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**SITTING DAYS—2013**

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FORTY-THIRD PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

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

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

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

Printed by authority of the Senate
## Members of the Senate

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**

**Heads of Parliamentary Departments**
Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
Parliamentary Budget Officer—P Bowen
## GILLARD MINISTRY

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<td>The Hon Julia Gillard MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<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>
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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>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
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<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
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<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
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<td><strong>Treasurer</strong> (Deputy Prime Minister)</td>
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<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
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<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>Senator the Hon Stephen Conroy</td>
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<tr>
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<td>(Leader of the House)</td>
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<tr>
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<td>The Hon Martin Ferguson AM MP</td>
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Wednesday, 20 March 2013

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

COMMITTEES

Environment and Communications Legislation Committee

Rural and Regional Affairs and Transport References Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (09:31): On behalf of the chairs of the Environment and Communications Legislation Committee, Senator Cameron, and the Rural and Regional Affairs and Transport References Committee, Senator Heffernan, I seek leave to move a motion to enable the committees to meet during the sitting of the Senate today.

Leave not granted.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:31): I move:

That the intervening business be postponed till after consideration of government business order of the day No. 1 (National Disability Insurance Scheme Bill 2013).

Question agreed to.

BILLS

National Disability Insurance Scheme Bill 2013

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator PAYNE (New South Wales) (09:32): I rise to speak on the National Disability Insurance Scheme Bill 2013. The cooperative approach that we certainly believe needs to be taken in relation to the National Disability Insurance Scheme is well exemplified by the Prime Minister and the New South Wales Premier Barry O'Farrell showing how effective cooperation can be achieved when they signed an intergovernmental agreement in December for a full state-wide NDIS rollout after the Hunter launch project. I referred earlier in my remarks to the role of the New South Wales minister, Andrew Constance, in that occurring. I would hope that what we see from the government is the Prime Minister applying that very constructive approach to negotiations with the other states and territories.

I also want to refer to those states which are not specifically hosting a launch site but which are nevertheless committed to the NDIS, including both Queensland and Western Australia. The Productivity Commission, in its work, did not envisage that every state would host a launch site but it also did not see the absence of a launch site as a barrier to participation in the national rollout. While the coalition supports the government's $1 billion commitment, we cannot reconcile this figure with the $3.9 billion the Productivity Commission said would be needed over the forward estimates for phase 1 of the NDIS. We are hoping that the government will explain this and make appropriate provisions in the coming May budget.

On the bill itself: it establishes the framework for the National Disability Insurance Scheme and the National Disability Insurance Scheme Launch Transition Agency, known as the agency. This will enable the scheme to be launched
and the agency to operate the launch in five sites across Australia from July 2013. The first stage of the scheme will benefit more than 20,000 people with a disability, their families and their carers living in South Australia, the ACT, Tasmania, the Hunter in New South Wales and the Barwon area of Victoria.

The scheme will provide funding to individuals or organisations to help those people with disabilities to participate more fully in economic and social life through the provision of an entitlement enabling things such as aids, equipment, supported accommodation or personal attendant care.

The mechanics of the agency will be established by way of legislative instruments called the NDIS rules. These regulations will further detail areas such as eligibility and assessment criteria. The government released a discussion paper on the rules on 1 February this year, but the discussion paper perhaps left a little to be desired in the information it contained. It proposed a series of questions this but it was not really a draft set of rules. This is significant, as the bill itself is essentially a framework; it establishes a transition agency, the board, the CEO and general definition of eligibility. But the nuts and bolts of the scheme will be established by the rules.

A recurrent theme in the evidence presented by witnesses was that it was difficult to offer advice, to pose questions or to plan for the launch sites in the absence of the substantive rules. The government released seven drafts of NDIS rules on the final day of hearings of the Senate Standing Committee on Community Affairs on Tuesday, 5 March. These included draft rules for becoming a participant; draft rules for children; draft rules for privacy—and my colleague Senator Mason has referred to those at some length in his remarks; draft rules for nominees; draft rules for support; draft rules for registered providers; and draft rules for plan management. They are still the subjects of consultation with the states and territories and disability stakeholders, and the coalition is also studying them carefully.

The government has also indicated that there are potentially dozens of batches of draft rules to be released. I suggest that that is not the way to do this. The rules need to be released quickly, and well before the passage of the bill through the parliament, but given the position in which we find ourselves here in this chamber today that would seem to not be the case. In her second reading speech the Prime Minister indicated the government's intention to bring the final version of the bill to a vote in the budget session. Those remaining rules urgently need to be released to enable proper scrutiny and consultation with stakeholders. The risk with this government, as always, is in its ability to implement it competently. In the absence of these rules it makes it very difficult for stakeholders in particular.

The interaction of three components—the NDIS bill, the NDIS rules and the operating guidelines for the NDIS launch transition agency—will determine how the NDIS operates. Developing a complete picture of how the NDIS will unfold is limited by incomplete and insufficient information. The work of the Senate committee has been critical in this space, and it should have had the benefit of the full rules and the operating guidelines for the agency before it was able to finish its work.

To sum up, it is appropriate to acknowledge the role played by figures on both sides of the chamber in helping to elevate the public policy profile of disability. I particularly acknowledge the coalition's shadow spokesman on this matter, Senator Mitch Fiffield, who across my area of
Western Sydney—and across the rest of Australia, from reports from my colleagues—has been unstinting in his efforts to make sure that we as a coalition engage with the most important stakeholders in this vital policy area and that we hear directly from them as to their views and their concerns. That is the way that we would formulate policy. That is the approach that we take, and there is no better exemplar than Senator Fifield. But the most credit must go to people with disabilities—to their families, to their carers and to the organisations that support them, including those very important organisations that I mentioned in Western Sydney in particular. They came together and decided that enough was enough. They said, ‘There must be a better way to do this, and we won't stop until we find it.’

The coalition wants the NDIS to be a success regardless of who is in government at any time. We want the launch sites to run smoothly. We stand ready to work with the government and with all jurisdictions to make the NDIS a reality.

Senator XENOPHON (South Australia) (09:39): At the outset, I indicate my support for the very worthy concept of this scheme and the National Disability Insurance Scheme Bill 2012. But it is important that we ensure the implementation of this scheme is effective, efficient and sustainable in the long term. For too long, Australia has been lagging behind the rest of the world when it comes to support and care for people with disabilities. In my view, it is unacceptable that Australians with a disability still find it so difficult to be part of everyday life and to be involved in work and activities that are meaningful and important to them—in short, to live a full and dignified life.

The Productivity Commission inquiry that prompted this scheme was scathing in its assessment of the current support systems. I know these words from the commission's report have been repeated again and again, but they are worth quoting once more:

The current disability support system is underfunded, unfair, fragmented, and inefficient. It gives people with a disability little choice, no certainty of access to appropriate supports and little scope to participate in the community.

The commission, which goes on to describe the current system as a 'system marked by invisible deprivation and lost opportunities', provides an excellent and comprehensive report, including a blueprint for a national disability insurance scheme.

I believe there are few who disagree that we need a major overhaul of the way people with disabilities are supported and cared for. The commission's excellent report delved into the issue of what it means, in everyday terms, when that support is inadequate or poorly delivered. For example, the commission found that there was a strong link between disadvantage and disability, with individuals and their carers more likely to be in financial and social difficulties. These include social isolation, lower levels of education and employment and difficulties with housing. Carers and families were more likely to be under strain and have poorer personal wellbeing. Some particularly heartbreaking findings in the report were about people with profound limitations. It found:

- only 16 per cent had been visited by friends or family in 3 months, and around 59 per cent had not had a telephone call in 3 months
- around 18 per cent had not had any social contact in the last 3 months
- around 44 per cent had not used the Internet in the last 12 months.

It also found:

...around 18 per cent of carers only had face-to-face social contact either once every three months or less often.
This level of disconnect is both tragic and incredibly concerning. As we know, humans thrive on social interaction and it is vitally important to wellbeing. It is awful to know that this system has failed to this extent.

I believe the NDIS, if implemented correctly, will be life changing for many people with disability and their families. In particular, I note that there are specific provisions in the bill relating to early intervention for conditions such as autism spectrum disorders, where treatment from a young age is vital. I acknowledge the work of the AEIOU centre in Queensland, a not-for-profit organisation that delivers early intervention care for children on the autism spectrum, with remarkable results. Appropriate early intervention can make a huge difference, with long-term impacts that actually reduce a child's level of disability as an adult. A vital part of this service is also the respite hours they provide parents. This organisation is still small, but its services are in huge demand and they are having a massive impact.

A better and more flexible funding structure under the NDIS will give parents the resources they need to get into the AEIOU program and will hopefully give AEIOU the resources it needs to meet demand, because that demand is critical and we cannot delay that. I acknowledge the fact that this legislation is designed to establish a framework, with further detail covered by rules to be made by the minister. I note Senator Payne's quite valid concerns about the framework being somewhat vague at this stage. We need to have those rules so that we can see the details, and that is important.

I have some fundamental concerns relating to individuals who have potential compensation claims seeking support under the NDIS. As someone who has been a compensation lawyer—and I still have my practising certificate and very small law firm—it is something that I am acutely aware of. For example, under the bill as it stands, individuals will lose their right to choose whether or not they want to take legal action in relation to a possible compensation claim. Instead, that person may be compelled to take legal action: if they do not, their support under the NDIS can be suspended. That just seems fundamentally wrong. It is inconsistent with the whole tenor of the scheme.

Basically, this bill uses the right to disability support as a stick behind the carrot, and that is wrong. Further, if an individual wants to appeal the decision forcing them to take legal action, they will need to go through an internal review or take the matter to the Administrative Appeals Tribunal. This means the person in question will either have to take on the services of an advocate or a lawyer, or defend themselves. But there is no provision allowing funding for that legal representation under the NDIS, potentially leaving people out of pocket and worse off than they would have been if the scheme had never existed in the first place—and that would be a perverse outcome.

I am very concerned that the NDIS seems overly reliant on payments through compensation claims for its funding. I want to make it absolutely clear that I find this unacceptable, that the responsibility for funding even part of the scheme should rest on the very individuals it is supposed to help. In line with the Senate committee's recommendations, individuals should not be forced to take legal action unless there is some sort of safeguard to protect them from economic loss. There are no such safeguards in this bill. In fact, the government amendments in the House have made these provisions even more onerous on individuals. In fact, where a compensation claim has been taken over or made by the
CEO on behalf of an individual, it appears the CEO then has full rights to act on the individual's behalf without that person's consent.

The scheme is supposed to be about giving people with a disability the power to choose and control their own treatment and support, but these provisions blatantly remove any kind of choice from the equation. They operate on the very assumption that a person's only choice in this situation is the one that is right for the NDIS, not the one that is right for the individual themselves. To me, this seems to go against the intent of the bill and treats people with a disability in a patronising and condescending manner. This is particularly clear when you consider similar provisions in other state, territory and Commonwealth legislation which do not have the same element of force and do include safeguards, and that is why I will be moving amendments to that effect and I am looking forward to the support of my colleagues on this side of the chamber and my crossbench colleagues to remedy this absolutely clear anomaly.

Beyond establishing protection for individuals in the case of subrogation—a concept that I will discuss in the committee stage of this bill—these amendments will also ensure that individuals who go through the appeals process will have access to independent advocates. These amendments will also include provisions requiring the CEO to provide reasoning for reviewable decisions and to ensure that individuals are protected from costs if a review goes to the AAT. They also state that the CEO must ensure that the agency institutes a process to ensure that communications to individuals are made in a way that takes their disability into account and allows them to interact with the agency in an effective way. For example, the agency must take into account a person's visual impairment when communicating with them and therefore communicate verbally and provide written documents in an accessible form. This will ensure that individuals dealing with the agency will not be disadvantaged because of their disability. These amendments are in line with the recommendations from the Australian Lawyers Alliance and I thank representatives from that organisation, and in particular the ALA's National President, South Australian lawyer Tony Kerin, for the time they spent with me two days ago discussing these issues.

Ultimately, I support the measures in the bill but we need to make sure that they are open and flexible enough to meet changing demands and that they do not unintentionally perpetuate the exclusion of people with a disability. I will be supporting this bill, but I will be looking forward to discussing it further in the committee stage because there are a number of amendments in order to safeguard the rights of the disabled that must be dealt with. Finally, in the course of the committee stage I do want to raise the spectre of the link between this scheme and a national injury insurance scheme—a no-fault scheme—and the dangers I think that poses, and I will be quoting from the former chief judge of the Employment Court of New Zealand, Chief Judge Tom Goddard, who is scathing about the New Zealand no-fault scheme.

Senator FIERRAVANTI-WELLS (New South Wales) (09:47): I rise to speak on the National Disability Insurance Scheme Bill 2012. As the Leader of the Opposition, the Hon. Tony Abbott, said on 13 April 2012, the National Disability Insurance Scheme is 'an idea whose time has come'. The coalition have enthusiastically supported each of the milestones on the road to the National Disability Insurance Scheme. We supported the initial work that was done by the Productivity Commission, we supported the
$1 billion in the last budget and we have supported the five launch sites. We support the agreement between the Commonwealth and New South Wales for a full state-wide rollout after the Hunter launch. We support this legislation, the National Disability Insurance Scheme Bill 2013.

Indeed, the coalition 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. What did we get in response to that? The Prime Minister, in her inimitable style, just simply rejected that and said, 'We're getting on with it.' This is a very important issue for thousands of Australians with a disability and their families and carers, and that just goes to show the disdain that the Prime Minister has for something that should have been done on a bipartisan basis. The member for Dawson, George Christensen, has had a motion in the House of Representatives to establish such a bipartisan committee for some time. Regrettably, that motion has not been brought forward for a vote. The shadow minister, my colleague, Senator Fifield, moved a motion to establish the oversight committee. Unfortunately, those opposite and their alliance partners, the Greens, voted this down in the Senate.

The Australian Labor Party always likes to pay lip service to wanting cross-party support for the National Disability Insurance Scheme, but when the opportunity was presented they declined to support it. Another example of paying lip service, is the Australian Labor Party's move, hopefully, not to guillotine debate in this matter. It is a very important bill that in this situation needs to be given full airing and full opportunity for all members and all senators to express their views on this important area. It deserves the full scrutiny of the Senate.

In relation to the NDIS, one of the areas that needs to be examined is clause 22, which sets out the age requirements that a person must satisfy in order to become a participant in the NDIS launch. The age requirement is that that person is under the age of 65 on the date the access request is made. This requirement implements part of recommendation 3.6 of the Productivity Commission report and reflects that the NDIS is one part of a broader system of support in Australia, with people over the age of 65 able to access the age care system. Those people who are receiving support under the NDIS and turn 65 can choose either to remain in the NDIS or to move to the aged care system. In other words, the policy intent is that the NDIS and the aged care system remain separate systems that address the different needs of separate cohorts of people; people with a disability and older people with a disability, respectively. Arguably, this assumes that there will be some similarity in the care and support available between the NDIS and the aged care systems. It is concerns like this that need to be worked out, and debate should not be curtailed on these issues.

There is evidence, and certainly there was some evidence provided to the Senate inquiry, that the aged care system may not be an appropriate choice for some people with a disability. We saw in the report, for example, a survey of people with intellectual disabilities living in residential aged care in Victoria raising issues about the appropriateness of such arrangements for this group, including the extent to which such facilities offer sufficient opportunities for participation in community activities and the development of meaningful relationships. Aged care providers themselves also identified a number of difficulties associated with residents with intellectual disabilities fitting into the activities and support
provided by that facility. Some providers, however, indicated that these could be overcome by working with specialist disability services. Let us not forget that the NDIS is a person-centred and self-directed funding model. It is aligned to the objectives of empowering the individual and removing the concept of big government from people's lives and, above all, reducing red tape.

I now move to some of the comments made by coalition senators in relation to this bill. We know that the system for Australians with a disability is broken, and it was clear from the submissions of the 1,600 people and organisations that took the time to put in submissions that this very point was made in just about all of those submissions. In the end the evidence that emerged made it very clear that there are people with a disability in Australia who are left without the assistance that they need. As a coalition, we agree that a new system of support based on need, rather than rationing, with the entitlement for support going to the individual, is needed. This represents a shift from the focus of rationing to entitlement, with the person being at the centre of the system and the services that he or she needs being wrapped around them, with support, equipment and service providers of their choice being able to provide those services. This is the vision that the Productivity Commission has in relation to disability. It is also the vision of the Productivity Commission in relation to the aged care system. The basic tenet of the report Caring for older Australians, which was a landmark report that the Productivity Commission did in relation to the aged care system, was a shift from the current ration system in aged care to an entitlement system. The Productivity Commission set out a framework as to how that could happen. Whilst it did not drill down to that detail it is clear that that Productivity Commission report enjoys great support right across the spectrum in the aged care sector, evidenced by the 500 submissions made to Productivity Commission initially, and then by another 500 submissions made after the draft report was released in relation to that legislation.

As far as the leader of the opposition is concerned the issue of disability and Australians with a disability is one he has a very personal commitment to. As part of his 2012 Pollie Pedal charity bike ride $550,000 was raised for Carers Australia. Along that thousand-kilometre route Mr Abbott met with people with disabilities and their carers, and disability organisations to hear directly from them about issues pertaining to disability and to know that the funds from that bike race would go directly to a very important organisation that assists people with disabilities. Indeed, the next two Pollie Pedal rides will also be in partnership with and raise funds for Carers Australia.

Any comments that the coalition offers in this debate are offered in a constructive way, with the intention of making this legislation better. It is something that the coalition wanted to offer bipartisan support for; we wanted to set up a committee where this could be done in a depoliticised manner. The coalition's proposal for aged care reform which we set out at the last official election was a four-year agreement which would not only offer flexibility and certainty in the system but would, above all, provide long-term certainty and a depoliticising of that system.

In the end, it is important to note that every government in Australia and every opposition in Australia supports and wants to see an NDIS. It is a system that will depend on cooperation and on work being done between governments across the political spectrum. This constructive approach has been evidenced when New South Wales Premier O'Farrell and the Prime Minister...
signed an intergovernmental agreement in December for a full, statewide NDIS rollout after the Hunter launch project. It was disappointing to see that the Prime Minister did not treat all jurisdictions as partners at the COAG meeting in July 2012, and it is to the credit of both the Victorian and New South Wales governments that they continue to negotiate in the face of what has clearly been misrepresentation by the federal government, and that they have reached agreement to host launch sites. It is vitally important that we have a cooperative approach.

I now turn to the aged-care system. This is of particular importance and has been raised with me in various forums that I have attended around Australia as shadow minister for ageing. If people with a disability over the age of 65 are to be looked after in the aged-care system then it is vitally important that the aged-care system is reformed—and reformed in a major way, not just in the way that this government has of paying lip-service. We have seen promises of reform in aged care but, five years on, there is very little evidence of real change on the ground.

I remind the Senate that in 2010 Ms Gillard said that aged-care reform would be a second term priority, and this was at the election when Ms Gillard had to defend herself against the serial leaker who claimed that she had not supported big increases in the age pension because 'old people never vote for us'. But the reality is that we have had a litany of reports and reviews—about 20 of them, including three by the Productivity Commission—which cover ageing and aged-care matters. They have been continually ignored, or responded to with more inquiries without making those vitally important decisions to secure aged care into the future.

Aged-care reform needs to be long term but it also needs to be sustainable. Shortly, we will have the opportunity to debate the package of bills that are a part of the Living Longer. Living Better package. There are five bills which, quite frankly, do not resolve many of the outstanding issues of viability for providers and certainly do not respond to the concerns that have been raised by providers, through the inquiry into the NDIS, because of the added responsibilities that they will have in relation to catering for older Australians with a disability.

We have seen funding cuts of $1.6 billion out of the aged-care funding instrument. Of course, this has put additional pressure on the sector and, most especially, on smaller providers in regional and rural areas. The government has chosen to cherry-pick only a few recommendations from the Productivity Commission's report, Caring for Older Australians. This package of bills will impose even more bureaucracy, even more regulation, on what is already a very, very highly regulated sector.

Most recently we have seen Minister Butler in another spectacular gaffe. First of all, he insulted the people of Western Sydney with his crass remarks about Rooty Hill and then he insulted the people of Western Sydney again when he went out to make his very low-key announcement, downgraded from the Prime Minister to Minister Shorten and Minister Butler, and then just Minister Butler. It was another gaffe in relation to that announcement on the day when he asserted somebody was trying to steal a car—it ended up being the local priest whose car had been blocked in by the minister's car.

Senator Sinodinos: What!

Senator FIERRAVANTI-WELLS: Yes, Senator Sinodinos, this is very much a gaffe-prone minister. Today we see him worrying about whether he will or will not
support Prime Minister Gillard. Perhaps Minister Butler should be concentrating on—

**Senator Sinodinos**: Gutless Butler.

**Senator Fierravanti-Wells**: Absolutely. To be or not to be—thank you, Senator Sinodinos—a supporter. Instead of worrying about that, Minister Butler, might I suggest that you worry about the key issues in your portfolio, which are the aged-care system, which needs reform and for which your proposed changes will only make things worse. Aged Care Australia tells us that 60 per cent of aged-care providers are operating in the red. There is a real viability issue for providers, most especially smaller providers in regional and rural areas. So it is little wonder that aged-care providers, who will be dealing with older Australians with a disability, are understandably concerned that they are not going to be able to provide the services that our older Australians with a disability do need.

As I said, this is a sector that does need reform, and I have real concerns that proper reform will not be undertaken in the aged-care sector, which this minister and this government seems loath to do—they are only paying lip-service to it. And what are we seeing? We are seeing that the government is more concerned with rolling out its workforce compact by ripping $1.6 billion out of aged-care funding—to then turn it back and return it supposedly as a $1.2 billion workforce compact as a bid to refinance unions in the aged-care sector. Of course, there is United Voice, as we have seen. Indeed, I have come along this morning with the latest pamphlet from United Voice in which United Voice are urging aged-care workers to join United Voice to 'speak with one voice in negotiations'. That is what it is about. That is what it is really all about, refinaencing the unions, the aged-care unions: United Voice, Minister Butler's former union; the HSU, which we know suffered a spectacular fall in membership; and the Nurses Federation.

In the end, I would remind the Senate that under this so-called administrative change, which is really an industrial instrument, aged-care providers of 50 beds or more must enter into an enterprise bargaining agreement; otherwise, they will not be able to access funding. If they are 50 beds or fewer, they do not have to enter into an enterprise bargaining agreement but they must comply with the terms of the compact to be able to access that funding.

What does that mean? That means that, already, that 60 per cent which is operating in the red are going to find it harder and harder to be viable; but most especially here is the government promising pay rises which will never materialise. Why? Because providers are not going to be able to meet those wage increases on the tied money that the government is providing. So another false promise by this minister, who really is demonstrating that he is not up to the job.

**Senator Sinodinos** (New South Wales) (10:07): This is a landmark piece of legislation: the National Disability Insurance Scheme Bill 2013, which is supported by both sides of the house. Some people may be surprised at that; they talk about this parliament being fractious and in some ways dysfunctional. Whatever the government's contribution to that, on this occasion we have come together on a matter which we regard as being in some sense above politics. That is a very serious statement to make, to say that something is above politics. I think what we have here is a recognition that we as a parliament have listened to the community and to a section of the community who for too long felt that they were being shunted aside, being ignored, being discriminated against; many families and their carers,
disabled people and their families have had to suffer in silence. They could not get access to the range of services they needed on the terms that were appropriate to their particular circumstances.

This legislation, this scheme, seeks to remedy many of those considerations. That is why I certainly support it and that is why my side of politics supports it. It is gratifying that all sides of politics seem to be keen to move on this matter now. In saying that, I am conscious that we are embarking on a very ambitious enterprise as a nation. This is a very complex, long-term, significant set of reforms. In some ways, it provides a precedent in other areas of social support, but it also provides some warning bells about how these sorts of schemes should be considered and implemented.

We face an extra bill when the scheme is fully matured of around $6 billion to $8 billion and possibly more per annum extra, on top of what we now spend. That is a significant expending of public resources, and it is premised on not only compassion and social desiderata—if I can put it like that—but also an economic component in the sense that there is a view that going down this road with the National Disability Insurance Scheme will yield more benefits than costs over the longer term.

There will of course be the social benefits for those who are directly affected, but what we are saying is that there will ultimately also be national benefits, public benefits, over and above those private benefits and that some of those benefits will be economic benefits, because people who are being helped will be in a better position, potentially, in a number of cases, to participate more fully in the economic and social life of our country. That is very important. Tony Blair once made the point that fairness in the workplace begins with the prospect of a job. So anything we can do to help disabled people to realise their full potential, so that they become full and participating members of our economy and society, is very important—not only for their self-esteem and meaning in their lives but also for the contribution they make to the country and how that ultimately enriches all of us socially and economically. So there are some very important issues at stake in this bill and in this legislation that we are debating today.

We are not, as I said before, debating this in a rancorous, partisan way; there is agreement. But, in making comments on the legislation, I do want to raise a couple of points on the way through. These are not points that are necessarily the most significant and some may say, 'Well, you are raising points which are more economic or financial, or sort of bean-counter points,' but I raise them anyway in the spirit of saying: let's make sure that, in adding to the pool of funds available in this area, we are getting the best value for money out of what we are already spending in this space, not in order to cut what we are already spending in this space—that is not what we are intending to do—but, like all these things, let us make sure that the spending we are putting into the system is going on top of a level of spending that is itself the most efficient and effective way to deploy existing resources to help disabled people.

In negotiating with the states, this government or a future government must make sure that there is genuine additionality in the resources that those states are providing to the table. I commend the New South Wales and federal governments for coming to an agreement recently and, like my colleague, Marise Payne, yesterday, I commend the New South Wales Minister for Ageing and Minister for Disability Services, Andrew Constance, who is a very smart,
pragmatic and committed minister in this space. He has done a great job on behalf of the people of New South Wales in this space, and I commend him, Premier Barry O’Farrell and their federal counterparts for coming to an agreement. But my point is: let's make sure that the funding going into this space from the states is additional funding, so that we get the best possible deal for the Commonwealth from the states and we are maximising the resources available for disabled people.

In that context, I refer back to the Productivity Commission, which handed down a landmark report on this space. In part, the report went to this issue of funding and the profile for funding. The point made there was that something like $3.9 billion was needed over the next four years, or this current four years, in order to begin to realise the vision of the National Disability Insurance Scheme. To date, the government has provided $1 billion over the forward estimates, and in this budget we wait to see what the longer term funding plan will be.

There had been speculation in the press that the government might well publish forward estimates that go some way beyond the traditional three or four years—perhaps out to 2020—to indicate how it was funding significant additional responsibilities, such as the National Disability Insurance Scheme and the Gonski education reforms. I welcome a commitment by the government to provide a longer term set of forward estimates which explain clearly how we build up the funding to the National Disability Insurance Scheme over time so reach the peak funding—which I think at this stage is expected to be in 2018.

We have to be careful that this does not become one of those cheese-paring exercises, a bit like what we do in the foreign aid area. There we make laudable commitments in the context of the Millennium Development Goals and then say, a bit like St Augustine, 'Make me pure but not just yet,' and we keep putting off the day when we lift the ratio of our foreign aid to our GDP. Over the last couple of years there has been a tendency to do that. I hope for the National Disability Insurance Scheme we do not fall into the same trap simply because over time we find our budgetary situation is deteriorating and we are unable to meet this full commitment.

That may not be an issue for this government. One of the reasons I raise this now is that it could be an issue for a future coalition government. This is a dilemma that we all face, but the point that we have made and the point that the government has made is that schemes like this would be accommodated by reducing spending elsewhere. It is important that we note that it is better to go down the route of reducing spending in other areas rather than seeking to raise taxes further, given that most of those taxes will fall on middle-income earners. From an economic perspective that is the more appropriate way to pay for a national disability insurance scheme.

As I said before, this has bipartisan support. I commend people on both sides of politics who have supported the scheme from its inception, or conception. On my side of politics, I commend our leader, Tony Abbott, who through early support for the scheme and through his work with the Pollie Pedal has been a visible and genuine, committed supporter of doing more in this space. I commend our shadow spokesman in the area, Mitch Fifield. He is a flint-hard economic rationalist who on this occasion has seen the light and decided we must do more. He has handled a difficult area in dealing with stakeholders and the government on the matter with great deftness, skill and authority. I commend him for the work he
has done within the party room in bringing us all along on this journey. I also commend Senator Sue Boyce, who has been quite a vocal supporter of the scheme, based in part on personal experiences.

I will not mention others, but my point is simply to say this: the field evidence is very strong that people from both sides of politics have been very strongly supportive. On the other side of politics, outside this chamber, I commend John Della Bosca, a very skilful New South Wales ex-Labor minister and operative. He is an organisation man who has done an excellent job in helping to mobilise public opinion on and support for the scheme. It would be remiss not to say something about some of the people involved in the conception of the scheme: John Walsh, a partner at PwC, who conceived it. It was progressed by Bruce Bonyhady, the president of Philanthropy Australia. I knew Bruce Bonyhady 20 or 30 years ago in the Treasury. I think he was in the forecasting or modelling space. He is a rigorous thinker and he brought that rigour as well as his commitment to helping people with disability to the table. He has done a great job in further fleshing out the concept and helping to sell it.

I note in passing that this matter was first canvassed at the 2020 Summit in 2008. That summit was notable for three things: first of all, Kevin Rudd telling us who the best and brightest in Australia were; some of us were very disappointed in the outcomes of that exercise. Secondly, it did not necessarily yield that many things. I think the bionic eye came out of that process and something is being done on that. Thirdly, there was tax reform, which came on the table when Kevin Rudd had to go on the 7:30 Report and describe the outcomes of the summit. He then decided, 'Let's have a tax review,' and that was the Henry review, which in turn led to other things. But this item, the National Disability Insurance Scheme, is one of the better outcomes of something that was first canvassed at the 2020 Summit.

One of the features of the scheme that I am particularly attracted to is the fact that it is a person-centred and self-directed funding model. It is aligned to the objectives of empowering the individual, removing government from people's lives and reducing red tape. To be honest, we will wait and see how far it goes in reducing red tape and removing government from people's lives. I am a bit sceptical about the extent to which the government gets out of people's lives and reduces red tape, but empowering the individual, setting up a model which is person-centred and which that person drives through their command over funding and resources, drives the package of measures necessary to help them, so it is a customised package. I think that is what this NDIS is trying to get at. It is also trying to provide greater certainty to people about what is available to them so that they do not have to wait in queues and all the rest of it. One downside of all of this that we have to make sure we address is that people who are providing services to the NDIS do not ratchet up their prices because they think that demand is going up as everybody wants everything immediately. We have to guard against people exploiting the situation. That is a footnote.

I support the person-centred and self-directed funding model. I think we showed more of this across government activity, more of a—for want of a better expression—life-cycle model of how government interacts with individuals. I think that is very important, particularly because in an area like this there is some focus on early intervention to 'mitigate, alleviate or prevent the deterioration of' a person's functional capacity. Early intervention to minimise later problems means that there is greater capacity
for people to potentially be more self-reliant and better able to do things for themselves. Getting people, to the extent possible, to be mobile and to be able to hold down a part-time or full-time job is important for their self-esteem and the contribution they can make to our nation.

So I support the person-centred and self-directed funding model. It would be interesting to apply this more across government activity. I suspect it would be expensive to do that, so perhaps it is not as appropriate in other areas because of cost; but, certainly, in this area, it is a new model and it will be interesting to see how it goes. I support that element of the model. As the notes say:

The individual needs to be at the centre and in charge, able to pick the supports, the aids, the equipment and the service providers of their choice. This is the vision of the Productivity Commission's landmark report …

I make the point that for some time now, as a reflection of that bipartisanship that I mentioned earlier, 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. This is not only a good idea on policy grounds but also a good idea on political grounds for the government to lock the opposition into ongoing support for the NDIS. I do not understand why the government seems to want to shut the opposition out when embracing the opposition and locking them in is the best guarantee that the NDIS will have not only safe delivery but also a reasonably robust childhood growing to maturity with the right sort of support from all sides of the parliament. A parliamentary oversight committee would lock in all parties and provide a non-partisan environment where issues of design and eligibility could be worked through cooperatively. In other words, the parliamentary committee would seek to take out some of the political pointscoring and debate around what I said before was a matter above politics.

In bringing this vision to fruition I think people on the Labor side should avoid the temptation to claim this reform as some reflection of quintessential Labor values. There are very big Australian values around fairness and looking after people who cannot look after themselves, and they are shared by all sides of politics. We sometimes differ about the means to achieving that fairness, and that is a legitimate discussion. Our side of politics—the right-of-centre parties—always put more focus on how we can equip people to better look after themselves, to exercise personal choice and responsibility. That is where sometimes there is quite a marked philosophical difference and therefore a practical policy difference between the two sides of politics. But this is not about something which is quintessentially a Labor value; this is quintessentially a pragmatic Australian response to an important social issue. I am disappointed that on occasion Labor have sought to exploit this for partisan purposes. I say that gently and in passing to underline the point that this is all about bipartisanship.

As Tony Abbott reiterated at the Press Club recently:

The Coalition is so committed to the National Disability Insurance Scheme, for instance, that we've offered to co-chair a bi-partisan parliamentary committee so that support for it doesn't flag across the three terms of parliament and among the nine different governments needed to make it work.

I commend Tony Abbott for that. I do not commend the Prime Minister for attacking some of her state colleagues in the lead-up to the Council of Australian Government meeting and seeking to portray them as somehow being against the scheme. State
governments have legitimate responsibilities to argue about how their funding and their services link into this broader national scheme. In the spirit of cooperation, these are issues that are best hammered out behind closed doors and are not the subject of public rancour, points-scoring and mud-slinging. That will not achieve anything.

This is also reflected in the fact that we do not have to have launch sites in every state. The fact that we have launch sites in a number of states is a good thing, but the Productivity Commission never envisaged every state hosting a launch site and never saw the absence of a launch site as a bar to taking part in a full national rollout. The Premier of Queensland, Campbell Newman, has written to the Prime Minister with a proposal to be part of a full national rollout, and Premier Colin Barnett of Western Australia has written to the Prime Minister proposing a joint WA-Commonwealth national disability insurance scheme. The coalition will continue to place this issue above politics and is prepared to work with state and Commonwealth governments towards a better deal for people with a disability.

In the time remaining, I make the point that the bill before the chamber is essentially a framework establishing the transition agency, the board, the CEO and a general definition of eligibility. The mechanics of the scheme will be established by the rules. A discussion paper on the rules was released on 1 February but it was essentially a series of questions. It is not a draft set of rules. The government released seven sets of draft rules on the final day of hearings of the Senate Standing Committee on Community Affairs on 5 March: draft rules for becoming a participant, draft rules for children, draft rules for privacy, draft rules for nominees, draft rules for support, draft rules for registered providers and draft rules for plan management. These draft rules are still the subjects of consultation with state and territories and with stakeholders in the disability sector. We will study them carefully. The government has also indicated that there are potentially dozens of batches of draft rules still to be released which need to be released quickly and well before the passage of the bill through parliament. We need as much information as possible to understand the implications of where we are going in this very important space.

Finally, I commend the legislation and the scheme to the chamber. I think it can make an important difference to the lives of disabled Australians. I have heard too many stories of parents who despair about what will happen to their disabled children after they pass on. It is very important that we assure them that the Australian people are there to take on that responsibility and that task.

Senator EGGLESTON (Western Australia) (10:27): I rise to speak on the National Disability Insurance Disability Scheme Bill 2013. This National Disability Insurance Scheme is an idea whose time has come. It is an historic day that this scheme is being debated in the Senate and is a real step forward. It is very much an expression of the reality of the federal parliament supporting the concept of the Aussie fair go to ensure that disabled people do have a fair go and are given an opportunity to realise their potential. There are many people in Australia with disabilities whose lives will be improved with the advent of this scheme. Sometimes the perception that someone is disabled is taken to mean that they cannot or are not able to participate in community activities or to do many things which other people might do. This is a recognition more than anything else that disabled people do have abilities, dreams and ambitions and should be assisted to achieve those dreams.
and ambitions and live meaningful and dignified lives in our community. The fact that disabled people are being given support by the community, and recognition that they are entitled to respect as fellow Australians, is very important. I congratulate those responsible for the development of this legislation.

The coalition has supported each milestone on the road to the National Disability Insurance Scheme. We supported very strongly the initial work done by the Productivity Commission on planning for this NDIS. The coalition supported the billion dollars allocated to the NDIS in the last budget, we supported the concept of the five launch sites and we supported the agreement between the Commonwealth and New South Wales for a full state-wide rollout after the Hunter launch. We do support this legislation very strongly, because, as I have said, it means that disabled people in this country will be given recognition and the opportunity to live lives that are dignified, and be able to achieve their dreams and aspirations.

When Labor members and senators say that the NDIS represents quintessentially Labor values I have to say that I do not think they are particularly Labor values that it represents, but they are the Aussie values of a fair go and giving people a chance to realise their potential. The National Disability Insurance Scheme is a person-centred, self-directing funding model. It is aligned to the objectives of empowering the individual and removing government from people's lives and reducing red tape, which are all values which the coalition strongly supports. The coalition believes that the full implementation of the NDIS will be nothing short of a new deal for people with disabilities and their carers, and we believe that we have to make sure that the details of this scheme are got right and that they really mean that the scheme works for the benefit of disabled people.

The NDIS is a once-in-a-generation reform which is going to unfold over the life of several parliaments, and it will develop and progress over that time. It should, we believe, be the property of the parliament as a whole, on behalf of the Australian people, rather than of any one political party, and I think that is the spirit in which this whole piece of legislation is being debated here today. 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 National Disability Insurance Scheme. Tony Abbott, the leader of the Liberal Party, reiterated this offer in his recent Press Club address, when he said:

The Coalition is so committed to the National Disability Insurance Scheme, for instance, that we've offered to co-chair a bi-partisan parliamentary committee so that support for it doesn't flag across the three terms of parliament and among the nine different governments needed to make it work.

The government, we believe, should accept the coalition's offer of a parliamentary oversight committee. The coalition intends to give the government, the Greens and the Independents an opportunity to accept our hand of cooperation by moving an amendment to this bill to establish such a nonpartisan oversight committee. I do hope, quite simply, that that offer is seen as not being partisan political, and that it is accepted in the spirit in which it is offered so that an oversight committee can be set up to ensure that this scheme works effectively for the people who it is designed to support.

It is important to note that every government and every opposition in Australia want to see an NDIS established in this country. That is why at the COAG before last it was disappointing that the
Prime Minister could not rise above her partisan instincts on this issue, and it is to the credit of the Victorian and New South Wales governments that they continued to negotiate in the face of public attack and misrepresentation by the federal government and reached agreement to host launch sites. It is a bit sad that politics has entered into this debate at any level. I hope that the politics will be forgotten in further meetings at COAG and that there will be a spirit of cooperation to ensure that this very worthy legislation is put into practice to benefit the disabled people in our community.

There cannot be a meaningful NDIS without an intergovernmental agreement with each state and territory, and that is something that is yet to be negotiated. Given that, I would like to say a few words in defence of the states who have perhaps been misrepresented as not hosting a launch site. I do not think that means they do not support the NDIS but that they have some concerns about details. It has to be said that the Productivity Commission never envisaged every state hosting a launch site and never saw the absence of a launch site as a bar to taking a full part in the national rollout.

In particular, as a Western Australian I have supported the decision of Premier Barnett who has written to the Prime Minister proposing a joint WA-Commonwealth NDIS be set up. Western Australia has its own problems in terms of distance and the vast size of the state and there are some special local factors which have to be taken into consideration.

We on the coalition side emphatically supported the government's commitment of $1 billion to the NDIS in the last federal budget. I must say we had some difficulty that the sum was only $1 billion when, in fact, the Productivity Commission's recommendation was that at least $3.9 billion would be necessary over the forward estimates for the first phase of the NDIS. We can only hope that more money will be forthcoming in the budget in May and, of course, only time will tell how much money is needed to really make this scheme effective. I hope, in the spirit of the nobleness of the endeavour to ensure that disabled people in this country are able to realise their potential and live in dignity, that there will not be arguments about penny pinching and that the money will be available for this scheme.

