coalition has already announced that we will rescind the increase to the humanitarian migration intake because – until the boats are stopped, and we will stop them – it's the people smugglers who are choosing who comes to Australia.
We've announced that we'll reduce by at least 12,000, through natural attrition, the size of the Commonwealth public sector that's now 20,000 bureaucrats bigger than in 2007.
We've also announced that we'd scrap Labor's green loans scheme for projects that the banks won't touch.
Tonight, I confirm that we won't continue the twice a year supplementary allowance to people on benefits because it's supposed to be funded from the mining tax and the mining tax isn't raising any revenue.
As well, we won't continue the low income superannuation contribution because that's also funded from the tax that isn't raising any revenue.
I announce that we will delay by two years the ramp up in compulsory superannuation because this money comes largely from business – not from government – and our economy needs encouragement as mining investment starts to wane and new sources of growth are needed.
These measures alone will produce nearly $5 billion a year in savings which is more than enough for tax cuts without a carbon tax.
The Coalition won't shirk the hard decisions needed to get the budget back into surplus.
Living within your means is not mindless austerity – it's simple prudence.

It's recognition of the reality that you can't spend what you don't have.
Households know this and it's time governments did too.
At least for a first term, until we're on an honest path not just to surplus but to re-paying debt, an incoming Coalition government will resist new spending commitments that aren't fully funded, nearly always by offsetting expenditure reductions.
As far as the Coalition is concerned, the next election won't be an auction.
Talking to people all around the country, the last thing you want is more "historic" announcements or so-called "revolutions" that never justify the hype.
Let me be clear.
Many of the measures in this budget are objectionable, the attacks on Medicare; the abolition of the baby bonus which the government had promised never to touch; robbing Peter to pay Paul on education; and forcing more businesses to do the tax paperwork monthly, not just quarterly.
But thanks to Labor's poor management over five years, there is now a budget emergency.
Hence the Coalition may decide not to oppose any of them; doesn't commit to reverse any of them; and reserves the option to implement all of them, in government, as short-term emergency measures to deal with the budget crisis Labor has created.
Far from cutting to the bone, we reserve the right to implement all of Labor's cuts, if needed, because it will take time to un-do all the damage this government has done.
By keeping, if needed, all Labor's budget cuts – and – by not implementing any of their budget spending measures unless specified, we will achieve the first duty of every government: namely, to preserve the nation's finances.
We will keep the announced spending on the National Disability Insurance Scheme and we'll ensure that the scheme reflects the Productivity Commission's recommendations rather than becoming just another big government bureaucracy.
I would not have ridden 1000 kilometres, the week before last, to raise money for Carers Australia if I was half-hearted about the NDIS and would never claim for just one side of politics this reform that should be an achievement for our whole nation.

On the other hand, the key to better schools, at least as much as more money, is better teachers, better teaching, higher academic standards, more community engagement, and more principal autonomy.

So that's what we'll work with the states to deliver.

We won't back a so-called national education system that some states don't support especially as this government has a history of spending more while schools' performance actually goes backwards.

Regardless of normal political allegiance, Australians are sick of leaders who play politics ahead of governing the country and who blame everyone but themselves when things go wrong and the numbers don't add up.

You want a grown up government like the ones that John Howard and – yes – Bob Hawke too used to run.

As soon as people know there's a government with an economic strategy to build the country rather than just a political strategy to save its own skin, confidence will start to return to our economy.

Tax reform starts with immediately repealing the carbon tax and the mining tax and giving a modest company tax cut as soon as it's affordable – but it doesn't end there.

Within two years, an incoming Coalition government will consult with the community to produce a comprehensive white paper on tax reform.

We'll finish the job that the Henry review started and this government squibbed.

We want taxes that are lower, simpler and fairer and will take proposals for further tax reform to the following election.

Right now, the blame game between the Commonwealth and the states that Kevin Rudd promised to end has become worse than ever. Typically, over the past three years, the Prime Minister has announced massive new programmes in areas that are the states' responsibility so she can claim the credit but the states have to pay.

It's no way to run the country and it's no way for adult leaders to behave.

Within two years of a change of government, working with the states, the Coalition will produce a white paper on COAG reform, and the responsibilities of different governments, to ensure that, as far as possible, the states are sovereign in their own sphere.

The objective will be to reduce and end, as far as possible, the waste, duplication and second guessing between different levels of government that has resulted, for instance, in the Commonwealth employing 6000 health bureaucrats even though it doesn't run a single hospital.

Again, a Coalition government will seek a mandate at the subsequent election for any proposed changes.

One of the best ways to ensure that governments don't make mistakes is to have a proper cabinet process.

That's how Bob Hawke and John Howard ran their governments but that's not how government is run now, as the four former ministers now sitting on the backbench have testified.

My ministers won't need to learn how to be a good government because they've been one before.

Sixteen members of the Coalition shadow cabinet were ministers in the last government that actually delivered surpluses, as opposed to just promising them.

Those surpluses weren't just John Howard's and Peter Costello's.

They were my surpluses and Joe Hockey's surpluses and Julie Bishop's and Warren Truss's and Malcolm Turnbull's because we were all part of the last government that Australians knew was competent and trustworthy.

Unlike the current government which never makes an announcement that isn't supposed to be the most important thing ever, what I'm proposing
is not unprecedented and shouldn't even be remarkable.

I'm offering what should be normal: careful, collegial, consultative, straightforward government that says what it means and does what it says.

That would be change for the better.

The next election, to which this budget is a mere prelude, should not be about who becomes prime minister.

It should be about who can do more for our country – because our country is more important than any of us in this parliament.

My colleagues and I have a Plan to build a strong and prosperous economy for a safe and secure Australia.

It's not about us.

It's about you, the Australian people.

We pledge ourselves to your service.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (20:05): The budget is the most value-laden of any document tabled in the parliament. It reflects the priorities for the nation and the future. The Treasurer said as much at the beginning of his budget speech on Tuesday. If you want to know what people and governments value, then follow how they raise and spend their money. The test of this budget is not the size of the deficit or how quickly Treasury forecasts a path back to surplus, but rather whether the decisions underpinning and outlined in the budget make Australia a greater nation at home and abroad. Whether it make us a more caring, happy and prosperous community; whether it looks after the precious places and plants and animals that we all love and the natural and built environment in which we grow food and in which we live; and whether it delivers all this in a fiscally-responsible way.

What is so disappointing about the budget is that it does not present a coherent vision of where the country needs to be in 10 years time or of how we face the challenges posed by an increasing global population in a rapidly warming world, the interdependence of economies and our own narrow economic base, as well as our overdependence on resource based industries and the fossil fuel intensive energy sector that drives them. We have hollowed out the manufacturing sector, we have failed to invest in education and we have stuck our heads and future in a hole in the ground. We have done so for decades and we are planning to keep on doing it.