The scheme will provide funding to individuals or organisations to help people with disability to participate more fully in economic and social life through the provision of entitlements enabling such things as aids, equipment, supported accommodation and personal attendant care.

The history of this National Disability Insurance Scheme is that the idea has been around for a long time, but people only began giving serious consideration to a national disability insurance scheme over the last five years. It is appropriate to acknowledge the role played by figures on both sides of the chamber in helping to elevate the public policy profile of disability. But the lion's share of the credit must go to those people who have disabilities, their families, their carers and the organisations who support them. These people came together because they decided that in modern, prosperous, wealthy Australia enough was enough and something had to be done to support the disabled people in our community. This is a long overdue measure. In particular, I acknowledge that in Western Australia, our Premier, Colin Barnett, has supported this concept and I know the differences are not, as I have said, ones of principle but merely of detail. There are some particular West Australian factors to be built in to an NDIS in Western Australia.
In conclusion, this is a historic step forward for the Australian community, and the NDIS is very much in the spirit of giving everybody a fair go, a quintessential Aussie value.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (10:40): I too rise to make some brief observations on the National Disability Insurance Scheme Bill 2013. I note that in the second reading speech of the shadow minister, Mitch Fifield, he outlined in essence the two principal purposes of this bill. I will not speak to the construct of the bill, but I would like to take the opportunity to recognise and acknowledge the significance of the difference that the implementation of this legislation will make to the lives of so many people. The bill has bipartisan support in this chamber. I am delighted to see that because of the huge impact it will ultimately have on families who deal with disabilities and individuals who deal with disabilities. It will provide them with opportunities and choices. In that way it will in effect change individuals' lives.

When you look at the facts, it is quite compelling to see that some 400,000 people in Australia live with disabilities. That is a number that unfortunately, for whatever reason, is on the rise. Some 400,000 individuals suffer from disabilities—that is, in essence more than 400,000 families that have to deal with the impact of disabilities and provide for the impact of disabilities. It is regrettable that it has taken this time for us to come up with a framework for a national disability insurance scheme, a framework that we all support. The Productivity Commission looked into the scheme in around 2009. It is on the advice of the Productivity Commission that an enormous amount of work has gone into the determination of its structure, framework, and planning as to how this should apply. There has also been a good and effective consultative process to come to where we are today.

The reason it is so heartening is that there is no quick fix for this issue. It is not a situation where one model will fit all. The model must be able to be tailored to the needs of the individual and ultimately will, I hope, not only support the physical challenges faced by those with disabilities but also provide critical psychological and emotional support for families and friends in the lifelong challenge they face and live with. Most of us know someone with a disability or we know families or friends dealing with people with disabilities, so we know first-hand what is required for those families to cope through a lifetime.

In the Senate over the last 12 months we seem to have had a huge population growth, with senators having the joy of a baby entering their lives, either as parents or grandparents. We know, particularly in the last 12 months on the coalition side, that there is one heartfelt wish of those parents or grandparents—that is, the newborns have 10 fingers and 10 toes and they are healthy. That is their one wish: that those children are healthy. As we know, that is not always the case. It is a real issue for those who have to deal with beautiful children who are born with disabilities, or may develop them later on in life.

Since I was elected as a senator, one of the things that has presented to me as an opportunity, which I do not know that I would have had if I had not been elected to the Senate, is to actually visit a number of places that are either early intervention centres, employment workplaces for those with disabilities or other workplaces that provide varying ranges of support services for families. The one thing that strikes you when you attend all of these facilities is the
extraordinary love, honesty and goodwill that those with disabilities automatically share and present to all whom they meet. They just have such a wonderful temperament—so many of them. Sometimes, I think that we perhaps could take a leaf out of their books in the way in which we deal with each other in this place, because the degree of goodwill that is shared when you visit so many of these places is so apparent. One thing that strikes me as much as anything is this wonderful sense of humour so many have, and they are very quick to take the mickey out of you. As a politician, I think it is a very good thing to rock up somewhere and have a young child or even an adult take the mickey out of you as you are visiting a particular place. In the main, they just have such wonderful senses of humour, and it is something that I do not know whether I would have had the opportunity to meet so many and attend so many places as I have as a senator. In my patron seats there is a large number of support services and a couple of those that I want to mention in making my short observations.

I firstly acknowledge the families. I know a number of families whose lives changed for their lifetime and for their children's lifetime when they had children with disabilities. They have become full-time carers for individuals from the moment those children were born through the life of the parents, and it depends on the degree of disability as to the extent to which that 24/7 care has been necessary. I am reminded of someone very close to me who has a daughter who has dramatic challenges and needs 24/7 care. She made observations to me not so long ago when her daughter turned 18 about the level of services that they could no longer access and how their economic capacity to raise income in that household was dramatically reduced by the amount of care that they had to provide. It was a bit of a vicious cycle. Their No. 1 overarching concern was what was going to happen to their daughter once they could no longer provide the care that they had, whether because they physically could not or because they financially could not. We have seen many instances where ageing parents have expressed their concern about what was going to happen and they have had to put their adult children into aged care facilities because there were no services or residential care available for them to put their disabled adult daughter or son into an appropriate residential facility. You have circumstances where a young 20-year-old has had to be put into an aged-care facility, which is a great tragedy.

I would like to come to a couple of places that I have visited that do a tremendous job. I know that this bill will reinforce the support that the families are able to provide for their children. The first is a specialist early childhood centre in Bayswater in the electorate of Deakin in Victoria. It is an early childhood intervention service called Irabina. I had the great fortune of going there a few months ago because an extraordinarily generous Victorian, Chris Malcolm, the managing director of Clark Rubber, an incredibly philanthropic and generous individual, made a donation, with the Liberal Party, to Irabina to support some services that they are providing. They provided thousands of dollars worth of goods that would assist with early intervention for those children.

Irabina has programs that are family centred for preschool age children. It is a program targeted at early intervention for children diagnosed with or suspected to have autism spectrum disorder. I did not jump into the pool but I joined in with activities they had in the swimming pool. I saw firsthand how early intervention for children that are
diagnosed early in their lifetime with autism spectrum disorder can actually break the cycle and assist them in developing the skills and developing learning capacities so that they can then enter a mainstream school and, in many cases, go on to be able to reach their personal and true potential. In many cases for these families this early intervention is a life-changing opportunity.

One of the mothers I spoke to was saying that with this particular scheme there is support provided, but it does not cover the intensive therapies required. This legislation, because it is tailored towards individuals, which is one of the elements I strongly applaud, will provide individual financial support as is needed.

Another facility I visited with the coalition leader, Tony Abbott, and shadow minister, Senator Mitch Fifield, was in Nunawading. Nadrasca in Nunawading is a great place, and Senator Fifield has been there on a number of occasions. Nadrasca was established in 1967. Its purpose when established was to develop a range of services for people with a disability. The organisation has developed and evolved over time. It currently provides a range of services and employment for over 350 people with a disability. It employs approximately 150 permanent, part-time and casual staff across all their services to assist their clients.

The services that they support and provide include—and this is not a comprehensive account—a disability-supported employment service; a service that provides daily programs and activities for persons with significant disabilities; and accommodation services which include 24-hour care and independent living as well as recreational and holiday programs, all of which are tailored to the needs of individual families. Nadrasca Industry is a critical and essential part of the organisational structure of support for disability services because it provides employment and vocational training opportunities for people with a disability and generates revenue in addition to government funding. It generates revenue which is put back into the system to provide greater support.

Recollecting our most recent visit there, it was a great example of how they support people with disabilities and also the diversity of those who might be intellectually or physically disabled. It really does ground you. It was very hard, and it was great to see the leader of the coalition, Tony Abbott, put in a headlock by those working on the factory floor because they did not want him to leave. I do not think I got the same response—I do not know about you, Senator Fifield—but they had the leader in a headlock at one stage! Our program of visits which were scheduled while we were there for an hour or so was rolled out to probably double that—I do not know quite how long we were there in the end—because they did not want us to leave. They loved the engagement; they loved the opportunity to be able to offer and be involved in meaningful activities. This is what is so critical.

I acknowledge the importance of early intervention and therapy, because one-on-one sessions can identify learning issues. I am sure we all know of a lot of examples where diagnosis and early intervention have enabled individuals to go on into—for want of a better word—mainstream activities, mainstream schools and mainstream workplaces. It has to be our No. 1 goal to support people to do that. Early intervention does that through improving fiscal competency and may even slow or minimise the progression of a particular disability.

In essence, this legislation ultimately provides a greater choice for families. What it does is give a greater raft of opportunities
for families, and various courses that they can take, so that they can provide greater support and so that we can provide greater support for them. The No. 1, fundamental thing is to appreciate and recognise those with disabilities and to give them the opportunity to be involved. I do not mean to say this in a patronising way, but they may be able to make an active contribution to society. They do now, and this provides a great opportunity for them to do that even more. I strongly support this and I would like, in closing, to recognise and acknowledge all those unsung Australian heroes who basically have held the disability sector together and who have supported what is an enormous, important area and task. I would like to pay my deepest respect to them.

Senator RUSTON (South Australia) (11:00): I too rise to speak on the National Disability Insurance Scheme Bill 2013, and do so to support the bill.

I am sure that everybody who has stood in this place so far to speak on this particular bill would have risen and said that as parents—and most of us probably are parents—the one thing that you consider yourself very lucky for is when you have your children and your children come out 'with 10 toes and 10 fingers', as the senator said before. But there are many people who do not have that luxury. I think we do need to acknowledge that most of us in this place are extremely lucky because we have the luxury of not having to deal with the issue of disability on a firsthand basis.

There is certainly no doubt that everybody is touched by disability, or knows somebody who has the big task of looking after somebody with a disability, whether that be a mental, physical, emotional or challenging social disability. We all need to realise that in the blink of an eye that can change. I am sure many of us here know that as a result of accident, misfortune, illness or disease that in one minute what is otherwise a household of perfectly healthy people who get up every morning and get on with their lives can change 'just like that'.

In speaking to this bill I would like to make three points. Firstly, I believe an issue such as disability, and particularly how we as a society deal with disability, needs to be above partisan politics. This is not something that we can score points on, and nor should we even try to score points on it. What we should be doing is working together, all parties, whether we be the Liberal Party, the National Party, the Labor Party, the Greens or our Independent colleagues who sit here. We all need to be working towards a solution that is going to make the lives of people who are disabled in this country and of the people who have to care for them day in, day out and night in, night out easier. I think we do need to make a very clear distinction that any political game that is played with this particular piece of legislation is an absolute disgrace, and anybody who does that should be entirely ashamed of themselves.

I think everybody acknowledges that the current model of disability is broken. You only have to look around Australia to realise that if you live in one state or another state you will have matters in relation to disability treated differently. It depends on how your disability occurred; whether you are born with a disability. If you are going to have a disability you are probably better off to have one as a result of an accident, where you can sue someone. It does seem quite extraordinary that where you live and the nature of how your disability occurred can have such an extraordinary impact on the resources and support that you get for that particular disability.
A classic example of just how intense this can become is that in South Australia at the last state election a party was set up called Dignity for the Disabled, and that single-issue party actually managed to achieve a spot in the Legislative Council in South Australia. A young lady by the name of Kelly Vincent, who is disabled herself—wheelchair bound—was elected to the Legislative Council in South Australia. That was a complete and utter direct response to the fact that the South Australian disability system had completely let down people with a disability in South Australia. So we now have Kelly advocating from within the House of Parliament in Adelaide in relation to disability issues. I think that is an absolute reflection of the community's support for assistance and for some sensible measures to be taken in relation to how we deal with disability; the fact that we have a member of parliament who has gone into parliament simply because of the issue of how disabilities were being handled in the state of South Australia.

The second point I would like to make actually relates to productivity. I do not imagine that many people think of disability and productivity in the same breath, but there are a lot of people out there who have disabilities who have the capacity to add productively to the community, the environment and the economy in which they live and operate. I think we certainly need to be looking at ways in which we can give the responsibility, the onus and the ability back to people with disabilities to try to make as much of a productive contribution to their society as they possibly can.

There are a couple of programs that I would not mind bringing to the attention of the chamber. The first one is a program called the 'circles' program. It assists a person, particularly with a mental disability, to create a circle of friends—hence the reason it is called the 'circle' program. It encourages them to get out and create a new circle of friends outside of the traditional family and institutionalised care that they often get. They actually go out into the community and are encouraged to get a group of friends. Firstly, it relieves the family of the 24/7 burden of having to deal with the issues for that particular person. But it also gives them a wider network of opportunity to be able to find out what things are available for them out there.

It might be dealing with an issue of housing, it might be dealing with an issue of just going shopping. There are myriad things that people like us take for granted because we have such a wide circle of friends and contacts whom we actually draw on for all of the things—the experiences and activities—that we have in our lives. People with mental disabilities, particularly, often get shut down and they live within a very restricted cocooned environment. This circles program seeks to try and break out of that enclosed environment and allow people with disabilities the opportunity to get out.

They look to develop relationships. They create roles within these people's lives so that they can feel highly valued and can contribute. It allows them to develop competencies that they may not otherwise be able to see, simply because they do not have the opportunity to have those recognised. It also allows them to have community participation and inclusion, which is obviously a huge benefit and advantage in the quality of life of these people.

The other project that has been operating in South Australia and other states sets up microenterprise businesses. A group has set up within the community and talks to people about finding out what a disabled person really likes to do. We have one young girl in St Peters, in a suburb of Adelaide, who has
set up her own microbusiness. Coincidentally her name is Fleur, French for flowers, and she has set up Fleur's Flowers. She goes around to small businesses—cafes and the like—every week and asks them if they want her to pop some flowers on their tables, and every week she goes back and she replaces those flowers. They pay her a reasonable, nominal amount. It is only just a little bit more than the cost of the flowers, but she has now got a purpose and so every morning she gets out of bed and goes down to the flower market. She buys her flowers and works out how many flowers she can do for the amount that she is charging each one of these businesses. She now has a productive purpose in life and she is actually earning a little bit of money. Even though she is certainly not removing the need for the assistance that she would otherwise have, she is actually supplementing her income and the support that she requires from outside by earning a little bit of money of her own.

Another amazing example of this particular project is a young man in Perth. When he was asked about the things he really liked to do, he said that he really liked waiting. Everybody thought, 'What do we do with somebody who really likes waiting?" They went through a myriad of other things that he might possibly like to do or might be interested in, but he was not interested. He just wanted to wait. Some inventive person actually came up with an idea. I do not know how many of you have been really annoyed when you need your telephone fixing or your power needs to be fixed and the guy at the utilities department says that they will be there sometime between nine o'clock and three o'clock in the afternoon. All of us have to go to work and it becomes very difficult, because you have to rush home or whatever. They have set up a microbusiness for this chap where he goes and sits in your house and waits for the tradesman to come along. He will let them in and then he will stand there and look after them and make sure that they are not damaging the house. He obviously gets paid a nominal amount for doing that, but he saves you the problem of actually having to stay home.

There are a lot of these inventive little businesses that some of these programs can look at. Those are the kinds of activities that we need to be looking at so that we can actually have a productive approach to how we deal with disabilities. It is about the efficient use of resources. It is about giving the people who know best—the people on the ground and who are dealing with these disabilities day in, day out, and even to some extent those people who do have disabilities—the opportunity to have a say in what happens to the money that is involved with disability. They are probably the people who are going to best placed to get the money spent where the money needs to be spent, instead of wasting it, as so often is the case in bureaucracy, on the administration—or people justifying the process of getting where they are going instead of spending money on productive outcomes for the people and places that need it.

Lastly, I want to talk about funding. The most important thing with any of these schemes is about getting the funding and getting on with the job. I notice that the Productivity Commission came out and suggested $3.9 billion. I understand at this stage that only $1 billion has been allocated. We need to get on with the job. We need to make a decision. We need to prioritise where this money is coming from and we need to get on with the job of implementing this program. We need the details about how it is going to get out there so that we can make sure that it is as efficient and as effective as it possibly can be.
I was just speaking this morning with a lady in South Australia, Judy Francis, who has a disabled son. In fact, she could not talk for terribly long because, even though he is 50 years old, she still has to take him to the doctor this morning. Judy was telling me that the scheme has been talked about for so long and many who are involved in disabilities—in Judy's case, in a first-hand way with her son—were all very excited when the project and the program was first raised and talked about. They thought, 'At last, at last, at last, we are going to see something happening in disabilities'. She has been working on getting appropriate housing because, like many parents who are ageing—and you can probably work out that if she has a 50-year-old son then Judy is at that stage in her life—she is looking towards achieving an ongoing care program for her son when she is no longer able to care for him. She saw the National Disability Insurance Scheme, when it was first touted, as a wonderful, wonderful opportunity where she could actually, with some comfort and some relief, have some opportunity for her son to be able to have a program put in place for when she was no longer able to care for him, as she and her husband currently do.

We need to get on with this. We certainly need to stop what Senator Kroger was talking about, which was young people with disability whose parents are no longer able to look after them who are then going into aged-care homes. That is a completely inappropriate place for our young disabled people to be located. In my own home town, when I was visiting the nursing home not that long ago, I ran into a wonderful lady who had been looking after her profoundly disabled daughter all of her life at home. She is now no longer able to look after herself and here she is in a nursing home with this young woman who is in an aged-care facility—a completely inappropriate place for her to be.

In saying that, I, like all of my colleagues, am very excited about the opportunity to do something good and innovative so that we can move on—and for the legacy of this parliament to be that we actually did something in support of the people in our society who need our help. It is a judgement that will be made. I am certainly happy to support this bill and commend that everybody support the National Disability Insurance Scheme Bill.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:13): I rise to speak on the National Disability Insurance Scheme Bill 2013. Today we are making history. Today we move, here in the Senate, to legislate a National Disability Insurance Scheme. At present, most people with a disability in Australia can expect to face a lifelong battle to achieve what the rest of us take for granted: they struggle to get the appropriate support to get out of bed, to get support for personal care with dignity, to leave their home if they have one, to get a job, to be included and valued and to be part of the community.

We know we have to do better, because people with a disability deserve a fair go. We know that creating a more inclusive society is the right and decent thing to do and today, here in the Senate, we are taking a critical step in supporting people with disability to live their lives the way they want—supporting them in achieving their social and economic aspirations by having a truly inclusive Australia. Gone will be the days of pleading for assistance and having to describe one's circumstances in the worst possible light—a truly demoralising experience. Gone will be the cruel postcode
lottery that currently exists. We will replace this with dignity and respect. We will transform disability services within Australia by building the National Disability Insurance Scheme.

It is a scheme that recognises that all people live within families and communities, and this will be considered throughout the planning process. The scheme will support individuals with disability to make informed decisions and therefore maintain these strong, resilient families and communities where real choices of service provider can be made to deliver client focused and tailored services.

To reach this point, to stand here today before the Senate with this bill, is a historic moment—a moment that has not just happened overnight. This has a history that dates back to the Whitlam Labor government. Forty years ago Prime Minister Whitlam sought to introduce a national compensation scheme, a fact that resonates with one of my advisers here today. And now, under another reformist Labor Prime Minister, we are here today to finish the job.

I have had the privilege of being party to some of the steps that got us here. In opposition I moved, on a number of occasions, a reference to inquire into the operation of the Commonwealth State Territory Disability Agreement, and was finally successful in 2006. This report was handed down in February 2007 and, once Labor formed government in November 2007, we got on with the job of implementing some of the recommendations. Establishing the new National Disability Agreement with dramatic increases in funding, focused outcomes and deliverables for disability programs and developing the National Disability Strategy were included in those recommendations and I am proud to say that, in true Labor fashion, we have delivered.

In July 2008 we signalled to the world our commitment to improving the lives of people with disability when we ratified the United Nations Convention on the Rights of Persons with Disabilities. In Australia we have been working to fulfil our obligations under the UN convention to ensure that the mainstream service systems are focused on the principles of inclusion. In 2011, for the first time in our history, all governments—local, state, territory and our federal government—agreed to a National Disability Strategy, a unified, national approach to breaking down barriers faced by Australians with disability. Since this time we have been paving the way for the National Disability Insurance Scheme, a revolutionary reform to the way we provide care and support in our country.

The NDIS has been the goal of so many people with disability, their families and carers and the disability service sector for so many years. You have worked so hard and today is your day. Today we salute your drive and determination, your patience and persistence and your plain hard work. There are many people we need to thank for their role in this long journey: members of the National People with Disabilities and Carer Council; the Productivity Commission, notably Commissioner Patricia Scott and Associate Commissioner John Walsh; the National Disability Insurance Scheme Advisory Group; the members of the four expert working groups; the National Disability and Carer Alliance; and all our peak disability and carers bodies. Thank you to Every Australian Counts, including: the state bodies, the community campaigners and of course the 154,654 Australians who have signed up to this campaign; the 674 people who have had their say online via ndis.gov.au forums; and to all those people with disability, their family members and
carers, and their service providers and advocates who have attended any one of the 70-plus forums that Minister Macklin and I have held across the country.

I also take this opportunity to put on the record my thanks to Senator Claire Moore and the members of the Community Affairs Legislation Committee for their work in recent months, talking to people right across the country and delivering a constructive and informative report. In doing so, I also thank the people who made the almost 1,600 submissions—again, we have heard you. Many tens of thousands of Australians have had a part in designing the NDIS, and it shows. To each and every one of you: you have made a significant contribution to this historic reform. Australia will be a better place for everyone because of your efforts and for that I thank you.

The National Disability Insurance Scheme will be an insurance scheme for all Australians, that will provide care and support services based on need to any Australian with a significant or profound disability regardless of how they acquired that disability, in much the same way as all Australians have access to social security and universal healthcare systems that provide entitlement to services based on need. This bill establishes the framework of the National Disability Insurance Scheme and the National Disability Insurance Scheme Launch Transition Agency. It will enable the scheme to be launched and the agency to be established in five sites across Australia from July 2013. The first stage of the scheme will benefit around 26,000 people with disability and their families and carers living in South Australia, Tasmania, the Australian Capital Territory, the Hunter region in New South Wales and the Barwon area of Victoria. The scheme established by this bill will transform the lives of people with disability and those of their families and carers. For the first time they will have their needs met in a way that truly supports them in living with choice and dignity. It will bring an end to the tragedy of services denied or delayed, and instead offer people with disability the care and support they need over their lifetimes. As was found by the Productivity Commission in its extensive inquiry, and I quote:

The current disability support system is underfunded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports.

It needs to be fixed and it needs to be fixed now, and this bill will take a critical step in doing just that.

Every 30 minutes, on average, someone in Australia is diagnosed with a significant disability. This could be any of us, as disability does not discriminate. Only those with considerable wealth could possibly afford the costs of lifetime care that are required in response. Most Australians with a disability cannot carry this responsibility alone, nor should they be left to. This bill will implement the first stage of a nationwide, demand-driven system of care, tailored to the needs of each individual and established on a durable, long-term basis. The bill reflects the extensive work on design, funding and governance undertaken with states and territories, with people with disability, their families and carers, and with other key stakeholders, work which is ongoing as we continue to build and refine the scheme.

The current funding model, based on historical annual budget allocations, will be replaced by an insurance approach based on actuarial analysis of need and future costs. The scheme will respond to each individual's goals and aspirations for their lifetime, affording certainty and peace of mind for people with disability and their carers alike. The National Disability Insurance Scheme Launch Transition Agency will work with
people to plan and to take account of their individual circumstances and needs. The scheme will give people the care and support that is objectively assessed as being reasonable and necessary over the course of their lifetime.

The bill sets out the objects and principles under which a National Disability Insurance Scheme will operate including giving people choice and control over the care and support they receive and giving effect, in part, to the United Nations Convention on the Rights of Persons with Disabilities. It sets out the process for a person becoming a participant in the scheme, how participants develop a personal, goal based plan with the agency and how reasonable and necessary supports will be assured to participants. People will be able to decide for themselves the type of care and support they receive and choose how they want to manage those supports. They will be able to access assistance from local coordinators, should they wish, and early intervention therapies and supports will be offered where they will improve a person’s functioning or slow, or prevent, the progression of their disability over their lifetime. The bill also provides that the agency will be responsible for the provision of support to people with disability, their families and carers.

Again, I thank all of those who have contributed so far to this important debate. Some amendments have been made to the bill in the House of Representatives to address decisions made by the Council of Australian Governments, other agreements negotiated with the states and territories, and from ongoing engagement with people with disabilities, their families, carers, advocates and services providers. Those amendments also responded to some of the matters raised in submissions to the Senate Community Affairs Legislation Committee during its inquiry into the bill. Further amendments will be moved by the government here in the Senate. These amendments respond further to the recommendations in the Senate Community Affairs Legislation Committee’s report on the bill, tabled last week. For example, one amendment revises the objects clause of the bill to reflect Australia’s international human rights obligations more strongly and to ensure that this clause operates in conjunction with other laws. A further amendment will recognise the importance of advocacy in the lives of people with a disability.

In closing, I thank many departmental officials from FaHCSIA, including those working for the agency, Prime Minister and Cabinet, and other departments who have been engaged in the design process. Your work has been enormous. I also thank those state and territory officials from across Australia whose work has helped us to get to this point. This bill will be an enormous first step in bringing equality to people with disability, their families and carers. Our government will continue to work with people with a disability, and their families and carers, as we continue to establish a National Disability Insurance Scheme. I thank all senators who have spoken in this debate for their support of this historic legislation and commend the bill to the Senate.

Question agreed to.
Bill read a second time.

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

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:28): I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill.
Senator Fifield (Victoria—Manager of Opposition Business in the Senate) (11:28): I just wanted, at the start of the committee stage, to acknowledge some people. In my second reading speech I acknowledged those beyond the parliament and the government who had been instrumental in bringing the legislation to this point, but I did want to thank Senator McLucas and her office for the courtesies extended to my office and to me during this process. I also wanted to thank Senator Macklin’s office and acknowledge the work of Senator Moore, as the chair of the Senate Community Affairs Legislation Committee, in stewarding the inquiry into the NDIS legislation. I think Senator Moore really ranks with Senator Payne when it comes to the discipline she imposes upon committees that she has chaired. I would also like to thank Senator Siewert, as deputy chair, for her contribution there. It is also important to acknowledge the committee secretariat of the Senate Community Affairs Legislation Committee, Dr Ian Holland, and his staff, who worked extremely hard in a very compressed time frame.

I also thank the 1,597 people and organisations who made submissions to that inquiry. We will, in the course of this morning, see some of the fruits of the work of that committee come to bear as some of the recommendations that were made by the committee are taken up. I should also acknowledge officers of FaHCSIA, for their very hard work in bringing the legislation to this place, and Mr David Bowen.

I also want to express my pleasure that the notice of motion that was circulated last night in relation to the proposal to guillotine debate on the NDIS legislation looks as though it will not come to pass. I in no way reflect on Senator McLucas in relation to that motion because I know these things are determined by others in this place with chamber responsibilities. I am sure Senator McLucas was instrumental in seeing that motion not come to pass by her internal advocacy in the government because I know she, of all people, would not want there to be any curtailing of debate on this legislation.

I want to move to what will probably be the least significant issue raised in this committee stage, so let me get it out of the way first—that is, the issue of the proposed name change for the NDIS. Minister Macklin, in a press release on 18 March—two days ago; I am losing track of time—headed ‘Extra funding for playgroups to give kids a better start’, announced on the second page in paragraph 14 a name change. This is not where I naturally would look for an announcement about a change of name for the NDIS, nevertheless, it was there. In the release it said:

Ms Macklin said the Government was taking a big step this week toward peace of mind for people with disability, their families and carers with the passage of the NDIS Bill through Parliament.

In another step that this care and support is about to become real for Australians with disability and their families, we now have a name for the National Disability Insurance Scheme—

‘DisabilityCare Australia’.

The release continues:

The name has been chosen based on consultations with people with disability, their families and carers, peak organisations and the general public.

DisabilityCare Australia reflects the principles of the NDIS—that all Australians with significant or profound disability receive the care and support they need, regardless of how they acquired that disability.

I was a little surprised that the proposed name change was buried—that is the only
way to put it—at the bottom of a press release in relation to funding for playgroups.

There was some reaction from stakeholders in relation to the proposed name change, and I will just go through a few of those. Lesley Hall, who is well known to all of us presently in the chamber, the chief executive of the Australian Federation of Disability Organisations said:

It does not represent what the scheme is about … The scheme is not just about caring, it's about supporting people to have to get on and do what they want in life.

She continued to say:

She said the word "care" had implied the scheme was linked to welfare and paternalism.

David Heckendorf, who has cerebral palsy, said:

Oh, come on guys! Really? Disability Care? Why not go all the way and call it Crip Care? … It is not about caring. It is about empowering or enabling, equipping, etc. Can't we be a little more imaginative?

And Jackie Softly said:

I hate the name. But I worry more that the name reflects the way the powers that be see it. Now that is very scary …

Kelly Vincent, the Dignity for Disability member of parliament in the South Australian Legislative Council, who Senator Ruston made reference to before, said in response to the proposed name change:

We aren't a scheme for sick people needing care—we're people with disabilities that need to be supported, assisted and enabled … We don't need the NDIS name change to further perpetuate patronising attitudes.

I was surprised about the manner of the announcement of the name change, and it would seem from that selection of quotes that there is some concern in the sector among some people with disability that the name might not be an accurate reflection of the nature of the scheme.

My questions to the parliamentary secretary are these. Can she supply some additional background as to the process that was gone through in relation to seeking to rebrand the NDIS and whether DisabilityCare Australia is the settled name for the NDIS? Is it intended to be a trading name that will replace National Disability Insurance Scheme? Will the National Disability Insurance Scheme Launch Transition Agency be renamed to the DisabilityCare Australia Launch Transition Agency? I am interested in the process that led to the new name. I am also interested in the manner of its announcement and what the intention of the government is as to how exactly it will be used.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:36): Senator, in answer to your questions, I need to provide some clarity for you. This is not a name change. National Disability Insurance Scheme was the name that Mr Bonyhady took to the 2020 summit some years ago. It is a name that was then picked up by the Productivity Commission in their work. There have been a number of senior and key players who have had conversations about whether or not the word 'insurance' should rightly sit in that name.

It was always the plan of the government to provide a name that is accessible and means something to Australians broadly, particularly Australians with disability, in the same way that Medicare comes from the Health Insurance Act in Australia. We do not have a Medicare act; we have the Health Insurance Act. In the same way Centrelink is delivered through the Commonwealth Service Delivery Agency Act—that is how we have Centrelink. So it is not unusual; it is, in fact, predictable. It is not a point that, I think, carries much weight, so can I suggest
we get on with the main job. Your question was in terms of the agency. That is a matter for deliberation down the track; it is not a consideration at present.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:38): As I indicated at the outset, this is the least important matter that will be raised here, but given it has only arisen in the last few days and has been the comment of a number of people with disability, I thought it was worth giving the parliamentary secretary the opportunity to provide some additional context around the proposed branding of the scheme. As I think I indicated yesterday, it is not something about which the opposition wish to make a capital case, but I think it deserves some brief ventilation.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:39): by leave—I move government amendments (1) to (16) on sheet CT200 together:

(1) Clause 3, page 4 (lines 5 to 7), omit paragraph (1)(a), substitute:

(a) in conjunction with other laws, give effect to Australia's obligations under the Convention on the Rights of Persons with Disabilities done at New York on 13 December 2006 ([2008] ATS 12); and

(2) Clause 3, page 4 (line 28), at the end of subclause (1), add:

; and (i) in conjunction with other laws, give effect to certain obligations that Australia has as a party to:

(i) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 ([1980] ATS 23); and

(ii) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 ([1976] ATS 5); and

(iii) the Convention on the Rights of the Child done at New York on 20 November 1989 ([1991] ATS 4); and

(iv) the Convention on the Elimination of All Forms of Discrimination Against Women done at New York on 18 December 1979 ([1983] ATS 9); and


Note: In 2013, the text of a Convention or Covenant in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

(3) Clause 4, page 6 (after line 19), after subclause (12), insert:

(13) The role of advocacy in representing the interests of people with disability is to be acknowledged and respected, recognising that advocacy supports people with disability by:

(a) promoting their independence and social and economic participation; and

(b) promoting choice and control in the pursuit of their goals and the planning and delivery of their supports; and

(c) maximising independent lifestyles of people with disability and their full inclusion in the mainstream community.

(4) Clause 4, page 6 (line 20), omit "(13)", substitute "(14)".

(5) Clause 4, page 6 (line 24), omit "(14)", substitute "(15)".

(6) Clause 4, page 6 (line 27), omit "(14A)", substitute "(16)".

(7) Clause 4, page 6 (line 29), omit "(15)", substitute "(17)".

(8) Clause 5, page 7 (line 18), after "circumstances", insert ", and the gender."

(9) Clause 9, page 12 (lines 7 to 13), omit the definition of Convention on the Rights of Persons with Disabilities.

(10) Clause 26, page 29 (lines 13 to 16), omit subparagraph (1)(b)(ii), substitute:

(ii) undergo, whether or not at a particular place, a medical, psychiatric, psychological or
other examination, conducted by an appropriately qualified person, and provide to the CEO the report, in the approved form, of the person who conducts the examination.

(11) Clause 36, page 40 (lines 23 to 26), omit subparagraph (2)(b)(ii), substitute:

(ii) undergo, whether or not at a particular place, a medical, psychiatric, psychological or other examination, conducted by an appropriately qualified person, and provide to the CEO the report, in the approved form, of the person who conducts the examination.

(12) Clause 50, page 49 (lines 1 to 4), omit subparagraph (2)(b)(ii), substitute:

(ii) undergo, whether or not at a particular place, a medical, psychiatric, psychological or other examination, conducted by an appropriately qualified person, and provide to the CEO the report, in the approved form, of the person who conducts the examination.

(13) Clause 73, page 64 (line 4), at the end of subclause (1), add:

; and (d) processes to deal with conflicts of interest, or perceived conflicts of interest.

(14) Clause 73, page 64 (after line 19), after paragraph (2)(d), insert:

(da) obligations relating to dealing with conflicts of interest, or perceived conflicts of interest; and

(15) Clause 85, page 75 (lines 9 and 10), omit "a medical, psychiatric or psychological".

(16) Clause 147, page 119 (lines 8 to 26), omit subclause (5), substitute:

Membership requirements

(5) In appointing the members of the Advisory Council, the Minister must:

(a) have regard to the desirability of the membership of the Advisory Council reflecting the diversity of people with disability; and

(b) ensure that all members are persons with skills, experience or knowledge that will help the Advisory Council perform its function; and

(c) ensure that:

(i) a majority of the members are people with disability; and

(ii) at least 2 of the members are carers of people with disability; and

(iii) at least one of the members is a person who has skills, experience or knowledge in relation to disability in rural or regional areas; and

(iv) at least one of the members is a person who has skills, experience or knowledge in the supply of equipment, or the provision of services, to people with disability.

Note: A particular member may meet one or more of the conditions in subparagraphs (5)(c)(ii), (iii) and (iv).

By way of explanation of these government amendments, the government has moved amendments in the House to respond to what we have heard from people with disability and their families and carers, from service providers and from the states and territories. Many people have also provided their views to the Senate Community Affairs Legislation Committee's inquiry into the bill, and the government is proposing additional amendments to be moved in the Senate to respond to the committee's report.

The amendments in the House were designed to make it clear that a fundamental aim of the scheme is to maximise the independence of people with disability. In delivering the NDIS, they require that the agency supports the independence, participation and exercise of choice and control by people with disability. The amendments we are moving in the Senate also make clear that, in addition to the cultural and linguistic circumstances of people with disability, their gender should be taken into account by anyone acting on behalf of a person with a disability. That is amendment (8) and responds to committee recommendation 5.

Amendments (1), (2) and (9) and committee recommendation 1 give greater visibility to the object of the scheme that relates to the Convention of the Rights of Persons with Disabilities and other relevant
human rights conventions. They include a specific reference to the object of maximising independence for people with disability.

The Senate committee also discussed the role of advocacy and the NDIS in great detail, and the government is proposing amendments to acknowledge the role of advocacy in representing the interests of people with disability and to recognise that advocacy supports people with disability in a range of ways. Those amendments are (3), (4), (5), (6) and (7) and respond to committee recommendation 7.

Amendments (10), (11), (12) and (15) respond to committee recommendation 18. In response to a request by the Senate committee, the amendments also clarify that where an examination is required for access, planning or reviewing in addition to medical, psychiatric and psychological examinations there can be other examinations conducted by an appropriately qualified person.

Amendments (13) and (14) respond to committee recommendation 20. To respond to the Senate committee's concerns, the amendments ensure that NDIS rules can be made to deal with the mechanisms registered providers of supports must have in place for dealing with conflicts of interests. There is a risk of conflicts of interest arising, for example, if a registered provider of supports both provides supports to people with disability and manages funding for supports under plans. The NDIS rules will be able to specify approval criteria and/or ongoing obligations that registered providers of supports must meet for managing conflicts of interest. The NDIS rules will be able to provide more detail around what kind of mechanisms a registered provider who undertakes both functions must have in place.

Amendments (15) and (16) respond to committee recommendation 29. Amendments moved in the Senate provide for greater representation of people with disability on the advisory council while ensuring that a diverse experience of disability is also reflected. As recommended by the Senate committee, the amendments mean that a majority of the people on the advisory council will be people with disability and there will be at least one member who has experience or knowledge of disability in rural and regional areas. This is in addition to the existing requirements that there be at least two people who are carers of people with disability and at least one person with experience or skills in the supply of equipment or services. I commend the amendments to the chamber.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:43): I have a series of questions around those amendments. While I commend the government for taking on a number of the recommendations from the committee, there are some that are not necessarily being done through amendments, and there are also questions around those amendments and what is in scope or not. Should we go through issue by issue, because I am sure Senator Fifield has questions as well? I also have a few questions around amendments that were made in the House of Representatives to the compensation provisions, which Senator Xenophon also brings up, and may clarify some of the issues Senator Xenophon is trying to address through his amendments. Perhaps we could do compensation first. I am looking around the chamber to see if that is okay with people.
Senator SIEWERT: I appreciate the government has already moved to deal with the issue of subrogation, which, as the parliamentary secretary will know, came up time and again. The issue that came up time and again by a number of organisations—and the chamber has a deep interest in this at the moment—was why the CEO still needs those powers to compel participants to seek compensation. One of the key issues that came out during the Senate inquiry was the fact that the CEO could compel. That is why the argument was there for subrogation. Can the parliamentary secretary explain why those powers are still necessary given the subrogation issue has been dealt with?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:47): The answer to that is that you have to start from somewhere. The first question the CEO asks a participant is: will you go to the TAC and make a claim, for example? There has to be a start to the process. Then, as you know, through subrogation that person may say they do not want to and then the CEO has another set of options in front of them to be able to take a matter on their behalf—and I think you understand the trickle-down options that are available following the amendments in the House of Representatives. But the answer to your question is that you have to start somewhere. So the first step is you ask a participant to take an action at the appropriate insurer.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:48): I acknowledge that the amendment that the government moved and was passed in the House did go some way towards addressing the recommendation of the Senate committee, but I want to follow up on what the parliamentary secretary was saying before. A lay person reading the amended legislation would see that the chief executive has great powers of compulsion. I appreciate that the way a mechanism of this sort operates in reality may not be as blunt as it appears in the legislation. Are you saying that, if an individual elects not to pursue action themselves or they do nothing, by so doing they have in fact elected to subrogate their responsibility to the CEO? Although it may look in black and white as though the chief executive is directing that something happen, in fact the way it will operate in practice is that the individual is in effect electing to make a choice and to subrogate some of their rights to the CEO.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister—Parliamentary Secretary to the Prime Minister).
Prime Minister) (11:49): I think we need to put this in a little bit of context. The first point I would make is that a person who has just been involved in a very traumatic event probably is not going to go to the National Disability Insurance Scheme Act to ascertain what their next steps are. They will be associated with their insurance company and they will be referred to the national disability insurance agency locally provided, and this will be done extremely sensitively and compassionately. That was very much the message we received from the Senate Committee Affairs Legislation Committee.