What Australians needed was relief from the pressure they are feeling day to day in keeping a roof over their heads and food on the table; and they needed hope in relation to the anxiety they feel about the future when they hear of job losses, fees rising, farmers walking off the land and traffic congestion. They wanted to know that those pressures can be relieved. People wanted a vision, a glimpse even, of a future in which everyone can be healthy and flourish, with a great education and with job prospects in a dynamic, diversified economy. They wanted a visions of a future where they can live in a safe climate, in communities that are safe, sustainable and friendly; and can look forward to an old age supported by appropriate health and aged-care services.

The fact that this budget is a finance plan without a broad vision, and beset by confusion and contradictions, is what makes it fail as a budget. And Mr Abbott's alternative is worse: full of rhetoric but devoid of detail—the very 'magic pudding' against which Mr Hockey railed. While championing important and necessary reforms, such as DisabilityCare and Gonski education funding, the government cannot at the same time aspire to be a low-taxing government. We have a lower tax-to-GDP ratio than even under the Howard government. You cannot claim to be choosing a smarter Australia while cutting funding to research and development,
universities and students, in order to fund schools. You cannot claim to be addressing climate change while stripping millions from renewable energy and continuing to shuffle billions of dollars into fossil fuel subsidies. And you cannot claim to be choosing a fairer Australia while condemning those who are unemployed to poverty. I noticed that is precisely what Mr Abbott said he would do, but even worse.

In contrast, the Australian Greens have a consistent vision shared by many Australians: we want the gap between rich and poor to be closing, not widening; we want a sustainable environment to future-proof our economy and quality of life; we want infrastructure spending that gives us clean, liveable cities; we want farmers to stay on the land; and we want investment in research and development, and education and innovation to give us the low-carbon economy we need to meet the challenge of global warming. We recognise revenue must be raised and we want it to come from those who can afford it—mining corporations making billions of dollars from resources the people own, and major banks already making record profits. We want Australians to keep their generosity of spirit in the community both here and abroad, and for Australia to be a respected global citizen. Yet, despite continuing growth, low unemployment and inflation under control, millions of Australians feel uncertain about the future, uncomfortable and under pressure.

The question is: what is the government doing in this budget to relieve that pressure? Labor is not doing enough, and we know from Mr Abbott's speech tonight that a coalition government will make it even worse. The opposition leader gave us no confidence that he will place people over short-term economic outcomes. He says we need a competent, trustworthy, adult government, but, as one wag said today, 'He's right, but where will we find one?'

Certainly not with Whyalla-wiped-off-the-map, Gladstone-ghost-town Mr Abbott—an alternative prime minister who said in his book, Battelines, that the role of other ministers is to pick holes in your argument wherever possible so he tried to avoid taking things to cabinet. It sounds very much like Direct Action.

He says he will be 'honest' and 'competent', but he is facing at least a $70 billion black hole now gaping even further from his scrapping the carbon price but keeping the compensation and tax cuts. How on earth is he going to keep an $18,200 tax-free threshold plus all other compensation and pay the polluters as well? This is going back to the Costello handout era of corporate welfare on steroids. We are going to see, according to Mr Abbott, a company tax cut as well. What happened to Mr Hockey's end to the age of entitlement? This is dishonest and incompetent, and it will be no surprise when it is not funded. Without raising more revenue from more taxes, we will see bigger and more extreme cuts to services, thousands of public servants out of jobs, polluters being paid and even less support for those in need from Mr Abbott and the coalition.

Let us test the claim of a stronger economy that was made by the government in the budget. Not so. Instead, we have the absolute failure of the minerals resource rent tax to raise any significant revenue—only $200 million in its first year. This is an embarrassment for Labor, who championed the tax to 'spread the benefits of the boom'. Well, $200 million does not go very far. If Labor had the backbone to stand up to the big mining corporations, it would not need to slash funding to universities or push single parents into poverty. As John Falzon from St Vincent de Paul has said:

… this Budget is less Robin Hood and more Sheriff of Nottingham.
No wonder Tony Abbott intends to support the government's cuts. Let me address the attempts by the Treasurer to explain away the failure of his mining tax. He points to the drop in commodity prices, and it is true: commodity prices have come off their record highs, but they are still at historically high levels. It is true that the resource rent taxes are on profits, but can the Treasurer explain how Rio Tinto, which made a $9 billion profit from iron ore last year, paid no mining tax? Is the Labor Party really suggesting that a $9 billion profit is not enough to be taxed?

The reality is that the mining tax has fundamental design flaws as a result of BHP, Rio and Xstrata running rings around the Treasurer and the willingness of the Prime Minister to cut a political deal at the expense of the community. Labor has shown in this budget its lack of courage, as has Mr Abbott in his budget reply.

Unlike Labor and the Coalition, the Greens are not afraid to stand up to the big mining corporations in the interests of the Australian people. If the government had the courage to close the loopholes in the mining tax, like they are looking do to for other multinational business arrangements, this could be a nation that invests in education as a whole—rather than cutting from universities and child care to fund schools.

What about a smarter nation? Education is central to our vision for Australia. The Greens will give children better education from early childhood through school and onto university and TAFE. The government is right to highlight the need for a smarter Australia but a nation does not become smarter by cutting funding to universities and research. Indeed, this is a dumb choice. We are risking competitiveness in the global economy as well as our capacity to respond to global challenges by raising money from the poorest students and our universities. Our universities have been vocal about the effects of these cuts on the quality of the education they can provide, and according to a poll by Universities Australia over 50 per cent of Australians oppose cutting university funding to pay for schools.

Australian students are already under pressure, with more than 80 per cent of full-time undergraduates working as well as studying. The changes to the Start-up scholarships will place even greater debt burdens on Australia's poorest students. It is a measure that is contrary to the ideal of opportunity for all in education and it is likely to see a reduction of enrolments from those who are most disadvantaged. That is dumb and mean and the Australian Greens will move to block the cuts to universities and students.

The challenge for the coalition is whether they will work with the Greens to protect our universities—in particular our regional universities, who will be hit very hard by these cuts—and ensure greater opportunities for students, or whether they will continue this harsh agenda. According to the Leader of the Opposition tonight, they will continue the harsh agenda. As he said, he will back all of Labor's cuts if he happens to get into government.

For all the talk of creating a smarter Australia, this budget, on top of cuts to research and development last year, turns its back on some of the most exciting, innovative projects that are happening in this country and that are in dire need of support before their funding runs out within a year. The Bionics Institute, whose teams have played a key role in the successful development of Australia's world leading bionic ear over the past 25 years, has a plan to develop six new devices in the next five years to treat chronic pain and movement and psychiatric disorders. The potential
health benefits and market size are bigger than for Cochlear's bionic ear. They need only $24 million over five years to keep going, yet despite requests there is nothing for them in the budget.

Meanwhile Bionic Vision Australia, a world leading national consortium of researchers working together to develop a bionic eye, is currently using advanced manufacturing techniques to make in Australia prototypes that right now are being tested in patients. They need a mere $8 million a year for the next three years to keep going—but the budget turns its back on them. Without secure funding past this year, researchers will pack up and look to other countries that can offer greater support and we may lose this work forever—just as we have with so many climate scientists and technologies.

News today that CSIRO scientists have developed flexible solar panels that can be printed at home is great, but cutting 165 jobs from that very institution, the CSIRO, is dumb. These are the industries of the future, where Australia’s advanced manufacturing techniques and our incredible intellectual capacity work together. If we can sell the world a bionic eye or an implant that relieves pain, it will be far better than shipping off coal or woodchips.

The Australian economy is in transition. We must move away from dig it up, cut it down, ship it away. We can prepare for the new economy or be caught out. The old parties seem more than content to leave us to be caught out by the changing global situation and the carbon bubble that will see huge coal projects and ports stranded as black elephants. Cutting more than $1 billion from renewable energy, energy efficiency and the environment is not smart or strong and it is further evidence that Labor cannot be trusted on the environment.

Let us be clear: we are in a climate change emergency. Last week climate scientists reported that, for the first time, atmospheric CO₂ concentration figures exceeded 400 parts per million, moving us perilously close to runaway climate change. In that context the government have to answer two fundamental questions in the budget.

First, why do they believe that the measures to reduce greenhouse gas emissions should be revenue neutral? The government asserts that receipts from the sale of emission permits should equal expenditure on assistance measures and programs to promote energy efficiency and renewable energy. But why? Given that we are in a climate emergency and deep and sustained emission cuts are a scientific imperative, why should expenditure on climate related programs be revenue neutral? It is like saying that defence should be revenue neutral in a war.

Second, the government said the funding to climate related programs needed to be cut because of the lower carbon pricing when trading starts. But the trading period does not start until 2015-16, so why is the government cutting almost $400 million from the essential Australian Renewable Energy Agency, the effective Low Carbon Communities program and the critical Biodiversity Fund during this two-year period? Not only is this a breach of the Multi-Party Climate Change Committee agreement; it is denying Australians cheaper electricity prices through investments in renewable energy.

The opposition is not serious about climate change either and, contrary to his promises about a secure and safe Australia, Mr Abbott is mortgaging our children’s future. His Direct Action plan still has not won support from a single Australian economist or industry group. Perhaps Mr
Abbott, who wants to be seen as honest, trustworthy and competent, can give a straight answer to the question of the dollars that are going to go into the carbon fund and a yes or no answer as to whether he will maintain the 41,000 gigawatt hour target for the large-scale RET.

The budget is further evidence that the Labor government is internally conflicted about climate change and cannot be trusted to protect the environment. The rush for coal seam gas and the exporting of more and more coal is killing the Great Barrier Reef and destroying valuable farmland and groundwater systems, and Labor and the coalition are standing by and letting this destruction happen. Not one coal seam gas project has been rejected by Minister Burke—not smart or strong; that is dumb, weak and dangerous.

So is Mr Abbott's proposed one-stop shop for environmental approvals. Mr Abbott will stand by and let the Queensland government turn cattle into national parks and allow them to graze those national parks at the same time as he stands by and allows the Queensland government to overturn national parks for logging. Today we had an Abbott opposition talking about agreeing to logging in World Heritage areas.

Despite taking the chair of the G20 next year, Australia is failing to live up to the commitment given at the G20 to end fossil fuel subsidies. While we welcome the cuts to carbon capture and storage programs—which was always a nonsense and a waste of money—the government will continue to provide billions in tax breaks for big mining corporations, while pushing single parents onto Newstart. While shaving the subsidy for mining exploration, the government's ongoing financial support to the big miners is bad for the climate and a diversion of taxpayer funds which could go into creating a more caring society. These are the choices and priorities of Labor and they are backed by the opposition.

And what about fairer? The Greens have a vision not of closing the gap not only on ecological sustainability but also between rich and poor—and that gap has been widening. We support a universal health system that includes caring for our teeth and growing more secure jobs throughout our economy. DisabilityCare is a significant reform towards a better and more equal society. We Greens are proud to have backed it from the beginning and to have supported it through the parliament. We congratulate the Gillard government for delivering.

Achieving a more equitable schools funding model is another important step for a fairer society. The Australian Greens are right behind the Gonski school funding reforms. We have been advocating a fairer funding model for schools for over a decade and we want it legislated before we rise for the election. The test will be whether the government's proposals live up to the expectations of the Gonski review for an equitable funding system. Australians have reason to be sceptical, given the very modest funding available in the next four years. For a Prime Minister who proclaims education to be the reason she entered parliament, she is selling the school children of Australia short with only $473 million next year. More money should be flowing to our public schools—the schools that educate our most disadvantage kids—and it should be flowing faster. The longer we wait the more kids we are selling short.

The coalition is all at sea on this issue, but to be perfectly clear—and from his speech tonight—Mr Abbott has said he will not proceed without additional funding unless all the states sign up. At this point many have not done so. The Greens will protect a fairer
and more equitable funding model against a coalition government intent on letting our public schools down. We will stand in the Senate and in the House of Representatives against any repeal.

In contrast to schools, the budget actually cuts funding to child care. It keeps in place the freeze on indexation on the childcare benefit rebate, leading to increased pressure on families struggling with the cost of living. When we know fees are increasing and the childcare sector desperately needs help to provide quality and flexible care for busy families, this is neither smart nor fair. The biggest disappointment for many Australians who are really struggling is the failure of the government to increase the rate of Newstart and youth allowance, and its continued punishment of single parents. The paltry increase of $19 a week to the allowable income of Newstart recipients, including single parents, puts a lie to Labor's claims of 'a fairer society'. It is an insult to those who are struggling to make ends meet.

More than that, the decision to abolish the baby bonus by incorporating some of it into family tax benefit A will further hurt low-income families. While the Greens support, in principle, reform of the baby bonus, we want to ensure the poorest in our community are not hit harder by these changes. It is disappointing that once again the opposition have joined with Labor to remove benefits from those most in need. Mr Abbott went even further in his speech tonight. Not only is he going to cut Newstart even further but also he is going to delay the superannuation guarantee and take away the low-income tax rebate, at the same time letting the big miners off.

The failure of the Gillard government to increase Newstart payments by $50 a week, an increase supported by both business and the community sector, will lead to more people falling deeper into poverty. It is even more disappointing that the government has decided not to act, despite the other place today voting to support a Greens motion noting that Newstart is too low. This was the choice the government made—uncaring and mean, like its race with the coalition to the bottom on who can be crueler to asylum seekers fleeing horrors in their own lands.

Lord Stern commented this week that with global warming the challenge of food security will see displacement of millions. In such a global context, Australia cannot continue its appalling treatment of refugees. It was disgraceful to hear the Leader of the Opposition say that he is going to rescind the increased humanitarian intake.