In terms of how it will happen, there will be a discussion undoubtedly. If the case does concern legal action, there will be a discussion managed very sensitively with the individual to ascertain whether they wish to take that legal action. I imagine this will be a discussion not held on just one occasion. There will be an opportunity for there to be further discussion if the person says they are not doing that. That is when subrogation occurs and that is when there is an opportunity for the CEO to ascertain whether legal action is appropriate or whether they should take it on behalf of the person who has been involved in that event.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:52): I think organisations such as the Australian Lawyers Alliance have visited a number of senators and given evidence to the Senate inquiry. I understand from what Senator Xenophon has said that his proposed amendments in the area of compensation reflect some of the concerns of organisations such as that. I would be interested in whether you have received any legal advice as to what the practical outworking of the proposition that Senator Xenophon has put forward may be, just to provide a little light, because being a layman I have read amendments such as his and it is not immediately apparent as to what the practical import may be.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:51): Was the significant amendment that was made in this area in the House modelled on other legislation, be it Comcare legislation or the TAC? I am looking to see what the amendment is most parallel to or draws inspiration from.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:53): I am happy for that to be taken as a question on notice. I just was not sure when Senator Xenophon was joining the committee stage.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:53): Are we then leaving the rest of the compensation issues until Senator Xenophon gets here? It seems to make sense.

Senator McLucas: Yes.

Senator SIEWERT: I might leave the issue around legal privilege till then as well. Can I move on to advocacy. This is an issue that came up extensively, and the Greens
also have an amendment on advocacy. Many submitters drew a clear distinction between the systemic advocacy to improve access for all people with a disability in specific areas of need, and they also looked at individual advocacy, particularly advocacy for individuals who are in dispute with the NDIA. On the weight of evidence, the Australian Greens, as I articulated in my second reading contribution, felt that it was better to leave the funding of advocacy outside the scheme, but we still felt it was very important, and we very strongly support the committee's recommendations that the concept of advocacy be included in the NDIS, which the government is doing through these amendments.

The role of advocacy is brought into sharp focus by the mechanisms by which each participant and others can seek to challenge and address decisions of the agency. We have supported the recommendation that launch sites should monitor this aspect. So the issue that came up was the immediate review and then going to what people felt was the more extreme AAT approach. They were looking for something in between. I understand the government's concern about setting a whole new process up through the launch sites, because they want to get this up and running, which is why the committee recommended that there be this process of monitoring this particular aspect to see if there are a lot of concerns coming up during the launch site process and to see whether there is a need for an intermediate step between those two levels of what is essentially appeal. There was, of course, that call for funding of advocacy.

So the problem here is that, yes, we totally get the weight of evidence that suggests that we should not be funding advocacy under the agency, but that then leaves out there the issue of advocacy and how we are going to fund it. The problem is that in the past—I am not pointing the figure at any particular governments here—we have seen funding for advocacy go up and down. We have had previous attempts to muzzle advocacy, and under this government there was the failure to index some of the grants to advocacy agencies—which was, I have to say, reversed, but it can be something that comes and goes, and that is not good for advocacy. So my question to government is: one of the recommendations in the report was funding of advocacy, so what is the government doing about funding for advocacy services, given that they will not be provided for through the scheme itself?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (11:57): Senator Siewert can be assured that the government totally understands the necessity for strong advocacy services. We are moving into a new age, and people will have different questions, and many people will need to be supported through that process. So I have just moved amendments that recognise the role of advocacy, but we are working to ensure that the merits system is accessible and as non-adversarial as possible. Mr Bowen has said—I think it was at Senate estimates—that seeking a resolution to any issue has to be the first priority and that path will be taken to internally manage any question as assiduously as possible.

As you indicated, we will be providing additional funding to advocacy organisations to ensure that advocacy support is available. We are working through the detail of that at the moment. As you know, advocacy agencies are funded in different ways around the country. We have undertaken an extensive mapping exercise with the support of our National Disability Advocacy Program funded agencies, and we have also undertaken to look at those agencies that are
funded by states and territories to ensure that we have the advocacy and also the interrelationship between various agencies strengthened so that people can navigate the advocacy system as well.

Senator RONALDSON (Victoria) (11:59): I thank Senator Siewert for enabling me to jump in. I know she has other questions. For a variety of reasons I did not have the opportunity to speak on the second reading debate, and I hope I might have the leave of colleagues to make some general comments. In all likelihood I will be out of the building when Senator Fifield's amendment in relation to the establishment of a joint parliamentary committee is debated. With the leave of the parliamentary secretary, I will make some quick comments to that.

Senator Fifield has said for a long time that the NDIS should be beyond partisan politics. That is why he, as the responsible shadow, and the coalition in totality seek the establishment of a joint parliamentary committee to be chaired by both sides of politics. If we are going to be fair to men, women, children and families with disabilities as a nation, we must undercommit and overdeliver. If we overcommit and underdeliver then we are letting down a group of Australians who are not being provided a service that anyone in this country could be proud of. We have worked extraordinarily hard.

The proposal that the opposition has put is not a practical answer to ensuring that we do get the delivery that we are all seeking—including me. We have a number of governance arrangements in place that will ensure that we deliver a national disability insurance scheme starting on 1 July in your state in the Barwon region. To do that, we have worked very closely with states and territories, and a lot of those are Liberal Party states and territories. The politics has been left outside the door. I pay tribute to Minister Mary Wooldridge of your state because she has been extremely cooperative and helpful, as have her departmental officials. I say the same for Mr Constance
from New South Wales. This is well and truly above politics. This is about getting it right for people with disability. I hope that comforts your godchildren's parents.

Senator RONALDSON (Victoria) (12:04): I thank the parliamentary secretary for that, but my point—and I think this is the point that Senator Fifield has been making for some time now—is that if this is a jointly chaired committee then those people with disability and their families will know that this can never be anything other than bipartisan. I really do believe that design and eligibility should be worked out cooperatively. I take on board the parliamentary secretary's comments, but I do again reinforce my very strong and passionate view that Senator Fifield's amendment is one that should be supported by the committee.

Senator XENOPHON (South Australia) (12:05): I welcome the statement in the advocacy amendment about issues of promoting independence, socioeconomic participation, choice and control in the pursuit of goals and acknowledging the role of advocacy. My question is: if there is a situation where a person is rejected for funding under the NDIS and ends up in, for instance, the Administrative Appeals Tribunal, where the Australian Government Solicitor or people who are skilled in advocacy will be representing the interests of the department, is there a guarantee that a person with a disability who has to fight this out in the Administrative Appeals Tribunal, if it gets to that, have funding for their advocacy services?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:06): Thank you for the question, Senator Xenophon. The first point I would make is: we will do everything we can to avoid the situation you have described. The intent is to try and resolve issues as close as possible to the point of difference. In answer to your question, we are working through that at the moment. Those issues are afoot and we will be able to give you a clearer answer at the point when we get to your amendments. Is that helpful?

Senator XENOPHON (South Australia) (12:07): Yes.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:07): I would like to follow up on the issue of funding. I understand from what you have said, Parliamentary Secretary, that you are committed to increasing funding but you cannot tell us more at the moment. Is that correct?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:07): Yes.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:07): Thank you. One of the issues that was raised that I touched on in my previous remarks was about a process for monitoring whether people are having problems in that intermediate step between the AAT and a review. The committee report suggested that happen. I would like to clarify if you are taking up that recommendation and how that would be implemented.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:08): The answer to the question is yes, we are. We are working through the mechanisms by which we would enact that recommendation.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:08): Could I then be cheeky and seek a commitment that the Community Affairs Committee would be
the most appropriate committee or the Parliamentary Friends of People with Disability be briefed on how that will occur?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:09): Certainly.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:09): Thank you. I have finished on advocacy for the time being. I want to return to it briefly when we get to the Greens amendment.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:09): I will indicate the opposition’s disposition towards the government amendments, taking each in turn. Amendments (1), (2) and (9) relate to more clearly referencing Australia’s treaty obligations. That was recommended by the Senate committee, and the opposition have no issue with that. Government amendments (3) and (8) relate to giving a more specific reference on advocacy, which Senator Siewert has also been pursuing, and that also was a recommendation of the Senate committee. I think the form of words the government has alighted on is the appropriate form of words in this area to give appropriate recognition to the central role that advocacy plays in the lives of many people with disability to ensure that they are able to attain their full rights, but it does observe the appropriate demarcation that advocacy be separately funded.

Government amendments (10), (12) and (15) make a little clearer the sorts of professionals that the CEO can seek advice from. With the original drafting there was a concern that it might inadvertently exclude, by not listing, certain professionals. This leaves that more open, which I think is appropriate.

Government amendments (13) and (14) relate to conflicts of interests in relation to service providers. Again, the Senate committee and particularly Senator Boyce had a concern that reference to organisations having appropriate mechanisms to resolve conflicts of interest and to ensure that there are not conflicts of interest should be in the primary legislation. I acknowledge that the government has taken that on board.

Government amendment (16), which relates to the membership of the advisory board, I think is helpful in ensuring that there is appropriate representation. I am particularly pleased that there is the maintenance of having at least two positions for people who represent carers. I just wanted to indicate our disposition towards each of those government amendments.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:12): I have a quick question about the advisory council that Senator Fifield just referred to. You would be aware that allied health professionals have had some concerns around their level of engagement. The amendments around professionals that the CEO can seek advice from have partly dealt with that issue. In seeking some clarification in relation to the advisory council I am not asking about prescribing certain further members, but the terms of reference do not necessarily preclude people with professional expertise in allied health or with allied health knowledge from being included on the advisory council if that was appropriate, do they?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:13): No, they certainly do not preclude involvement of people. I think the amendment we have moved today to say that at least half of that advisory
council be people with disability shows the focus we have in the advice that will be received, noting also that we will require there to be two people who have direct caring experience and people from rural and remote areas who have experience in service delivery.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:14): There are a couple of other quick questions I have regarding some of the recommendations and comments in the committee report. I will leave some of my other questions until I move my amendments.

You will be aware that, during the Senate inquiry, issues around Aboriginal engagement with the scheme and concerns particularly about some cultural aspects of disability in Aboriginal communities were raised. There were comments made in a report about looking at the possibility of a launch site. I understand the government does not want to have a specific launch site for Aboriginal and Torres Strait Islander peoples. There were some recommendations. My question goes to how you are going to better engage Aboriginal communities in the scheme, given the very substantial issues that have been raised.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:15): I do not want it on the record that we do not want a launch site that covers Aboriginal and Torres Strait Islander people. As you know, launch sites were identified through nominations from various states and territories in terms of what they were proposing. We are very pleased that in South Australia there are discussions continuing around the provision of services in remote parts of the state for the first cohort and as it grows. That will be an important learning for us as well. We have had discussions around the APY Lands with South Australia, Northern Territory and Western Australia, thinking that we may be able to do something more broadly than simply in the South Australian area, as does happen with a range of other programs.

The other thing to go to is the number of practical design fund projects that have been funded that do focus on a number of issues; notably, the fact that for many Aboriginal and Torres Strait Islander Australians the word disability is not part of their lexicon. We need to make sure that we do overcome this underutilisation of even current disability services by people who are Aboriginal and Torres Strait Islanders. It is something that we are very aware of. We are working very closely with the First Peoples Disability Network and I commend Mr Damian Griffis for his engagement and representation. He has been wonderful to work with. It is an issue that I am personally very aware of, living next to Cape York Peninsula and the Torres Strait, where service delivery is very difficult. I am keen to make sure that Aboriginal and Torres Strait Islander people in rural and remote areas, but also in urban areas. Let's not forget that many Aborigines and Torres Strait Islanders live in our cities and they also underutilise disability services. Yes, we have a big piece of work to do, and we are working on it.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:18): Senator Siewert raising this area prompted a question in my mind. I think the NDIS rules refer to—for the purposes of the South Australian launch site—certain Indigenous lands being deemed to be included as part of South Australia. I assume those boundaries extend beyond South Australia, hence they need to make reference to them. How are those boundaries actually defined?
Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:19): As you know, the rules are still a draft and we are working through the detail, but this is not an unusual circumstance. Minister Macklin, particularly through her work as Minister for Indigenous Affairs, has a lot of direct engagement with how we define who is there and the service. These people are living in very remote locations; very identifiable though, even though people do move from place to place from time to time. It is not an unusual circumstance we find ourselves in.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:19): Is it a geographic boundary or is it related in some way to a cohort?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:19): It is the APY Lands.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:20): Senator Fifield was going where I was going to go to clarify some of those boundary issues. You said you had been in negotiations with those governments. Obviously, you are talking to the South Australian government because of the launch site. Have WA and NT actually agreed? Are they contributing resources or is South Australia picking that up as part of their process?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:20): That is the level of detail that is currently being worked through at the moment. As you know, the South Australian cohort is an age-based cohort and that will be reflected in how it operates in those parts of the Northern Territory and Western Australia. The detail of how the funding arrangements and the service delivery will work is still being worked through.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:21): Can I touch on the issue around people in custody and the issues that were brought up during the Senate inquiry? I know through other work that I do in this space, particularly with hearing, that there is great difficulty for people incarcerated accessing services. It was raised during the Senate inquiry. Could you provide any information on whether the scheme can be extended to people in custody? If it can, how will that process work?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:21): It is often difficult to extend services to people once they enter custody. We have been working on this in relation to access for Australian Hearing to provide services particularly to Aboriginal people suffering hearing loss. We know that people with disability are overrepresented in custodial places. There is nothing to preclude someone being a participant while in custody, if their usual place of residence is in the launch site. There would be some limits to what they might be able to access and the rules will outline what the NDIS can provide. For example, I could imagine that if a person needs personal care and support it would be very hard to provide that in a custodial setting. The agency is working with each jurisdiction to map interfaces with other systems to ensure that accountabilities are clear and that administrative processes are effective. But can I point you to the rules in schedule 1, on page 23, at 7.29(b), which state:

The NDIS will be responsible for:
… … …

(b) where a person is in a custodial setting supports which are required as a result of the person’s functional impairment and are additional to supports required by the general population in relation to the following:

(i) aids and appliances; and

(ii) capacity and skills building to re-enter the community.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:23): Minister, could you just clarify that particular bit again. The states are responsible?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:23): No.

The NDIS will be responsible for:

… … …

(b) where a person is in a custodial setting supports which are required …

(i) aids and appliances; and

(ii) capacity and skills building to re-enter the community.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:24): Thank you for your answer, Minister. I am aware through a lot of following up of this through estimates that if somebody goes into custody and is already receiving the services they can continue to receive the services. But if they are assessed once they are in custody, they cannot receive those services. Will that same process apply here?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:24): This is an area that we are working very closely on, particularly in our launch sites. We actually do have a prison in the Barwon region. A state that has established a prison system has a duty of care to the people who are in that prison. You have made the point—and I have heard it many times—that you do not know that that duty of care always extends appropriately, particularly in terms of services for people with disability. But we are working through those boundary issues. We can continue to update the committee as required, as we get more information about how that will technically work. Australian Hearing services have been instructive and I think the work you have done through estimates has been very helpful as well.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:25): Thank you. It is an issue that I will continue to follow up. Can I move on to mental health. The parliamentary secretary will be aware—and I am sure the minister is also aware—that this issue came up during the committee inquiry. That is, the issue of the process of recovery, which is the focus of mental health, and around the issues of recovery rather than seeing disability as an ongoing permanent disability. It was raised a number of times. While I think some people are pretty clear about it there is still a lot of concern, because mental health takes a recovery approach, as to whether it will be included for those people who are very strongly in their pain process looking at a recovery approach.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:27): I pointed you to the rules around the custodial sentence issue. Similarly, there are rules around the issue of recovery that you alluded to. Current supports that recognise the recovery approach will continue to be available. This will take into account the intermittent nature of some mental health conditions. I hope that is helpful in answering your question.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:27): I am
aware of those covered in the rules and the clause. Minister, have you had advice that those provisions in the draft rules and in the bill as it stands are sufficient to actually deal with that particular issue?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:28): I might quote my colleague Senator Moore in identifying that this is a great start we have here, but we will learn a lot through the launch. It has in fact been designed that way. But if there are specific issues around the draft rules that you think we should attend to, we would be very open to hearing your thoughts.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:28): I just want to raise the issue of guide dogs. It is often and usually the case at the moment that individuals who need the assistance of guide dogs gain those at no cost to themselves as a result of the fundraising efforts of particular organisations which largely self-fund these services. Minister, I would appreciate your assistance in working through how that situation will operate under an NDIS. For example, you may have the scenario where an individual receives support, an entitlement, through the NDIS and they go to a service that previously provided, say, a guide dog at no cost to the individual receiving that service. How will that organisation be able to identify that that individual actually receives funded support as opposed to another individual who may not be eligible for NDIS supports?

Let's say they are over the age of 65, they go to a guide dogs organisation and they receive a guide dog at no expense to themselves.

I am interested in working this through as a representative example of how the NDIS might work. Will there be a requirement that the organisations providing the guide dogs have the individual, who will be in receipt of those services, sign a statutory declaration saying that they are or are not in receipt of NDIS supports? It would be appropriate that that individual put some of that NDIS support towards that organisation from which they might previously have received the service at no expense. What will be the mechanism for that organisation to receive the appropriate payments? Essentially, how will that organisation seek to identify those people who should be making a contribution to a service that may previously have been free through their NDIS supports?

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:31): I think you and I had the same conversation yesterday with the same group of representatives who were in the building. First of all, I love guide dogs and I think they are beautiful—I do not know how relevant that is. Secondly, we have indicated that guide dogs are included in the NDIS. The test will be the same test applied to every assisted technology, every support that is provided— that is, is it reasonable and necessary.

The substantive point you are making is: how will an entity that is delivering guide dogs at quite reasonable expense know that the person is approved to be provided a guide dog? The agency is working that detail through at the moment. The point that was made by those who visited us yesterday is a good point, and we are working through it. The legislation is quite clear that the person is entitled to supports and if they purchase something outside of the supports they have agreed to then they are liable. No, you cannot go to the guide dog society and get a guide dog if you are not entitled to one. Sorry, Senator Fifield, you cannot have a guide dog.
Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:32): Thank you for that explanation. There will be scenarios where an individual is not entitled to NDIS supports, but in the view of the guide dog organisation they have the need for a guide dog. It may be that they are over the age of 65 and they acquired vision impairment later in life, so they will not be entitled to NDIS supports. However, in the view of the guide dog organisation they would be someone the organisation would look to provide a guide dog to. There will still be a need for these organisations to have the capacity to differentiate between those individuals who are funded and those who are not.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:33): I am sorry for being a little flippant. There will be an ongoing role for organisations through block funding and through philanthropic processes. We have been working with a number of the organisations which receive quite considerable amounts from the community. We are very clear that we do not want those funds not to be forthcoming from the community. We are working very closely with those organisations to ensure that the partnership we currently have and we will continue to have into the future is very clear to the community, so that the support those organisations currently receive will be ongoing.

This is the most significant legislation I have ever been involved in, but we have been going on the committee for quite some time. I would like to think that we could do the amendments and then we could possibly deal with the general questions that you have—they are legitimate and I am not saying they are not that—after we have dealt with the amendments, so that we get the bill through.

The TEMPORARY CHAIRMAN (Senator Bernardi): If it is of any assistance, the committee will be reporting progress in about 10 minutes. I am in the hands of the committee.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:35): I have two more questions in this particular section on your amendments and on the committee report. They are my two. I do not know if Senator Fifield has got more.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (12:35): I am happy for other questions to be dealt with thematically after the amendments are dealt with.

The TEMPORARY CHAIRMAN: Senator Siewert, you would like the call?

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:35): Yes, that will deal with the questions I have around the committee report and the government’s amendments. It is relating to secure work. The next area, recommendation 21, dealt with the concerns raised by some of those representing workers and unions that came to present evidence to the committee. They were concerned around insecure working conditions and wanted to make sure that measures were put in place like enhanced skills training capacity of people working in the disability sector. What is the government doing with that recommendation? Have they taken it on board and are there any actions that you think need to be put in place to deal with that issue around the potential for insecure work, given the move to self-directed funds? They were not having a go at that move—and neither am I, I strongly support that—but I think they raise some legitimate issues.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the
Prime Minister) (12:35): I think it is really exciting that the NDIS will bring with it great and enormous job opportunities, but, in saying that, there are also significant challenges that we are dealing with. The government appointed an expert working group to advise on the issues affecting sector capacity and workforce issues as we transition to an NDIS. Their work has been very extensive and ongoing. We are also working to continue this work as we progress, including the need for a forward looking comprehensive workforce strategy. We have had conversations with some of the unions around that question as well. This must consider the move to individualised funding and the impact of that on working arrangements, and it is also a part of the broader work we are doing on consumer directed care. That is the interface that we are talking about. It is an issue that we are very alive to, and we intend to work very closely with all relevant stakeholders as we meet and beat the challenge that is in front of us. It is a big challenge and we are growing a large workforce of people. The questions of quality are real and we will ensure that we do provide a quality workforce. That is absolutely fundamental to the delivery of a quality scheme.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:36): In the interests of time, I might follow that up when we subsequently go back to committee. What I hope will be easily answered: the recommendation around the easy English materials and the recommendation that the information be prepared using easy English.

The TEMPORARY CHAIRMAN (Senator Bernardi): Would you like to speak to that, Senator Siewert?

Senator SIEWERT: I will do so very quickly, because I would love to get this one dealt with as well. This one relates to the function of the agency. We believe that the bill includes the principle that providing reasonable ministry support extends before financial support and capacity building to include a responsibility or function to ensure that people with a disability can live independently and participate fully in the community. This function is broadly similar to the idea of systemic advocacy that is covered extensively in the committee report. We touched on it in our additional comments and we took on board very strongly the comments made by, for example, the Disability Discrimination Commissioner, Mr Graeme Innes.

So this amendment provides that broader function for the agency. In particular, during the committee discussion it strongly came up as the intersection between the NDIS and delivery of mainstream services, and the discussion very clearly highlighted that it was not the idea that the scheme replace services that should be delivered from mainstream services and that, in fact, there is going to be a need to do some negotiating sometimes with some of those mainstream services. So we believe very strongly that...
this will enhance the functioning and powers of the agency. I commend the amendment to the chamber.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (12:41): I am pleased to advise that the government will be supporting the amendment from the Greens. We thought the principle was implicit in the legislation, but to make it explicit is not a problem.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:41): I will very quickly respond. I take the minister's point that they thought it was implicit. I think that, because this is such an important issue, it should be very clearly explicit, which is why we are seeking to move this amendment.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Bernardi): There are three minutes before we move on to other matters, Senator Xenophon.

Senator Siewert interjecting—

Senator XENOPHON (South Australia) (12:42): Senator Siewert suggested that the lights dimmed when I got up to speak. I am sure that was a factual statement, not a metaphorical one! I move the amendment standing in my name, amendment (1) on sheet 7362:

(1) Clause 4, page 5 (after line 23), after subclause (5), insert:

(5A) People with disability have a right to access independent disability advocacy support to promote, protect and ensure their full and equal enjoyment of all human rights and to enable them to participate fully in the community.

This relates to providing assistance for people with a disability in terms of the issue of advocacy. One of the concerns that I raised in my second reading contribution was that at the moment, if there is a dispute—and it will get to that, unfortunately, in some cases—there will be situations when a person with a disability will, in the absence of this amendment, simply not have the support of an advocacy service. So there may be someone who has a profound disability and has to slug it out with representatives from the Australian government—the Australian Government Solicitor's office or a large legal firm representing the Australian government. That to me seems to be fundamentally unfair. What this amendment states is that people with disability have a right to access independent disability advocacy support to promote, protect and ensure their full and equal enjoyment of all human rights and to enable them to participate fully in the community.

There are other issues in terms of the Administrative Appeals Tribunal, which will be dealt with eventually, but I think that it is important that, for the purpose of this particular amendment, there must be some assistance for people with a disability in terms of advocacy. The parliamentary secretary said in the course of debate on the earlier amendments that the government were considering their position in relation to this, because simply having a phrase in the legislation that says everyone has the right to advocacy is all very well but, unless you actually provide that advocacy, you are not going to achieve the outcome that is desired. So this is consistent with the government's approach, but this is actually doing something about it, and that is why I think it is very important that this amendment be supported, because otherwise it will make a mockery of the framework that is meant to provide advocacy for those with a disability. Unless it is entrenched by this amendment, it just will not happen.

Progress reported.
COMMITTEES
Rural and Regional Affairs and Transport References Committee
Meeting
Senator HEFFERNAN (New South Wales) (12:45): by leave—I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.50 pm.

Question agreed to.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! It being 12.45 pm, I call on matters of public interest.

Cost of Living

Senator BILYK (Tasmania) (12:46): Today I rise in the matters of public interest discussion to make a contribution to the ongoing debate about the cost of living. As we know, cost of living is an issue which the opposition love to go on about because they are on a winner. But what I intend to show is that, when you look at the opposition’s policies, you realise there is a large amount of hypocrisy coming from those opposite regarding the cost of living.

On that side of the chamber is an opposition that is constantly finding ways to wind back much-needed assistance for families and households. By contrast, this Labor government has been working hard to address cost-of-living pressures by providing assistance to pensioners, families and working Australians.

I am proud to be part of a government which has boosted pensions dramatically. The combined effect of our 2009 pension reforms delivering an increase to the base rate and fairer indexation have delivered the highest pensions in history. Starting today, they will further be boosted by Labor’s clean energy supplement. Today, a single pensioner on the full pension will earn $207 more a fortnight, and a pensioner couple will earn an extra $236 a fortnight more than they did before our historic pension reforms in September 2009. We have delivered billions of dollars of income tax cuts, which much of that going to low- to middle-income earners. Our decision to triple the tax-free threshold from $6,000 to $18,200 means that a million Australians will no longer need to lodge a tax return.

We have boosted the retirement savings of ordinary Australian workers by a decision to progressively lift the superannuation guarantee from nine to 12 per cent. This will deliver an extra $100,000 in retirement savings for the average worker. We are helping eligible mums and dads with the cost of putting their children through school with the Schoolkids Bonus of $410 per child in primary school and $820 per child in high school. We have a whole suite of measures that are aimed at helping Australians meet the cost of living, and it is clear from our policies that the assistance is focused on those who need the most help.

The opposition like to use the term 'class warfare' to describe this approach, but the use of this term is just a cover for their hypocrisy. They bleat about the cost-of-living pressures yet oppose the very measures that are designed to relieve those pressures. If the coalition are genuinely concerned about the cost of living, why do they oppose a boost to retirement savings? Why do they have a paid parental leave scheme that pays parents who are already better off five times as much as those on the minimum wage? Surely this is an act of 'class warfare'. Why do they talk about raising taxes and cutting pensions so they can use that money to reward big polluters?
Before I go into detail about some of the policy differences between the government and the opposition, I should mention the government policy that is central to the opposition's attack on us over the cost of living. That of course is the decision to price carbon. In the lead-up to the introduction of a carbon price on 1 July last year, those opposite talked it up as a 'great big new tax' that was going to 'send a wrecking ball through the economy' and 'wipe whole towns off the map'. It was first described by the Leader of the Opposition, Mr Abbott, as a 'cobra strike'; then as a 'python squeeze'; now it appears it is an 'octopus embrace'. The way Mr Abbott's analogies are going it will probably end up as a kitten rub or a puppy pounce, but whatever kind of animal Mr Abbott wants to liken it to, the fact is the lived experience of the carbon price has been quite benign when compared with the opposition's overblown, alarmist rhetoric.

Let us get a few facts on the table. First of all, the coalition constantly offers the carbon price as evidence that we are a high-taxing government. Nothing could be further from the truth. The overall tax as a percentage of GDP has been lower under all of the five years of Labor than it ever was under any year of the Howard government. Regarding the effect on the price of goods and services, the government always said we knew there would be some price impacts, but they have been quite small. Treasury predicted that a carbon price would cause a 0.7 per cent increase in CPI inflation. Compare this to the 2.5 per cent increase to inflation caused by the Howard government's goods and services tax. Households are being compensated for the carbon price through increased payments and income tax cuts. Contrast this with the introduction of the GST, where the compensation was delivered as income tax cuts only, and primarily benefited middle-to high-income earners.

Through our clean energy supplement, starting today, a single pensioner on the full pension will receive a clean energy supplement of $13.50 a fortnight, or $350 a year. Between now and 1 January 2014, clean energy supplement payments will start to be delivered to recipients of Newstart, family tax benefit, youth allowance and various other government payments. For the initial period of the operation of the carbon price, these recipients were compensated with a lump sum clean energy advance payment. Whether it is increased payments or tax cuts, nine out of 10 households receive some form of compensation. Over four million households have received compensation of at least 20 per cent more than their average price impact. In other words, four million households across Australia will be better off after the combined effect of the carbon price and the household assistance package. In my home state of Tasmania, people are receiving further assistance from the Tasmanian government. Power price increases have been limited, providing power price relief averaging $200 per household, and the Tasmanian government has also boosted electricity concessions. This has been funded from the windfall that Hydro Tasmania has received as a result of the carbon price.

It is hard to know where the Coalition stand on our household assistance measures. Will they keep them or will they wind them back? You have the Leader of the Opposition, Mr Abbott, on the one hand saying that he will retain some household assistance, then you have Mr Hockey, the shadow Treasurer, saying all the assistance will be wound back. So who are we supposed to believe? Here we have coalition frontbenchers in two of the most senior portfolios who cannot even get their story straight on how much they intend to raise income taxes and cut pensions by. What we
do know is that Mr Abbott and Mr Hockey will raise income taxes and they will cut pensions, but they cannot seem to agree by how much. They are all tied in knots on this, because they know that after forgoing the revenue from the carbon price they still need to find even more billions to fund their expensive 'direct action' plan, which will cost over $1,500 per household.

On top of the massive hole their hare brained 'direct action' scheme would punch in the federal budget, they would have to come up with at least another $5 billion a year to maintain the government's household assistance commitments. Remember, the combination of a carbon price and household assistance actually results in millions of households being better off financially, because that assistance is greater than the price impact. And given the assistance is targeted at lower-income households, it is primarily those households which will suffer when the coalition remove both the carbon price and the associated household assistance, should they become the government.

Is this another case of class warfare, I ask myself. But that is not all that low-income households stand to lose under an Abbott led coalition government. They also stand to lose the schoolkids bonus, which helps low-income families with essential school expenses such as excursions, uniforms and textbooks. And a coalition government would raise the taxes on big businesses by 1.5 per cent a year to fund their gold plated paid parental leave scheme. This new tax, which will cover the parental leave of high-paid executives, will flow through to the cost of basic groceries and will be paid by ordinary families at the checkouts.

For the average household with a mortgage, the major factor that affects the cost of living is interest rates. Since coming to government in 2007, Labor has contained growth in spending. While those opposite keep perpetuating the myth that coalition governments are more fiscally restrained, the fact is that spending growth over the five years of this government—even including the economic stimulus package—has been lower than any equal period under the Howard government.

Our strict fiscal discipline has given the Reserve Bank greater flexibility to move on interest rates and these are now much lower than they were under the Howard government. In fact, a household with an average mortgage will now save around $5,000 a year because of the drop in interest rates since we came to government in 2007. To put greater competitive pressure on the banks to pass on interest rate cuts, we have introduced a ban on mortgage exit fees imposed by the coalition. In combination with the Reserve Bank interest rate cuts, this has helped to further ease cost of living pressures for families with mortgages.

As to the future of interest rates under a coalition government, we have no idea how they will match their rhetoric on fiscal discipline because of their abysmal failure to release costed policies. Not only have they failed to release costed policies but also they steadfastly refuse to submit their policies to the Parliamentary Budget Office to have their costings independently verified. We do know that Mr Hockey, the man who would be Treasurer under such a government, has revealed that they have a $70 billion black hole. So far though, we are none the wiser as to how far they intend to go to plug that black hole.

We know that a failure to contain spending can lead to upward pressure on interest rates. For an example of the coalition's form on fiscal discipline, maybe we should look at a recent report from the
International Monetary Fund which rated the Howard government as the most wasteful government in Australia's history.

The final point I would like to mention when it comes to the coalition's assault on hardworking Australians is their plan for GST distribution. Some of my colleagues—Senator Brown; Dick Adams, the member for Lyons; and the Labor candidate for Denison Jane Austin—were with the Minister for Finance and Deregulation, Senator Wong, in Hobart a couple of weeks ago to launch Labor's campaign against Mr Abbott's plan to rip $700 million a year in GST receipts out of my home state of Tasmania. This decision will cost Tasmania the equivalent of 800 doctors, 3,000 nurses, 500 allied health professionals and 100 childcare workers every year.

This is a cost-of-living issue for Tasmanians not only because of the thousands of Tasmanians who would be without work if Mr Abbott had his way on GST but also because the lack of access by Tasmanians to vital public services would mean that they would have to fund these services out of their own pocket. Unlike the coalition, Labor remains committed to horizontal fiscal equalisation—that is, the distribution of GST based on the needs of each state and territory and their capacity to deliver services. This is also an important issue for other states and territories that rely on a disproportionate share of GST revenue to provide equivalent services to the highly populated and resource rich states. Without equal access to vital public services for every state and territory, people in South Australia, Tasmania and the Northern Territory will have to reach into their own pockets to get the services that people in New South Wales and Western Australia receive.

A per capita distribution of GST as proposed by Western Australian Premier Colin Barnett and warmly received by Mr Abbott would drive up the cost of living for states, like my home state of Tasmania. It would result in a violation of the principles of universal access to quality education and health services that all Australians hold dear.

In conclusion, we know that Australians are concerned about the cost of living and that some Australians are doing it tough. Labor recognises this and we have delivered valuable assistance to households to help ease cost-of-living pressures. If the coalition wins government and Mr Abbott becomes Prime Minister, this assistance is under threat. The greatest threat to the cost of living in Australia is clearly the prospect of an Abbott-led coalition government. To reiterate, I point out that while those opposite keep perpetuating the myth that coalition governments are more fiscally restrained, the fact is that spending growth over five years of this government—even including the economic stimulus package—has been lower than any equal period under the Howard government. The concerns of the Tasmanian people in regard to the opposition's approach to GST is one that I think—I am glad to see that—

**Senator Bushby:** Tasmania has an absolute right of veto. It can't happen. You know that. Tell Tasmanians the truth.

**Senator BILYK:** Obviously I have hit a mark. You can always tell when you have made a mark and you have hit the nail on the head because you get the opposition senators interjecting, carrying on like little children in the childcare centres where I used to work, just carrying on. Maybe the good senator opposite would do better to talk to his constituents in Tasmania and tell them what they are going to do should Mr Abbott become Prime Minister. How will the coalition even hold its head up to the Tasmanian people knowing that it is cutting...
funds to Tasmania. You ought to be ashamed of yourself, especially that senator over there that is interjecting. You ought to be absolutely ashamed of yourself. From the point of view of a Tasmanian senator, besides the fact that your behaviour is a bit childish, as are your comments about GST, you should be out there supporting the people of Tasmania. *(Time expired)*

**Minister for Foreign Affairs**

**Senator KROGER** (Victoria—Chief Opposition Whip in the Senate) (13:01): I rise today to raise a matter of deep concern to me. It is a matter of critical interest to the coalition and, I would think, to all Australians who follow the management of the Foreign Affairs portfolio and, in particular, overseas development assistance and AusAID. Foreign Minister Bob Carr either knowingly misleads this parliament or it is totally incompetent. He is either in contempt of parliament or was installed in a job that he is miserably failing at. Those of us who participate in the Senate Foreign Affairs, Defence and Trade Committee in Senate estimates have seen a demonstration of this time after time. At each Senate estimates, it has happened since he was installed in the job following the retirement of Senator Arbib when he was tapped on the shoulder and massaged into the role by the Prime Minister on the basis that he would be made the foreign affairs minister. I am very sad that Senator Bob Carr is not here today to personally hear what I have to say because his behaviour since he has presided over this portfolio is an absolute disgrace.

In question time on 14 March, Senator Milne asked him questions in relation to the aid budget. In one of the supplementary questions, she referred to whether there was continued government commitment to the divestment of ODA and what percentage that was. In one of those questions she asked: …will the government be transparent in this year's budget as to what the exact dollar figure is that is already committed for climate finance in 2013-14, so everyone can see what remains for overseas aid?

Minister Bob Carr's response was:

We are on target to reach 0.5 per cent, as I said—and I have got my speech in front of me—by 2016-17. We have said that before and we say it again. We are totally accountable in terms of every aspect of the AusAID budget. As I said at the estimates committee, you can find the details online and we are proud of that level of accountability. In estimates recently, the opposition and the Green party were able to exhaust their folder of questions about AusAID expenditure, with every question being met in comprehensive detail.

Those of us who were in attendance at that Senate estimates were gobsmacked with the absolute hypocrisy and misrepresentation of what actually happened in that Senate estimates.

I have to tell you that not only did he not exhaust all the questions that were asked, not only was he not able to answer the questions that were directed at him, he answered questions with absolute rudeness and total abrogation of his responsibility to answer questions that were directed to him. In many instances he just referred the senator asking the questions to the website. His standard response was, 'Go look at the website; the details are on the website,' when in actual fact in many instances there was no information on the website. When he was questioned on what information was available on the website, he flicked it off with a very theatrical, dismissive: 'You go and do your own homework and have a look at the website.'

Not only did he not exhaust all our questions—the questions of the Greens, the National Party or the Liberal Party—but there are some 98 questions on notice, which I table here today, that he was not able to
respond to. Ninety-eight questions! Have a look at them. That is how big the wad of paper is. That is what he is misrepresenting. He says that he is across it. He said that he answered all these questions. He came to question time and he either has absolutely no idea about what he is doing in this portfolio or he was intentionally misleading the parliament. Which one is it?

There are 98 questions on notice. The reporting date that the committee agreed to was 12 April 2013. I look forward to receiving every answer to every question on notice—those 98 questions—because, clearly, he either had no recollection that he did not exhaust all our questions or he, as I said, came in here and misrepresented what was fact.

I want to go to one of the issues that was raised in estimates with the Department of Immigration and Citizenship and AusAID. It goes to the heart of the fact that AusAID is being managed with absolute incompetence. I am not blaming the officers in AusAID here; I am suggesting that the departmental oversight is sadly lacking. With regard to the Department of Immigration and Citizenship—and I am sorry that Senator Cash has just been relieved as shadow minister on duty by Senator Mason, so I hope she is listening to this—it was through prosecution of Senator Cash that the secretary of the department, Mr Bowles, actually said that the responsibility for the $375 million that was ripped out of the aid budget and put into immigration to help plug the hole, make the paperwork look better and to pay for the asylum seekers onshore in Australia was the responsibility of AusAID.

When Senator Cash at some length questioned Mr Bowles on this, he confirmed that the department was not accountable for the recording of the $375 million and that that was actually the role of AusAID. When I pursued that in Foreign Affairs and Defence Senate estimates, I was surprised because Mr Baxter, who heads up AusAID, advised that the $375 million had nothing to do with him. If you go to the budget papers, you will see that the $375 million has come out of the number, out of the bottom line of AusAID, and been directed into DIAC so that they are not accountable for the recording of that $375 million and how it has been divested. Across agencies, we had this confusion in the same week as to who was accountable for this huge chunk of money that had come out of the AusAID budget.

For those who might understand how overseas development assistance works, the reason that ODA can apply to refugees coming here is that the definition of ODA allows for asylum seekers coming to Australia to be funded and defined as overseas development assistance for a period of 12 months. So, for a period of 12 months, this $375 million can go towards supporting them during the time when their refugee assessment is taking place.