The cruel government and coalition policies are costing billions—nearly $10 billion from 2012 to the end of the forward estimates—and are undermining our international reputation; but more than that, it is just deliberately cruel policy. They are spending almost twice as much on cruel detention polices than on DisabilityCare and Gonski combined over the forward estimates. What does that say about a fairer society? We also learned in the budget that the government is looking to revise Australia's refugee assessment processes to find new ways to punish refugees and shut people out from safety. This is the government now wanting to wind back humanitarian protections, to deport more refugees back to the countries they have fled from. It is not the policy of a nation that cares for people or seeks to play a leadership role in the Asian Century.

Adding insult to injury, we are now allocating overseas aid money to our cruel and inhumane refugee detention policies, in contradiction to the government's own scope of legitimate aid document, making us the third biggest recipient of our own overseas
aid—not fair, not smart; plain dumb and mean. As well as demonstrating its lack of compassion here in Australia in the last two years the government has cut $4.8 billion to overseas aid over the forward estimates. Australia is in the right place at the right time for the very first time in our history. Not only are we hosting the G20 next year but also we have been elected to the United Nations Security Council. But we are in danger of being perceived as uncaring by the rest of the world and on the international stage of making promises, only then to break them. It should concern all Australians that, while campaigning for a seat on the Security Council, Australia promised to meet our aid target of 0.5 in the time frame agreed, and now we have reneged twice. What sort of country are we looking like?

Population pressures exist not only overseas but also here at home. Some of the real pressures Australians are feeling come from living in cities with inadequate infrastructure. We welcome the commitment to rail projects, in particular the Metro rail and Perth rail projects, but are disappointed no funds were there for Hobart's light rail. And we are concerned about the apparent embrace by Labor of the failed public-private partnership model.

It is also disappointing that much of the good planning work on boosting public transport and active travel to create more sustainable and liveable cities has not been converted into action—70 per cent of funding is still flowing to road projects. Investing in public transport and rail will relieve pressure on people in our cities, but the old parties retain their obsession with roads. The coalition's speech tonight was a classic in this regard—more highways everywhere.

The government also failed to acknowledge the national housing crisis. The Labor Party and the Liberals have turned their back on millions of Australians struggling with unaffordable housing. Housing pressure is enormous here, yet the budget essentially ignored it, with no new programs for housing affordability, no new money to tackle homelessness, no boost in public housing, no plans for more affordable rentals or more affordable ownership and no mention of the word 'housing' at all in the budget speech. So much for 'fairer'.

Quality of life is further enhanced by the arts and we welcome the fact that the national cultural policy is now to be enacted and we welcome the restructuring of the Australia Council. The Greens have been campaigning for a long time for increased resources to the ABC and SBS and are happy to have delivered a $129 million boost to the ABC and an increase of $30 million for SBS. However, the failure to find a measly $1.4 million for community radio is a disgrace. The Greens will continue to do what we can to ensure additional support for community radio.

Furthermore, regional arts have been ignored. In fact, the whole of regional Australia does not seem to exist for the Labor Party. Rural and regional Australia, which is facing very significant challenges, has been let down by the slashing of Caring for our Country and the Biodiversity Fund—and taking $2 billion away from the Regional Infrastructure Fund will not make for a stronger economy or a fairer Australia.

A stronger society is not just about money but also about how we relate to each other. The Greens are going to continue to boost that dividend of decency in Australia by pursuing marriage equality and banning sports gambling advertising before nine o'clock.

The Treasurer is reported to have yesterday placed Labor between the austerity
freaks on the one hand and the Green types on the other. The Green types, according to him, want the bottom to fall out of the budget. Last year it was the Treasurer who was the austerity freak, insistent on a budget surplus this year, and it was the Greens showing economic maturity and responsibility in calling for a delay in the surplus. And it is now we, the Green types, who—far from wanting the bottom to fall out of the budget—have been identifying revenue measures, including fixing the mining tax, ending fossil fuel subsidies and introducing a levy on the big banks. It is the Treasurer who would rather engage in stereotyping than standing up to Rio Tinto, BHP, Xstrata or the big banks.

The Labor government had the opportunity with this budget to manage the economy in a way which would care for people and protect our environment. That would have been smart and fair. Instead, we got $2.3 billion of university cuts, a billion taken from clean energy and the environment, and continued punishment for single parents and the unemployed. I do not think they will take much comfort from a 10-year road map with a shelf life, if the polls are right, of only a few months.

And Tony Abbott will be worse, if his speech tonight is anything to go by. That is why you need the Greens. It is governments working with the Greens that deliver major reforms. It is the Greens who have delivered the clean energy package, it is the Greens who have delivered Denticare and it will be the Greens who deliver marriage equality. What is more, we will stand up strongly in the Senate and the House of Representatives. We will not allow the repeal of important initiatives we have fought hard for, particularly those in the areas of schools and clean energy. We will stand against the excesses of any future government, including an Abbott government, which tries to turn such achievements back.

The Australian Greens will deliver a caring Australia, a path to a safe climate and a proud global reputation. We are the competent, adult, honest party which will stand up to those who protect their own interests to the detriment of the environment and who deny everyone else a fair go. It is the Greens who will stand up with a strong voice for what is right and what is genuinely strong, smart and fair in caring for people and protecting our environment.

Senator MADIGAN (Victoria) (20:35): I rise tonight to give my opinion, and the opinion of the Democratic Labor Party, on the federal budget handed down only two days ago. I do not deny that the state of the global economy at this point in time makes it difficult for any government to deliver a budget which will satisfy everyone and keep the books in the black. But you would have hoped that, because of the huge number of promises given by the government to keep the budget in surplus, a better budget could have been delivered.

As a small business owner and a family man, I have always tried to live within my means. If you do not have the money for something you need, you cut down on other expenses. You trim the fat, tighten your belt and redirect funds from luxuries to life’s necessities. That is what Australians have had to do already as a result of the introduction of the carbon tax, which increased power costs around the country. Sadly, families around the country are, given the measures delivered in this budget, going to have to get better and better at cutting their own spending. The Treasurer and this government have removed incentives, funding and bonuses from the Australian people in this budget. What they have not done is curb their spending elsewhere. In
fact, spending has increased in areas I believe should be cut.

While I am forced to admit that the likelihood of a DLP government being elected in September is remote, I do believe the Democratic Labor Party will have much to contribute in coming years. The purpose of a budget reply is not only to point out where the current budget succeeds or fails but also to say where we in the DLP believe it could have been improved. There are a number of things I will talk about very briefly. They are subjects I hope to bring up in more detail over the coming months and with whichever party forms the next government.

Families are among the worst hit by this budget, with the abolition of the baby bonus and the reduction of eligibility for this payment for stay-at-home mums. But it is worse, much worse. Add to this the cuts imposed on single mothers and it is worse still. This budget removes any remote recognition by government that children are an investment in the nation's future. Children have been reduced to a commodity for which the user pays. 'If you can't afford them, don't have them. We don't care.' That is the message this budget gives to families.