The question was asked, 'When is the starting point for when this 12 months applies?' But that question was too hard. Further questions were asked: 'Is it when the patrol boats actually find a boat and help the asylum seekers, put them on board and bring them to the mainland? Is it at that point in time when they are identified that the 12 months start? Is it when their foot actually hits Australia? Is it when they take the first step on Australia's land? Is that when the 12-month period commences?' There was a deathly silence—like there is now.

Senator Lundy: Mr Acting Deputy President, I rise on a point of order about accuracy. I am hearing a lot of reflections on what goes on at Senate estimates and I would be very concerned, having been at a reasonable proportion of the Senate estimates
being described, about the accuracy of the senator's description of proceedings.

The ACTING DEPUTY PRESIDENT (Senator Marshall): There is no actual point of order there, Senator Lundy. Senator Kroger is making some debating points and expressing her view.

Senator KROGER: The question is: when does this 12 months start? Does it start when the asylum seekers are picked up by our patrol boats? Does it start when they actually take their first step in Australia? Does it start when they submit their refugee application for consideration? Does it start when that application has been considered, accepted or denied? When does this period start?

The concern here is: how does this money that has been taken out of the AusAID budget and has been thrown into another bucket for DIAC, for their divestment, get recorded? There has been no answer given as to how that is accounted for. The other issue here that any layperson would consider when thinking about this matter is whether, if you are talking about ODA, and the definition of it, being able to be accessible for refugee status for a 12-month period, that means that that bundle of money is apportioned to a certain group of refugees that is no longer eligible once that 12-month—whenever it starts—has lapsed. There is a real question here in relation to competency and there is a real question in relation to transparency—questions that we could not get any responsible answer to during Senate estimates.

There is another matter that continues to be of deep concern. An independent review into the effectiveness of aid was undertaken a couple of years ago. It was a very impressive document, and I have gone on the record many times commending Mr Baxter for that document. What we are looking for is the implementation of the 37 recommendations that were in that document because they would really strengthen the way in which we can guarantee, as a parliament, that aid is deployed and divested in the most effective way possible. We asked Mr Baxter how one of those recommendations was going and the implementation of it. This was recommendation 30 of the Independent review of aid effectiveness, which essentially is the implementation of a whole-of-government approach, with universal standards across the board and across all departments for the planning, monitoring and reporting of the divestment of AusAID. When we asked about that we were told that of the 20 Australian government agencies that are responsible for administering ODA not one of them has complied with recommendation 30—not one! So whilst that review has been printed, delivered to us and circulated—and, again, I say it is a very commendable document—not one of those agencies has complied with one of those recommendations.

I am a great supporter of overseas development assistance. I am a strong advocate for our responsibility to help people of other nations who require support of civilised Western countries such as ours. But I do not support not having a transparent process to ensure that taxpayer money is deployed effectively and not wasted.

Charitable Organisations

Senator STEPHENS (New South Wales) (13:16): Today I rise to speak on an issue that is fundamental to many Australian charities, and that is an issue that is currently being canvassed by the Corporations and Markets Advisory Committee, CAMAC, one of the expert committees that provides independent advice to the Australian government on issues that arise in
corporations and financial markets law and practice. I know that corporations law seems a long way from the day-to-day operations of local charities, but in this instance corporations law is impacting in a very real way on the invaluable work of the charitable organisations that we all rely on to build and strengthen our communities.

The Parliamentary Secretary to the Treasurer has referred the issue of regulation of certain aspects of the activities of trustee companies under the Corporations Act 2001, particularly the fees they charge charitable trusts and the accountability and portability of their services, to CAMAC for consideration and advice. He has asked CAMAC to inform the government on the impact that the Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 has had on the quantum of fees that are or could be charged to charitable trusts and/or foundations by professional trustee companies, and the net funds available for trusts to distribute to not-for-profit organisations. In doing so CAMAC was asked to consider what arrangements would be available if trusts were able to operate in an open market.

He has also sought advice on: the range of additional fees beyond those regulated under the act that are or could be charged to charitable trusts and/or foundations by professional trustee companies, and the net funds available for trusts to distribute to not-for-profit organisations. In doing so CAMAC was asked to consider what arrangements would be available if trusts were able to operate in an open market.

He has also sought advice on: the range of additional fees beyond those regulated under the act that are or could be charged to trusts by professional trustee companies; the effectiveness of regulating the new arrangements between a PTC and a trust; the effectiveness of grandfathering existing fee arrangements; and what the current position is with regard to the removal and replacement of a trustee of a charitable trust—whether this position is unsatisfactory from a consumer protection perspective and, if so, what, if any, reforms are necessary to address this. Finally, he has encouraged CAMAC to bring to the attention of government any other issues that impact on the objectives of that 2009 act or the charitable purposes of trusts.

What does all of that really mean? The government is committed to strengthening our communities through enhancing the work of charitable organisations and growing the culture of giving in Australia. This government has made some very significant commitments to improving the regulatory environment in relation to philanthropy, with some interesting consequences. As Elizabeth Cham wrote in 2009, 'Australian philanthropy has had a pervasive impact on society, but it is largely invisible. Nothing illustrates this more starkly than the total absence of attention paid to or discussion about a landmark act that was passed by the Commonwealth parliament under which the Commonwealth assumed responsibility for the regulation of the traditional services of trustee companies.

You would be more interested if you understood that one consequence of this could be a transfer each year of potentially up to $23 million from the amount available for grants to the not-for-profit sector into administrative fees of trustee companies. It also alters the fee structure of perpetual charity trusts. Historically, they have been charged five to six per cent of income. Now they will be charged up to 1.056 per cent of capital. The impact on a foundation with a capital base of $50 million will be a fee increase from $131,840 to $528,000.'

I was very disturbed when I absorbed this information. Like many of my colleagues, I did not realise the extent of the fees that come out of the moneys left by generous dead individuals and families on the understanding that the trust or foundation would be maintained in perpetuity for the benefit of those most disadvantaged in the community. Ironically, of course, the founders are no longer there to advocate on
their own behalf and most have no independent trustees to challenge fee increases. This means that trustee companies are now the sole trustees for the great majority of trusts and foundations they administer. In practice, the for-profit arm of these companies tells itself, as the sole trustee of a charitable trust, that its fees will be increased. So you can begin to understand why the government is ready to review the legislation, which has now been in operation for two years.

Let me explain a little bit about trustee companies and their significance for philanthropy and the not-for-profit sector. First of all, trustee companies are actually a uniquely Australian invention and, until the deregulation of the Australian financial sector in the 1980s, were somewhat old-fashioned entities established by gentleman, for gentlemen. Their initial role was to manage the assets of wealthy individuals when they travelled abroad for, very often, lengthy periods. Later, that was extended to managing deceased estates—some of which established perpetual charitable foundations. The trustee companies were seen as particularly suited for this because they had financial expertise and were perpetual organisations.

Trustee companies also manage some of Australia's most valuable and significant cultural, medical and scientific awards and prizes, including the Miles Franklin Literary Award, the Patrick White Literary Award and the Ramaciotti medal for medicine. They also administer some of Australia's oldest foundations and bequests, such as the Alfred Felton Bequest established in 1904, and more recent ones like the Shane Warne Foundation.

Today, Australian trustee companies are the largest administrators of charitable trusts and foundations, usually as the sole trustee. They manage about 2,000 charitable trusts and foundations, with assets of approximately $3.3 billion. During 2008-09, for example, they distributed $180 million in grants to the Australian community. Their legal and regulatory structure is therefore of vital importance to their colleague foundations in the philanthropic sector. It is also critical to the interests of the not-for-profit sector, which they were established to support through charitable grants.

In the memorandum accompanying the new act, Treasury argued that trustee companies had approximately $510 billion under management, and therefore were a significant part of the financial industry and needed to be regulated accordingly. The trustee companies welcomed the new national regulatory regime, which took effect on 6 May 2010. Under this act, the traditional services of trustee corporations, such as the administration of personal trusts and deceased estates, including acting as a trustee of a trust, applying for probate of a will or acting as an executor of a deceased estate, are deemed to be financial services. Trustee companies now need to disclose fees on their websites, and clients will have access to an ASIC-approved dispute resolution system. Hence, trustee companies are now administered by a single regulator, ASIC.

Charitable trusts form part of these traditional services, but were not specifically mentioned in the act, although the philanthropic sector and charities had fought earlier attempts by trustee companies to alter the fee structure for perpetual charitable trusts. In the entire debate, there was only one specific mention of charitable trusts. The minister said at the time:

The government is aware of the need to protect charitable trusts by regulating the fees they may be charged by trustee corporations. It is proposed to 'grandfather' the fees charged to existing
charitable trusts and foundations. Thus, if the fees of the charitable trust would be increased due to the introduction of a new fee regime, the grandfathering provision would require that client to be charged as if they were still covered under the old rules.

In spite of the apparent clarity of the minister's speech, the act itself is confusing regarding the critical grandfathering provisions. For example, if a foundation's assets are included in a common fund operated by the trustee company, the old fee will not be adhered to. Instead, a fee not exceeding 1.1 per cent of the trust's assets may be charged. For government, the political imperative for the act itself was, of course, the aftermath of the global financial downturn. The government wanted to regulate margin lending, promissory notes and debentures. Trustee companies were added to the bill to take them from state regulation into Commonwealth regulation in line with the rest of the financial sector. The trustee companies may have overlooked the charitable trust part of their business because it was so miniscule.

At the same time, the government was undertaking a review of the integrity of private prescribed funds, which we now refer to as PPFs. The Treasury noted in discussing the private prescribed funds, that the public purse effectively provides a subsidy of 45c for each dollar donated to a philanthropic foundation. However, charities' loss has been the trustee companies' gain. The 2009 Act had the unforeseen consequence of enabling a massive increase in the fee that a trustee company can charge an individual trust or foundation for the administrative and financial service that the company provides. Remember, any sum removed for non-grant purposes from the pool of available money of a trust or foundation reduces the amount that can be granted to communities through charitable agencies.

Until 2010, trustee companies in New South Wales, for example, had been able to charge a trust up to six per cent of its annual income. Now, it is possible for them to charge up to 1.056 per cent of the trust's asset base. The impact of this for an average New South Wales charitable trust with a capital base of about $10 million is a hypothetical increase from $26,840 to $105,600 per annum, a loss of about $78,760 to the not-for-profit sector—or, given the latter's generally low remuneration levels, effectively one full-time salary. If we look at a larger trust, the effect is even starker. The total value of the Baxter family's two charitable trusts in March 2008 was about $76 million, which would attract a total management fee of about $760,000 per annum, up from $210,000. Those fees may not include audit fees, the cost of producing annual reports, the grant application research and, in some instances, financial management fees. Why, if a trust objects to such an increase in fees, would it not simply take its business elsewhere or choose another trustee company to manage their trust?

Unfortunately, there is a total lack of flexibility in choosing another service provider. This is one area of no choice. The notion of perpetuity is central to the legislation involving trusts, including the new law. The only way an individual trust or foundation can change its trustee company is, in fact, to mount a court case. This must be funded by the individual co-trustees, as any payment from a trust must be agreed to by all trustees, including the representative of the trustee company, which is a costly disincentive.

It is very timely that CAMAC has this reference before it, and is currently in consultations not only with the professional trustee sector, but of course, with the not-for-profit sector, and the work of the new ACNC. The committee has posted—
obliquely, on its website—six submissions. I do not understand why the submissions are not clearly visible to the public on the website or why one submission was withdrawn. However, I have read them all and found the Charitable Alliance submission to be a very valuable and succinct argument for change. The Charitable Alliance is an alliance of concerned trustees—advisers to and stakeholders of charitable trust foundations—who provide significant financial support to communities across Australia, having a corpus that in aggregate exceeds $1 billion. The submission makes a series of recommendations related to reforming fees and prices, governance, transparency, portability and orphan trusts. The other submissions, with the exception of the Financial Services Council’s, support this call for radical change in the interests of the charitable trusts sector. Unsurprisingly, the Financial Services Council disagreed with these recommendations.

I understand that CAMAC was intending to hold a roundtable with interested parties today but that has been postponed at the last minute because of the withdrawal yesterday of the Financial Services Council. CAMAC is now working to establish a new roundtable with interested parties, and I look forward to the recommendations of the committee on what is an opportunity for government to set a new, long overdue benchmark in accountability for charitable trust and philanthropic organisations. With the establishment of the ACNC and the requirement that all charitable organisations provide financial reports, Australians will have access to real information about charitable trusts, the amount of money they hold and the amount of money they distribute. This again shows the value of establishing the ACNC and makes it more important that, if there is inappropriate behaviour on the part of some trustee companies, it can be monitored and addressed by the ACNC. It also provides a good basis for increasing accountability and ensuring fees charged are more in line with the services provided rather than standardised fees applied with a one-size-fits-all approach. The real winner in these reforms will be increased philanthropy and stronger communities, and I look forward to the recommendations of CAMAC on this issue.

Tasmanian Forests Intergovernmental Agreement: Contractors Voluntary Exit Grants Program

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:31): I rise today to comment on the Tasmanian Forests Intergovernmental Agreement Contractors Voluntary Exit Grants Program. I am very pleased that the Senate agreed yesterday that there should be an inquiry into the way that this grants program operated. That is because I have been very concerned for a very long time about what can only be described as incompetence, corruption or both in the administration of grants funding in relation to the Tasmanian forest industry. I have been pursuing this right through the Tasmanian Community Forest Agreement program and, in that case, a grant left the federal department and was not signed off by anyone. How is that possible? In his audit report at the time, the Auditor-General pointed out that was a breach of section 9 of the Financial Management and Accountability Act—which is a criminal charge—and asked the Department of Agriculture, Fisheries and Forestry to pursue it. Nothing ever happened.

When I pursued this at estimates, the departmental officer concerned said: ‘We lost the paperwork, Senator.’ That is not a competent way to administer a grants
program. In response to the Auditor-General’s recommendations that DAFF start implementing proper oversight of grants programs in accordance with the rules, they said: ‘Oh, yes, we will certainly do that. Yes, we take that on board. Yes, we are going to improve our processes.’ And here we are, years later, with exactly the same thing happening again. This time I intend to get to the bottom of it as I was unable to get to the bottom of it last time—because, ‘We lost the paperwork, Senator.’

I want to talk about this program. The Department of Agriculture, Fisheries and Forestry was responsible for administering the exit assistance program. During the design of this program Minister Ludwig, the Minister for Agriculture, Fisheries and Forestry, his office and DAFF consulted with the Tasmanian government—Brian Green would have been the Tasmanian minister involved—the Tasmanian Forest Contractors Association and key industry stakeholders on the guidelines and parameters of the program. The objective of the program was to assist the Tasmanian public native forest industry to adjust to industry downturn and the reduced scale of native forest harvesting through voluntary exit assistance to eligible harvesting, haulage and silviculture contracting businesses. It was expected that the reduced scale of harvesting would result in the order of 1.5 million fewer tonnes of wood being harvested and hauled and a decrease in public native forest silvicultural activities. So clearly it was set out at the beginning that this was meant to reduce the amount of forests being logged, and $44 million of public money was going into the program.

However, what has happened has been a disaster. We have ended up with a program which has failed to achieve its objectives. In fact, we have far from the one and a half million tonnes, each, reduced from harvesting and haulage. Only 819,888 tonnes of harvest and 972,831 tonnes of haulage are assumed to have been dealt with—58 per cent of what was supposed to be achieved.

Again I come to the point: who made these decisions? How on earth did it happen? I want to go back to the process involved because an advisory panel of three senior officers—one from DAFF, one from the Department of Sustainability, Environment, Water, Population and Communities and one from the Tasmanian state government—was established to assess the grant applications. These three people assessed the grant applications and provided advice to the minister's delegated decision maker, who was DAFF's secretary responsible for forest policy and programs. There were three people on the advisory panel. They then referred the matter to the decision maker who was the minister's delegated person. I ask: how is it possible that the people on the advisory panel recommended that people who got a merit score of zero, on a list of zero to 100, got exit grants? How is that possible?

How is it possible that 16 per cent of the applicants who were not eligible, because they did not provide the documents to prove their eligibility, were paid out?

I particularly come now to this case, because it goes to the whole matter I am raising in terms of DAFF. To meet the Milestone 2 obligations, grant recipients were required to provide a letter from their principal or contractor confirming that their contract or ongoing arrangement had now ceased. Milestone 2 documentation provided by one grant recipient—a contractor previously identified as ineligible, I might add—advised that there had not been an ongoing contract or arrangement in place at 24 July 2011. They established that they did not have a contract in place, therefore confirming that the applicant and the...
associated subcontractor were ineligible under the program's eligibility criteria.

As the department considered these applicants to be eligible, it did not obtain legal advice, it did not alert the decision maker, it did not recover the Milestone 1 payments that had already been released. Instead, both recipients—the contractor and subcontractor—were recommended for payment. Milestone 2 payments were released and grant funding totalling $697,000 was paid to these two grant recipients. It was proven that they were not eligible but the department said: 'As far as we're concerned, you are eligible. You haven't provided the documentation, but don't you worry about that. We are now recommending it be paid.'

The issue then comes to this: the person under the Financial Management Act who is responsible is the decision maker who signs that bit of paper saying that this grant is a proper use of Commonwealth money. That proper use is defined under the act: it has to be an efficient and appropriate use of Commonwealth money. So who advised the decision maker? It was the advisory panel. On what basis? Well, surprise, surprise, DAFF did not keep the paperwork. This was the whole point! Last time around they said they would do better, and they absolutely know better. When, in the Public Service these days, do they not know that they have got to keep the documentation that underpins whatever recommendations are being made?

What is more, we now have proof.

Forestry Tasmania—
and this is a footnote to the Auditor General's report—
was asked by contractors to provide a letter of support for the applicant's exit from the public native forestry industry, as evidence of support from the principal contributed to the applicant's merit score.

In January 2012, Forestry Tasmania notified DAFF that all letters of support provided to their contractors were not duly authorised and should be disregarded. Subsequently, the department wrote to these applicants as late as January 2012 requesting that a replacement letter of support from Forestry Tasmania be provided by 31 January 2012. In seven cases a replacement letter was not provided by Forestry Tasmania.

It is an offence under the law—it is a criminal offence under section 135(2) of the Criminal Code—to obtain a financial advantage by misleading or inducing a Commonwealth entity to do something that results in a person getting a financial advantage. How is it that the contractor could not verify that they had an ongoing contract? Forestry Tasmania gave them a letter saying that they had an ongoing contract which made them entitled to a grant. Then Forestry Tasmania writes to DAFF and says, 'Actually, disregard all those letters because they weren't authorised. You have to apply again.' When they applied again, seven did not get the letter the second time, which meant that the first time around they were not eligible. Forestry Tasmania gave them cover and, in my view, that means Forestry Tasmania worked with the contractors to make sure that they induced the Commonwealth to pay a grant for which people were not eligible. I want to get to the bottom of that, because I am tired of this happening. I will not accept Forestry Tasmania's excuse: 'It was just regional foresters. They didn't know what they were doing; they thought they were just helping out.' Well, you do not verify a contract if it does not exist. You do not verify a tonnage if it is not appropriate.

In fact, I have had a letter from one of the contractors involved, who pointed out very clearly that the most serious problem with the program is that applicants did not prove
that they had genuine contracts were not able to verify their tonnages from public native forests. As a result, this whole thing really brings into question the fact that some contractors who did not apply because they knew they were not eligible now feel aggrieved that people who were not eligible were paid out. In the two cases I mentioned, $700,000 was paid out even though the contractors themselves said that they were not eligible. The department overruled that and said, 'Yes, you are, and here's the money.'

For other people, the other thing is compliance. When the program was advertised for application, DAFF had not even written the compliance guidelines for the program. People were meant to be out of native forest logging for ten years—and what has happened? They have simply taken the money from the Commonwealth and handed over the business to their son, their brother—or their relation of some kind—and painted the name over on the side of the truck and they are out there continuing to log in native forests at this day. They have not exited.

What is more, at the same time that the Commonwealth is paying out contractors to get out of native forest logging, Forestry Tasmania is giving out new contracts to log native forests. That is outrageous and completely inconsistent with the intergovernmental agreement, which was to get people out of the industry, reduce the logging tonnages and be able to protect these areas. What was Forestry Tasmania doing giving out new contracts while the Commonwealth is paying people out? It is making a complete fool of the Commonwealth government, DAFF, the decision makers.

The issue here is that DAFF seemed to give advice at various times that was overruled by the advisory panel. In one classic case, DAFF provided eligibility rules, saying that you had to prove that you actually had a contract to log in two of the last three years—not unreasonable, I would have thought. But after consultation with the Tasmanian government and the contractors association, they came back and changed that to say that you only had to have a contract in one of the previous four years. So you could have retired from the industry in 2007, already sold your trucks and equipment, but you still would have been eligible for an exit package in 2010. How ridiculous is that? What has happened is that $44 million has gone out the door and a lot of eligible people are feeling frustrated that they were paid less than they were entitled to in order to accommodate a whole lot of people who were not entitled.

More particularly, I am not going to tolerate DAFF, every time there is an audit report, continuing to come back and say: 'Oh yes, we agree. We should've done that better. We should've stuck with the guidelines.' The Auditor-General said DAFF did not abide by the guidelines for grants, so who is going to take responsibility? The minister, the secretary of DAFF—who? Or are we going to have 'we could've done better; we will do better next time,' and it just rolls on to the next rort. I just do not think that the Australian community should put up with the fact that Commonwealth money is leaving this parliament, this government, going into grants programs and then, after the event, people are laughing all the way to the bank. They get the money, put it in their bank and business keeps rolling.

The contractors association have admitted that that is the case. They have said, 'We understood what businesses would do to stay in business while ever there was an ability to take some funds out of a program, and if we made the rules it would never have been done.' That is what they said, that it is
basically part of doing business: take the money, change over the ownership and keep going. Well, it is not good enough. I am looking forward to the evidence that we get because already a huge amount is rolling in. People are saying that the problem here was the failure of DAFF, the failure of this advisory committee, the two ministers. Who is going to take responsibility, and at which point did ministers overrule their departments and make these hideous mistakes? They are the questions that need to be answered.

**Western Australia: Election**

Senator JOHNSTON (Western Australia) (13:46): Today I want to talk about the very fantastic phenomenon that was the Western Australian state election. In May 2001 the Labor Party, for the first time in my home state's history, took control of both chambers of our state parliament. The first thing they sought to do was change the electoral boundaries but, because of a constitutional mechanism called 'entrenchment', they needed an absolute majority. They then set about the task of giving the Speaker of the Legislative Assembly a vote to try to defeat the entrenchment rules.

The clerk of the lower house of state parliament said that without a proper absolute majority, he would seek a declaration from the Supreme Court of Western Australia as to the lack of constitutionality of the move. He took the case and the Supreme Court said that the Labor Party's legislation to change the state electoral boundaries was unconstitutional. So convinced were the Labor Party they took it on appeal to the High Court, and lost. Only with the assistance of a disaffected Liberal, one Alan Cadby, did the Labor Party get their legislation through in 2005. So in Western Australia the state electoral boundaries were determined by the Labor Party in a most partisan way, moving some eight seats into the metropolitan area. Every commentator said that the ALP in Western Australia had a five-seat advantage in moving these boundaries in the expedient and selfinterested way that they did.

Two Saturdays ago, my son and I turned up at 3 am to the Kewdale Primary School to set the booth up for our state candidate in Belmont, a seat that we have not held in 60 years—when we did hold it, it was just farming country. It was the seat of Eric Ripper, the former leader of the state ALP, which he had held for 25 years. We set the booth up with a number of other dedicated workers and spent the first four or five hours of that day handing out how-to-vote cards—this seat has been, for us, tiger country, a strong Labor seat—and watching the way the vote unfolded.

The campaign was most interesting. The Labor Party did not go near the issue of cost of living—did not touch it—because they were so frightened that it would be a reflection of the carbon tax in Western Australia. That is the only reason I can think of why they would not touch cost of living. The cost of living in Western Australia is very high, very high indeed, but they made no mention of it. Indeed, the leader of the Labour Party in Western Australia only a month out from the election said that he was opposed to the carbon tax. He was in fact the most wedged politician in Australia until that point.

He also came up with a very catchy plan for a 'metranet' rail network scheme around Perth. This was a pretty good idea. However, his salesmanship lacked one vital part of credibility—which of course we see in Canberra regularly—his costings were all wrong. His costings were exposed for what they were: a gross understatement of the
huge burden this plan would have put upon Western Australian taxpayers. The Premier, on the other hand, has been advocating a movement of the football stadium. As many people know, the West Coast Eagles and the Fremantle Dockers are a very popular part of Western Australian culture. And in the last week of the campaign a number of star football players came out and said, ‘The Premier’s plan is a very good one and we want to see it in reality.’

The Labor Party, in desperation, did what the Labor Party does really, really well. In the last, dying days of the campaign they came forward with personal attacks. They attacked the Premier, they attacked his ministers in a most disgraceful and personal way—and guess what? The people of Western Australia woke up to that. They could see exactly what that was: a desperate attempt to try to salvage some credibility from a campaign that they had lost because their policies were so poor and they were suffering the huge burden of trying to carry the brand damage that had flowed from what is happening in Canberra.

Our state director is a very cool, astute customer indeed. He ran a magnificent campaign; a steady-as-she-goes campaign. What did that yield? Let us talk about the state of the parties currently. The Libs have 31 seats, the Nats have seven and the Labor Party has 21, having lost eight seats.

I will now talk about some of the swings and some of the candidates. Albert Jacob in Ocean Reef received, on a primary count, a swing of 19 per cent. Albert Jacob grew up on the northern edge of Perth, where his family ran a small farm as well as a machine-tooling business. He has a wealth of diverse knowledge and is not a union hack. The winning candidate in Albany, a Labor candidate, said that there are too many union hacks in the Labor Party today. In Canberra, exactly the same applies. There are far too many union hacks. That was the seat of Ocean Reef, and I congratulate Albert Jacob—what a fantastic performance.

In Southern River, Peter Abetz—a very popular and well-known name in this part of the world—had a swing of 18 per cent to him, and on a two-party preferred basis it was 15.3 per cent. Peter Abetz is simply an outstanding candidate for the Liberal Party in the seat of Southern River, and, as we all expected, did very well.

In Morley, a really strong Labor seat, Ian Britza—a most interesting, talented and delightful person—had a swing of 14.6 per cent. Another fantastic result for the Liberal Party. Ian Britza is a tireless worker for his community. The seat has been, until he won it in 2008, a really strong Labor seat. It is in the federal electorate of Perth, which does not augur very well for the current member for Perth.

The seat that I got up out of bed early for was Belmont. Glenys Godfrey, the former mayor of Belmont, who is a simply delightful lady, had a swing of 13.3 per cent to her. It was a great pleasure to see her win that seat for the first time in 60 years by some 300 votes. I congratulate her.

In the seat of Joondalup, Jan Norberger—a really strong young candidate—had a swing to him of 12 per cent. In the seat of Perth, which we have not held for a very long time, Eleni Evangel campaigned magnificently, and she too got a swing to her of some 12 per cent. In the seat of Mount Lawley, Michael Sutherland—I believe he is the new speaker of the Legislative Assembly—who is a very capable, knowledgeable and hardworking candidate and who won the seat for the first time in 2008 had a swing of 10 per cent to him. I congratulate him for that.
In Balcatta we had Chris Hatton. Balcatta used to be Brian Burke's seat. We all know that Brian Burke was the famous premier of the eighties and WA Inc. This seat was Brian Burke's seat, and Chris Hatton had a swing of 10.8 per cent to him to win that seat and take it for the Liberal Party.

Last, but not least, in a seat we did not win, but it is a seat in Western Australia that has been a Labor stronghold for as long as I can remember, Daniel Parasiliti had a swing of 11.5 per cent in the seat of Midland. Michelle Roberts has held that seat for the Labor Party for a very long time. It went to a recount. I think we lost it, in the end, by 25 votes. A fabulous result for a young, very active and enthusiastic candidate, and I congratulate him. I congratulate all of the candidates for the Liberal Party at this state election, because, I think, without exception they had a really strong result with swings right across the board.

There was a huge cloud hanging over the Labor Party in Western Australia. A number of complaints came from candidates about the brand being damaged et cetera by Canberra. Labor hero and Olympic champion Peter Watson, who is a middle distance runner and a very nice fellow who fought off a strong Liberal Party challenge in the seat of Albany, defied the state-wide swing to retain Albany a third time, and called on the party to stop preselecting union hacks. So the Western Australian public were suckered very callously by the Labor Party in 2007, and we now know that again, like most of the constituents that have been made promises by the Labor Party, those promises will not be delivered.

Colin Barnett took over the leadership of the Western Australian Liberal Party six weeks before the 2008 election. He campaigned on integrity and honesty. That really resonated with the public in Western Australia. It resulted in forming, back in 2008, a minority government with the Nationals. He demonstrated over four years that he was a credible and reliable economic manager and that he could manage the affairs of the state notwithstanding him not having a clear majority on the floor of the chamber.

He committed Western Australia to an innovative infrastructure build: the Fiona Stanley Hospital, a new football stadium, a new Perth waterfront and a train line to the airport. WA responded to this piece of good government from a solid premier who, as I say, campaigned on integrity with an eight per cent swing. It was as high as 24 per cent in some seats, Alfred Cove in particular.

All of us on this side of the chamber congratulate Colin Barnett and State Director Morton for an absolutely superb campaign.
effort. He campaigned on integrity and honesty and was well rewarded. He is an example today, particularly looking at Canberra, of a very rare commodity: good government.

QUESTIONS WITHOUT NOTICE
National Broadband Network

Senator BIRMINGHAM (South Australia) (14:00): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. I refer the minister to his statement to the Senate yesterday that:

NBN Co. go through … a daily assessment about how their partners are going. They are in constant contact seeking information from their construction partners. I am seeking to gain information from the NBN Co. to find out where that process is up to.

Minister, having indicated to the Senate yesterday that NBN Co. get daily updates and you are seeking information from them, can you now inform the Senate whether NBN Co. still expect their fibre network to be operational for 286,000 premises by 30 June this year?

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) (14:01): I thank Senator Birmingham for his ongoing interests. As I stated yesterday:

At Senate estimates in February, NBN Co. CEO Mike Quigley informed the committee of the initial deployment challenges being … experienced by NBN Co.’s contractors.

… … …

In particular, Mr Quigley highlighted that workforce mobilisation issues were being faced … by Syntheo in Western Australia, South Australia and the Northern Territory.

We are determined to overcome these challenges with workforce mobilisation.

NBN Co. is already taking measures. Today Service Stream announced that Syntheo has reached agreement with the NBN Co. to hand back the remainder of its design and construction activities in the Northern Territory. This will enable NBN Co. to take direct control of the rollout in the Northern Territory, allowing Syntheo to concentrate its resources on the rollout in Western Australia and South Australia to bring high-speed broadband to Australians in these states sooner. By June 2021 all Australians will have access to high-speed, universal, affordable broadband.

Senator Birmingham: Mr President, I rise on a point of order. My question related to targets by 30 June this year, not June 2021, as the minister is currently trying to draw the Senate to. I ask you to please refer the minister to my very specific question, which was about targets by 30 June this year.

Senator Wong: Mr President, on the point of order: the minister is giving a very detailed answer about the rollout schedule. That was precisely the content of the question. I know Senator Birmingham wants to make a political point, but the minister is being very helpful to the senator by providing him with details about how the government and the NBN are working in relation to the rollout schedule. There is no point of order.

The PRESIDENT: The minister needs to come to the question that was asked. Minister, I draw your attention to the question.

Senator CONROY: Thank you, Mr President, and I draw your attention to my answer. The only thing that will stop the rollout of the NBN is those opposite. They have no broadband plan—their only position is to demolish the NBN. As I stated yesterday when asked if I have received an estimate of 140,000, the answer is no.
Senator Birmingham: You said you were going to get the information.

Senator CONROY: I am in the process. I hope that I will very shortly be able to inform you of the full details, but there is one thing you can be assured of— (Time expired)

Senator BIRMINGHAM (South Australia) (14:04): Mr President, I ask a supplementary question. I refer the minister to his interview on Lateline on 27 November last year, in which he said:

Every day in Parliament when I'm asked a question ... I announce how many connections we've got.

Will the minister tell the Senate exactly how many fibre connections the NBN now has, how many premises it expects will be able to access a fibre connection by 30 June 2013, not 2021, and whether he sent a carrier pigeon to get information from NBN Co. yesterday or whether he has any updated information? (Time expired)

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) (14:05): The information Senator Birmingham is seeking is detailed, complex and involves a number of construction partners. It is not simply a question of NBN pressing a button. When it comes to negotiating with NBN Co., there are four construction partners that are also involved in the process of these estimates. When it comes to activations, which is a different question and which is what you are now referring to, I can tell you that NBN Co. is now I think well past 40,000 people in Australia—40,000 Australians are using the National Broadband Network and iiNet have just announced that they have doubled the number of people in the last three months; iiNet have doubled the number of fibre connections that they have got. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Senator Birmingham is on his feet.

Senator BIRMINGHAM (South Australia) (14:06): Mr President, I ask a further supplementary question. I refer the minister to the graph of brownfields premises passed June 2012 to June 2013 issued by NBN Co. in January this year, which indicated that 90,000 premises would be passed by the end of March. Given that recent NBN Co. data indicates that just 47,511 premises had been passed as at March 2012, does the minister acknowledge that his $50 billion white elephant never has and never will meet any of the targets that he sets for it? (Time expired)

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) (14:06): I have learned from hard experience in the Senate that one should never necessarily believe all of the statistics quoted by those opposite. I am not sure if the statistics that you are claiming are absolutely correct, but I am happy to check for the senator whether those were accurate figures or whether he is playing games with splitting up different sets of figures to try and create the impression that he is seeking. But I am happy to check for the senator whether those were accurate figures or whether he is playing games with splitting up different sets of figures to try and create the impression that he is seeking. But I am happy to come back to you on that issue, Senator Birmingham—very happy. As I said, I am happy. I have not seen the updated graph at this point, Senator Birmingham; I have not seen it. I am sure it will be part of the information that I am seeking at the moment.

Senator Birmingham: When?

The PRESIDENT: Order! You have had your question.
Senator CONROY: I would anticipate reasonably shortly, Senator Birmingham. I am expecting it reasonably shortly. So, Senator Birmingham, the information will be available shortly and, when I have had a moment to actually have a look at it when it arrives in its completion, we will be able to have a discussion about why we are delivering fast broadband—(Time expired)

Pensions and Benefits

Senator STEPHENS (New South Wales) (14:08): Sorry, Mr President, I was daydreaming—what an embarrassment! My question today is to the Minister for Human Services, Senator Kim Carr. I apologise for the daydream, but it is Seniors Week in New South Wales and the ACT, and we have many seniors in the gallery. Can the minister outline to the Senate just what the government is doing to invest in delivering better support for senior Australians?

Senator KIM CARR (Victoria—Minister for Human Services) (14:08): I thank Senator Stephens for this question. This government has delivered the single biggest boost to pensions in 100 years. Since 2009, we have increased the maximum rate of pensions by $207 per fortnight.

Opposition senators interjecting—

The PRESIDENT: Senator Kim Carr, just resume your seat. When there is silence on my left, we will proceed. Senator Kim Carr.

Opposition senators interjecting—

Senator KIM CARR: Mr President, those opposite do not want to hear this.

Opposition senators interjecting—

The PRESIDENT: Just resume your seat. On my left!

Senator Cormann: You're raising it to undermine the Prime Minister. You're undermining the Prime Minister. You're just talking up Rudd.

The PRESIDENT: Senator Cormann!

Government senators interjecting—

The PRESIDENT: On my right!

Opposition senators interjecting—

The PRESIDENT: On my left! Senator Carr.

Senator KIM CARR: Since 2009, this government has increased the maximum rate of pension by $207 per fortnight, and from today the pension rate has increased again. Today that means an extra $35.80 per fortnight for those on the maximum rate. My department will be delivering these payment increases to over 2.2 million senior Australians. This includes the extra support through the Clean Energy Future Household Assistance Package. Pensioners have already received their clean energy advance. Today they receive the first of their clean energy supplements. This government recognises the enormous contribution that seniors have made to this country and to this society. We know those opposite do not share that view. We know those opposite would take money away from seniors in this country. We know that under an Abbott government every single pensioner in Australia would lose more than $350 per year. Every pensioner couple would lose more than $530 per year. Those opposite would take back more than $1 billion a year in extra support that this Labor government is delivering to pensioners. This government recognises that senior citizens have very specific needs, and we have extra support for accommodation, for income support—(Time expired)

Opposition senators interjecting—

The PRESIDENT: When there is silence on my left, we will proceed.

Senator Brandis interjecting—

The PRESIDENT: Order! When there is silence on my left, we will proceed.
Senator STEPHENS (New South Wales) (14:11): Mr President, I ask a supplementary question. Can I ask the minister: other than the financial support that he has outlined, what other action is the Department of Human Services taking to actually improve services for older Australians?

Senator KIM CARR (Victoria—Minister for Human Services) (14:11): The Department of Human Services provided over $34.7 billion in payments on behalf of the government to age pensioners last year. This department, however, is much, much more than just a payments agency. The department provides personalised services to senior Australians—services like Australian Hearing, who, of course, help Australians with their hearing impairments. They deliver almost a quarter of a million hearing health services to senior citizens every year. The government is also providing more than 156 Financial Information Service officers who help Australians understand and make informed decisions about their finances. These are people who work with older Australians to help plan for their retirement, and there are some 2,700 seminars in which 80,000 participants joined last year. Of course, we are looking to find new ways to make— (Time expired)

Senator STEPHENS (New South Wales) (14:13): Mr President, I ask a further supplementary question. Can I ask the minister: are there any alternative approaches to delivering services to older Australians?

Senator KIM CARR (Victoria—Minister for Human Services) (14:13): It is with some regret that I have to inform the Senate that those opposite do not support the measures that we are taking to assist senior citizens. Of course, they are happy to stigmatise people who get support from government. Those opposite do not say very much about their policies, but what we have seen in recent times is an insight into their thinking. The member for North Sydney has railed against people who he says have a sense of entitlement. The member for Mayo has recently told us:

Pensions, disability support, family tax benefits and childcare support, among others, create a cycle of dependency for millions of Australians.

They think that support equals dependency. So we know that they will cut the Clean Energy Future Household Assistance Package. We know that they will take more than $1 billion back from the support that this government is providing to pensioners. For those opposite, when it comes to services to senior citizens, it is not a matter for them of just leaving people behind— (Time expired)

Anti-discrimination Legislation

Senator HUMPHRIES (Australian Capital Territory) (14:14): My question is to Senator Conroy, the Minister representing the Prime Minister. I remind the minister that his own Labor colleagues are quoted today as saying that the government's now dumped antidiscrimination reforms were 'a waste of time' and 'a disaster'. Is the minister aware that the Attorney-General, Mr Dreyfus, on the other hand has described this bill as 'just a tidying up of existing antidiscrimination laws'? If the Gillard government cannot even get a simple tidying up of legislation right, isn't this just another example of the gross ineptitude and incompetence that is the hallmark of this Labor government?

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) (14:15): The Attorney-General today made a very positive announcement that the government will introduce this week legislation to protect Australians against discrimination on the
basis of sexual orientation, gender identity and intersex status. This reform is long overdue and too important to be delayed any further. I completely reject the assertion by some in the media and those opposite, including the Greens, that taking this immediate step somehow constitutes a disavowal of the wider antidiscrimination project or a step back from commitment to protect fundamental human rights. For 40 years Labor has promoted principles of fairness and equality by developing the sex, disability and racial discrimination acts and creating the Australian Human Rights Commission. We will not roll back these hard-fought-for protections.

The fact is that the report of the Senate Legal and Constitutional Affairs Legislation Committee on the draft Human Rights and Anti-Discrimination Bill 2012 recommended significant policy, definitional and technical amendments along with almost 100 further suggestions from key groups such as the Law Council of Australia. These proposals require deeper consideration of how to consolidate five bodies of antidiscrimination law into one. It seems something that we need to get right, which is exactly why we released an early exposure draft. In the meantime, these specific new protections take into account feedback from the consultation process on the antidiscrimination bill to ensure the definitions are meaningful and provide the maximum possible protection. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (14:17): Mr President, I ask a supplementary question. Will the minister concede that these now abandoned changes went much further than a simple consolidation and instead represented a further attempt by the Attorney-General and the government to impose on the Australian people a far-reaching regime of political correctness and to prosecute its anti-free-speech agenda?

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) (14:17): To claim that the government is pursuing an anti-free-speech agenda is such rank hypocrisy. Yesterday we had a debate and discussion as part of question time—

Senator Brandis interjecting—

Senator CONROY: Yeah, just like David Cameron, another hater of free speech! Just like David Cameron, a Conservative Prime Minister, underpinning his legislative press council.

Senator Brandis: Mr President, I rise on a point of order. The minister was asked about his legislation, now abandoned. It is not directly relevant to that question to be lecturing the Senate about what the United Kingdom government might be doing with unrelated legislation.

The PRESIDENT: The minister is addressing the question. The minister did take an interjection. The interjections are disorderly. I remind the minister to ignore interjections. The minister still has 31 seconds remaining to answer the question.

Senator CONROY: Those opposite actually support contracts which gag not-for-profit agencies. Put up your hands and say you will not do it. Put up your hands and stop the gagging of legitimate not-for-profit agencies.

These new protections build on the government's reforms—

Senator Brandis: You're trying to gag the newspapers, Stephen!

Senator CONROY: Yep—David Cameron and me! These new protections
build on the government's reforms to 85 Commonwealth acts. *(Time expired)*

**Senator HUMPHRIES** (Australian Capital Territory) (14:19): Given the government has surrendered on this front in its attack on freedom of speech, will it now abandon its other attack on freedom of speech—namely, its plans to muzzle the media?

**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) (14:20): That is right: those opposite talk about muzzling the free press. They talk about a statutory underpinning meaning that you have muzzled the free press. Let's look at what David Cameron and the Conservative Party in the UK have done in the last 24 hours. They have agreed to embed a legislative underpinning for an independent free—

**Senator Brandis:** Mr President, I rise on a point of order. Once again the point of order goes to relevance. The minister was not asked about British legislation. He was asked about Australian legislation. When you overruled my point of order on the previous supplementary question I understood you to say that the minister was within the standing orders because he was responding to an interjection. He is not responding to an interjection now. Nothing he has said in answer to this question is relevant to Australia.

**The PRESIDENT:** That is not a point of order. Let me just make one thing clear: I did not rule the interjection in order. I said the interjection was out of order and I said the minister should not answer interjections. The minister should ignore interjections. So you should not say something that I did not say. The minister still has 37 seconds remaining.

**Senator CONROY:** Mr President, I have to say that that point of order again demonstrated that those opposite will misrepresent anything. They stood up and said, 'Mr President, I shrunk the question'—suddenly rewrote the question, as he stood there, when the question accuses the government of gagging free speech on the basis of a statutory underpinning for a press council. What can we say around the world? In Finland, No. 1 with Reporters Without Borders, they have a statutory underpinning to their processes. What do Reporters Without Borders say? The No. 1 free-speech country in the world— *(Time expired)*

**Human Rights**

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:22): My question is to the Minister representing the Attorney-General. I refer to the government's decision to abandon legislation to consolidate Commonwealth human rights law and include additional protections, in spite of years of discussion, raised community expectations and an extensive Senate inquiry. I ask: can the minister confirm the government is abandoning victims of domestic violence, leaving religious organisations free to discriminate and giving up on the opportunity to make it easier for people to enforce their human rights?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:23): I thank Senator Milne for her question. It covers a range of issues, but can I say that the government has made positive announcements about the legislation about protecting discrimination on the basis of sexual orientation, gender identity and intersex status. These are very important reforms that the Greens should support. They go to the heart of how we can promote the
principles of fairness, equity and equality that the Labor Party stands for, and you would want the Greens also to come on board in respect of this, and I expect the opposition also adopt this same view on these issues.

What we also have done: the current exceptions for religious bodies in relation to employment, education and the provision of services have been in place for around 30 years and they will continue under this specific bill. I think people missed this point but, for the benefit of the Greens, Minister Butler conducted extensive consultations regarding amendments to the discrimination—

Senator Milne interjecting—

Senator LUDWIG: I do expect you want to hear the answer to the question, Senator Milne—exemption in aged-care service provision. This remains the government's policy, and the Attorney-General will work with Minister Butler to consider how this policy is best progressed. No government has done more to wind back discrimination on the grounds of sexual orientation, gender identity or intersex status, but always we must strike the right balance.

Senator Brandis: Nicola Roxon said this bill did strike the right balance.

Senator LUDWIG: I hear it from the opposition, but the opposition— (Time expired)

The PRESIDENT: Senator, you should not take interjections. Interjections are disorderly. I remind those on my left: interjections are disorderly.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:25): Mr President, I have a supplementary question. Can the minister confirm that the new bill to expand antidiscrimination measures to GLBTI people will still allow religious bodies who receive public funding to provide schools, hospitals, welfare and aged-care services to the community to discriminate against GLBTI people? If so, doesn't this demonstrate the government would rather appease the Australian Christian lobby in an election year than uphold the rights of the GLBTI community? (Time expired)

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:26): It is one of those difficulties where I think, and I think even the opposition might think, that the Greens are playing politics with this. This is a very serious issue. What I have said is that those current exemptions for religious bodies, which have been in place for 30 years, will continue. But when you look at the work that both this Attorney-General has done and the previous Attorney-General has done and that I did when human services minister, it removed discrimination from all these areas, including from areas such as those Minister Kim Carr has now in Centrelink. It was taking away those discriminations. We have done more for the GLBTI community in removing these discriminations than the Greens could ever, ever hope to do. No government has done more to wind back— (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:27): Mr President, I have a further supplementary question. Can the minister confirm that, in spite of talking about mechanisms to better protect human rights since it was first elected in 2007, the government has in fact ditched the idea of a charter of human rights, has abandoned the human rights of asylum seekers in our care, including a thousand children who are in detention, and has now abandoned a consolidated antidiscrimination law in favour of something we have had for 30 years which apparently is still okay? Why
would Australians trust the government on protecting human rights? (Time expired)

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:28): I thank Senator Milne for her second supplementary question. We have a routine examination process of the Human Rights Commission which complements human rights protections introduced by this government such as requiring all legislation to have statements of human rights compatibility and the creation of the Parliamentary Joint Committee on Human Rights—more done, again, by this government than ever done before. The commission does not have a formal role as part of the parliamentary legislative scrutiny process, although it may choose to make submissions to these inquiries.

Senator Milne interjecting—

Senator LUDWIG: Again, Senator Milne—through you, Mr President—your attack could be directed at those opposite, because I note the commission was unfairly criticised by Senator Brandis recently for supposedly failing to protect fundamental rights such as freedom of speech. Of course, the commission does a lot to protect human rights as well as deal with discrimination complaints. The commission announced—(Time expired)

Industry Fees and Charges

Senator COLBECK (Tasmania) (14:29): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. I refer to the import clearance program industry equalisation reserve, which is industry money held by the government to buffer fluctuations in cost recovery mechanisms and reduce the need to constantly change industry fees and charges. At additional estimates we were informed that the import clearance program industry equalisation reserve would be ‘around $10 million in surplus’ by the end of the financial year. That was a projected decrease of just over $14 million for the year. Last week we were advised that there was an area in the statement made at estimates and the estimated balance of the IER at the end of the financial year would actually be a deficit of $10 million, a deterioration of over $24 million. What is driving this drastic reduction in the Industry Equalisation Reserve? What is the money being spent on? Is the money being spent on out of control cost overruns on the development of new government IT systems?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:30): I thank Senator Colbeck for his question. Again, when you look at the work this government has done in insuring export certification, ensuring that we can smooth the way for exporters to access overseas markets, this government has done more. Senator Colbeck has asked a very long and detailed question and I will—

Senator Colbeck: Mr President, I have a point of order on relevance.

Senator Jacinta Collins: Oh for goodness sake!

Senator Colbeck: I was asking about the import clearance certification scheme, not the export certification schemes—completely different programs. I do have a point of order on relevance, if you were paying attention, Senator Collins. Mr President, I ask you to bring the minister to the question.

The PRESIDENT: Order. I do draw the minister's attention to the question. The minister has one minute and 37 seconds remaining.
Senator LUDWIG: As I was saying, Mr President, it was a very long and detailed question, and those parts that I do not deal with now I am happy to take on notice to make sure Senator Colbeck is fully informed in this area. This government has done more in export certification and ensuring that we have full cost recovery of the fees and services that we provide right through this portfolio in agriculture, where we then look at cost recovery from the 2005 era. This government has continued to maintain a cost recovery dealing with those guidelines that the Howard government put in place. We have continued to do that. What we have done is made sure that we can smooth the transition and remove the red tape for agriculture—unlike those opposite. We can take a leaf out of a recent report from the IPA about what those opposite would stand for. That IPA report was about ripping money out of agriculture, ripping money out of the areas and, of course, they had consulted with the coalition MPs. I wonder whether they had consulted with Mr Colbeck.

The PRESIDENT: You need to come to the question, Senator Ludwig.

Senator LUDWIG: In dealing with the question, as I said at the beginning, those areas that I have not been able to deal with in this time I will certainly take on notice to ensure that we can provide a confident answer to those opposite. (Time expired)

Senator COLBECK (Tasmania) (14:33): Mr President, I have a supplementary question. When questioned further at estimates, a government official said that they had, 'No confidence in how the IER might be returned to credit'. Can the government explain how this black hole will be filled? You might like to tell us what is causing it in the first place. And will the industry be slugged, yet again, to pick up the tab for this government's failures?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:33): I thank Senator Colbeck for his interesting question. It was a very detailed question. Senator Colbeck had asked at additional estimates about the IER which had dropped approximately $24 billion. The answer that he got at additional estimates was that the opening balance of the reserve was $14.3 billion and this would put the reserve into $10.4 billion deficit position. But department budgets have updated that since the additional estimates, and the forecast operating deficit has reduced from $24 billion to $10 billion. They have been doing very good work there, and the result of the reserve balance is forecast—which Senator Colbeck left out—at a $3.4 billion surplus. Ah! So, we have over there— (Time expired)

Senator COLBECK (Tasmania) (14:34):

Senator COLBECK: I suggest the minister spends more time reading his brief before he starts making accusations. I have a further supplementary question. Given the government's completely abysmal track record on agriculture including the failures on the export debacle, huge increases in our AQIS export, export fees and charges, failures in fisheries, the carbon tax we were not supposed to have, and the complete capitulation on forestry in Tasmania—how can industry have any confidence at all in this government and its management of the agriculture portfolio?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:35): I thank Senator Colbeck for allowing me to be able to explain to him why the agriculture
community has more to fear from the policies of those opposite than ours. You have already demonstrated the inability to hold a question on the IER. You did not go to the next bit. Your questions have been, quite frankly, misleading when you look at the actual document itself. It forecasts a $3.4 billion surplus. You are trying to convince those here that it would be a deficit and, in other words, to paint a negative picture. Again, you do not provide all of the truth in this. What you have actually been able to use reports like the IPA to rip money out of horticulture and rip money out of research and development. That is what you stand for. (Time expired)

Rural Research and Development

Senator PRATT (Western Australia) (14:36): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister outline to the Senate the importance of investment in rural research and development? Further, what is the government doing to support rural research and development and are there alternative positions?

Senator Ludwig (14:37): I thank Senator Pratt for her continued interest in agriculture, unlike those opposite. The Gillard government is a strong supporter of rural research and development investment. Our government has a plan for Australian agriculture, unlike those opposite. Our plan is to build on the strong foundation for farmers through our new opportunities in the Asian century and to prepare for the future. The key to that is research and development. In five budgets to date, the Gillard government has provided research and development corporations with approximately $1.1 billion and this government is a proud defender of the work that is done in research and development.

In fact, when the Productivity Commission tried to halve the research and development funding, this government rejected that. However, I cannot say the same for the coalition government, the Liberals and National parties on the other side. The Institute of Public Affairs bled the cat on the savage cuts that would hit regional Australia under an Abbott government. The Liberals and Nationals are using tactics of there being a small target before the election and using groups like the IPA to develop their hit list—that is what you are doing—so you can implement the cuts should you get into government.

In response to this, the member for Calare, Mr Cobb, refused to release their policy plan for agriculture. You do not have a plan for agriculture. You have not articulated what your plan for agriculture will be. Mr Cobb said that it would be released in good time. That is hardly reassuring for farmers. The Gillard government remains committed to a strong agricultural industry. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Wait a minute, Senator Pratt. When there is silence, you will be heard in silence. When there is silence we will continue.

Senator PRATT (Western Australia) (14:40): Mr President, I ask a supplementary question. Can the minister inform the Senate of other areas of government investment that significantly assist primary producers?
Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:40): I thank Senator Pratt for her first supplementary question. The Gillard government supports new opportunities in agriculture, unlike those opposite. Our $38 billion in agricultural exports are vital to primary industries and to regional communities. These exports are supported by the Trade and Market Access branch, a very vital part of the Department of Agriculture, Fisheries and Forestry, which looks at opening up new opportunities in market. But, under the secret list prepared by the IPA, it is important—

Senator Kim Carr: It's open now!

Senator LUDWIG: Under this open, secret vow by the IPA those opposite keep trying to walk away from, but it has your fingerprints all over it—rule it out if you want to. No, you are not going to rule it out because, under that plan, trade market access would be slashed. If Senator Joyce wants to— (Time expired)

Senator PRATT (Western Australia) (14:42): Mr President, I ask a further supplementary question. Can the minister please outline to the Senate any risks to the government’s investment in Australian agriculture, fisheries and forestry?

Opposition senators interjecting—

The PRESIDENT: Senator Ludwig, you are lucky; sit down. When these excited people on my left are quiet, for those who want to debate it, the time is after question time. You have 17 minutes to go.

Senator Ronaldson interjecting—

The PRESIDENT: Thank you, Senator Ronaldson. I do not need those forms of interjection, either. Order on both sides! In 17 minutes time you will have the opportunity to debate the answers to questions during question time, not now.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:42): I thank Senator Pratt for her second supplementary question. We do know that Mr 'Sloppy Joe' Hockey got rolled in his party room last night—

The PRESIDENT: Senator Ludwig, you can withdraw that.

Senator LUDWIG: I withdraw that; I apologise. So he would be hungry for a win. And now he has the IPA report, he has got his hit list ready and is ready to rock 'n' roll. Why do we not hear from the National Party? Because they have signed up to it. The doormat is for the Liberal Party. Why the Liberals are now arguing and arguing loudly is because—

Government senators interjecting—

The PRESIDENT: Order! I will give you the call, Senator Boswell, as I always do to people on their feet, when there is silence on my right.

Senator Boswell: Mr President, I raise a point of order. How can you allow a question, based on an IPA report that has nothing whatsoever to do with the coalition, and allow the minister to use that report as some sort of an attack on the coalition, when IPA has nothing whatsoever to do with the coalition?

The question is based on a lie, and I ask you to pull him up and to use your authority to get some order in this place.

Senator Wong: Mr President, on the point of order. As much a Senator Boswell might like to distance himself from it, the IPA themselves have made public that this list is being discussed with some shadow
ministers. If he does not like what is on the list, he can rule it out.

The PRESIDENT: Order! This is debating the issue. There is no point of order. Minister, you have 25 seconds remaining.

Senator LUDWIG: Of course, this list is really a hit list against regional Australia. If you look at the way it is going to be followed they can find some comfort from this, particularly from Premier Campbell Newman in Queensland, because their plan was very similar. They first said nothing. In fact, we all remember Premier Campbell Newman saying that the Public Service had nothing to fear. (Time expired)

South Australia: Employment

Senator EDWARDS (South Australia) (14:45): My question is to the Minister for Finance and the Minister representing the Minister for Employment and Workplace Relations, Senator Wong. I refer the minister to the collapse this week of Priority Engineering Services in her home town of Adelaide, where 86 workers were stood down. This is added to the collapse of McCracken Homes last week and the concurrent and incredible withdrawal of the home builders indemnity insurance scheme by QBE Insurance, brought about by the growing business failures in the ludicrously mismanaged economy of that state.

Why do you, Minister, and your cabinet colleagues continue to let the South Australian people suffer because of a double whammy of economic incompetence from both the Weatherill and Gillard Labor governments?

Honourable senators interjecting—

The PRESIDENT: Order! When we have silence on both sides—if you wish to have a discussion you can go outside—

Senator Cameron: Give that senator some oxygen!

The PRESIDENT: Order, Senator Cameron!

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:47): I am very pleased to take a question about South Australia, although I have to say that given the tone of that it appears the good senator really wishes he could have been a member of the South Australian parliament. I am surprised that he regards the Senate as less important than the state parliament, but if he does maybe he should consider changing his preselection.

I am very happy to take a question on South Australia and on jobs, because of course we know that the most recent unemployment figures show that under this government we have seen 920,000-plus jobs created since this government came to power. I know that those opposite like to talk down the economy, whether it is the South Australian economy or the federal economy. We know that they like to foster uncertainty and we know that they hate good economic news for Australians. They hate good economic news for Australians; they want higher unemployment because they think it sits in their political interests.

And the tone of that question demonstrated that. They are really cheering on any unemployment they can find.

Honourable senators interjecting—

The PRESIDENT: Order! On both sides! Senator Wong, you have 49 seconds and I draw your attention to the question.

Senator WONG: Thank you, Mr President. I was talking about unemployment as I was asked about unemployment. I am talking about unemployment because we on this side care about creating jobs. We know that those from that side revel in any economic bad news. Unlike those opposite, of course, we feel for the 86 people and their
families who, regrettably, are facing an uncertain future. But unlike you over there, we will not make political gains out of it. We will not play political games with it.

If you care about employment in South Australia, why don't you go down, go out to the workers at GMH and tell them that you do not support their industry and how many of them you want to put on the scrapheap? Why don't you tell them that? Go out to Osborne and tell the workers of the Australian Submarine Corporation that you do not support their project either, that you want that sent offshore. If you care about South Australian jobs — (Time expired)

Honourable senators interjecting

The PRESIDENT: Order! When there is silence we will proceed. Senator Edwards is entitled to be heard.

Senator EDWARDS (South Australia) (14:50): I am very grateful that the minister has brought up —

The PRESIDENT: Order! You need a question.

Senator EDWARDS: Mr President, I ask a supplementary question. The northern Adelaide suburbs' general unemployment rate has increased from 7.3 per cent to nine per cent in only one year, nudging twice the national average. Youth unemployment is now at a staggering 43 per cent, and this without yesterday's collapse of Precision Engineering Services. Does the minister acknowledge that they have given up on the people of Adelaide's northern suburbs, and have no clue how to stem this tsunami of pain? (Time expired)

The PRESIDENT: Order! The time for the question has expired. I do draw senators' attention to the 30-second time limit on questions. It is disorderly to preface a question with a statement, and if people did not preface their questions with statements they would get the question in within the 30 seconds.

Government senators interjecting —

The PRESIDENT: Order! When there is silence on my right we will proceed.

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:51): Thank you, Mr President. I am very happy to take a question about the northern suburbs. Of course this government is always concerned to do everything we can particularly in areas of social and economic disadvantage to encourage participation and to encourage job creation. We have demonstrated that. But I think it is interesting to note what the policy approach of those over there —

Honourable senators interjecting —

The PRESIDENT: Order! On both sides! Senator Wong is entitled to be heard in silence. On both sides! On my right! Senator Wong.

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:52): The Liberal Party prescription for reducing the unemployment rates in northern Adelaide is to cut the assistance to the car industry by over $1.5 billion, to reduce industry assistance to the car sector, which is so important to the northern suburbs of Adelaide. Their policy response, their answer, is to take over $1 billion out. You tell me how that is going to help. You tell me how taking assistance away, removing certainty for industry between 2015 and 2020—which is your policy—you tell South Australians how that is going to help create jobs. (Time expired)

Senator EDWARDS (South Australia) (14:52): I ask a further supplementary question to the minister. Can the minister
explain how manufacturing and enterprise will survive the carbon tax and over 20,000 new regulations introduced by the Gillard Labor government, which continue to terminally harm business, driving expenses through the roof, without glibly blaming a high Australian dollar, the global financial crisis and everything else but the government's own cruel policies?

Honourable senators interjecting—

The President: On both sides! When there is silence I will call the minister. Order!

Senator Wong (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:53): Thank you, Mr President. I think that question demonstrates to all and sundry how little the senator understands about business, how little he understands about Australian business, how little he knows, because if he understood what Australian businesses are confronting, he would not discuss the high dollar as a glib issue.

Honourable senators interjecting—

The President: Senator Wong, resume your seat. Order! When there is silence, we will proceed.

Senator Wong: Thank you, Mr President. For someone to suggest that the high dollar—

Honourable senators interjecting—

The President: Senator Wong, resume your seat. Order! On both sides!

Senator Wong: Thank you, Mr President. For someone to suggest that the high dollar does not matter is entirely ridiculous. I would suggest that Senator Edwards go down to manufacturers in Adelaide and say, 'Guess what? High dollar don't matter! High dollar don't matter!' I am sure they would really agree with that, Senator Edwards. And how ridiculous, again: the GFC is just a glib excuse, we just made it up! We just made it up! The fact that what has happened to the US economy, what has happened to the European economies, what has happened to the global economy—no, it is just all a plot by the Australian Labor Party! You are ridiculous! (Time expired)

Honourable senators interjecting—

The President: When there is silence, I will give Senator Xenophon the call. You are entitled to be heard in silence as well.

Water

Senator Xenophon (South Australia) (14:55): Thank you, Mr President. My question is to Senator Conroy, representing the Minister for Sustainability, Environment, Water, Population and Communities. On 28 October 2012, Minister Burke, in a media release titled 'Gillard government supports the Riverland', announced $265 million in funding for water projects and industry support for the Riverland in South Australia: $180 million for the Water Industry Alliance, and $85 million for research, regional development, and industry redevelopment. During Senate estimates on 12 February this year the first assistant secretary of the department, Mary Harwood, said the South Australian government was 'still developing the business case'. Ms Harwood was referring to the $180 million fund. Can the minister advise when a draft business plan from the South Australian government was submitted, when was feedback provided by the Commonwealth, and when are these desperately needed funds expected to flow to the Riverland?

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) (14:56): Thank you, Senator Xenophon. I am just
Senator XENOPHON (South Australia) (14:57): As a courtesy to Senator Conroy's office, we did advise him that these were issues we wanted to canvass today, but that is okay.

The PRESIDENT: That is a statement. That is something that you can debate afterwards. You have got the question.

Senator XENOPHON (South Australia) (14:57): I ask a supplementary question. The Commonwealth response, in Senate estimates, seems to imply that the South Australian government has failed to promptly act in relation to the funding. Is it not the case that the draft business plan was provided by the South Australian government over two months ago, and has still not been finalised in conjunction with the Commonwealth?

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) (14:59): I am happy to answer what parts of that question might be relevant but if there is anything I miss, Senator Xenophon, I am happy to take that on notice and also seek further information from Minister Burke.

The Victorian government's Lindsay Island project, announced on 9 January 2013 by Minister Burke and Victorian Minister for Water, the Hon. Peter Walsh MP, will be the first project to use environmental works. The plan overall will return an average of 2,750 gigalitres of surface water to the environment each year—

Senator XENOPHON: Mr President, I rise on a point of order: it is a matter of direct relevance. The minister is talking about a Victorian project, not the Riverlands in South Australia.
The PRESIDENT: Senator Conroy, you need to come to the question. You have 23 seconds remaining to answer the question.

Senator CONROY: As I said, I will happily take on notice any further parts of the question and seek information from the minister. Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Income Equalisation Reserve

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:01): I wish to answer a question asked by Senator Colbeck at additional estimates, question 179. I seek leave to incorporate the answer in Hansard.

The answer read as follows—

Rural and Regional Affairs and Transport Committee

ANSWERS TO QUESTIONS ON NOTICE
Additional Estimates February 2013
Agriculture, Fisheries and Forestry
Question: 179
Division/Agency: Finance and Business Support Division

Topic: IER

Proof Hansard page: Written

Senator COLBECK asked:

1. Figures provided at Additional Estimates indicated the IER has dropped from approximately $24 million to $10 million this financial year, and that the target figure is actually $18 million.

Specifically what has this money been spent on?

Has industry been advised of the erosion of the reserve?

Has industry approved the use of this money?

What efficiencies is the division implementing to redress the ongoing use of the IER?

What is the IER expected to be by the end of the current financial year?

When will decisions be made on how to return the IER to the target of $18 million?

Answer:

1. At Additional Estimates the opening balance of the reserve on 1 July 2012 was $14.3 m. The import clearance deficit for 2012-13 was forecast to be $24.7 m. This would put the reserve into a $10.4 m deficit position.

Departmental budgets have been updated since Additional Estimates and the forecast operating deficit has reduced from $24.7 m to $10.9 m. As a result, the reserve balance is forecast at a $3.4 m surplus.

The range of the reserve agreed in the Cost Recovery Impact Statement (CRIS) is between 2 per cent and 10 per cent of annual expenditure. This equates to approximately $4 m to $19 m.

Attachment A provides a breakdown of expenditure for the 2012-13 year to date.

2. Yes. Industry is provided financial information as part of the Import Industry Finance Working Group.

Please provide an estimation of hours spent on QoN response for each officer involved.

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<th>Officer</th>
<th>DAFT Level</th>
<th>Hours spent on INN response</th>
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<td>A</td>
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<td>10 mins, 1 hour 25 mins</td>
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3. The industry reserve is a mechanism to smooth out operational results of cargo operations over years. The Department of Agriculture, Fisheries and Forestry (DAFF) does not seek industry agreement to draw on the reserves each time a deficit is incurred. Industry is informed of the forecast, actual expenditure and the underlying activities on a regular basis.

4. From 2007-08 until now, the following efficiencies have been implemented:
a. Reduction of intervention of containers departing the wharf gate from 100 per cent external inspection to 30 per cent inspection.

b. Paperless processing of non-commercial air cargo documentation.

c. Reclassification of postcodes previously classified as rural (rural assurance postcode review).

d. Reduction of intervention on Air Cargo containers from 20 per cent intervention to surveillance only.

e. Reduction of intervention on letter class documents from 20 per cent intervention to surveillance only.

f. Introduction of a nationally consistent approach to monitoring imported goods at quarantine approved premises, airports, wharves and port precincts.

g. Redirection of resources away from low risk activities and toward high risk cargo.

h. Conducted targeted campaigns on imported commodities to verify the documentary assessment

i. Implementation of processes to reduce intervention on high risk cargo based on good compliance (Sea Container Hygiene System, Q-Ruler and e-cert)

j. Import conditions have been refined to reduce intervention on low risk cargo.

The industry reserve is a mechanism to smooth out operational results of cargo operations over time. DAFF does not plan to cease using the reserve for this purpose.

5. The IER is forecast to be $3.4 m in surplus at the end of 2012-13.

6. The range of the reserve agreed in the Cost Recovery Impact Statement (CRIS) is between 2 per cent and 10 per cent of annual expenditure. This equates to approximately $4 m to $19 m. The current 2012-13 forecast closing balance of the reserve is $3.4 m. The operating result and IER are monitored throughout the year.

   Please provide an estimation of hours spent on QoN response for each officer involved.

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<th>Officer</th>
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QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:01): I move:

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

The particular answers to which I wish to address myself are the answers given by Senator Conroy to Senator Humphries and by Senator Ludwig to a dorothy dix question from his backbench concerning the government’s backdown on its Human Rights and Anti-Discrimination Bill 2012.

Backdowns do not come more humiliating than this. Throughout most of 2012 the former Attorney-General, Ms Nicola Roxon, described the anti-discrimination bill as one of the government’s signature pieces of human rights legislation. It was the centrepiece of her social engineering—her ambitions to turn Australia into a nanny state, governed by political correctness, in which the government would decide what it was appropriate for people to say. That is what Ms Roxon said again and again: ‘We will decide what is appropriate.’

We in the opposition saw that for what it was: part of a front in the war that the Gillard government has waged against freedom of speech. The attack on freedom of speech can sometimes be frontal but sometimes, equally insidiously, it can be subtle. It can be subtle in changing the manner in which people deal...
with each other, what they feel free and unconstrained to say to one another and the subjects they feel are open to them to discuss in ordinary discourse; and yet this government, to its undying shame, brought forward legislation which sought to impose the government's will between citizen and citizen in a free country to try to determine what people were free to say to one another. They brought forward a bill which, among other things, would have made it unlawful for a person, in the course of a political discussion in the workplace, to express an opinion which another person in that workplace might have found offensive. Just think about that, Mr Deputy President: what that would mean for freedom of discussion in Australia's workplaces and what it would have done to the Australian way of life overall.

More shamefully, not only did they make this insidious, subtle but dangerous attempt to trammel our freedom of speech, they pretended it was nothing more than an exercise in statutory tidying up. The new Attorney-General, Mr Mark Dreyfus, said so. He said, in an opinion to Steve Austin on 612 ABC Radio in Brisbane in January this year, that this law makes no change to the existing law; it is just a tidying up of existing legislation. That was not the truth. Attorneys-General should tell the truth. Mr Dreyfus, being a senior council, should certainly know how to tell the truth about a statute, and that was not the truth. As every witness to the Senate committee observed, this was a radical departure in Australian law.

Now, this morning, Mr Dreyfus has dumped the proposal comprehensively and instead adopted the opposition's proposal, because the opposition senators who sat on the Senate committee that reviewed the bill made two recommendations: firstly, that the bill not be proceeded with and, secondly, that part II of the Sex Discrimination Act be amended to include identity as a gay, lesbian, bisexual, transgender or intersex person as a protected attribute to which the act extends—a well acknowledged and longstanding gap in the coverage of legitimate anti-discrimination law by the Commonwealth of Australia. That is what Mr Dreyfus announced this morning.

So in the course of a humiliating backdown, Mr Dreyfus announced, as the policy of the government—a government that has been in office for 5½ years—the policy the coalition took to the 2010 election, and shamefully sought to cover his tracks by saying, 'We're just going to have another look at this.' Nobody listening to Mr Dreyfus this morning was persuaded because what Mr Dreyfus was doing was raising the white flag on one of the most dangerous attempts at social engineering in the history of this parliament. Nevertheless, the freedom wars go on on the front of freedom of the press.

Senator MOORE (Queensland) (15:06):

I am absolutely amazed that today we should be looking at a celebration of something which we have just heard the shadow Attorney-General state with great pride is something the opposition will be supporting. In fact, you pointed out that in the five years of our government we had not moved to pick up on this issue—in twelve years of your government you did not even identify this issue.

What we had today was the Attorney-General go out and talk about how we are moving with this process. We are moving forward with one extremely important element: to ensure that there is equity in our community. We are moving forward because we know that we have agreement on this. This is something we can do now that will achieve a result for people who have been waiting for a very long time to have their
rights fully enshrined in the legislation. You know, of course, that our government has moved to remove discrimination against people who are in same-sex relationships and who identify in this way, in a whole range of government legislation. In fact, I believe that it is 85 pieces of legislation in which we have removed any discrimination. This particular amendment that we are bringing forward today for this legislation enshrines the fact that people cannot be discriminated against for being in same-sex relationships or being intersex—I will just get the words correct and get that on record—and that is coming forward in legislation.

I am amazed that, instead of actually working and saying that we have achieved this, we have to go back into this extraordinary conspiracy process which was run by the opposition consistently through the extensive Senate Legal and Constitutional Affairs Committee proceedings that my friend Senator Crossin chaired—and an astounding amount of submissions came forward—which was looking at consolidating our anti-discrimination laws in Australia. The Attorney-General, on the ABC radio in Brisbane earlier this year—and luckily I happened to be listening to that interview; I do not always hear everything that is on that program, but I did hear that—talked about the tidying-up process. He also talked about changes that would be taking place in that process. What he said clearly this morning in public was that we were going to continue with that work, because it is complex and it is also necessary. The Attorney-General has said on record that we are moving forward with this one piece of legislation today. But there is no abandonment; we are not moving away from the commitment that we made to pull together the five pieces of legislation that are part of that process now.

I cannot understand why this has been portrayed consistently by senators on the other side as some form of attack on, or some form of conspiracy against, free speech. I am not going to go down that track in this short contribution of how we look at free speech in this place. There are quite serious differences around what constitutes free speech. Nonetheless, we need to see that this is not a time in the political process to say that because we have not moved forward with all the recommendations from the wonderful Senate Legal and Constitutional Affairs Committee that we are moving away from it. What the Attorney-General has said—and what our government has said—is that this is a work in progress, and it is clearly on the record that that is what we are going to be doing.

I think what we need to see is that there are people on the other side who are opposed to some of the things that were being discussed in that committee. They were open about that. They opposed some things and they put in opposition comments that they do not want those things to happen. That does not work for our side as well. There is no abandonment to our commitment to move forward with our anti-discrimination legislation. This is a step forward, and I believe we have had the commitment that means that it is going to be accepted. So at least that will occur.

I am very sorry that I will not have a chance to talk more deeply about Senator Colbeck's question about the IER. It is something in which I have deep interest and I know that it is something that will cause a great deal of discussion. I sincerely trust that we will hear from Senator Colbeck about the importance of this area in this taking note exercise. I just apologise, through you, Mr Deputy President, that I cannot take up that issue. We are not moving away from our anti-discrimination process.
Senator COLBECK (Tasmania) (15:11): I certainly will be taking up further discussion around the IER, as was perhaps promised by Senator Moore. I have to say, the minister's answer to this question today just demonstrates even further the complete and utter chaos that operates within the government around the operations of the agricultural portfolio. I asked a number of questions at additional estimates on 11 February—not long ago—to find out what the status of this reserve was. I was told that it would be reducing from about $24 million in surplus to about $10 million in surplus. Just last Friday the committee received a correction to the advice that was given to the committee and to me at additional estimates on 11 February. When I asked the question about what the reserve might be, I was told by the departmental official that the forecast was to be around $14 million by the end of the financial year—a change from $24.688 million. The correction that arrived to the committee last Friday, and that was accepted by the committee on Monday just gone, was that the IER is forecast to be around $10 million in deficit; a turnaround of $24.688 million, going from $14 million in surplus—reducing by $24.68 million—to about $10 million in deficit.

Today Minister Ludwig came in and said that it has since been recalculated. He accused me of trying to mislead the Senate and of not doing my homework. This is the latest advice that I have, accepted by the department on Monday and received last Friday, saying that we are $10 million in deficit. He then tabled an answer today to questions on notice, taken by the department and by the government at estimates on 11 February, saying that the figure has been revised—after he tried to accuse me of misleading the chamber by giving a wrong number when his department gave me that number just last Friday—to say that the industry reserve balance is forecast at $3.4 million. That is a start; that is at least a change, but it is still a significant reduction from $14 million in surplus to $3.4 million. They are still going backwards by $10 million. Yet, when I ask what the money is being spent on, the minister cannot tell us the answer to that question. What is the money being spent on? Is it, as we suspect, significant, out-of-control cost overruns on new IT systems being developed by the department? We just want to know; industry wants to know.

But, more importantly, how are we going to turn this around? How do we turn around this continued running down of industry reserve funds that are there so that there does not have to be a huge fluctuation in the rate of fees and charges that are charged to industry? Is industry going to have to pay for the government's complete inefficiencies yet again? Are we going to see huge increases in fees and charges like we did under the export fees and charges program where they have gone up in excess of 1,300 per cent? Are we going to see more of that? How is it going to be recouped? How will we get this reserve back to $18 million—$18 million is where the department would like to see the reserve placed.

The minister had absolutely no idea of any of these elements of those questions today—absolutely none. The only thing he could do was to accuse opposition of misleading the parliament when he has not provided the parliament with the information that we sought. He tabled an update after question time today, and yet the latest information we had from the department, from the government, was only last Friday. It just demonstrates the complete and utter chaos that exists within the agriculture portfolio. It compounds the complete debacle of live exports that has caused damage right across the beef industry in this country. You really
wonder how this minister continues to hold his portfolio when, within three or four days, and only four or five weeks after additional estimates, we have complete chaos in relation to the numbers that are being provided to this parliament.

Senator STEPHENS (New South Wales) (15:16): I too would like to take note of the answers to questions on notice. I would particularly like to take up the points that Senator Brandis was raising about the issues of the Anti-Discrimination Act and the response from Senator Moore. To me, it was a pretty disingenuous attempt by Senator Brandis on this issue because, as we all know, that draft consultation bill that was released last December was a very important piece of work that attempted to consolidate five anti-discrimination bills. It has undergone a very deep and meaningful process of scrutiny through the Senate committee process and, as the Senate committee reported last month, there were more than 100 recommendations in that report from the committee.

To me, it seems that when we are trying to use the committee process to improve and to amend legislation for the greater good—to bring those five pieces of legislation together, to make sure the language is consistent, that changes to a consolidated act do not accidentally disenfranchise or disadvantage anyone—there is this notion, when we are all here trying to do some very important work, that this should be seen as a capitulation in some respects. We are damned if we do and we are damned if we don't in this place so often if we decide not to proceed helter-skelter down a road of reform.

What I was pleased to hear Minister Dreyfus say this morning was the acknowledgement that major changes were going to be required to that draft legislation to ensure that it did reflect the many, many concerns raised about the issues brought forward. So let us just be a little bit more genuine about the purpose of the redrafting work that will be done; doing what we should do wisely and sensibly—sending it back to the drafters for major improvements. I look forward to seeing that bill when it comes forward again.

The alternative is what Senator Brandis, as the shadow spokesperson and the Deputy Leader of the Opposition in the Senate, has in mind in terms of anti-discrimination. His suggestion is a promise to repeal the Racial Vilification Act. In my mind, that is something that will go about stripping people's protections from hate speech. We have seen plenty of examples in the media about that, and I really hope that we would not be going down that path as an alternative to anti-discrimination legislation.

However, I actually asked a very important question today in question time, which went to Senator Kim Carr. It was in relation to the fact that it is Seniors Week this week and the important contribution that the government is making and the important support that the government is giving to senior Australians. I want to acknowledge the fact that single pensioners will, from today, start receiving that extra $35.80 a fortnight and that pensioner couples on a maximum rate will receive an extra $54 a fortnight—and that includes Labor's clean energy supplement.

What we as a Labor government are about is ensuring that senior Australians, wherever they live, are being supported in the community. The raft of initiatives that have been undertaken to ensure that our senior Australians are able to live with some dignity are very important. The aged care package that Minister Butler released last week and the financial planning services that the Department of Human Services has been
rolling out for senior Australians are all very sensible and supportive initiatives that I am very proud that we are able to have in place. But, again, the opposition’s suggestion is to claw back the initiatives that are under the Household Assistance Package, reducing pensions by at least $350 a year. I think the options are very clear for all Australians about seniors.

Senator FAWCETT (South Australia) (15:21): I rise to take note of answers from Senator Wong to a question from Senator Edwards particularly relating to the collapse of Priority Engineering Services, a firm in South Australia that has been an innovator for many years in the area of engineering and manufacturing. This is a company that has a worldwide footprint in terms of their stamping press washers in the automotive sector, particularly in Malaysia. They have been a pivotal part of South Australia’s industry presence, stemming back to the Collins-class submarine and some of the work they did on that through to current projects.

The vindictiveness that came across the chamber from Senator Wong today was particularly disappointing, because it was about politics as opposed to the people who are involved in this company. Both Mr Peter Page and Mr Peter Parrish, the directors of this company, have invested a huge amount of their personal effort, time, resources and capital into developing this company and growing it to be a significant employer of South Australians, an innovator of manufacturing processes and a contributor to the manufacturing capability of this country. To have their efforts dismissed in such a manner is truly disappointing.