Once upon a time, in the bad old days of Menzies and Whitlam, there existed something called 'horizontal equity' in taxation for families. Figures show that back then the average family did not pay tax until they earned 150 per cent of average weekly earnings. The tax system took into account the number of dependants that the wage earner provided for before taxing them. The government recognised that supporting families was an investment in the future—not anymore.

John Howard, as Treasurer in the Fraser government, changed the system. The introduction of the family allowance paved the way for families to be seen not as custodians of future citizens but as welfare recipients and drains on the public purse. We saw campaigns suggesting family tax benefits were ways of funding 'middle-class' welfare. Yuppies were the only ones entitled to a decent standard of living. It was just tough luck if you were supporting children. Now each wage earner is treated as an independent individual with no dependants—a triumph of rampant individualism. Having children makes you an economic basket case. It is your choice. User pays. Suffer little children. Scrooge controls the purse strings.

The DLP believes our economy is best served by looking after the families and communities first. They are the top of our totem pole, not corporations. In the coming months the DLP will release a number of policies we hope can be taken up by the government in the hope of assisting the families and communities of Australia.

For workers, the DLP will seek support for a national portable leave scheme that will ensure all workers, especially those in unskilled or less secure employment, can accumulate sick leave that can be carried from job to job, ensuring they are secure in periods of illness and employers are able to employ temporary staff during their absence.

We hope to provide legislative assistance for small business in a number of areas. For example, small business suffers greatly from a diminished cash flow when larger corporations hold up or withhold payments for goods or services provided. The DLP will introduce legislation aimed at giving small business greater confidence in their ability to receive monthly payments promptly.

Every year we find it harder and harder for first home buyers to achieve that dream of homeownership. The First Home Owners Grant, recently altered, was usually seen as
an incentive for developers to increase the price of the home by the amount of the grant. This budget offered little assistance for the first home buyer. The DLP will seek to introduce legislation to allow a modest percentage of superannuation to be made available as a deposit for first home buyers.

The incoming NDIS is welcomed and will enjoy the full support of the DLP. It is an initiative whose time is well overdue and I am pleased to see bipartisan support, for the most part. During the last year I have brought up with the government and the opposition an issue that I believe is of overwhelming importance to the health of all Australians as well as the health of our economy. I am disappointed that nothing has been done to address this issue in this budget and nothing appears likely to happen in the near future. This health issue has a direct cost to our economy of some $5 billion a year and an indirect cost of over $31 billion. It affects every Australian to varying degrees, and I can guarantee that it affects many of my fellow senators and the members of the other place. The issue is sleep disorders and sleep deprivation.

The Australian Sleep Health Foundation has commissioned an extremely detailed report showing just how much this problem affects this nation. The chairman of the foundation, Professor David Hillman, of the Sir Charles Gairdner Hospital in Perth, has devoted an enormous amount of his time and resources to this problem. The work of the Department of Pulmonary Physiology and Sleep Medicine, in Perth, of which he is the head, is something of which the people of Western Australia should be justly proud. It is the hope of the Australian Sleep Health Foundation, and of Professor Hillman, that sleep disorders and sleep deprivation can become the fourth arm of the National Preventative Health Strategy alongside obesity, alcohol and tobacco. This is a hope I and the DLP will try hard to fulfil, and I welcome any interest from the major parties.

Every day, countless thousands of Australians give all of their time to care for relatives on a full-time basis. Because of their selfless service, our health system saves billions of dollars. However, when their caring is completed, either at the loss of the loved one being cared for or simply because they also have become too frail to provide constant care, there is no reward for their years of devotion. The DLP believes the government should implement a carers' superannuation scheme to provide for a basic level of comfort for the people who have given so much and who have saved the Australian taxpayer countless billions of dollars. We will work with the next government to achieve this result.

Lastly, I would like to discuss an aspect of this budget that has me deeply concerned. I find it interesting that there has been little analysis of the foreign aid section of the budget, apart from the outcry that Australia has once again delayed its commitment to meeting the Millennium Development Goals. I believe that Australia is in a good position to help the world's poor. But I also believe that we have a duty to the world's poor and to the taxpayers funding this aid to ensure that every single dollar is going to the most worthy causes. The foreign minister's statement contained in the budget booklet, Australia's International Development Assistance Program, subtitled Effective aid: helping the world's poor, contains the line 'It is important that aid funds are spent wisely and well.' I could not agree more with this sentiment. Australians are a generous people. We will always come to the aid of those less fortunate than us, especially a neighbour in need. However, it is clear that the foreign minister and I would disagree strongly on the definition of the words 'wisely' and 'well.'
This particular line from the book caught my eye:

The Australia-Indonesia Partnership Country Strategy 2008-14 aligns Australian development assistance with Indonesia's priorities and reflects the determination of the two countries to tackle poverty and promote a prosperous, democratic and secure Indonesia.

Australia gives more money to Indonesia than it does to any other single country. What I take from this statement is that this money is given to assist the priorities of the Indonesian government, not the priorities that most Australians would place at the top of their list for aid.

I have said on a number of occasions that it beggars belief that we can justify tripling our economic aid to Indonesia over a six-year period while they can afford to triple their military spending over the same period. Now we have given them an additional $105 million, increasing aid to $646 million a year. This year Indonesia has the third fastest moving stock market in the entire region, beaten only by Japan and the Philippines, and has enjoyed economic growth of over six per cent a year for four of the past five years. This is hardly a country in economic distress. I am not suggesting that the majority of people in Indonesia enjoy a comfortable lifestyle, but how much of that is a result of the incredible economic inequality and wealth disparity between the rich and the poor or because of the culture of corruption that is still endemic in its government, departments and institutions?

Government priorities come and go, but the problems facing the world's poor will remain. In the past fortnight we have heard the Indonesian President proclaim proudly that the aim of his government is to have a military that is bigger and better than that of Australia, Singapore and Malaysia. I have no problem with that. A sovereign nation has a right and a duty to establish and maintain an adequate defence force. However laudable the Indonesian President's statement is, he forgot to add, 'and we thank the Australian foreign aid budget for helping us attain that goal'.

If you can afford to build a military to rival Australia's then you can afford to build schools, extend health care and improve the levels of equality within your own country. You would think that, based on the statement by the Indonesian President and these figures alone, a review of Australia's large foreign aid each year to Indonesia would be prudent. However, it appears we have not taken the figures into consideration. In fact, as I said earlier, we have increased our aid to Indonesia by $105.2 million a year to a staggering $646.8 million.

I have brought to the attention of senators in this place the atrocities that are occurring in West Papua at the hands of the Indonesians. In doing so, according to the foreign minister, I have shown myself to be a reckless, unthinking Australian. At least he lets me keep my citizenship. The foreign minister cited a number of projects being conducted in Indonesia with the help of Australian aid money, and I agree these are great achievements. But I question why we have brought about increasing Australian aid by $500 million in six years when they can afford to increase their military spending by $6 billion in the same period. Pardon my cynicism, but to put it plainly, this just does not add up.

I am not asking for the foreign aid budget to be cut but that it be used, in the minister's own words, 'wisely and well'. I can think of a number of projects that are sorely needed in Timor-Leste, mainly because of the rampant destruction caused by the Indonesian military as it reluctantly left. These could be easily completed with a portion of the aid currently being given to Indonesia. Maybe it is the
methods used to determine how we spend our aid that need to be looked at. Surely helping Indonesia extend its military is slightly less important than helping the East Timorese establish a proper sewerage system, or an education system that allows for fewer than 60 children to a classroom, or a road system that includes actual roads.

I think the thing that bothers most Australians about this is that, however much the government says it has not seen any evidence of the recent atrocities and human rights abuses in West Papua, the international outcry is growing and, after East Timor, they simply will not accept a government's word for it. If the government wants to deny years of mounting evidence they can do so, but they should not be surprised when the average Australian, reckless and unthinking though they may be, is outraged that their tax dollars are assisting these atrocities. I do not believe that our foreign aid budget is being spent wisely and well. Either we spend it wisely or we should spend it at home.

A country is what a country makes. I remind the government and the opposition that you cannot continue to import more than you export. We as a nation need to manufacture more world-class products for domestic and foreign consumption, and we need to produce more world-class food for home and abroad. Ultimately, if we do not support and encourage our manufacturers and our farmers Australia’s standard of living will continue to fall.

Many aspects of this budget are positive—a feat not easy to achieve with the size of the deficit we now face. However, I believe many opportunities have been missed to improve the lives of ordinary Australians. I can only hope that the next government, whether ALP or coalition, can look to the workers, the families and the communities of Australia and recognise that it is in them that the basis of all solid economic policy begins.

ADJOURNMENT

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (20:51): I move:

That the Senate do now adjourn.

Politics

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (20:51): Several months ago I spoke in this chamber about the opposition’s slide towards Tea Party style tactics. I cited evidence showing that this development has distorted the coalition’s decision-making on policies of national importance and led to a limitless strategy of obstructionism and defiance. In deciding to fight every day in Tea Party mode no tactic has been deemed too petty or excessive. This week the coalition reached a new low by denying a pair to a mother, Michelle Rowland, who was trying to return home and care for a sick 14-month-old child. Like the rest of Australia I was stunned that the coalition had sunk this low.

It is not just the coalition’s stance on key issues or mean-spirited political tactics that we should be concerned about. It is something even more fundamental: the denigration of political debate in Australia that is being driven by the opposition leader and his team.

In America, this sort of shrill, fear-driven campaigning led to the tragic shooting of United States congresswoman Gabrielle Giffords. How much further will the opposition leader go until his tactics lead to a similar disaster occurring in Australia? Already the political narrative, relentlessly pursued by the opposition leader and shadow Treasurer, has unleashed responses in some
sections of the public that are honestly quite frightening. This can be largely attributed to the fact that coalition politicians are free to associate themselves with Tea Party style protests which place a premium on ignorance, and disregard informed decision or discussion of policy or leadership. We should never forget Tony Abbott's call for a 'people's revolt', which saw a series of aggressive demonstrations and a new type of political extremism in Australia. The alternative leader of this country was standing proudly in front of 'ditch the witch' placards at a time when death threats were sent to Independent MPs. That is the calibre of the opposition.

At one anti carbon price rally in July 2011, some participants suggested to the shadow Treasurer that Australians should 'take up arms against the government'. What sort of hysterical, pitchfork-carrying nonsense is this? The look on Joe Hockey's face was one of alarm at just what his party has unleashed in Australia. Now it is out of control and these voices are growing louder. We saw it when the protesters swarmed outside Minister Albanese's electorate office in Sydney and hurled abuse at him, calling him 'a maggot', amongst other things. Members of the coalition, including the member for Indi, Sophie Mirabella, were right there next to the protestors carrying placards that read, 'Tolerance is our demise,' and 'Carbon dioxide is not pollution'.

Perhaps the worst offender has to be the Consumers and Taxpayers Association, CATA—the group responsible for many of these hate filled public events in recent times. This includes the protests featuring the infamous 'ditch the witch' placards I mentioned a moment ago. Although Tony Abbott has since distanced himself slightly, in March this year we still had Barnaby Joyce and Liberal member for Hughes, Craig Kelly—

The PRESIDENT: Order! You need to refer to people in the other place or here by their correct titles.

Senator POLLEY: My apologies. Senator Barnaby Joyce and Liberal member for Hughes, Craig Kelly, were proudly addressing a 'rotten to the core' rally. I should not have to remind Senator Joyce and Mr Kelly that this group has covered themselves in glory on numerous occasions over the last couple of years. The group's spokesperson stated publicly that the furore over Alan Jones's 'died of shame' comment was an overreaction and that Jones was the subject of cyber-bullying. They have hurled abuse at the elected Prime Minister of this country during question time. They have perpetrated climate change denialism. The list goes on, and the coalition is right next to them every step of the way.

This trend of extremism and political activism embraced by the coalition comes at a huge cost to Australia. Tony Abbott has sought to consistently undermine the government's efforts to reasonably manage the Australian economy and has done this in part by lowering the tone of the debate at every turn. Remember, it was Labor's response to the global financial crisis that saved hundreds of thousands of jobs and small businesses in this country. It was praised by Noble prize-winning economists and ensured that Australia did not slide into recession. Our economy has a gold-plated AAA credit rating. This is the envy of countries around the world, but all we have heard from the opposition is a series of breathtakingly stupid comments. We had the shadow Treasurer saying that the Australian economy is 'flatlining', even though it has grown considerably. He also regularly implies that running a $1.5 trillion national economy is not dissimilar to running a household budget. This is of course part of a wider trend when it comes to the economy.
and a range of other issues, as senior coalition leaders try to sound like everyday people. If I hear Tony Abbott say the words 'fair dinkum'—

The PRESIDENT: Order! You need to refer to someone in the other place by their correct title.

Senator POLLEY: If I hear Mr Abbott say the words 'fair dinkum' one more time, I will vomit. We also need to consider that the coalition's fixation on ignorance is damaging Australia's strong international reputation as a progressive and dynamic middle power. When Euromoney magazine awarded its prestigious Finance Minister of the Year award to Treasurer Wayne Swan, the shadow Treasurer basically threw his toys out of the pram. Let's not forget that he made several telling remarks, including this gem when discussing past winners. He said:

In 2001 there was a Pakistani finance minister. That is quite an extraordinary one, that one.

If the shadow Treasurer had conducted any semblance of research, he would have found that the Pakistani minister in question could have headed Citibank in New York. Instead, he returned to Pakistan to institute successful economic reforms. Extraordinary indeed!