Priority Engineering is one of many firms in South Australia that has been encouraged by the government to move from their traditional markets of the automotive sector and mining into the defence sector. The government has consistently told them that there are huge opportunities for them by getting engaged with the prime contractors from overseas and getting into the global supply chain, particularly into the support for acquisitions and sustainment in this country. This has not just been verbal encouragement—$1.8 million was given by this Labor government to Priority Engineering specifically to enable them to tool up and skill their people through an acquisition so that they could participate in this defence industry sector.

For private business, that does not just come out of thin air. Those kinds of acquisitions mean that you take on debt, and debt needs to be serviced. Some of the things that bank managers look at are whether you have a business plan and where your work is coming from. In the case of defence industry, the document they look to is the Defence Capability Plan. When the government issues a Defence Capability Plan and, more importantly, announce, on the strength of that capability plan and a tender process, a preferred tenderer that they have entered into contract negotiations with, there is a high degree of expectation on the part of defence industry that the dates that have been put forward in the Defence Capability Plan and the tender will be followed through.

When the government mismanages that plan, as was the case in one of the projects that Priority Engineering was involved with, and cannot bring to conclusion a contract negotiation process with the prime—it had stretched on for months and months into new years—that spells cash flow problems for companies. It appears that one thing that this government does not understand is the reality for small business of profit and loss and the importance of cash flow. When they mismanage plans, cancel or defer programs or cannot bring to timely conclusion contract
negotiations that directly goes to the cash flow, and therefore the viability, of the people who have toiled up in the expectation of fulfilling part of Australia’s national defence capability requirement.

This government has mismanaged the Defence Capability Plan. That mismanagement has had a direct impact on Australia’s defence capability through the failures of companies like Priority Engineering. If the people of Australia cannot trust this government with defence capability, and therefore the security of this nation, and if they cannot trust them with the security of their jobs, then it is time for the people of this country to change the government so that we bring in a government that truly looks at the role that defence industry plays as a part of the national defence capability of this country and puts in place defence capability plans that are achievable and predictable and will be implemented not only for the benefit of the nation but so that we can sustain the jobs and the innovation that the defence industry has so consistently brought to this country.

Senator WRIGHT (South Australia) (15:26): I want to take note of the answer provided by the Minister representing the Attorney-General in relation to the government’s abandonment of their commitment to reform anti-discrimination laws which was officially announced today.

The government has suggested that this is merely a deferral of their commitment, but the reality is, as we know, that if the foreshadowed reform of these anti-discrimination laws was not to be introduced this week, so that it could be debated in the next session, then, effectively, it is off for all comers. We know that unless that was going to occur before the election we would not know what happen after that.

Unfortunately, with this abandonment the government is betraying the hopes and the faith of many Australians who have been waiting for a very long time to see simpler, fairer equality laws. Significant numbers of people have been working in relation to this matter for many years. There has been extensive consultation. There have been reports in relation to the law reform, and, of course, we have also recently seen a comprehensive and thorough inquiry process by the Senate Legal and Constitutional Affairs Legislation Committee, of which I am a member. So I had the benefit of actually hearing the numerous submissions made by Australians across the country who have been very keen to see fairer, simpler equality laws brought in, consistent with the government’s pre-election commitment.

We know that what will happen with this walking away from this election commitment is that there will be many people who will now be unprotected who were going to have protections enhanced. Victims of family and domestic, for instance, currently can be discriminated against without sanction, for instance, in the real estate market, where they can be denied accommodation by real estate agents if the agents are concerned that a person applying for accommodation may be subject to domestic violence. They have no recourse at the moment. People with family responsibilities—carers and parents—can be discriminated against in most situations without any recourse.

These were reforms that were foreshadowed in the draft exposure bill. They were recommendations of the committee inquiring into the bill that will now be abandoned. We also know that there are many people in Australia who can still be discriminated against by religious organisations, religious bodies and schools. Those people were not necessarily going to be protected by the changes to the law,
although that is what the Greens were certainly calling for.

We do know that the exposure draft of the bill did suggest that at the very least people who were needing aged-care be protected from the existing religious exceptions in current antidiscrimination law. The government had put that in the exposure draft. The committee had certainly recommended that that be upheld, but that in fact is now not going to occur.

The government has indicated that it will take some limited but important reform steps in relation to the Sex Discrimination Act to include sexual orientation, gender identity and intersex status. We very much welcome those. They are long overdue. Unfortunately, being so restricted, there are still many Australians who will be left short.

The other aspect we do need to be aware of, even in relation to that law reform, is that the religious exceptions will remain and indeed will extend to people who have those protected attributes as well. So where religious bodies and organisations are allowed to lawfully discriminate currently on the basis of protected attributes they will continue to be allowed to discriminate on the basis of sexual orientation, gender identity and intersex status. Of course, they are a significant body of the Australians who are discriminated against by those powerful institutions in society. Today the news does not offer them any hope that that will change, because the religious exceptions will remain on foot.

The Attorney-General has said timing and complexity are issues. Why did the government leave this election commitment until the last minute? Labor has clearly lost the political will to protect human rights. This is a great shame. It is a shame that Labor apparently does not have the courage of its convictions to see these reforms through, to take on the debate, to make the case and to make sure that Australians are adequately protected, as it had undertaken to do before the election.

Question agreed to.

NOTICES
Presentation

Senator Siewert to move:
That the time for the presentation of the report of the Community Affairs References Committee on the impacts on health of air quality be extended to 26 June 2013.

Senator Ludlam to move:
That the Senate—
(a) notes that the question of Western Sahara remains unresolved;
(b) expresses its strong support for the right to self-determination of the Sahrawi people, in accordance with the relevant United Nations (UN) resolutions;
(c) expresses its deep concern at the continued violations of human rights in Western Sahara; and
(d) calls on the Government to:
(i) play an active and positive role at the UN Security Council to encourage a speedy and just solution to the issue of Western Sahara, including the release of all Sahrawi political prisoners,
(ii) do all it can to encourage the protection of the fundamental rights of the people of Western Sahara, including freedom of association, freedom of expression and the right to demonstrate, and
(iii) urge the UN to fulfil its responsibility towards the right of the people of Western Sahara to self-determination and include human rights monitoring in the mandate of the United Nations Mission for the Referendum in Western Sahara.

Senator Lundy to move:
That the Senate notes that:
(a) Harmony Day is celebrated throughout Australia on 21 March and is a significant day for Australians to celebrate the rich and vibrant cultural diversity of Australia;
(b) this day is also the United Nations International Day for the Elimination of Racial Discrimination;

(c) Harmony Day is about community participation, inclusiveness and respect—it is a day to reflect on our success as a multicultural nation, our strong social cohesion and the benefits of cultural diversity;

(d) the central message for Harmony Day is that everyone belongs, reinforcing the importance of inclusiveness to all Australians;

(e) in 2013, the theme for Harmony Day is 'Many Stories—One Australia';

(f) since Harmony Day began in 1999, 50,000 events have been celebrated across Australia and in 2013 over 2,000 events have been registered;

(g) orange is the colour of Harmony Day and everyone is encouraged to wear something orange to show their support for multiculturalism and an inclusive Australia.

Senator Siewert to move:

That the Senate acknowledges that the current level of Newstart is too low.

Senator Smith to move:

That the Senate acknowledges:

(a) the valuable contribution that grandparents who take on the primary responsibility for raising their grandchildren make to the Australian community;

(b) that, while these grandparents take on these added responsibilities with great care and commitment, it can often lead to financial, physical and emotional hardship; and

(c) the announcement by the Western Australian State Government that it will introduce a Grandcarers Support Scheme which will provide financial assistance to those grandparents who care for their grandchildren full-time but do not receive financial support through the Department of Child Protection.

Senators MCLucas, Fifield, Boyce and Siewert to move:

That the Senate—

(a) notes that 21 March 2013, marks the 8th anniversary of World Down Syndrome Day and the second time that day has been acknowledged under the auspices of the United Nations (UN);

(b) recognises that Down syndrome is the most prevalent genetic cause of intellectual disability;

(c) acknowledges that barriers faced by people with Down syndrome can be overcome through the shared vision for an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens (National Disability Strategy 2010-2020);

(d) recognises that, through the Government’s Better Start for Children with Disability program, as at the end of February, 1,325 children with Down syndrome have registered to receive up to $12,000 for early intervention;

(e) acknowledges the multi-partisan support for the National Disability Insurance Scheme, with the first stage of the scheme launching in a number of sites from 1 July which will give Australians with Down syndrome and other disabilities the opportunity to live fulfilling lives; and

(f) supports the celebration of UN World Down Syndrome Day by people with Down syndrome, their families, friends and carers, and the wider community.

Senators Siewert and Moore to move:

That the Senate—

(a) notes that 21 March is National Close the Gap Day and that at least 900 community events are being held around the country, with an estimated 140,000 Australians expressing their support for continued investment to close the appalling gap in life expectancy between Aboriginal and Torres Strait Islander people and non-Indigenous Australians;

(b) affirms its commitment to the Close the Gap campaign Statement of Intent as the blueprint for action to close the health equality gap; and

(c) calls on the Government to continue:

(i) the funding of the National Partnership Agreement on Indigenous Health and to work with the states and territories to ensure that they commit to ongoing funding and continued transparency and accountability, and

(ii) to work in partnership with Aboriginal and Torres Strait Islander peoples and their
representatives to continue to drive the development, implementation and monitoring of the National Aboriginal and Torres Strait Islander Health Plan.

Senators Madigan and Rhiannon to move:

That the Senate—

(a) notes that:

(i) the 22nd Session of the United Nations (UN) Human Rights Council will this week vote on a resolution, tabled by the United States of America (US), urging Sri Lanka to fulfil its public commitments, including the devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population,

(ii) the resolution expresses concern at the continuing reports of human rights violations in Sri Lanka, including enforced disappearances, extrajudicial killings, torture, and violations of various rights of freedom, as well as intimidation of, and reprisals against, human rights defenders, and discriminations on the basis of religion or belief,

(iii) the resolution has been co-sponsored by Austria, Canada, Croatia, Belgium, Denmark, Estonia, France, Finland, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Malta, Monaco, Montenegro, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, St Kitts and Nevis, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the US, and

(iv) the UN High Commissioner for Human Rights has called for an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law in Sri Lanka; and

(b) calls on the Government to:

(i) add Australia to the list of co-sponsors of the resolution,

(ii) support efforts to secure the US-initiated resolution on Sri Lanka at the 22nd Session of the UN Human Rights Council, through the Australian permanent representative in Geneva, and

(iii) note that the US-initiated resolution on Sri Lanka would be strengthened by calling for an independent and credible international investigation into alleged violations of international human rights law and international humanitarian law in Sri Lanka.

Senator Madigan to move:

That the Senate—

(a) notes that:

(i) the Special Rapporteur of the United Nations (UN) on torture and other cruel, inhuman or degrading treatment or punishment has issued two reports detailing allegations of organ harvesting in China,

(ii) the UN and the Council of Europe are planning to introduce a new binding international treaty to prevent trafficking in organs, tissues and cells and have already issued protocols containing appropriate measures to combat the trafficking of human beings for organ removal, and

(iii) since the publication of the UN reports, the United States of America (US), from June 2011, has included on its online non-immigrant visa application Form DS-160 the question, 'Have you ever been directly involved in the coercive transplantation of human organs or bodily tissues?'; and

(b) calls on the Government to:

(i) support the UN and Council of Europe initiatives to oppose the practice of organ harvesting, and

(ii) implement a policy, including a similar question to that used by the US in the appropriate forms for all applicants of Australian visas and for all arrivals to the country.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) 24 March is World Tuberculosis Day,

(ii) tuberculosis (TB) is a preventable and treatable disease claiming the lives of up to 1.4 million people every year, mostly in developing countries, and

(iii) the World Health Organization (WHO) estimates most new TB cases in 2011 occurred in the south-east Asia region, which, combined with
the Western Pacific region, accounted for 59 per cent of incident cases globally;
(b) recognises that:
   (i) investment in research and development funding for TB has stagnated over the past few years,
   (ii) in 2011 the WHO Global Plan to Stop TB suffered an estimated 68 per cent shortfall of the targeted $2 billion for TB research and development, equating to a shortfall of US$1.35 billion,
   (iii) the Global Fund to Fight AIDS, Tuberculosis and Malaria is a key international partnership providing critical basic services for many developing countries in the fight against TB, with more than two-thirds of international financing for TB services provided by the Global Fund, and
   (iv) the Australian Government has provided increasing support to the Global Fund since 2004, but has deferred payment of $11 million to the Global Fund in the current financial year;
(c) calls on the Government to:
   (i) further expand and monitor results from its TB program in Papua New Guinea, and
   (ii) include the deferred payment of $11 million to the Global Fund in the 2013-14 Budget, and work with other donors to ensure the Global Fund receives an increased replenishment for the 2014 to 2016 period.

Senators Moore and Rhiannon to move:
That the Senate—
(a) notes that:
   (i) it is 2 years since violence erupted in Syria, an estimated 70 000 people have been killed and more than 1 million have sought refuge in neighbouring countries, with an estimated 2.5 million people displaced inside Syria and an estimated 4 million people requiring humanitarian assistance,
   (ii) Syria's hospitals have been damaged with a third no longer functioning and there is a shortage of medicine,
   (iii) food production throughout Syria has been dramatically curtailed and food prices have soared leaving many people unable to feed their families, and
   (iv) despite the impeded humanitarian access the United Nations (UN) Office for the Coordination of Humanitarian Affairs has expressed concern that UN agencies expect to receive only half of the funding pledged; and
(b) welcomes Australia's support of $41.5 million to date for the Syrian crisis.

Senator Thistlethwaite to move:
That the Senate—
(a) notes the strong work conducted by the Commonwealth Arts portfolio to promote the contribution live music makes to Australian communities; and
(b) acknowledges the work of campaigners reinvigorating the Australian live music scene.

Senator Heffernan to move:
That the Rural and Regional Affairs and Transport References Committee be authorised to hold an in camera hearing during the sitting of the Senate on Thursday, 21 March 2013.

Senator Milne to move:
That the Rural and Regional Affairs and Transport References Committee take evidence in Tasmania for its inquiry into the Auditor-General's reports nos 26 of 2007-08 and 22 of 2012-13 in relation to the Tasmanian forest industry.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:32): I give notice that, on the next day of sitting, I shall move:
That the exposure draft relating to the Australian Jobs Bill 2013 be referred to the Economics Legislation Committee for inquiry and report by 14 May 2013. I table the exposure draft legislation relating to this reference.
BUSINESS
Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (15:32): by leave—I move:

That leave of absence be granted, on 21 March 2013, to the following senators:

(a) Senator Stephens, for parliamentary business; and
(b) Senator Brown, for personal reasons.

Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:33): by leave—I move:

That leave of absence be granted to Senator Boyce from 20 March to 21 March 2013, for personal reasons.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:

General business notice of motion no. 1201 standing in the name of Senator Rhiannon for today, relating to particulate emissions from coal and passenger trains, postponed till 21 March 2013.

COMMITTEES
Corporations and Financial Services Committee
Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:34): by leave—I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 March 2013, from 10 am, to take evidence for the committee's inquiry into the statutory oversight of the Australian Securities and Investments Commission.

Question agreed to.

Legal and Constitutional Affairs References Committee
Reference

Senator XENOPHON (South Australia) (15:35): I move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 3 June 2013:

The current framework and operation of subclass 457 visas, Enterprise Migration Agreements and Regional Migration Agreements, including:

(a) their effectiveness in filling areas of identified skill shortages and the extent to which they may result in a decline in Australia's national training effort, with particular reference to apprenticeship commencements;
(b) their accessibility and the criteria against which applications are assessed, including whether stringent labour market testing can or should be applied to the application process;
(c) the process of listing occupations on the Consolidated Sponsored Occupations List, and the monitoring of such processes and the adequacy or otherwise of departmental oversight and enforcement of agreements and undertakings entered into by sponsors;
(d) the process of granting such visas and the monitoring of these processes, including the transparency and rigour of the processes;
(e) the adequacy of the tests that apply to the granting of these visas and their impact on local employment opportunities;
(f) the economic benefits of such agreements and the economic and social impact of such agreements;
(g) whether better long term forecasting of workforce needs, and the associated skills training required, would reduce the extent of the current reliance on such visas;
(h) the capacity of the system to ensure the enforcement of workplace rights, including occupational health and safety laws and workers' compensation rights;
(i) the role of employment agencies involved in on-hiring subclass 457 visa holders and the contractual obligations placed on subclass 457 visa holders;

(j) the impact of the recent changes announced by the Government on the above points; and

(k) any related matters.

Question agreed to.

MOTIONS

Tibet

Senator HANSON-YOUNG (South Australia) (15:36): I move:

That the Senate notes the Australian Government's efforts to urges Chinese authorities to:

(a) address the underlying causes of tension in Tibetan regions;

(b) end the use of harsh policies, such as increased surveillance and violent crack-downs, which have only exacerbated the security situation in Tibetan areas;

(c) lift restrictions on access to Tibetan regions, including for international media and diplomats; and

(d) resume substantive talks with the Dalai Lama's representatives to prevent the situation deteriorating further.

Question agreed to.

Peacekeepers

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

That the Senate—

(a) notes that:

(i) about 70 000 Australian Defence Force and Australian Federal Police personnel have been deployed on over 60 peacekeeping operations throughout the world, significantly contributing to international peace and security, and

(ii) more than 40 000 people signed a community petition calling for the 48 Australian peacekeepers who have died in service to receive equal recognition and be placed on the Roll of Honour at the Australian War Memorial; and

(b) commends:

(i) the Australian War Memorial Council's decision to recognise peacekeepers on the Roll of Honour; and

(ii) the tireless work of advocates, including Mrs Avril Clark, Ms Sarah McCarthy and the Australian Peacekeeper and Peacemaker Veterans' Association for their work on this matter.

Senator RONALDSON (Victoria) (15:37): I seek leave to make a very short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator RONALDSON: I just want to associate the coalition with the motion moved by Senator Wright and thank her for doing so. There are some 48 men and women who have died on peacekeeping duties since 1947. As has always been the case, this was a matter for the Australian War Memorial, but the coalition is very grateful that the council has made the decision. It is an important one and it finally recognises these Australian peacekeepers whose names have not been on the roll before.

Senator WRIGHT (South Australia) (15:37): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator WRIGHT: It gives me great pleasure to be able to stand here after the decision of the Australian War Memorial Council to recognise peacekeepers on the Roll of Honour after a very, very long campaign, particularly run by the Australian Peacekeeper and Peacemaker Veterans Association, advocates and family members—such as Avril Clark, Sarah McCarthy and Peter Pridue—of fallen peacekeepers. I am very proud of the role that the Greens have played in this: when the APPVA came and spoke to us about a year ago, we were
prepared to take up this fight and support the many people who have been campaigning for such a long period of time. I am pleased that other parties came on board towards the end of the campaign, and I am very pleased that the Australian War Memorial Council, which is an independent body, finally decided to recognise peacekeepers on the Roll of Honour and do what was appropriate and fitting for these brave people who represent Australia in international forums, to our eternal honour. It is only appropriate. 

(Time expired)

Senator Jacinta Collins interjecting—
Senator Fifield interjecting—

The DEPUTY PRESIDENT: Could I just ask the two managers to cease talking across the chamber. It is very hard to deal with business.

Question agreed to.

**BILLS**

**Environment Protection and Biodiversity Conservation Amendment (Great Barrier Reef) Bill 2013**

First Reading

Senator WATERS (Queensland) (15:39):

I move:

That the following bill be introduced: A Bill for an Act to amend the Environment Protection and Biodiversity Conservation Act 1999, and for related purposes.

Question agreed to.

Senator WATERS: 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.
panel to investigate the ecological disaster in Gladstone Harbour in the Southern Great Barrier Reef, this is long overdue given the wildlife disease that has been apparent since dredging began in 2011, compounded by flooding impacts. Such an investigation must be based on independent data if it is to be truly independent—not the data collected by the very folk doing the reef's largest dredging program, Gladstone Ports Corporation. We welcome federal investigation into Gladstone Harbour but the government is failing to genuinely address a number of other critical recommendations made by the World Heritage Committee.

The Greens want to see strong steps taken urgently to secure the future of the Reef, in line with the World Heritage Committee's recommendations. To that end, we have identified a number of recommendations by the Committee and the UNESCO reactive monitoring mission which are suitable for implementing through our national environment laws.

This bill proposes to put in place a permanent ban on any new port development outside of the existing and long-established major port areas within or adjoining the GBR WHA, including specifically banning new port developments in the ecological valuable Port Alma, Balaclava Island, northern Curtis Island and the entire northern section of the Great Barrier Reef. This would implement, under our national environment laws, Recommendation 5 of the World Heritage Committee's decision of June 2012 (Decision 36 COM 7B.B), and reflects the findings of UNESCO's reactive monitoring mission's report, which identifies a number of pristine areas along the Great Barrier Reef coastline which should not be destroyed by industrial port developments.

This bill also proposes to stop port expansions if they impact individually or cumulatively on the Outstanding Universal Value of the Great Barrier Reef. This implements Recommendation 5 of the World Heritage Committee's decision of June 2012 (Decision 36 COM 7B.B).

The third major amendment proposed by this bill is that it will put in place a moratorium to stop the national environment minister from approving any new developments that would seriously affect the Great Barrier Reef world heritage area until the Strategic Assessment currently underway, and a resulting long term plan for the sustainable development of the Reef, has been completed and considered by the World Heritage Committee. This implements Recommendation 2 of UNESCO's Reactive Monitoring Mission's report, which the World Heritage Committee has requested the Australian Government address (per the Committee's Recommendation 4 of Decision 36 COM 7B.B). The critical point of this amendment is to ensure that the Minister can no longer continue to tick off the very projects that have prompted the World Heritage Committee's extreme concern, while they are undertaking their strategic assessment to work out what the reef in fact can handle. Since the World Heritage Committee first made this recommendation in June 2012, the Government has flouted this request and approved expansions of Abbot Point (including 3 million cubic metres of dredging), and the huge Alpha coal mine. The terms of reference for the strategic assessment currently underway to assess coastal development impacting on the Great Barrier Reef explicitly says, despite the World Heritage Committee's request, that project level assessments and approvals will continue to be progressed unhampered by the strategic assessment process. That is, anything that is applied for before the strategic assessment finishes cannot have its approval impacted by the strategic assessment—like a smoker going to the Doctor and getting everything but their lungs checked. That's why this amendment requires the World Heritage Committee to assent to the strategic assessment before the moratorium is lifted, to ensure that it does adequately address the parameters which the World Heritage Committee said it should.

Lastly, this bill proposes to amend the approval criteria for projects that will impact the Great Barrier Reef world heritage area, so that projects can only be approved if they deliver a net benefit for the Reef. This amendment also requires that a methodology be developed to underpin this judgement, and that the 'net benefit' reasoning is explained by the Minister for each project that is approved. This will implement part of the World Heritage Committee's
Recommendation 8 (Decision 36 COM 7B.2), which calls on the Government to ensure that developments affecting the Great Barrier Reef demonstrate an overall net benefit to the protection of the Reef's Outstanding Universal Value. The Government itself, in its February 2013 state party response to the World Heritage Committee's concerns stated that any approvals granted under the EPBC Act will include best practice conditions so as to promote an overall net positive impact for the property. If this is genuinely intended, a clear methodology is without question needed, and this bar locked in place in law.

The Australian Government has so far fallen short in acting on the World Heritage Committee's recommendations, but this bill presents the Government and the Coalition the opportunity to stand up for our Reef, and do what the Committee has clearly stated the Reef desperately needs.

It should be beyond party politics to protect our Reef, to keep it as the seventh wonder of the natural world that so inspires our spirit, fills our coffers with 6 billion annual sustainable—and long-term—incomes, and keeps employing 54,000 people. Political parties of all persuasion must take this warning from the World Heritage Committee seriously and do everything we can to avoid the Reef being placed on the World Heritage In Danger list. Such a listing would be a disaster for our tourism industry, and would acknowledge the serious environmental peril the reef is in from the scourge of dredging, dumping and shipping for fossil fuel exports, and from the climate change impacts when such fossil fuels are burnt.

On behalf of Australia's reef communities, and all Australians who love our Reef, I implore our elected representatives for their support on this bill. Australia's Great Barrier Reef is simply too precious to lose.

I commend this bill to the Senate.

Senator WATERS: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

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DOCUMENTS

Department of Immigration and Citizenship

Order for the Production of Documents

Senator MADIGAN (Victoria) (15:40): I seek leave to amend general business notice of motion No. 1203 standing in my name and the name of Senator Xenophon for today, ordering the production of documents relating to children in detention.

Leave granted.

Senator MADIGAN: I, and also on behalf of Senator Xenophon, move the motion as amended:

That the Senate—

(a) notes that:

(i) the Department of Immigration and Citizenship last published its monthly statistics regarding the number of people, including children, being held in detention in Australia on 31 December 2012,

(ii) those statistics stated that of the 2,043 children and unaccompanied minors in immigration detention facilities and alternative places of detention 59.8 per cent were held in detention facilities, being immigration residential housing, immigration transit accommodation and alternative places of detention, and

(iii) in a joint media release and press conference held by the Minister for Immigration and Citizenship and the Prime Minister on 18 October 2010 they acknowledged that protracted detention can have negative impacts on children’s development and mental health, and stated that the majority of children would be moved to community detention by June 2011; and

(b) calls on the Minister representing the Minister for Immigration and Citizenship to:

(i) explain the department's high December figure of 59.8 per cent of children held in the aforementioned detention facilities,

(ii) explain the delay in publishing detention figures since 31 December 2012, and
(iii) lay on the table by noon on Thursday, 21 March 2013 documents from the department detailing the total number of people held in detention facilities and the total number of children and unaccompanied minors held in the aforementioned detention facilities.

Question agreed to.

Review of Commonwealth Fisheries Management Legislation

Order for the Production of Documents

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:41): I seek leave to amend general business notice of motion No. 1204 standing in my name for today, relating to the production of documents on the fisheries management legislative review.

Leave granted.

Senator SIEWERT: I amend the motion in the terms circulated in the chamber—that is, taking out the word 'Monday'. I move the motion as amended:

That there be laid on the table by the Minister for Agriculture, Fisheries and Forestry, by noon on 8 May 2013, the report of the review of Commonwealth fisheries management legislation undertaken by Mr David Borthwick.

Question agreed to.

COMMITTEES

Education, Employment and Workplace Relations References Committee

Government Response to Report

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:42): I seek leave to amend general business notice of motion No. 1199 standing in the name of Senator Back, relating to the government response to the Education, Employment and Workplace Relations References Committee's report into higher education and skills training.

Leave granted.

Senator KROGER: I understand that the amendment has been circulated in the chamber. Just for a point of clarification, it is essentially, in part (b)(i), removing the words 'apologise to the Senate and the agricultural community for' and replacing them with 'explain'. But I understand that it has been circulated and was agreed to, so I am just seeking clarification on that.

The DEPUTY PRESIDENT: I understand it has been circulated.

Senator KROGER: At the request of Senator Back, I move the motion as amended:

That the Senate—

(a) notes that:

(i) the Education, Employment and Workplace Relations References Committee tabled its report, *Higher education and skills training to support agriculture and agribusiness in Australia* on 21 June 2012 with the support of the Australian Greens and without dissent of the Labor senators,

(ii) eleven recommendations were made relating to:

(A) encouraging a greater understanding by children and teachers in metropolitan and regional centres of the importance of agriculture to our community,

(b) cost effective delivery of post-secondary skills and higher education in Australia,

(c) options for more effective collaboration between institutions and their relationships with federal, state and other providers,

(d) the decline in public investment in research and development in agricultural activity, its association with productivity in the sector and the reduced emphasis on agricultural extension, and

(E) the establishment of a national peak industry representative body for agricultural production and agribusiness sectors, and

(iii) the Government failed to respond to the report by the required date of 23 September 2012, being 3 months from the tabling of the report, in
accordance with continuing resolution 42(1), and has still not responded some 6 months after the due date to respond; and

(b) calls on the Government to:

(i) explain their failure to respond in the timeframe required under the resolution, and

(ii) respond to the report and its recommendations without delay.

Question agreed to.

MOTIONS

Snowy Scientific Committee

Senator HANSON-YOUNG (South Australia) (15:44): I move:

That the Senate—

(a) notes:

(i) with concern, the New South Wales Government's intention to abolish the Independent Snowy Scientific Committee established under section 57 of the Snowy Hydro Corporatisation Act 1997 (NSW), and

(ii) That the Independent Snowy Scientific Committee was established with the purpose of maintaining political and scientific independence in conducting research and providing advice to the Minister in relation to Snowy catchments, Snowy montane and the Snowy River; and

(b) calls on the New South Wales Government to reverse its decision and to reinstate and fully fund the Independent Snowy Scientific Committee and all its legislative functions.

The DEPUTY PRESIDENT: The question is that notice of motion No. 1197, standing in the name of Senator Hanson-Youn, be agreed to.

The Senate divided. [15:48]

(The Deputy President—Senator Parry)

Ayes......................10
Noes......................38
Majority................28

AYES

Waters, LJ
Wright, PL

NOES

Bilyk, CL
Bishop, TM
Cameron, DN
Crossin, P
Faulkner, J
Feeney, D
Furner, ML
Heffernan, W
Ludwig, JW
Madigan, JJ
McEwen, A
McLucas, J
Nash, F
Polley, H
Ruston, A
Singh, LM
Stephens, U
Thistlethwaite, M
Urquhart, AE

Waters, LJ
Whish-Wilson, PS
Xenophon, N

Birmingham, SJ
Brown, CL
Cash, MC
Evans, C
Fawcett, DJ
Fifield, MP
Gallacher, AM
Kroger, H (teller)
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Pratt, LC
Ryan, SM
Smith, D
Sterle, G
Thorp, LE
Williams, JR

Question negatived.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:51): I move:

That the provisions of paragraphs (5) and (8) of standing order 111 not apply to the Tax Laws Amendment (2012 Measures No. 6) Bill 2012, allowing it to be considered during this period of sittings.

The DEPUTY PRESIDENT: The question is that the motion be agreed to.
The Senate divided. [15:55]

(The President—Senator Hogg)

Ayes.....................36
Noes.....................31
Majority...............5

AYES

Bilyk, CL.................. Bishop, TM
Brown, CL.................. Cameron, DN
Collins, JMA................. Crossin, P
Di Natale, R................ Evans, C
Faulkner, J.................. Feeney, D
Furner, ML................... Gallacher, AM
Hanson-Young, SC............. Hogg, JJ
Ludlam, S.................. Ludwig, JW
Lundy, KA................... Marshall, GM
McEwen, A (teller)......... McLucas, J
Milne, C..................... Moore, CM
Polley, H.................... Pratt, LC
Rhiannon, L................ Siewert, R
Singh, LM................... Stephens, U
Sterle, G.................... Thistlethwaite, M
Thorpy, LE.................. Urquhart, AE
Waters, LJ.................. Whish-Wilson, PS
Wong, P..................... Wright, PL

NOES

Bernardi, C................ Birmingham, SJ
Boswell, RLD.............. Bushby, DC
Cash, MC................... Colbeck, R
Cormann, M................ Edwards, S
Eggleston, A.............. Fawcett, DJ
Fifield, MP................ Heffernan, W
Humphries, G.............. Johnston, D
Joyce, B.................... Kroger, H (teller)
Macdonald, ID............. Madigan, JH
Mason, B.................... McKenzie, B
Nash, F..................... Parry, S
Payne, MA.................. Ronaldson, M
Ruston, A................... Ryan, SM
Scullion, NG................. Sinodinos, A
Smith, D.................... Williams, JR
Xenophon, N

Question agreed to.

Rearrangement

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:57): I move government business notice of motion No. 1:

That, on Thursday, 21 March 2013:

(a) the hours of meeting shall be 9.30 am to adjournment; and

(b) the routine of business shall be:

(i) general business orders of the day consideration of bills only for up to 2 hours and 20 mins,

(ii) non-controversial government business only,

(iii) petitions,

(iv) notices of motion,

(v) tabling of Selection of Bills Committee report,

(vi) postponement and rearrangement of business,

(vii) consideration of reports under standing order 62(4),

(viii) consideration of the business before the Senate shall be interrupted at 12.30 pm to enable a motion relating to the National Apology for Forced Adoptions to be moved,

(ix) at 2 pm, questions,

(x) motions to take note of answers,

(xi) further consideration of business referred to in paragraphs (ii) to (vi), if not concluded,

(xii) formal motions – discovery of formal business,

(xiii) any proposal pursuant to standing order 75 shall not be proceeded with,

(xiv) from not later than 4 pm to 5 pm, statements relating to the imminent retirement of Senator Evans,

(xv) consideration of general business under standing order 57(1) (d) (xi) shall not be proceeded with,

(xvi) from not later than 5 pm to 6 pm, consideration of government documents under standing order 57(1) (d) (xii),

(xvii) from not later than 6 pm to 7 pm, consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1),
(xviii) the question for the adjournment of the Senate shall be proposed at 7 pm, and
(xix) the time limit for the adjournment shall be 40 minutes.
I seek leave to make a brief statement.

The PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS: Senators will be aware that we were seeking to arrange business tomorrow to deal with, amongst other things, the statement with respect to the apology for forced adoptions. It will also come as no surprise to senators that the government is determined to progress some other matters, principally the NDIS and the broadcasting and related bills. I foreshadow that I will be seeking to move a further motion separately to deal with those issues.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: I am pleased that the government has reverted to the motion No. 1 in the Notice Paper, as opposed to the motion which was circulated recently in the chamber which would have provided for the arrangements in relation to the forced apology, as is appropriate, but would also have provided for debate for the government's package of media bills. I think it would have been entirely inappropriate to mire the arrangement for the forced apology in partisanship by tying it to the package of media bills. It would be entirely inappropriate for those two things to be in the one motion, so I am pleased that the government has reverted to the original motion.

Senator IAN MACDONALD (Queensland) (15:59): I see that there have been amendments from the red. Are we voting on the motion at page 3 on today's Notice Paper?

The PRESIDENT: As I understand it, Senator Macdonald, it is the motion as in the Notice Paper.

Question agreed to.

Suspension of Standing Orders

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:00): I seek leave to move a motion to vary hours of meeting a routine of business further with respect to tomorrow's program.

The PRESIDENT: Leave is not granted.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:00): Pursuant to contingent notice of motion standing in the name of the Leader of the Government in the Senate, Senator Conroy, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion to vary the hours of meeting a routine of business further with respect to tomorrow's program.

As senators will be aware there have been matters occurring in the House of Representatives, with respect to the broadcasting and related bills that the government is determined to progress in this week. The motion that was circulated will be amended to respond to Senator Fifield's concern with respect to progressing matters around the national apology for forced adoptions. The further motion will allow the Senate to express its position on these bills that were voted on in the other place this week.
Senators would be aware that it is not unusual for such a motion to tightly order business of the Senate in the last few sitting days of a session. The issues contained in the bills have been widely canvassed and debated over quite some considerable time. The government reform follows extensive consultation and discussion. I recognise that the Senate has made good progress in considering legislation on the days that we have sat for the autumn sittings. Time-management motions by a government in the last weeks of a sitting are, as the opposition knows, not unusual. Governments of all persuasions are faced with the same options in managing their legislative program. I do not apologise for the use of the time-management motion when the alternative is extended weeks and hours of sitting to grind through sometimes very repetitious contributions. Some senators, particularly those from the opposition, may not appreciate reasonable attempts to manage time. It is for the Senate to decide whether it supports diversity in the media and upholding press standards, and indeed others are also keen, across all parties, to move forward on the NDIS. I recommend the motion to the chamber.

Senator FIFIELD: The motion that Senator Collins is foreshadowing seeks to do two things that should not be done: it seeks to guillotine debate on the National Disability Insurance Scheme. If there is any piece of legislation that has come before this chamber this year or even last year, where a spirit of bipartisanship should be at play, it is this piece of legislation. If there is any piece of legislation that deserves proper scrutiny, we all agree with the NDIS and we all support this legislation. But it is complex legislation and there is no reason it should not have the same scrutiny as any other piece of legislation. There is every reason why the 1,600 people who made submissions to the Senate Community Affairs Legislation Committee inquiry into the NDIS should have the opportunity to have many of the issues that they have raised ventilated in the committee stage of this bill.

It is appalling that the NDIS legislation is going to be a victim of this government's media reform package. The other thing that should never happen—which was foreshadowed in the earlier motion that Senator Collins circulated and which she is now seeking to insert into the motion which we just passed—is having consideration of the package of media bills tied to the arrangements for the apology to those who were forcibly adopted.

We had reached agreement around the chamber that the arrangements for Thursday would be agreed on a cooperative basis. We said that we would support a motion that outlined arrangements for Thursday that would facilitate the arrangement for the forced adoption apology. That was done by agreement. Yet, this afternoon we have sprung on the chamber, with no notice, a proposition by the government to run those two things together: the arrangements for the forced adoption, which we have agreed upon, and then to take advantage of our goodwill and cross party support for that change in arrangements, to try and use time in the afternoon for the media package of bills. That is appalling. I think anyone who is coming to Canberra for the apology for those Australians who were forcibly adopted should be aware that this government has sought to sully their day. This government has sought to drag these tawdry bills, these appalling bills, these Orwellian media bills into a day that should be dedicated and focused on the apology to those Australians who were forcibly adopted.

I thought that the government had a modicum of decency. I thought that the government had a modicum of good will. I
thought that they were able to separate their nakedly partisan objectives in relation to the media package of bills today. But no, they could not help themselves—they are going to mire Thursday, they are going to mire that day, which is meant to be about the apology to those who were forcibly adopted. I cannot believe it, Mr President.

Senator Collins knows better than to do this. I can only assume that those on the other side have directed that she take this action. We cannot support the debasement of tomorrow, which is meant to be a significant day for those Australians who have sought an apology.

The apology is no small issue for those who were forcibly adopted. The media package of bills should not blight what is a very important day for those people. But I come back to where I started. What appalls me more than anything is the proposed guillotine on the NDIS legislation. But we should not be surprised. We know that the government want to gag a free press, they want to gag debate on the NDIS, they want to gag debate on the media rules and, to that extent, I have to acknowledge they are being totally consistent.

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:08): I rise to say that I am looking forward to getting the National Disability Insurance Scheme Bill through the Senate. I note that there has already been significant progress in the committee stage. There are now another 2½ hours in which to progress the bill further through that committee and, the sooner we can get on with it, the sooner that debate will occur. I do not think there is anyone who does not want to see that legislation dealt with, passed and brought into law. The Greens support that happening.

As to the particular media bills, the Greens have worked very hard to ensure that we get recognition for the online platform for the ABC and SBS and also to ensure that the ABC can continue to do its overseas programming instead of putting it out to tender. Those bills are very, very important. I do not think that there would be anyone listening, especially the Friends of the ABC, who would not recognise just how important it is to have that protection of its online presence. A technological change has enabled it, but it is not enshrined as it currently applies. I, for one, want to see that protection being given to the ABC and SBS as quickly as possible and want to ensure that the ABC’s overseas service continues in the way that it has.

I think there has been a bit of grandstanding here. It is definitely in the public interest to get these particular bills through. It is disingenuous to bring the apology for forced adoptions into this debate. My colleague Senator Siewert has done a huge amount of work through the committee system to deliver for people seeking this apology. The Greens are very pleased that this day will come to the parliament tomorrow. We will certainly be there as part of a very respectful apology to people who have been victims of forced adoptions. I do not want that process to be part of a grandstand by the coalition. There should be tripartite support for this in a dignified manner tomorrow. With that, Mr President, we want to see the disability legislation go through, we want to see the legislation that protects the ABC and SBS go through and we will be pleased to see those go through today.