Sometimes it seems that every time the opposition leader opens his mouth, he tarnishes the country's image. He has publicly lamented the fact that the Prime Minister will not 'lie down and die' and stated that the science behind climate change is 'absolute crap'. Even his own party cringed when he said in September last year that the Prime Minister should be talking to the Indonesian president in Jakarta rather than 'swanning around in New York talking to Africans'. How embarrassing! This was despite the fact that the Prime Minister was attending the annual four-day assembly of the United Nations, which was also attended by the president.

Mr Abbott and senior members of his party have been raising the bar of stupidity, and it is to the detriment of the political discourse in this country. This means that moderate members of the Liberal Party are quickly becoming an endangered species. They must look on in horror every time they witness their leader pursue his chief strategy: 'Give me the prime ministership or I will wreck the joint.' There is no nuance, no thoughtful opinion, no well-constructed arguments or invitation to challenge the merits of an idea. Instead they rely simplistically on mantras like 'stop the boats' or 'great big new tax.' It is vicious, crude and cheap, and it demonstrates that the Abbott coalition is a political soulmate of the Republican Party.

The Liberals' strategy is to make politics a policy-free zone, and by unleashing their attack dogs and fomenting this culture of ugly protest the opposition has redefined political demonstrations in Australia. How on earth has this come to be? And tonight, when we heard the budget in reply, what did we get? We got more of the same negativity, denying that there is any need to address climate change. It was more of the same, and we know on this side, as the Australian public already know—and we will educate them—about the challenges ahead they will face under any incoming coalition government, and that is their attacks on Australian workers and what they will do in bringing back Work Choices mark 3. We know what Tony Abbott's history was when he was the minister for health. He gutted the health department by a billion dollars. (Time expired)

Opposition senators interjecting—

The PRESIDENT: Order!

Senator Fieravanti-Wells: Mr President, I rise on a point of order. Three times you have brought Senator Polley to
order. she has been totally and utterly disrespectful. She could at least, in her
diatribe, refer to Mr Abbott by his proper
name.

The PRESIDENT: Order! Resume your
seat. There is no point of order.

Oxfam Trailwalker Melbourne 2013
event

Senator FAULKNER (New South
Wales) (21:01): On Saturday, 20 April, this
year, the Tigers/True Believers Oxfam
Trailwalker team finished the 100 kilometre
Oxfam Melbourne Trailwalker 2013 event,
and did so in 28 hours and 53 minutes,
shaving six minutes off the world record
time that was set last year for a team with a
blind competitor. That blind competitor was
our mate, Ben Phillips. I give full credit to
Benny. He set out to beat his own world
record and he did.

This year's Melbourne event was the
Tigers' 13th Oxfam Trailwalker. I am very
honoured that one of the team members Mr
Greg Bell a famous trail walker, has joined
me in the chamber tonight. Mr Bell was back
for his fourth trail walk. Our totally blind
competitor Ben Phillips was back for the
third time, and the Melburnian Tigers
Trailwalker, Daniel White, was there for his
second walk. I would have to admit that in
my own case it was walk No. 13.

There were 750 teams, assisted by support
crews, and 850 Oxfam volunteers took part
in this year's Melbourne Oxfam Trailwalker.
Of the 3,024 participants, 79 per cent
finished the 100 kilometres, and 54 per cent
of teams made it to the finish line as a
complete team of four. I am pleased to report
that, once again, every member of the Tigers
team finished with all four members crossing
the finish line. The Melbourne Oxfam
Trailwalker event seems to be getting
tougher every year. This year there were
significant changes made to the trail which,
in fact, increased the average time taken for
teams to complete the course by 33 minutes.
So I am also pleased to be able to report to
the Senate that the Tigers beat the average
time for completing the walk by a very
substantial eight minutes.

The event this year started on a crisp
autumn morning at Wheelers Hill which is, I
am told, 22 kilometres south-east of the
Melbourne CBD. The start line offers
walkers a panoramic view of the
Dandenongs. The view of those mountains in
the early stages of the walk are a constant
reminder to participants of the tough
challenge that lies ahead of them. The trail
walk follows Dandenong Creek through the
Churchill National Park, slowly transitioning
from suburbs to bush through to Lysterfield
Lake. After Lysterfield Lake the trail
changes significantly from that of previous
years. The Tigers team battled through those
new sections, including the gruelling Kokoda
Memorial Track—known locally as 'the
1,000 steps'—as well as some of the most
mountainous terrain of the Dandenong
Ranges National Park. In fact, it was not
without some difficulty this year because, in
the wee small hours of Saturday morning,
plummeting temperatures almost forced Ben
to withdraw from the event as his own body
temperature dropped alarmingly. But after an
hour or two under a space blanket and under
the close eye of Oxfam paramedics, we were
delighted that Ben was given the all clear to
battle on.

The next morning, the Yarra Valley and
the gullies and forests of the Dandenongs
were a very welcome distraction from
blisters and the freezing overnight
temperatures. The final section is easily the
toughest part of the trail. It includes a steep
climb towards Mount Little Joe, then what I
could only describe as goat tracks, the odd
fire trail and finally some very steep and
rocky ascents and descents. Needless to say,
the finish line at Wesburn Park could not have come soon enough for us and all the other competitors.

As always, we could not have done it without the tireless assistance of our amazing support crew. The Tigers would like to sincerely thank all the staff from the office of my colleague Anthony Byrne MP, the member for Holt. Special thanks go, again, to Alexandra Stalder; her mum, Helen Stalder; and Nick McLennan. I have to say, in relation to Alexandra and Helen, they have supported and made it all happen for the Tigers team in Melbourne for five years, and we really do appreciate such sterling support and effort on their part.

As always, thanks also go to the Balmain Tigers Rugby League Football Club for their ongoing support for our team. I only wish we could give some support to Balmain Tigers, because they are not travelling as well as one would hope this season, in the guise of Wests Tigers—as you would appreciate, Mr President. I hope—perhaps against hope!—that they will turn their fortunes around against South Sydney this weekend. And Mr President, I note the bias from the chair as you shake your head—I am not sure that is quite acceptable from the President of the Senate! I understand that you might be somewhat doubtful about the chances of the Tigers, but we will be with them anyway.

But of course, as you know, Oxfam is a great cause. Since 1999 Oxfam Trailwalker events in Australia have raised more than $49 million. Donations assist Oxfam's vital work in developing countries around the globe and in Indigenous communities in Australia and really do assist and equip some of the world's most vulnerable people to bring about very positive change in their lives. There are a number of people in this place, including some in the chamber here tonight, who have been very strong supporters of our team, and I thank all those in the building who have done that over many years now.