Senator BIRMINGHAM (South Australia) (16:11): This is, once again, an outrageous abuse of Senate process by a government that, frankly, is addicted to gagging debate in this place, is addicted to curtailing the proper scrutiny of its reforms and just cannot help itself but to mismanage
the affairs of this chamber and ram through laws that this country should not have without proper debate.

In the life of this parliament we have seen 158 bills guillotined through this chamber and, if this motion is successful, another seven will be added to that list and 165 bills will have been guillotined under the watch of this government. Senator Fifield already outlined the fact that this move to guillotine debate on the National Disability Insurance Scheme is an astounding step by the government. Everyone in this chamber, especially people on this side, wants to see that legislation passed. The opposition is more than willing to work cooperatively with the government to do so but, instead, in an attack on the spirit of bipartisanship and cooperation that exists around the NDIS, this government, addicted to guillotining it, addicted to the guillotine, had to guillotine this measure as well.

Equally, they are guillotining the six media reform bills, four of them highly controversial. The hypocrisy of all this is astounding, especially from the Leader of the Government in the Senate, Senator Conroy. Let me reflect on what Senator Conroy had to say, back in 2006, about media reforms then. At that stage he put out a press release, in which he said:

Government senators have used their numbers to turn the communications committee inquiry into the media law bills into an absolute farce …

And further:

It is clear that the Government does not want its legislation subjected to proper scrutiny by the senate committee …

Senator Conroy went on:

The committee will be forced to cram more than 30 witnesses into just two days of hearings …

In a complete abuse of the Senate committee process, the minister nominated the reporting date before the committee had even met. The public are entitled to wonder what the government is trying to hide. The government is clearly determined to ram this legislation through the parliament and is arrogantly prepared to sacrifice proper Senate scrutiny to achieve this objective.

Those were Senator Conroy's words in 2006. In 2006 there were four media bills under consideration. Today there are six bills under consideration. In 2006 the government of the day allowed 34 days for consideration of the bills between the houses. This year, the government of the day is allowing just seven days worth of consideration. In 2006 the government of the day allowed 17 days for the committee to report. This year, the government has allowed barely two days for the committee to conduct hearings and report.

This is an amazing situation, where this government wants to push through the most far-reaching, first-ever peacetime regulation of media in this country, and it is doing it under guillotine. This reform process is shambolic, it is too rushed and it is half baked. And do not take my word for it, Mr President, because they are not my words; they are the words of Mr Wilkie, the member for Denison, who just a short while ago described the media reform process of this government as 'shambolic, too rushed and half baked'. I could not agree more. That is why this motion should be defeated and that is why there is no way these six media reform bills should be guillotined.

We all know that this government's desire to ram this media legislation through this Senate and through this parliament is driven purely by vengeance; purely by their vengeance to get back at those who have criticised the many, many failures of this government. They have thin skins over there on the government benches and on the cross benches; they want to get back at the people
who have been their chief critics and they want to do it by the end of this week.

Although the Prime Minister has completely sidelined Senator Conroy from this process and made a mockery of his take-it-or-leave-it stance in terms of no amendments to the bills, the government remains determined to exact its revenge. This Senate should reject this motion and reject the government's desire to have that revenge.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (16:16): I join this debate reluctantly, but just to put a bit of practical advice into the chamber if I could be so bold. It is currently quarter past four. The motion says that if we pass this motion we will have two hours to debate the National Disability Insurance Scheme. We have spent all of this morning in committee. The legislation was actually introduced to the House of Representatives last year. We have had an extended second reading debate on the National Disability Insurance Scheme, and no speaker was curtailed. If we were to stop the grandstanding—and I do apologise, Senator Birmingham, but I think you were more or less debating the media laws rather than the motion about the hours. She is criticising Senator Birmingham for debating the media laws and she herself then committed the error of debating the hours motion rather than the motion which is to set aside standing orders, which I actually want to talk about.

I do not think that any of the government speakers have actually demonstrated a need to set aside the standing orders or to allow this motion to be dealt with now in preference to the agenda that was before us. I do want to point out that the government's proposed motion that Senator McLucas wants us to deal with now is as dysfunctional as is this government generally. I suspect that what the government is trying to do is to get a little bit of free time for tomorrow so that we can have the ultimate leadership challenge as it comes along, and I am surprised that the Greens are facilitating the leadership challenge tomorrow.

If the government's proposal is eventually adopted—if this motion is passed and we are allowed to continue with the hours motion—it does mean that the Scrutiny of Bills Committee, which has met today and carefully looked at both the National Disability Insurance Scheme Bill and the broadcasting bills, if I can call them that, is not going to be able to table until after all of those bills are dealt with. Mr President, you would understand that one of the reasons the Senate sets up committees like the Scrutiny of Bills Committee is so that we can in a bipartisan way have a look at bills that come through and alert senators—as you know, the committee itself does not give opinions or take partisan views, but it does alert senators—to things that the committee thinks the chamber should be aware of. As I said, the Scrutiny of Bills Committee has done a fair bit of work on these two bills. There are some horrendous provisions in the broadcasting bills which do impact on freedoms, rights

Senator IAN MACDONALD (Queensland) (16:17): For Senator McLucas's information—you would think she would know better, having been here as long as she has—this is actually a motion to set aside standing orders to allow the government to move a motion. It is not the
and liberties, and it is the duty of the Scrutiny of Bills Committee to alert senators to those, because the Scrutiny of Bills Committee has more time and better advisers, I might say, to make senators aware of these.

These draconian measures really need to be brought to the attention of the senators when they are debating these two bills. And yet, the Labor Party in promoting the change to the order, simply overlooks the Scrutiny of Bills Committee. It obviously does not want us—want the Scrutiny of Bills Committee—to alert the parliament to some of the tremendously restrictive provisions of the broadcasting bills. These provisions clearly take away people's rights—infinge upon their rights—and give some quite unfettered powers to the government. The Scrutiny of Bills Committee, quite rightly, is not making a judgement on them, but rightly pointing that out to the parliament. This government is so dysfunctional—or, perhaps, so functional and so clever—that it wants to make sure that the particular Scrutiny of Bills Committee report does not come in until after those two bills are voted upon by the Senate.

How unfortunate is that? Had the government consulted a bit wider, had they taken senators into their confidence, perhaps that could have been pointed out to them. But they rushed forward with these bills—anything to get through these draconian measures, measures that really impact upon freedom of speech—without any concern for the forms and norms of this chamber.

As I say, I know that this is all about giving a bit of space tomorrow for the leadership challenge, which we all know is coming along, but you could do it in a different way to this and you could allow the Scrutiny of Bills Committee to at least precede these bills. (Time expired)
Senator Jacinta Collins: We want to get to the NDIS!

Senator Fifield: Mr President, I must start by noting that interjection. The government are so keen to get legislation passed they are seeking to move a motion to guillotine debate. There is a slight inconsistency there.

As I mentioned in the earlier procedural debate, this motion seeks to mire two important issues in grubby partisanship. It seeks to sully the NDIS debate by giving precedence to the government's package of media bills. I would have thought that if there was a piece of legislation that deserved to be considered on its merits—that deserved all the opportunities that this forum provides for discussion and debate—it would be the National Disability Insurance Scheme. Indeed, it has been a matter of some pride for all those around the chamber that the proposition of legislation for a National Disability Insurance Scheme is something that could demonstrate the Australian parliamentary and political system at its very best to the Australian people—where all parties come together to say that there is an issue, a cause, that is bigger than ourselves and the parliament, and that the need to deliver a new deal for Australians with disability is so great.

That has been the experience to date. That was very much the tone and theme in the other place when they were debating the NDIS legislation. There were no restrictions on debate in the other place. There was no effort to curtail examination in the other place. There was no attempt to limit the airing of views of stakeholders in relation to the NDIS in the other place. I have taken some pride in the fact that we in the Australian Senate tend to be a little more respectful of the processes of this parliament, that we tend to defend more vigorously the role of parliamentary committees and the committee stage for bills in this place. But what we see in the motion before us is a pure, simple, naked guillotine.

The President: Order! This is the precedence motion that is before the chair. I just thought I would draw that to your attention.

Senator Fifield: This is nothing more than an attempt to give precedence to something that will ultimately give effect to a guillotine that will curtail debate on the National Disability Insurance Scheme. There were 1,600 submissions to the Senate Community Affairs Legislation Committee inquiry into the NDIS legislation—an extraordinary number of submissions. It just goes to show the level of community feeling and the desire for that piece of legislation to be passed. So it has been with a heavy heart and great disappointment that I have seen this afternoon a series of motions, the ultimate objective of which is to facilitate the passage of a motion that would see the guillotining of debate on the NDIS legislation.
The other issue which the various procedural motions today have sought to sully is that of the apology to those who have been forcibly adopted. We had, I thought, reached agreement around the chamber that Thursday's arrangements would be reordered in order to facilitate that apology in the Australian parliament. I thought that agreement had been reached on that. We willingly said that we would do whatever was necessary to arrange tomorrow's program in the Senate to acknowledge the special nature of the day and facilitate the activities that will take place. That was an unexceptional decision by those around this chamber. I thought it had been clear that any motions that the government might seek to move in this place in relation to business today to facilitate their package of media bills would be completely separate from Thursday—that Thursday would be quarantined and respected and that the significance of the apology would be acknowledged in this place by not seeking to drag matters of controversy into tomorrow.

We saw in the motion that Senator Collins circulated earlier today an attempt to combine the rearrangement of business today with the rearrangement of business tomorrow, which was bad enough in itself. But in addition to that, Senator Collins sought to include in the arrangements for Thursday another guillotine and the listing of the package of media bills. That should never have happened. It should never have been contemplated. When that fundamental error was drawn to the attention of the government they reverted to the original motion on the Notice Paper for Thursday—but subsequently proceeded to endeavour to amend that and repeat the errors that were in the motion they circulated today.

You may have some difficulty following that train of events, Mr President, but probably not because you know this place better than almost anyone. For those who may be listening, yes, it sounds confusing, and it is confusing because this government's management of this chamber and their efforts to seek to arrange government business in this place have been nothing but a shambles. It has been completely chaotic over the last day. There is no other way to put it.

We have two issues which should never have been mired in controversy: the National Disability Insurance Scheme legislation and the apology to those who were forcibly adopted. This Senate still has the opportunity to not be complicit in the government's attempts to merge, muddy and sully the handling of the NDIS legislation and the apology on forced adoptions. That is why the coalition have not supported any of the procedural motions in relation to these matters today, and we will not be supporting this motion either. To do so would be to make senators on this side of the chamber complicit in an effort to say to the Australian people that Senator Conroy's package of fundamentally flawed media bills—Senator Conroy's Orwellian legislation—was more important than the National Disability Insurance Scheme. Let me tell you, I do not think Senator Conroy's legislation is more important than the National Disability Insurance Scheme and I do not think that Senator Conroy's legislation is more important than the apology to those were forcibly adopted. I think these motions and the activities of the last 24 to 48 hours in this place tell you everything you need to know about this government. Yes, they pay lip-service to the importance of a National Disability Insurance Scheme and, yes, they pay lip-service to the importance of an apology to those who have been forcibly adopted. But when it comes down to it, what really matters to this government is partisan political advantage, and they will seek to get
that however they can. If that means introducing draconian media laws to gag a free press, then they will do that. If it means seeking to gag and guillotine legislation on the NDIS in this place in order to give precedence to Senator Conroy's package of media bills, then they will do that. If it means sullying Thursday, which is meant to be a day dedicated to the issue of an apology to those who have been forcibly adopted, by combining it with consideration of Senator Conroy's deeply controversial package of media bills, then they will do that. That is what this motion is about, that is what the motion before was about and that is what the next motion will be about—naked, partisan political advantage and the pursuit thereof. As I say, if there were any two issues that should have been quarantined, separated and defended from being dragged into that grubby, grubby objective of this government, it would have been the National Disability Insurance Scheme legislation and the apology to those forcibly adopted. That is why we cannot support this motion.

But, as I said earlier today, I do have to hand it to the government in one respect: they are remorselessly consistent. They always default to the restriction of expression, the restriction of freedom, the restriction of debate and the restriction of scrutiny at each and every opportunity. That is what the package of media bills is about. We have all heard of the Public Interest Media Advocate. We all know that that is really a political interest media advocate or, if you want to dress it up a little bit, you can call it a government interest media advocate. That is what that new position is about. That is the fundamental essence of most of the bills in that media package which Senator Conroy is seeking to put forward. We know they always default to seeking to curtail expression, to curtail thought, to curtail a free expression and to curtail legitimate democratic criticisms of a deeply flawed government.

We know that this government do not like criticism. Who does like criticism? There is not a government that has ever been elected—or a government that has been in office who has not been elected, for that matter—who likes or enjoys criticism. When we had the privilege of being on the other side of this chamber, we did not particularly enjoy the media criticism that we received. But you know what? It kept us on our toes. It helped make us better. It helped ensure that where there were errors and where there were failures, they were exposed, and it helped the government of the day to govern better—much as an opposition providing scrutiny of the government of the day should help them to govern better. I must say, I feel a complete failure on that score because our scrutiny has not helped this government govern better in any way, shape or form. Lord only knows what their governing might have been like if we had not applied the scrutiny that we have. We know that they always default to curtailing and seeking to gag the critics, as is the objective of their package of media bills, the passage of which these procedural motions are ultimately designed to help facilitate.

We all agree with the National Disability Insurance Scheme, but it is very complex legislation. I spent nine days in public hearings with the Community Affairs Legislation Committee looking at the NDIS. I spent a lot of time looking at the legislation, looking at the draft rules, talking to stakeholder groups and reading the submissions that have come in—it is complex legislation. Even when there is an area that you agree upon, you still have a job to try and make sure that the legislation is the best that it can be. That is why we have these processes. It does not matter whether a proposition is one that all parties agree with

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or one that is the subject of deep controversy, this chamber, this Senate and the committees of the Senate have a job to do to examine all legislation to make sure that it is the best that it can be. The more complex it is, the greater that task and the greater that responsibility is. This is why the parliament as a whole has spent the best part of 3½ months looking at the NDIS legislation. The Community Affairs Legislation Committee spent the best part of 3½ months looking at that legislation.

And yet this government wants to curtail the very important committee stage of consideration of that legislation. There are many, many community groups, people with disabilities, disability organisations and disability advocates who have views that they want ventilated, who have made the effort to put submissions to the community affairs committee and who, at the very least, want some of the questions that they have posed put to the government. They support the legislation—of course they do—but they still have questions in relation to it, and yet this government seeks to deny them the opportunity to do that.

I want to draw a contrast between the level of scrutiny that there has been on the NDIS legislation, which is going to be curtailed, and the media bill package. There have been 3½ months of scrutiny by the community affairs committee into the NDIS legislation. Let me compare that to the scrutiny that there has been on the package of media bills which Senator Birmingham has been so assiduously working on. That package of media bills has had 3½ days of consideration. Just compare that: 3½ months consideration of the NDIS versus 3½ days consideration of the package of media bills.

It is bad enough that the guillotine will come down on the consideration of the NDIS legislation, but it is appalling beyond belief that the package of media bills that Senator Conroy would like to see through this parliament has only had 3½ days of consideration.

When you think about it, if a package of legislation which is complex and which has the support of the whole parliament has 3½ months of consideration, how much more consideration should a package of bills, which do not have the support of the whole parliament, are incredibly controversial and do not have the support of a single media outlet or a single card-carrying member of the Media Entertainment and Arts Alliance—other than Senator Bob Carr, who proudly produced his MEAA card last night; he is the sole member of the Media Entertainment and Arts Alliance who was actually in favour of Senator Conroy's package of legislation—deserve? But if we need 3½ months to consider a complex but supported piece of legislation in the NDIS, why on earth is this government only allowing 3½ days consideration by the Senate environment and communications committee of Senator Conroy's package of bills? There is only one reason—that is, this government knows that the legislation will not stand scrutiny. This government knows that with every day that passes, more and more Australians recognise Senator Conroy's package of bills for what they are: an attempt to muddle—well, it is a muddle, that is for sure—an attempt to muzzle the free press.

We have a tendency in Australia to take for granted those things that underpin a free and democratic society. We all know what they are. It is the freedom of association, the rule of law, freedom of speech and a free press. This government has systematically set about undermining each and every one of those underpinnings of our free and democratic society, including freedom of association, where they are quite happy for unions to march in at will through the front door of a business. I think people in business should be able to associate with whomever
they want. As for freedom of expression, we saw what happened to Mr Bolt when he simply expressed a view in a newspaper on something—he was hauled off to court. And we know now that Senator Conroy is seeking to curtail freedom of the press. When it comes to the rule of law, you only need look at the government's abolition of the Australian Building and Construction Commission to see what their attitude is to the rule of law. The rule of law does not apply if you are a particular sort of organisation. This government have been remorselessly consistent in their attempts to curtail freedom. They have been remorselessly consistent in their efforts to curtail their critics. As I said, they have always defaulted and always will, because that is the Labor way—to try to shut down their critics.

We cannot support the motion that is before the chair at the moment because we cannot and never will be complicit in anything that seeks to curtail freedom of speech and freedom of expression. That is the ultimate objective of each of these procedural motions—that is, to facilitate, through this parliament, without scrutiny, a package of media bills that will fundamentally undermine one of the underpinnings of our free and democratic society. We cannot do that; we will not do it. As long as we have breath in this place we will speak out against what Senator Conroy is trying to do. We will speak out against what the Prime Minister is attempting to do. I do not care whether she is the Prime Minister or whether she is replaced by someone else, Labor is, at essence, the same. What we really need is a change of government. We are not going to allow them to facilitate this particular measure.

Senator BIRMINGHAM (South Australia) (16:50): This motion strikes at two very significant principles: firstly, the principle of an effective and democratic and fair parliament and, secondly, the principle of a free and open media to scrutinise the operations of the parliament. This motion strikes very deeply at the heart of both of those things, because this motion undermines the capacity of this parliament to provide appropriate scrutiny to far-reaching legislation going through this place. In doing so, this motion will facilitate the passage of that far-reaching legislation that attacks the principle of a free media and a free press in Australia. For that reason this motion must be opposed, should be opposed and should be defeated so that this chamber can have a proper debate on issues of such significance.

This motion applies, of course, to two areas of very significant legislation—two far-reaching reforms: one of which the opposition, along with the cross-benchers and the government, is deeply and sincerely committed to; and the other of which we are deeply and sincerely opposed to. We are deeply and sincerely committed to seeing the passage of the National Disability Insurance Scheme legislation.

Senator Fifield has led, on behalf of the opposition, a passionate stance of supporting this, of trying to strengthen the reform and of calling for greater detail and greater commitments through the life of this parliament. He has sought every step of the way to try to make this a bipartisan measure on behalf of the coalition. We want this measure to succeed. This is a far-reaching measure of fundamental and profound importance to millions of Australians, the many Australians with a disability and the many more Australians who are related to those with disabilities, carers for those with disabilities and friends of those with disabilities.

Getting this legislation right is fundamental to its future success, and we
want the NDIS to be a success. Therefore, we want to get this legislation right and we believe that it deserved complete and thorough scrutiny through this parliament. As Senator Fifield said, it got the scrutiny it deserved in the other place. In the House of Representatives, there was no guillotine to the NDIS legislation; there was open debate. The open debate ensured that there was the right level of scrutiny.

In this place, sadly, the government is now seeking to curtail that debate, and quite unnecessarily so. The government could have very easily proposed extended hours to solely deal with the NDIS. I am confident that in the spirit of bipartisanship and spirit of cooperation the opposition has to this policy issue those extended hours would have been granted. We would have been willing to sit for as long as it took this week to deal with the NDIS and to deal with the sensible amendments related to it. However, the government, because it also wants to get its media reforms through and wants to exact its revenge on those who have dared to criticise it, has had to apply a guillotine not just to those controversial media reforms but to the very sincere and important reforms related to the NDIS.

That is a shame because it undermines the spirit of cooperation and bipartisanship that should surround those reforms. It is to the credit of the opposition and Senator Fifield in particular that we have been so willing to work with the government on this important issue—difficult at times though it can be—and to the shame of the government that they are wrapping up the NDIS in a guillotine motion in this controversial procedure at this time.

As I said, their motives for doing so are clear. It is not to do with the NDIS, in fairness to the government; it is to do, of course, with the media law reforms. Reforms that are the most far-reaching in terms of their impact on the operation of media in this country. When it comes to the hours of sitting for this Senate and when it comes to ensuring we have proper scrutiny of legislation in this place, we should expect that to be adhered to.

I am not the first person to stand in this place and criticise a procedural motion like this that tries to vary the hours and vary the arrangements and in doing so tries to ram legislation through this place. I am far from the first person to do so. Senator Wong, now the Deputy Leader of the Government in the Senate, back in 2005 said:

We are asking for something very simple: that complex, controversial legislation that has far-reaching implications for millions of Australians be properly scrutinised by this chamber through a Senate committee process before it is voted on.

Let us look very closely at what Senator Wong was asking for there: that complex, controversial legislation that has far-reaching implications for millions of Australians be properly scrutinised. Both of the legislative packages that are before the chamber fit into that realm. The NDIS may have far-reaching support but it is complex—it is complex for sure. The media reform legislation, equally, has far-reaching effect across all Australians. It is complex and it is most certainly controversial as well.

Senator Wong was right in 2005. She was correct in saying that such legislation deserved proper scrutiny then, and it deserves proper scrutiny today as we debate this. When this chamber divides shortly, I hope that Senator Wong and her Labor colleagues will reflect on the words that she said in 2005 and remember that they were asking, as she said, for something very simple: that complex, controversial legislation that has far-reaching implications for millions of Australians be properly scrutinised.
Equally, in 2006 the now Leader of the Government in the Senate, Senator Conroy, who of course is the proponent of these media reforms—or at least was the proponent of these media reforms until the Prime Minister pulled the rug out from under his feet and subsumed all negotiations with the cross-benchers in the other place, said:

You do not just need to be here in this chamber to realise how arrogant and out of touch this government has become with the ramming through of legislation, ridiculously tight deadlines for legislation, changing the sitting pattern all the time and using the guillotine. It is turning this chamber, which for 30 or 40 years has been a chamber of accountability and scrutiny, into a farce.

Senator Conroy is of course now the leader of the government in this place. Prior to that, he was the deputy leader of the government in this place.

Senator Fifield: It is hard to believe.

Senator BIRMINGHAM: It is very hard to believe, Senator Fifield, and I think many on the other side find it equally hard to believe that Senator Conroy is their leader.

Senator Fifield: But not for long.

Senator BIRMINGHAM: Possibly not. That could be the case across the parliament. Senator Conroy prior to being a cabinet minister, prior to being one of the leaders of the government in this place, had a very sanctimonious stance it seems. He was more than happy to criticise the previous government. He was more than happy to criticise the changing of the sitting pattern, the ridiculously tight deadlines for legislation, the ramming through of legislation and the use of the guillotine—all things that this government and Senator Conroy are guilty of time and time again. In fact, this government has used the guillotine on many more occasions than the previous government ever did. On some 158 occasions to date this government has applied the guillotine to separate pieces of legislation. If this motion is successful, another seven will be added to that list, bringing the total number of bills that have been guillotined through this place to 165. Senator Conroy should equally think long and hard when he comes to vote on this as to how hypocritical his stance is compared with what he previously uttered.

The crossbenchers are not innocent in this place either. Senator Milne previously said:

The Australian people deserve a house of review. A house of review means appropriate scrutiny of legislation and appropriate scrutiny of governments.

It does indeed. Senator Milne was correct. The Greens, who have supported this process to date, should when the division comes think long and hard again about Senator Milne's words. Do the Greens genuinely support a house of review that provides appropriate scrutiny of legislation and appropriate scrutiny of governments? If they do, they would not support this motion. They would not support this motion because it most definitely does not provide for appropriate scrutiny of legislation in this place.

This motion will see, as I said, two very significant areas of reform undertaken. Debate on the National Disability Insurance Scheme Bill 2013 will be concluded in the next couple of hours if this motion is successful. Despite the number of amendments that are outstanding and despite the cooperative nature of the debate to date, the NDIS reforms will be rammed through. They are far-reaching reforms that will have—hopefully—positive, profound impacts on the lives of so many Australians. The government is curtailing proper consideration. We need to make sure we maximise the long-term benefits of those reforms.
With the media reform package, the government proposes to deal with two of the bills tonight and four of the bills tomorrow. Again, there will be just a few hours of consideration for each of those packages. There will be a few hours for changes to our media landscape that are quite profound. Perhaps it would be acceptable to have curtailed debate on these matters had there been proper, thorough debate through the Senate committee process beforehand. But it has been far from it. The Senate committee sat for two days this week. The bills were released only last Thursday and witnesses had no time whatsoever to provide submissions to that process. Perhaps it would be appropriate for this place to curtail debate as proposed in this motion had there been proper consideration through the Senate committee, but that has not been possible under the terms stipulated by this government.

Perhaps it would be possible to curtail debate to some extent had there been proper consideration of these bills in the other place, but no, in the other place the bills have been brought on and taken off by the government—they have mostly been off; they have been sitting off the table without any debate while negotiations were happening behind closed doors. Mr Wilkie has confirmed that Senator Conroy has been shut out of those negotiations. Amazingly, the lead minister has also been absent during this debate about whether his laws get debated in this chamber. The Leader of the Government in the Senate is missing in action once again. Perhaps it would be acceptable to see some element of curtailed debate in this place if there were thorough scrutiny in the other place, but that most certainly will not be the case. If the Senate is to debate these bills as proposed in the motion before us, then the other place will have a maximum of only a few hours to finalise consideration of the legislation as no doubt it will be pushed through under guillotine in that chamber as well.

Perhaps it would even be acceptable to see some degree of curtailed debate on these bills on these far-reaching media reforms had there been proper public debate surrounding them, but they were released for the public to see only last Thursday. Last Thursday was the first time anybody saw the Broadcasting Legislation Amendment (News Media Diversity) Bill 2013. Last Thursday was the first time anybody saw the News Media (Self-regulation) Bill 2013—that is a rather ironically titled bill. Last Thursday was the first time anybody saw the News Media (Self-regulation) (Consequential Amendments) Bill 2013. Last Thursday was the first time anybody saw the Public Interest Media Advocate Bill 2013. So, if this motion is successful, in the space of a week the government will have expected the public to have had proper debate around these proposed far-reaching media reforms and their restrictions on the operation of free media in Australia, in the space of a week the government will have expected the parliamentary committee processes of the House of Representatives and the joint committees, like the human rights standing committee that handed down a most interesting and damning report on these reforms, to have considered the legislation. The government believes that a week is sufficient time for the House of Representatives to consider these bills and that a week is sufficient time for the Senate to consider these bills.

I know that Senator Ludlam, who is sitting over there, has a different view from mine on media regulation. However, I also know that Senator Ludlam believes in proper public policy processes, and I would urge Senator Ludlam to exercise whatever influence he can on his colleagues in the Australian
Greens to make sure that they stand up for proper public policy-making processes, oppose this motion before the Senate and support the proper scrutiny of these far-reaching media reforms.

Not only has there been no case made in any adequate terms as to why these reforms are necessary or how these reforms would work but there most certainly has been no case made as to why there is such urgency surrounding these reforms—why it is that this parliament must finalise them by 9 pm tomorrow night. Why must this parliament finalise these reforms by 9 pm tomorrow night? No member of the government stood up and said why it is so necessary or why it is so urgent. Senator Conroy, the responsible minister and the leader of the government in this place, has not been seen for hours. He has not been seen in this chamber. He has not been seen, according to Mr Wilkie, in the negotiations around his legislation. It seems as if the government has gone and hidden Senator Conroy in a corner somewhere.

Senator Fifield: Good plan!

Senator BIRMINGHAM: A very good plan, Senator Fifield. I understand their embarrassment. I understand why they are embarrassed that he is part of their leadership team. I understand why they are embarrassed that he has put them in this position, where they have been subjected to ridicule and criticism over the abhorrent handling of this legislation and where even Mr Wilkie, the Independent member for Denison, has described the process as 'shambolic', 'too rushed' and 'half-baked'. They are words that perhaps the crossbenchers might reflect on. They are not my words as to the process being applied; they are the words of a fellow crossbencher and independent member in this parliament, the member for Denison, who describes the process applied to these media reforms as 'shambolic', 'too rushed' and 'half-baked'.

Pass this motion and you will only add to it. Pass this motion and we will see a bad process get worse. Pass this motion and we will see bad laws pushed through this parliament. Pass this motion and we will see a further eroding of the proper principles when it comes to handling of parliamentary standards and media laws. That is why this motion should be defeated, and I urge the chamber to do so.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Thank you, Senator Birmingham. Before I call Senator Macdonald—

Senator Jacinta Collins: No, Xenophon.

The ACTING DEPUTY PRESIDENT: Just a moment. I am going to remind honourable senators that the motion before the chair is:

That a motion to vary the hours of meeting and routine of business for Wednesday 20 March 2013 and Thursday 21 March 2013 may be moved immediately and have precedence over all other business today until determined.

I would ask those contributing to the debate to be as relevant to that motion as possible, within the high degree of latitude which is typically granted to others. I did see Senator Macdonald on his feet.

Senator Jacinta Collins: Senator Xenophon was too.

The ACTING DEPUTY PRESIDENT: Senator Macdonald was on his feet first.

Senator Jacinta Collins: Senator Xenophon was on his feet as well.

The ACTING DEPUTY PRESIDENT: Senator Macdonald.

Senator IAN MACDONALD (Queensland) (17:10): Thank you, Mr Acting Deputy President. I am conscious Senator Xenophon wants to speak.
Senator Jacinta Collins: On a point of order, Mr Acting Deputy President, Senator Xenophon was on his feet. You may not have seen him at the time. I have made that point to you. We have already had two speakers from the other side of the chamber. It is quite out of order not to allow Senator Xenophon to make his contribution at this stage.

Senator Fifield: Mr Acting Deputy President, on the point of order: Senator Macdonald was on his feet first. I do understand the convention of moving the speakers around the chamber. However, I think there is only so long a senator should be expected to stand on their feet before they are recognised and given the call. A senator cannot stand on their feet indefinitely waiting for another senator to get to their feet. But there should be the opportunity for all senators to contribute. Senator Xenophon and Senator Macdonald should both have the opportunity to contribute. The only way that will not occur is if the government moves a gag motion.

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Let me just give you the benefit of the advice that I have received. It was very clear to me that Senator Macdonald was on his feet well before Senator Xenophon, but I have been advised by the Clerk that it is reasonable to expect proportionality in contribution to debate. Given those circumstances, I will call Senator Xenophon.

Senator XENOPHON (South Australia) (17:12): Mr Acting Deputy President, I am grateful for your ruling but I am also conscious that Senator Macdonald wants to make a contribution. My contribution will be for less than two minutes; it may even be for only a minute. Can I indicate that I will oppose the government’s position. I think that this is really diminishing the role of the Senate as a house of review. This is not the way that parliament is supposed to run. I am concerned that with the National Disability Insurance Scheme, a very important piece of legislation, we have just over an hour to determine 15 series of amendments—substantial amendments that go to the heart of the integrity of the scheme in terms of people’s rights to appeal. We also have the media laws, which will be rushed through, with significant impacts on the media in this country, issues of freedom of speech and a whole range of other issues. The Senate is meant to be a house of review. The parliament is meant to do its job properly. The founding fathers of the Constitution determined that this Senate was about reviewing legislation in an appropriate and proper manner, and we are not doing it by this motion. So I cannot support this in good conscience. Finally, I say that, if I am fortunate enough to be in this place next year and if there is a change of government, I will hold any new government to the same standards that I am now applying in relation to debates not being curtailed or gagged.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:14): At Senator Fifield’s suggestion, I move:

That the question be now put.

Senator Ian Macdonald: Mr President, I rise on a point of order. You were not there, so you did not see what happened, but it was clearly understood that I stood first by an appropriate ruling by the Acting Deputy President. Senator Xenophon was given the call, but it was quite clear that I was the next one on my feet, as I was just then. I ask that you recognise me before you recognise—
The PRESIDENT: Senator Collins has moved a procedural motion. I am required to put that without debate.

Senator Ian Macdonald: I am raising the point of order that you should have recognised me in preference to her.

The PRESIDENT: And I am saying there is no point of order at this stage. I am required to put the procedural motion without debate.

Senator Ian Macdonald: Mr President, you were not even here to see what happened previously.

The PRESIDENT: I am now in the chair. I am dealing with the matters as they arise in the chamber.

Senator Ian Macdonald: Yes, but there was an order of speaking. I was called but, through an appropriate decision, Senator Xenophon was called, and then—

The PRESIDENT: There is no order of speaking in this debate.

Senator Ian Macdonald: you had a choice of selecting either me or Senator Collins. You clearly looked only at Senator Collins, but I tell you I was on my feet before her and ask that you might recognise the first person on their feet, not the second person.

The PRESIDENT: I have a procedural motion before me, and the question is that the question be put. I put the question.

Senator Fifield: Mr President, I rise on a point of order. Senator Collins did verbal me. I rose when the matter was before the previous occupant of the chair.

The PRESIDENT: If you have been verballed, I ask Senator Collins to withdraw.

Senator JACINTA COLLINS: I withdraw.

The PRESIDENT: The verballing has been withdrawn if that is the way you took it.

Senator Fifield: Thank you; but, on a point of order—

The PRESIDENT: I thought that was the point of order.

Senator Fifield: I have another point of order.

The PRESIDENT: I have started putting the question. The question needs to be put. The question is that the motion—

Honourable senators interjecting—

The PRESIDENT: Order! The order of business is that I must put the motion that the question be put. The question is that the motion moved by Senator Collins be agreed to.

The Senate divided. [17:22]

Ayes ......................35
Noes ......................30
Majority ..................5

AYES

Bishop, TM
Carr, KJ
Crossin, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G

Brown, CL
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
The question now is that the motion to vary the hours of meeting and routine of business for Wednesday, 20 March 2013 and Thursday, 21 March 2013 may be moved immediately and have precedence over all other business today until determined. That is now the motion that is before the chair. The question is that that motion be agreed to.

[The Senate divided [17:26]

(The President—Senator Hogg)

Ayes.................34
Noes..................30
Majority.............4

Question agreed to.

The PRESIDENT: The question now is that the motion to vary the hours of meeting be given precedence over other business today. That is the shorthand version.

Senator Ian Macdonald: Mr President, with respect, I thought we just voted on that.

The PRESIDENT: No, what we have just dealt with was that the motion be put. We are now voting on the question that the motion to vary the hours of meeting and routine of business for Wednesday, 20 March 2013 and Thursday, 21 March 2013 may be moved immediately and have precedence over all other business today until determined. That is now the motion that is before the chair. The question is that that motion be agreed to.

[The Senate divided [17:26]

(The President—Senator Hogg)

Ayes.................34
Noes..................30
Majority.............4

Question agreed to.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:28): I move the motion, in the terms circulated in the chamber:

That:

(1) On Wednesday, 20 March 2013:

(a) the hours of meeting shall be 9.30 am to adjournment; and
(b) the routine of business for the remainder of the day be as follows:

(i) consideration of the following government business orders of the day:

National Disability Insurance Scheme Bill 2013
Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013
Television Licence Fees Amendment Bill 2013,

(ii) the bills listed in paragraph (1)(b)(i) be considered under a limitation of debate, and that the time allotted be as follows:

<table>
<thead>
<tr>
<th>Bill</th>
<th>Time Allotted</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Disability Insurance Scheme Bill 2013</td>
<td>6.15 pm</td>
</tr>
<tr>
<td>Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and Television Licence Fees Amendment Bill 2013</td>
<td>9 pm</td>
</tr>
</tbody>
</table>

and this paragraph shall operate as a limitation of debate under standing order 142,

(iii) committee memberships,

(iv) messages from the House of Representatives,

(v) tabling of committee reports,

(vi) the proposal pursuant to standing order 75 shall not be proceeded with,

(vii) consideration of government documents shall not be proceeded with, and

(viii) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister.

(2) On Thursday, 21 March 2013:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7 pm to adjournment; and

(b) the routine of business shall be:

(i) general business orders of the day for consideration of bills only for up to 2 hours and 20 minutes,

(ii) non-controversial government business only,

(iii) petitions,

(iv) notices of motion,

(v) tabling of Selection of Bills Committee report,

(vi) postponement and rearrangement of business,

(vii) consideration of reports under standing order 62(4),

(viii) consideration of the business before the Senate shall be interrupted at 12.30 pm to enable a motion relating to the National Apology for Forced Adoptions to be moved,

(ix) at 2 pm, questions,

(x) motions to take note of answers,

(xi) further consideration of business referred to in paragraphs (ii) to (vi), if not concluded,

(xii) formal motions – discovery of formal business,

(xiii) from not later than 4.45 pm consideration of the following government business order of the day:

Broadcasting Legislation Amendment (News Media Diversity) Bill 2013
News Media (Self-regulation) Bill 2013
Public Interest Media Advocate Bill 2013,

(xiv) the bills listed in paragraph (2)(b)(xiii) be considered under a limitation of debate, and that the time allotted be as follows:

4.45 pm to 6.30 pm, and from not later than 7 pm to 9 pm—all remaining stages,

and this paragraph shall operate as a limitation of debate under standing order 142,

(xv) divisions may take place after 4.30 pm,

(xvi) any proposal pursuant to standing order 75 shall not be proceeded with,
(xvii) consideration of general business and committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with, and

(xviii) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister.

Senator IAN MACDONALD (Queensland) (17:28): I seek leave to table and consider the Scrutiny of Bills Committee report now, with myself, Senator Edwards, who is a member of the committee, and Senator Fifield—should I not be able to finish my 10 minutes—having up to 15 minutes to talk on the consideration of the report. By way of explanation, I indicate that I was going to move an amendment to the substantive motion to provide for that. It was agreed, I thought, by the government for me, instead of moving the amendment, to be given leave to do that.

The PRESIDENT: If you are seeking leave that is not in my hands, as you know. I will ask if leave is granted. Is leave granted?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:29): I seek leave to make a brief statement.

The PRESIDENT: Leave is granted for one minute.

Senator IAN MACDONALD: Why am I surprised? My alternative is to move an amendment to the motion that the minister is about to or has moved. To facilitate her and at her request, I agreed not to move the amendment because she would give me leave to table and speak to this report for up to 15 minutes.

The PRESIDENT: Is leave granted for one minute? Leave is granted. Senator Macdonald.

Senator IAN MACDONALD: She is saying after that, but she told me earlier that if this goes after 6.15 then I will not get the leave. So it is the ultimate doublecross. So I will refuse her offer and move my amendment and I hope that the Greens would support me in allowing the scrutiny of bills issue to be put in place in front of both the disability and the media bills.

The PRESIDENT: You are entitled to move an amendment. We need the motion in writing and if you could give us that, that would assist.
Senator IAN MACDONALD: Is it now appropriate for me to move—

The PRESIDENT: Yes, you are in order.

Senator IAN MACDONALD: I move an amendment to the motion that the minister has tabled so that before subparagraph (1)(b)(i) we insert a new subparagraph (1)(a) taking consideration of committee reports—I cannot read someone's writing; I will not indicate whose writing it was—pursuant to standing order 62.4. My motion is here written out. So I move:

Before subparagraph (1) (b) (i), insert:

(i) tabling and consideration of committee reports pursuant to standing order 62(4),

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:32): I move:

That the question be put.

The PRESIDENT: Senator Macdonald, I now have a motion that the question on the amendment be put. That is the motion that I have. I now have a motion that the motion be put. It is a procedural motion. I will put it straight. As a division is required, ring the bells for one minute.

Opposition senators interjecting—

The PRESIDENT: If you want it for four minutes, I am quite happy to make it four minutes. The question is that the question be put on the amendment moved by Senator Macdonald.

The Senate divided. [17:38]

(The President—Senator Hogg)

Ayes......................34
Noes......................30
Majority.................4

AYES

Bishop, TM
Collins, JMA

AYES

Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Sievert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

NOES

Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Colbeck, R
Cormann, M
Edwards, S
Eggleston, A
Fawcett, DJ
Fifield, MP
Humphries, G
Johnston, D
Joyce, B
Kroger, H
Macdonald, ID
Madigan, JJ
Mason, B
McKenzie, B
Nash, F
Parry, S
Payne, MA
Ruston, A
Scullion, NG
Smith, D

Question agreed to.