As of 15 minutes ago, the 2013 Melbourne Oxfam Trailwalker event has raised over $2½ million. The Tigers so far have raised $9,690, so we are just $310 shy of our $10,000 fundraising target, which we are very confident we will not only reach but exceed. So, if anyone would like to donate and help us reach our goal and assist the wonderful work of Oxfam, please visit—here we go again; it is always a great risk when I read a website into the Hansard record, but, Mr President, for yours and for everyone else's edification, I am going to do it again here tonight—it is https://trailwalker.oxfam.org.au/team/home/14157. I thank the Senate.

Regional Australia

Senator McKenzie (Victoria) (21:12): Tonight I am a very proud member of the Abbott-Truss coalition, having sat and listened, in the bleachers, to the budget in-reply speech given by Mr Abbott on behalf of us all. And what a stark contrast it was, for the Australian public going forward, between what an Abbott-Truss government would be offering—restoring the trust between the people and their government, doing what we say we will do, keeping the promises we make and responsibly managing Australia's financial issues—and Prime Minister Gillard, Mr Windsor and the Greens and the merry dance they have led us on in our fiscal situation; I think 'spiral' was the word used tonight. Where there has been a culture of divide and conquer, what we heard tonight was about a culture of collaboration, focused on increasing productivity—unchaining business to grow, to employ and to ultimately contribute. I am sure Regional Australia would welcome a government that focused on Jakarta, not Geneva, in its foreign
policy. That will be no more evidenced, if the coalition is successful in September, by the unshackling of our environmental policy and our financial future from Europe by getting rid of the carbon tax.

Manufacturing and food processing operations are key to our future food security needs in this nation, and they have been closing. They have been closing at an increasing rate under this government, because they have been forced to compete, with their input costs going up, against nations who do not have the electricity costs they do, or the transport and labour costs et cetera. Eleven have closed. The carbon tax accumulates and cascades right through our food supply chain. And no matter what the opposite side says about agriculture not being subject to the carbon tax, it is—come and talk to my dairy farmers.

No matter what the opposite side says about agriculture not being subject to the carbon tax, it is. Come and talk to my dairy farmers; come and talk to Senator Colbeck's dairy farmers. They would be happy to walk you through how it directly affects their businesses—not to mention businesses right through that food supply chain and our food manufacturing and then obviously on through the wider economy. It is functioning as a reverse tariff—and Mr Abbott mentioned that tonight—as jobs are lost throughout regional Australia. There have been: 68 jobs lost in Tamworth at Grain Product; 64 jobs lost in Rochester, a small town of 2,000 people in north central Victoria's Murray-Goulburn closed its milk drying operation there; 344 jobs lost from Golden Circle, with 146 of these again in north central Victoria in Girgarre and 38 in Wagga. This is a reverse tariff costing real jobs in regional communities.

SPC Ardmona waits to hear from the government regarding their request for a safeguard investigation, a request that was made two weeks ago to this government by this business, which is employing 879 people in Shepparton just down the road from several of the towns that I have just mentioned, an area that has seen significant hardship. There were floods there 12 months ago that covered most of the orchards. We have had the uncertainty caused by the Murray-Darling Basin Plan. And here we have the iconic SPC Ardmona making a very valid and legitimate request of the government, and I am not getting a sense of urgency. Emergency safeguards are a temporary mechanism available under the WTO framework to assist local industry that is severely impacted by foreign imports. It is not an actual tariff—although our industry is operating under a reverse tariff. It is a short-term stop gap to give time to ascertain if there is an issue with another country's behaviour.

It would be nice if this government would support communities, workers and growers. It is incredibly ironic that our food processing industry is subject to the reverse tariff of the Gillard-Greens-Windsor government while this very iconic company, which is key to this local community, is simply asking for a response from government. It should not take this amount of time. I call on the Minister Emerson, Minister Ludwig and the Prime Minister, Julia Gillard, to make the decision and let them know one way or the other, rather than just hanging them, their workers and the broader community out to dry.

I raise this here tonight because last Thursday I headed up to Shepparton, a great place in regional Victoria, for the 'Toss a tin in your trolley' rally. The AMWU was out in force, the local community was out in force, local leadership was out in force and growers were out in force. They were on a back of truck saying that this is important. We
understand that there are two sides to this conversation. We understand that on the one hand we have to ensure that we have a framework and a way of operating in this nation so that food processors can get on with growing jobs, growing their business and ultimately contributing to the economy. On the other hand, the onus is on us as Australians to not support imported produce that supports jobs overseas. We need to make a conscious decision about what we put in our trolley. I thought that it was a really positive response by the local community. I would like to thank Teena Parris-Knight and Lee Luvara, who is a worker at the factory, for getting together on this. Teena actually set up a Facebook site saying 'Save SPC Ardmona' and got 3,000 supporters very quickly. I thought it was a great way for social media to actually do something positive in our regional community. So I would recommend to everyone out there to log on, sign up and toss a couple of tins of local produce into your trolley when you are next at the supermarket, if you can find it. Look hard and read the labels. The tins are usually on the bottom shelf, but the reasons for that are for another adjournment speech.

Orchardists Peter Hall and Doug Brown outlined the challenges for our growers in terms of having their quotas slashed going into the cannery. It means that the fruit they would usually send to the cannery now has to go to the fresh fruit market. It is not particularly grown for fresh fruit, so it is actually causing a huge impact and flow-on effect right through the food supply chain as the bottom falls out of the fresh fruit market. That is great for everyone who likes fresh fruit, because it is going to be nice and cheap, but it is not good for our growers.

The other challenge they outlined was that if at the end of the day they are not going to get enough money in their back pocket they are not going to be able to afford to pay the pickers to come and pick the fruit. So what we are actually going to be left with, now that the water from the floods has dried up, is a flood of rotting fruit on the ground. That is a huge biosecurity risk—not to mention the smell—because of the microorganisms and insects it will cause. I was a little disappointed with the minister’s response today, because they were very genuine questions borne of a genuine concern for my community in central regional Victoria.

I would like the thank the AMWU for their passionate support for growers and their local regional community and for working so collaboratively around trying to find a solution to keep this company going, to keep their workers in jobs. At the end of the day it does not matter what your penalty rate is, because if you have not got a job you are not going to be able to earn it.

This government fails to understand how we live and work in regional Australia. There were no ALP senators or ALP state members on the back of the truck. It was a crying shame. I urge the government to respond and to give some certainty to the Goulburn Valley community, which has been buffeted by this government’s legislative programs—and I mention them: the CO2 tax and the Murray-Darling Basin Plan. Time means money. In this case it means actual jobs for real people. I would like the AMWU and the senators who are friendly with that particular union to do their utmost to lobby internally for this government to actually make a decision and let SPC Ardmona know where they stand, and get behind our local industry. So toss a tin in your trolley, please.

Senate adjourned at 21:22
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.]


Departmental and Agency Grants

Appointments

Tabling

The following documents were tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Budget estimates—Letters of advice—


Prime Minister and Cabinet portfolio.