The PRESIDENT: Order! The question now is that the amendment moved by Senator Macdonald be agreed to.

The Senate divided. [17:42]

(The President—Senator Hogg)

Ayes ......................30
Noes ......................34
Majority .................4

AYES

Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Colbeck, R
Cormann, M

CHAMBER
AYES

Edwards, S  
Fawcett, DJ  
Humphries, G  
Joyce, B  
Macdonald, ID  
Mason, B  
Nash, F  
Payne, MA  
Ruston, A  
Scullion, NG  
Smith, D

Eggleson, A  
Fifield, MP  
Johnston, D  
Kroger, H  
Madigan, JJ  
McKenzie, B  
Parry, S  
Ronaldson, M  
Ryan, SM  
Sinodinos, A  
Xenophon, N

NOES

Bishop, TM  
Collins, JMA  
Di Natale, R  
Farrell, D  
Feeney, D  
Gallacher, AM  
Hogg, JJ  
Ludwig, JW  
Marshall, GM  
McLachlan, J  
Moore, CM  
Pratt, LC  
Siewert, R  
Stephens, U  
Thistlethwaite, M  
Urquhart, AE  
Whish-Wilson, PS

Brown, CL  
Crossin, P  
Evans, C  
Faulkner, J  
Furner, ML  
Hanson-Young, SC  
Ludlam, S  
Lundy, KA  
McEwen, A (teller)  
Milne, C  
Polley, H  
Rhiannon, L  
Singh, LM  
Sterle, G  
Thorpe, LE  
Waters, LJ  
Wright, PL

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:44): I move:

Omit paragraphs (2) (b) (xi) and (xii), substitute:

(xi) formal motions—discovery of formal business,

(xii) further consideration of business referred to in paragraphs (ii) to (vi), if not concluded.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:44): I move:

That the question be put.

Senator Ian Macdonald: Mr President, again I rise to raise the same point of order. Under anyone's view, I was on my feet a long time before Senator Collins rose—

The PRESIDENT: Senator Macdonald, you should consult the rules of this place. At any time I can recognise a minister in the debate, and the minister did stand to her feet, and I am recognising the minister.

Senator Ian Macdonald: My point of order, Mr President, is that I was clearly, by anyone's view, on my feet a long time before the minister rose.

The PRESIDENT: Senator Macdonald, I am not going to argue. There is no point of order. I have recognised Senator Collins—

Senator Ian Macdonald: Well it shows something about the way these things run, Mr President.

The PRESIDENT: Senator Macdonald, that is an uncalled for comment. The question is that the motion moved by Senator Collins that the question be now put be agreed to.

Question agreed to.

The PRESIDENT: The question now is that the amendment moved by Senator Siewert be agreed to.

Question agreed to.

The PRESIDENT: The question now is that the motion, as amended, be agreed to.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:44): I move:

That the question be put.

The PRESIDENT: The question is that the motion moved by Senator Collins, that the question be put on the amendment moved by Senator Siewert, be agreed to.

The Senate divided [17:48]
Wednesday, 20 March 2013

SENATE

Ayes.......................
Bishop, TM
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

Noes.......................
Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Colbeck, R
Cormann, M
Edwards, S
Eggleston, A
Fawcett, DJ
Fifield, MP
Humphries, G
Johnston, D
Joyce, B
Kroger, H
Macdonald, ID
McKenzie, B
Mason, B
McKenzie, B
Nash, S
Parry, S
Payne, MA
Payne, MA
Ruston, A
Ruston, A
Scullion, NG
Smith, D

Majority.................
Brown, CL
Crossin, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

(AYES)

AYES
Bishop, TM
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

NOES
Back, CJ
Bernardi, C
Birmingham, SJ
Brandis, GH
Bushby, DC (teller)
Cash, MC
Colbeck, R
Cormann, M
Edwards, S
Eggleston, A
Fawcett, DJ
Fifield, MP
Humphries, G
Johnston, D
Joyce, B
Kroger, H
Macdonald, ID
McKenzie, B
Mason, B
McKenzie, B
Nash, S
Parry, S
Payne, MA
Payne, MA
Ruston, A
Ruston, A
Scullion, NG
Smith, D

Question agreed to.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator IAN MACDONALD
(Queensland) (17:53): I seek leave to table
the fourth report of the Senate Standing
Committee for the Scrutiny of Bills, which,
amongst other things, deals with both the
NDIS and the broadcasting series of
legislation. I seek leave to speak for 15
minutes on that report. I also seek leave for

CHAMBER
Senator Edwards and Senator Fifield to speak for 15 minutes each on the report in accordance with the commitment made to me by the government manager.

Leave not granted.

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (17:54): If I may make a brief statement.

Leave not granted.

**BILLS**

National Disability Insurance Scheme Bill 2013

In Committee

Debate resumed.

**The TEMPORARY CHAIRMAN** (Senator Mark Bishop) (17:55): We are considering amendment (1) on sheet 7362, moved by Senator Xenophon.

**Senator XENOPHON** (South Australia) (17:55): Thank you. I am acutely aware that we have less than 20 minutes before these bills will be voted on; therefore, I intend to—with the indulgence of my colleagues—as quickly as possible set out all the amendments I will be moving, because I think it is important to have them on the public record. They are amendments (2) to (6) on sheet 7362:

(2) Clause 100, page 84 (line 19), at the end of subclause (1), add:

; and (c) explaining the reasons for the reviewable decision.

(3) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

**103A Costs**

(1) The Administrative Appeals Tribunal can make a costs order providing that the CEO or Agency must pay the costs of a person who makes an application for a review of a decision.

(2) The Administrative Appeals Tribunal must not make a costs order providing that a person who makes an application for review of a decision is required to pay the CEO's or Agency's costs, unless in the opinion of the Tribunal the person is acting in a manner that is vexatious or an abuse of process of the Tribunal.

(4) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

**103B Administrative Decisions (Judicial Review) Act 1977**

For the avoidance of doubt, if the CEO makes a decision under this Act, the decision is taken to be a decision of an administrative character made under an enactment.

(5) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

**103C CEO to ensure appropriate means of communication**

The CEO must ensure that the Agency institutes a process to ensure that communications with participants in the National Disability Insurance Scheme are undertaken so as to allow the participants to deal with the Agency in the most effective way possible.

Note: For example, providing written communications to a person who is vision impaired does not allow that person to effectively communicate with the Agency. In this case, the Agency may determine that it is appropriate to directly speak with the person and to send them the written communication in braille form.

(6) Clauses 104 to 105B, page 87 (line 5) to page 90 (line 26), omit the clauses, substitute:

**104 Compensation**

Where:

(a) compensation is paid or payable to a person (the injured party), otherwise than under a scheme of compensation under a Commonwealth, State or Territory law; and

(b) the injured party has received, or is entitled to, damages from another person (the wrongdoer) in pursuance of rights arising from the same trauma as gave rise to the rights to compensation; and
(c) the person to whom the compensation is paid or payable (the claimant) is entitled to recover the amount of the compensation; and

(d) the person has taken no action to claim or obtain compensation,

then the following provisions apply:

(e) the CEO is entitled to recover the amount of compensation paid or payable from the wrongdoer or the injured party, but subject to the following qualifications:

(i) no amount may be recovered from the wrongdoer in excess of the wrongdoer's unsatisfied liability to the injured party; and

(ii) no amount may be recovered from the injured party in excess of the amount of the damages received by the injured party; and

(iii) in a case involving contributory negligence, the amount to be recovered from the wrongdoer by the claimant under this subsection must be adjusted to the extent that is just and equitable having regard to the extent to which the wrongdoer establishes that the contributory negligence contributed to the occurrence of the relevant injury; and

(f) the claimant shall, on giving notice to a wrongdoer of an entitlement to recover compensation under this section, have a first charge, to the extent of the entitlement, on damages payable by the wrongdoer to the injured party; and

(g) any amount recovered by the claimant against a wrongdoer under this subsection shall be deemed to be an amount paid in or towards satisfaction of the wrongdoer's liability to the injured party; and

(h) an action for the recovery of compensation may be heard in a Court of competent jurisdiction.

I want to make it clear that amendment (1) on sheet 7362, which I moved earlier today, amends the general principles of the act, to provide that people with a disability have the right to access support from independent advocates. This will ensure that people with a disability are able to access independent advice and support when dealing with NDIS processes.

Amendment (2) on sheet 7362 is parallel to amendment (1); it will insert a provision into section 100, which deals with reviewable decisions. This provision will require the CEO or delegate to provide reasons the decision is considered reviewable. This will ensure that people affected by these decisions will have adequate information to build their case effectively.

Amendment (3) introduces provisions relating to the Administrative Appeals Tribunal and the awarding of costs. Under this item the AAT may not order an individual bringing a complaint to cover the CEO's or agency's costs unless the complaint is considered vexatious or an abuse of process. However, the AAT may order the CEO or agency to cover an individual's costs.

Amendment (4) inserts provision to clarify that the decision made under this act by the CEO is taken to be of an administrative character made under an enactment for the purpose of judicial review.

Amendment (5) provides that the CEO must ensure that processes are in place to establish appropriate means of communication which take into account a person's disability—for example, in the case of a person who is vision impaired the CEO may decide to issue communications verbally as well as in an appropriate written form such as braille. This will ensure that all participants in the scheme have equal access to important information about their claims.

Amendment (6) revises the compensation claim section of the act. This new section seeks to address concerns that the provisions in these sections remove choice for the people concerned and rely too much on compulsion. This section is consistent with
similar provisions in other state, territory and Commonwealth acts. It still allows a CEO to make a claim on an individual's behalf or to take over a claim, but it includes specific safeguards to ensure the individual has the initial benefit. It also removes the consequences of an individual not taking action required by the CEO, which under the bill as it stands results in payments being suspended. This is a blatantly unfair action and removes an individual's choice to an unacceptable extent.

The question I pose to the government—and I appreciate that we are so limited for time—is that they make an undertaking to at least provide me with responses in writing or to table responses in relation to the matters I have raised, the amendments I have raised.

On the issue of amendment (6), there is a fundamental flaw in what is being proposed. Why won't the government do what other states are doing? For instance, in South Australia, section 54(7) of the workers compensation legislation makes it very clear; that act has a right of subrogation which is much fairer and consistent with other states and actually gives an individual real rights.

I support the intent of the bill wholeheartedly, but there are some fundamental flaws in the structure and the architecture of this bill, particularly in the area of the rights of individuals challenging decisions.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (17:59): Briefly, I will try and address all of the questions you have raised, Senator Xenophon. It is unfortunate that we have missed up to nearly two hours.

In terms of your advocacy question, I can advise that all external merits review applicants are entitled to a support person. This could be a friend or a family member. It could be an independent advocate funded through the Commonwealth National Disability Advocacy Program.

With respect to your second amendment, the government does not support that amendment essentially because it is important for the agency to explain the reasons for its decisions where this is needed. This is already provided for by the AAT Act and the Administrative Decisions Judicial Review Act which will operate to give NDIS participants the right to seek written reasons in relation to reviewable decisions. The amendment that you propose would go beyond the ADJR and AAT acts by requiring the CEO to include the notice in every reviewable decision the reasons for that decision. There is a risk that this would place an unreasonable and unnecessary administrative burden on the CEO in the agency and not greatly advance the interests of people with disability.

The CEO and their delegates will of course make thousands of decisions, many of which—in fact I suggest most of which—could reasonably be anticipated to be totally uncontroversial. Putting in that provision means that every time that the CEO makes a decision, there has to be a set of reasons given.

With respect to your third amendment, in brief, I can say the AAT typically does not award costs. It is empowered to do so only in relation to specific areas so, as a general rule, the AAT does not award costs.

Your fourth amendment goes to the review of decisions, and the advice that I have received is that the provision does not have practical legal effect and is unnecessary. It would duplicate the work already done under the ADJR act which defines the categories of decisions to which judicial review applies. It is good legislative practice not to duplicate provisions in the
law as I am sure you understand better than most. It clutters and confuses Commonwealth statutes.

With respect to amendment (5), I am advised this provision is already covered in clause 4 and is unnecessary. We are working with people with disability. We will ensure that communications with them are given in the right form.

Finally, your final question to get a formal response: as we discussed earlier privately, I am quite happy to provide a written response to the questions that you raise. Thank you for your engagement with this part of the bill, and I look forward to continuing our discussions.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (18:03): I want to make some brief remarks, because I just could not let some of the parliamentary secretary's comments go unremarked in relation to the alleged loss of time in relation to this bill.

If we were following the red without having had a motion to change the order of business and to introduce a guillotine, in the ordinary course of events today we would be coming back to this legislation about now. So any allegation that the procedural motions earlier today were diminishing time for debate are quite incorrect. If the red was being followed as per usual, we would come to this legislation about now. The opportunity should not be denied to colleagues to express their displeasure at a motion that sought to guillotine this debate and other debate. I do not want to say any more than that on this matter but I just thought that had to be on the record.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:04): I will just express the Greens will not be supporting these amendments. We have sympathy with the government's position on a number of these. In particular on advocacy, we have already passed amendments on that issue. I have been satisfied with the government's responses on compensation. If you could share some of that information that you are sharing with Senator Xenophon, specifically around the South Australian amendment, that would be appreciated. On the communication one, again, I agree that that issue is already covered in the clauses, so we will not be supporting them although I understand the intent.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (18:04): Likewise, the opposition is satisfied with the amendment that the government moved in relation to the advocacy issue. We do understand the concerns that Senator Xenophon has expressed in relation to the compensation issue. The government has gone some way to addressing those, but I think most of us in this discussion recognise that the legislation that will be passed today is not an end point, that it is not set in stone, and that a number of these issues will be revisited.

Senator XENOPHON (South Australia) (18:05): I will be very brief because of the time constraints. Senator Fifield says that this is not set in stone. But the fact is that this is fundamentally flawed, particularly in relation to clauses 104 to 105(b). The way they have gone about the subrogation, in terms of a third party's rights to compensation, is completely at odds with what other states have done. South Australia is just one example that I am well familiar with, with section 54(7) of their act. It really does constrain an individual's rights in a way that it seems to be heavy-handed and unusually onerous. I appreciate that Senator McLucas on behalf of the government will provide a response on this, but I just want to put it on the record that we will have to revisit this, because there will be case after
case after case of inequitable outcomes. I am just trying to remedy this right now rather than later.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (18:06): I want to try and allay your fears, Senator Xenophon. We would not be putting up a piece of legislation that we were of the view had the flaws that you think are there. I will write to you to assure you that this legislation mimics other state-based legislation but also some Commonwealth legislation in the way that this element is treated. But please be assured that we are quite confident that this will not result in what you are expecting.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (18:07): Let me be clear that I do not think that the legislation is perfect. I think it comes back to the rationale that the coalition has had for the establishment of a joint parliamentary committee, chaired by both sides of politics, to oversee the design and implementation of the scheme. It would have been good if such a committee had been set up quite some time ago. The opposition would have been very happy to work through a number of these design issues carefully. All I can say is that I think the need is still there for this committee to examine some of the sorts of issues that are being raised by colleagues, including Senator Xenophon. It would have been a good thing if that committee were already in place.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:08): by leave—I move Greens amendments (2) and (3) on sheet 7356 together:

(2) Clause 22, page 25 (lines 20 to 26), omit subclause (1), substitute:

1 A person meets the age requirements if the National Disability Insurance Scheme rules for the purposes of this paragraph prescribe that on a prescribed date or a date in a prescribed period the person must be a prescribed age and the person is that age on that date.

(3) Clause 22, page 25 (line 27), omit "paragraph (1)(b)", substitute "subsection (1)".

These amendments relate to the age requirement. We heard a lot of evidence during the committee inquiry around concerns about what happens to people over the age of 65 who acquire a disability. They are not included in the NDIS and they are supposed to be supported through the aged-care system. We heard a lot of witnesses expressing very strong concern that that particular group will not get the same support as they would through an NDIS.

I did go over this issue in my speech in the second reading debate, and I know that we are short of time, but I particularly want to point out that one of the groups that a number of us have a heard a lot from is the post-polio group—a group I am very concerned about—and I know they are very concerned about this.

In case we do not have time to get to it, if this amendment goes down, I have a second amendment that does not remove the age 65 cut-off but does seek to specifically reference those people suffering from post-polio symptoms. I know that is not ideal, naming a particular disability in the legislation, but it is potentially a large group of people. On this issue I would like to ask the government to outline whether they have considered it. It is an issue that was raised in the Senate Community Affairs Committee report, and specifically the committee asked the government to monitor it. I ask why they particularly put this in place and I also ask whether they are picking up on the recommendations of the community affairs committee about monitoring the impact that
this will have on those aged over 65 and, in particular, that cohort of people who may have disabilities related to post-polio syndrome that are not currently being covered—in other words, will not be grandfathered—under this particular scheme.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (18:11): Unfortunately we are not able to agree to Senator Siewert's amendments. The first question Senator Siewert asked is whether we considered this. Absolutely. This has been a considerable issue, but Senator Siewert will also note that the Productivity Commission made a very clear recommendation that the entry to the NDIS be prior to a person reaching age 65. There are, and the committee heard this as well, definitional issues that we have to deal with that go to non-age related matters. It is not a cut-and-dried question.

It is important to note also that in the launch phase of the scheme it is necessary to have a rule making power to limit the universality of the NDIS to reflect the agreement with some states and territories to provide the launch to age cohorts in the first phase. Given the time, in terms of the particular concerns around people who have had polio and post-polio effects, that amendment runs counter to the principle of the NDIS that we hold very dear, and that is that this is based on functionality and not diagnosis. I am quite aware that we do need to work very closely with people who have had polio. Their circumstances can be quite different, as can other degenerative diseases that I think we have addressed as well.

In terms of the monitoring of this, of course the government will continue to monitor the whole of the NDIS rollout, but instead of tasking the agency with a specific task it will be the responsibility of the government to continue to monitor the effectiveness—and of course we are doing the two-year review of the NDIS in its totality.

The TEMPORARY CHAIRMAN (Senator Mark Bishop): The question is that Australian Greens amendments (2) and (3) on sheet 7356 be agreed to.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:13): by leave—I move Greens amendments (1) and (2) on sheet 7357:

(1) Clause 22, page 25 (lines 20 to 26), omit subclause (1), substitute:

(1) A person meets the age requirements if:

(a) the person was aged under 65 when the access request in relation to the person was made; and

(b) if the National Disability Insurance Scheme rules for the purpose of this paragraph prescribe that on a prescribed date or a date in a prescribed period the person must be a prescribed age—the person is that age on that date.

(1A) A person also meets the age requirements if the person is a polio survivor (whether aged above or below 65 years of age) when the access request in relation to the person was made.

(2) Clause 22, page 25 (line 27), omit "paragraph (1)(b)", substitute "subsections (1) and (1A)".

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:14): I move Greens amendment (4) on sheet 7356:

(4) Clause 23, page 26 (lines 2 to 11), omit subclause (1), substitute:

(1) A person meets the residence requirements if the person:

(a) resides in Australia; and

(b) is:

(i) an Australian resident for the purposes of the Health Insurance Act 1973; or
(ii) is an eligible person by reason of section 6 or 6A of that Act; and

c) satisfies the other requirements in relation to residence that are prescribed by the National Disability Insurance Scheme rules.

This is an issue that relates to who is counted as a resident. The current amendment uses the social security definitions. During the Senate inquiry—(Time expired)

The TEMPORARY CHAIRMAN: The question is that the Australian Greens amendment (4) on sheet 7356 be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The question now is that the remaining amendments on sheet 7356 amendment (5) circulated by the Australian Greens be agreed to:

(5) Clause 40, page 41 (line 25) to page 42 (line 2), omit "6 weeks" (wherever occurring), substitute "12 months".

Question negatived.

The TEMPORARY CHAIRMAN: The question now is that the remaining amendments on sheet 7362, amendments (2) to (6) circulated by Senator Xenophon be agreed to:

(2) Clause 100, page 84 (line 19), at the end of subclause (1), add:

; and (c) explaining the reasons for the reviewable decision.

(3) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

103A Costs

(1) The Administrative Appeals Tribunal can make a costs order providing that the CEO or Agency must pay the costs of a person who makes an application for a review of a decision.

(2) The Administrative Appeals Tribunal must not make a costs order providing that a person who makes an application for review of a decision is required to pay the CEO’s or Agency’s costs, unless in the opinion of the Tribunal the person is acting in a manner that is vexatious or an abuse of process of the Tribunal.

(4) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

103B Administrative Decisions (Judicial Review) Act 1977

For the avoidance of doubt, if the CEO makes a decision under this Act, the decision is taken to be a decision of an administrative character made under an enactment.

(5) Page 86 (after line 17), at the end of Part 6 of Chapter 4, add:

103C CEO to ensure appropriate means of communication

The CEO must ensure that the Agency institutes a process to ensure that communications with participants in the National Disability Insurance Scheme are undertaken so as to allow the participants to deal with the Agency in the most effective way possible.

Note: For example, providing written communications to a person who is vision impaired does not allow that person to effectively communicate with the Agency. In this case, the Agency may determine that it is appropriate to directly speak with the person and to send them the written communication in braille form.

(6) Clauses 104 to 105B, page 87 (line 5) to page 90 (line 26), omit the clauses, substitute:

104 Compensation

Where:

(a) compensation is paid or payable to a person (the injured party), otherwise than under a scheme of compensation under a Commonwealth, State or Territory law; and

(b) the injured party has received, or is entitled to, damages from another person (the wrongdoer) in pursuance of rights arising from the same trauma as gave rise to the rights to compensation; and

(c) the person to whom the compensation is paid or payable (the claimant) is entitled to recover the amount of the compensation; and

(d) the person has taken no action to claim or obtain compensation,

then the following provisions apply:
(e) the CEO is entitled to recover the amount of compensation paid or payable from the wrongdoer or the injured party, but subject to the following qualifications:

(i) no amount may be recovered from the wrongdoer in excess of the wrongdoer's unsatisfied liability to the injured party; and

(ii) no amount may be recovered from the injured party in excess of the amount of the damages received by the injured party; and

(iii) in a case involving contributory negligence, the amount to be recovered from the wrongdoer by the claimant under this subsection must be adjusted to the extent that is just and equitable having regard to the extent to which the wrongdoer establishes that the contributory negligence contributed to the occurrence of the relevant injury; and

(f) the claimant shall, on giving notice to a wrongdoer of an entitlement to recover compensation under this section, have a first charge, to the extent of the entitlement, on damages payable by the wrongdoer to the injured party; and

(g) any amount recovered by the claimant against a wrongdoer under this subsection shall be deemed to be an amount paid in or towards satisfaction of the wrongdoer's liability to the injured party; and

(h) an action for the recovery of compensation may be heard in a Court of competent jurisdiction.

Question negatived.

The TEMPORARY CHAIRMAN: Sorry, Senator Fifield. We are moving through the amendments now. The time for debate has expired.

Senator Fifield: I appreciate that. Just on a point of order, I think it is important for those who may be listening to the broadcast to realise why there is no further debate because the government passed a guillotine to prevent debate.

The TEMPORARY CHAIRMAN: That is not a point of order, Senator Fifield. There is no point of order. The question now is that
(c) if he or she ceases to be a member of the House of the Parliament by which he or she was appointed; or

(d) if he or she resigns his or her office as provided by subsection (5) or (6).

(5) A member appointed by the Senate may resign his or her office by writing signed by him or her and delivered to the President of the Senate.

(6) A member appointed by the House of Representatives may resign his or her office by writing signed by him or her and delivered to the Speaker of that House.

(7) Subject to the requirements of subsection (2), either House of the Parliament may appoint one of its members to fill a vacancy amongst the members of the Committee appointed by that House.

103B Powers and proceedings of the Committee

All matters relating to the powers and proceedings of the Committee are to be determined by resolution of both Houses of the Parliament.

103C Functions of the Committee

(1) The functions of the Committee are:

(a) to review the implementation of the National Disability Insurance Scheme; and

(b) to review the administration and expenditure of the National Disability Insurance Scheme; and

(c) to review any matter in relation to the National Disability Insurance Scheme referred to the Committee by:

(i) the responsible Minister; or

(ii) a resolution of either House of the Parliament; and

(e) to report the Committee's comments and recommendations to each House of the Parliament and to the responsible Minister;

(f) such functions as agreed to by resolutions of the House of Representatives and the Senate.

103D Annual report

As soon as practicable after each year ending on 30 June, the Committee must give to the Parliament a report on the activities of the Committee during the year.

The Committee divided. [18:21]

(The Chairman—Senator Parry)

Ays .................30
Noes .................34
Majority .............4

AYES

Abetz, E
Bernardi, C
Boswell, RLD
Bushby, DC
Cormann, M
Eggleston, A
Fifield, MP
Johnston, D
Kroger, H
Madigan, JJ
McKenzie, B
Parry, S
Ruston, A
Seullion, NG
Williams, JR (teller)

NOES

Bishop, TM
Cameron, DN
Crossin, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ladlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

PAIRS

Boyce, SK
Cash, MC

CHAMBER
Question negatived.

Bill, with amendments, agreed to.

Bill reported with amendments; report adopted.

Third Reading

The PRESIDENT (18:24): The question now is that the remaining stages of this bill be agreed to and that this bill be now passed.

Question agreed to.

Bill read a third time.

BUSINESS

Days and Hours of Meeting

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (18:25): I move:

That the sitting of the Senate be suspended until 7 pm.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (18:25): The Labor-Green alliance in this place has set about to gag debate. This will now be bill No. 159 that the alliance has guillotined through this place. It is an absolute disgrace when you remember the hyperbole of the Australian Greens when the coalition guillotined 34 bills in a three-year period. Here we have the Labor Party and the Greens, in alliance, guillotining five times that number and counting.

Here they are, seeking to further restrict the opportunity of the opposition to make contributions in this debate. The simple fact is: so indecent was the Manager of Government Business in the Senate in her haste to move the guillotine motion that she forgot the dinner break. We on this side are willing to forgo a dinner break to allow further ventilation of the vital issues confronting this nation. I am sure the Greens alliance partners will help debate this in a manner that will allow a dinner break and, as a result, cut the time even further. But each and every time, when the Green-Labor alliance in this place uses its numbers in such a ruthless and arrogant manner, we will remind the Australian people, day after day until 14 September, to ensure that they know that the coalition are the best people to manage and hold the Senate.

Make no mistake: the ruthlessness, the arrogance of the Australian Greens and the Labor Party, in just ramming stuff through this place, is such that they do not deserve to be entrusted by the Australian people with the privilege that they have been given by having the numbers in this place.

You would have thought they might have learnt from their past mistakes. Who were the parties that guillotined the disastrous mining tax through the Senate? They knew it all. They did not need opposition input into the legislation. They knew it all. Of course, how is that going now for them? Not so flash. What about the carbon tax legislation they guillotined? It is not going so flash either, is it? Both of them are not collecting half the money that they thought they would. But what did they do in typical Green-Labor alliance style? Ensure that all the money predicated was spent in advance before the money was even collected. That is the sort of problem that the Green-Labor alliance entertain day after day in this place, when they deliberately and arrogantly refuse the opposition to properly ventilate the issues that need to be ventilated in an attempt to save the alliance from themselves.

Indeed, if the Green-Labor alliance were to have actually listened to some of the
wonderful contributions made by colleagues such as Senator Mathias Cormann and Senator Ian Macdonald rather than to have had an indecent haste to guillotine, they may have saved themselves from some of the embarrassments they now face.

Now, it is one of these great ironies, is it not, that we have the Senate gagged and guillotined so the minister for communications will be able to gag the media. That is what this is about, and yet they claim, 'There is no problem with freedom of speech here—nothing to be seen here! Everything is good here.' But, of course, the Labor Party and the Greens will now be on the Hansard record as guillotining this legislation through the Senate so that they can gag the media and have the opportunity to get some vengeance on what they describe as 'the hate media' at News Limited.

Can I tell you, Mr President, when you live with the Hobart Mercury as I do in Tasmania, where the News Limited chief even admitted what a good go the Greens get in the Hobart Mercury and that the Greens should not be complaining—he made that comment at the recent Senate inquiry—one wonders why the Greens are so hateful and so vengeful to the private media.

Can I repeat—repeat—and say very, very strongly on behalf of the opposition that we oppose any further adjourning of the Senate, because we believe these issues need to be ventilated, and ventilated fully. The Manager of Government Business is so shambolic in her organisation and, sure, distracted by leadership tensions and all sorts of other tensions with this legislation not being put through the cabinet properly and not being put through the party room properly, and now they are voting. They have leaked about that—they have leaked to the Australian people that the cabinet process was truncated. They have leaked to the media—you know, the one they are trying to gag—that the caucus process was not followed. Can I tell you that I can now believe that, because they are ensuring that the process in the Senate is not being followed properly either, which makes it a trifecta. But here we are, confronted with the desire to cut even further time from the opposition. We will not stand for it; we believe that there should be proper time made available to ventilate all these issues.

I would honestly ask the Australian Greens: if they are to have any credibility left at the time of the next election, can they simply keep on guillotining these bills through the Senate in the way that they have? And keep in mind that we do have the quotes from the Australian Greens as to what they said when the coalition guillotined a meagre 32 bills—it was an affront to democracy, it was outrageous and it was arrogant. Yet when the Greens do it—not twice as often, not three times as often and not four times as often, but five times as often and more—'Oh, it's all part of the democratic process.' That is duplicity and that is the rank hypocrisy that the Australian people and, might I add, the media are now seeing from the Greens in power. They are seeing the Greens in power as being very, very arrogant.

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It is great to see so many Labor senators re-emerge in the chamber, because it is important for them to know that the Australian people will judge them at the next election, along with their Greens alliance partners, for the way that they are treating this chamber. They are treating this chamber in a most shameful manner.

We have a situation where, with virtually no notice, the Manager of Government Business moves to change the sitting hours so that they can guillotine legislation through. Then, of course, they forget the
dinner break. That is the sort of indecent haste and lack of planning that is the hallmark of this government. It is the way that these media bills were introduced to cabinet and it is the way these media bills were introduced into the caucus—and it is great to see the chairman of caucus here, Senator Gavin Marshall. And if the media reports are correct—and they have not been denied—real concern was expressed as to the way it was handled in caucus. I would fully agree with Senator Marshall's sentiments, if they were appropriately reported—and there is no reason to doubt that they were not appropriately reported.

We are facing exactly the same situation in this chamber: not properly dealt with and then we forget the dinner break. But we then use that as an excuse to further truncate the opportunity for the opposition—its capacity—to make contributions to very important pieces of legislation.

The bill that has just been guillotined, the National Disability Insurance Scheme Bill, was something that many of us on this side of the chamber would have been wanting to make further contributions to, but we had the so-called time management, or guillotine, in place. We will have the guillotine yet again. The tally now is 159 bills guillotined by this alliance of Green-Labor senators. All of the nonsense that they spoke just a few short years ago when the coalition had a majority in the Senate—that the guillotine of 32 bills was an affront to democracy. Thirty-two bills an affront to democracy! But five times that number by the Green-Labor alliance and not a word to be spoken about that. That is quite okay. Why? Because coalition bad, Labor-Green good. It is as simple as that. You do not have to think about it. You do not have to think about the ethics, you do not have to think about your hypocrisy, because all you have to say is: Green-Labor good, coalition bad.

The Australian people are awake and they are now saying loud and clear, as they have in Western Australia just recently, that Green-Labor is not good and the coalition might, in fact, be a safer pair of hands. That is what the Western Australian people said just recently and I would hope that the message gets to our other fellow Australians as well—that when it comes to the management of this place the safest and most respectful pair of hands to manage the Senate is not the Green-Labor alliance but the Liberal-National Party coalition, because we actually do respect this place. We do accept that from time to time you do need to put in time management; you do need to put in guillotines. That is part and parcel of the system. But with all of these things it is a question of: how often do you do it? If 30 times the guillotine of a coalition was such an outrage to democracy, what is five times that number by the Green-Labor alliance? It surely must be five times the outrage.

There has not been a squeak out of the Greens—not that you would expect it—but I would have thought that there might have been some Labor senators who actually had got over their previous disposition that the Senate should be abolished and now actually do see a good role for the Senate as an upper house, as a house of review. But if we are continually going to have our time in this place frustrated by an arrogant government seeking just to guillotine everything through this place, then the coalition will use every opportunity afforded it by the standing orders to make the point and to highlight to the Australian people the abuse that is happening in this place by the Labor Party and the Greens.

The Senate is a very important, vital part of the Australian parliament. Our founding fathers made a good decision to have a Senate, to have a house of review. They actually expected it to be able to undertake
its role and undertake its role with vigour—
that role of ensuring that everything was
ventilated. But no, here we now have,
regrettably, the Green-Labor alliance just
guillotining and guillotining, thinking that
that is the way to do business. Why? Because
they have got numbers. And that is the same
attitude towards freedom of speech in the
media bills that will come to us over the next
day or so. They have got the numbers and so
they will guillotine and they will then restrict
the freedom of the press. Not content just to
gag the media, they are willing to gag the
Senate as well. Indeed, they need to gag the
Senate to be able to gag the media.

I understand that other colleagues might
wish to make a contribution in this debate,
and therefore I will curtail my remarks. If the
chair of caucus—who seems to be itching to
get up on his feet—were to make a
contribution, it would be very interesting to
ascertain from him what actually did occur in
caucus and how supportive caucus is of these
bills. Is it a fact that they are seeking to
guillotine these bills so that not as many
Labor senators as otherwise might want to
speak get the opportunity to speak, because
they were not allowed to in cabinet and they
were not allowed to in caucus? The only
place they might be able to talk about it is
the Senate and so they have to guillotine that
process as well. That would be a very
interesting contribution and, Senator
Marshall, we would not want to stand in your
way, should that be your wish.

Senator Marshall: I want you to sit
down so I can go and have dinner.

Senator ABETZ: Mr President, I hope
that hit the Hansard. This is the contempt
with which the Labor senators are treating it.
They know that they have got numbers and
so they want to go off and have dinner. They
are not interested in the debate, they are not
concerned about Senate processes. They
have got the numbers and they will wine and
dine and enjoy themselves while we want to
go about this serious business—and it is very
serious business. We are dealing with the
laws and rules that operate around the media,
the fourth estate of our democracy—a very,
very important part of our democratic
system.

I think I can be one of those who can
honestly say that from time to time the media
has not treated me as kindly as I may have
liked. It is interesting—Labor senators agree
that that may be the case. But can I tell you,
despite that, I have never sought revenge. I
have never sought to gag them. But we now
know ‘the hate media’, and this is now the revenge.
It is the price, undoubtedly extracted by the
Greens for the government to remain in
power, and of course Senator Conroy has
had this bee in his bonnet for the last three or
four years about News Limited and some
other outlets. Senator Cameron is nodding
his head in agreement. If you have a problem
with the media, then that is part and parcel of
the system, but to try to move this sort of
legislation and gag it does the Labor party
and their Green allies no credit whatsoever.
We will ensure, if we are given the privilege
of government, that the Senate is run
properly, not submitted to guillotine after
guillotine and not used to gag the media.
That will be one of the core differences and
issues that we as a coalition will be inviting
the Australian people to consider when they
cast their vote on 14 September, if not
before.

Senator JACINTA COLLINS
(Victoria—Manager of Government
Business in the Senate and Parliamentary
Secretary for School Education and
Workplace Relations) (18:45): I move:
That the question be put.
The PRESIDENT: The question is that the motion be put.

The Senate divided. [18:49]

(The President—Senator Hogg)

Ayes ............................. 34
Noes ............................. 29
Majority .......................... 5

AYES

Bishop, TM
Cameron, DN
Collins, JMA
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS

NOES

Abetz, E
Bernardi, C
Brandis, GH
Colbeck, R
Edwards, S
Fawcett, DJ
Heffernan, W
Kroger, H
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR (teller)

PAIRS

Bilyk, CL
Carr, RJ
Conroy, SM
Milne, C
Wong, P

Cash, MC
Boswell, RLD
Joyce, B
Humphries, G
Boyce, SK

Question agreed to.

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

The Senate divided. [18:53]

(The President—Senator Hogg)

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

AYES

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Di Natale, R
Evans, C
Faulkner, J
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

NOES

Abetz, E
Bernardi, C
Brandis, GH
Colbeck, R
Edwards, S
Fawcett, DJ
Heffernan, W
Kroger, H
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR (teller)

PAIRS

Bilyk, CL
Cash, MC
Question agreed to

Sitting suspended from 18:55 to 19:00

BILLS

Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013

Report of Legislation Committee

Senator CAMERON (New South Wales) (19:00): I present the report of the Environment and Communications Legislation Committee on the media reform bills package, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BIRMINGHAM (South Australia) (20:04): I seek leave to present additional comments relating to the report of the Environment and Communication Legislation Committee on the media reform bills package tabled earlier this evening.

Leave granted.

Senator BIRMINGHAM: I table the additional comments.

Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013

Television Licence Fees Amendment Bill 2013

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (19:01): 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 LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (19:02): I table a statement of reasons justifying the need for these bills to be considered during these sittings and move:

That these bills be now read a second time.

I seek leave to have the second reading speeches and statement of reasons incorporated in Hansard.

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2013 AUTUMN SITTINGS

BROADCASTING LEGISLATION AMENDMENT (CONVERGENCE REVIEW AND OTHER MEASURES) BILL 2013

Purpose of the bills


Recognition of the current online and digital activities of the Australian Broadcasting Corporation and Special Broadcasting Service, increased Australian content requirements, and a requirement for the appointment of an Indigenous non-executive director to the SBS Board.

Reasons for Urgency
Passage of the bill in the Autumn 2013 sittings will ensure that the communications and media policy framework continues to provide appropriate and important community safeguards in relation to the availability of quality Australian content on free-to-air television.

The Convergence Review received significant interest from industry groups, businesses, academics, community groups and members of the public. The government publicly committed to implementing its initial reforms by early 2013.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2013 AUTUMN SITTINGS

TELEVISION LICENCE FEES AMENDMENT BILL

Purpose of the bills

The Television Licence Fees Amendment Bill 2013 amends the Television Licence Fees Act 1964 to reduce the licence fees payable by commercial television broadcasters by 50 per cent.

Reasons for Urgency

Passage of the bill in the Autumn 2013 sittings will ensure that the media industry has certainty in relation to buying licence fees arrangements.

The speeches read as follows—

BROADCASTING LEGISLATION AMENDMENT (CONVERGENCE REVIEW AND OTHER MEASURES) BILL 2013

The Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 is part of a package of six Bills representing the Australian Government's initial response to issues identified by the 2011 Independent Inquiry into the Media and Media Regulation and the 2012 Convergence Review.

This Bill responds to matters raised in the Convergence Review, primarily in relation to Australian content and public broadcasting.

New Australian content requirements

Despite the growth of new digital services and channels, Australians still want to see Australian content.

The Bill addresses the need for ongoing support for the broadcast of Australian content by legislating the 55 per cent Australian content quota on core or primary channels of free-to-air commercial television broadcasters.

The Bill also imposes a new Australian content transmission quota on these broadcasters that applies otherwise than on core or primary channels.

This new quota will increase incrementally for the next three years.

It will create an incentive for new Australian drama programs to be shown on those channels by allowing one hour of such drama to count as two hours for the purposes of the new quota.

The Bill also provides commercial broadcasters with the flexibility to meet their Australian content sub-quotas for drama, documentary and children's programming otherwise than on the core or primary channel.

Providing increased flexibility to broadcasters in meeting Australian content obligations allows innovative programming choices, and assists broadcasters to respond to competitive market pressures.

Limitations on the number of commercial television licences

The Bill implements the Government's decision announced on 30 November last year, that no new licences or spectrum will be made available to enable a fourth commercial television network.

This is achieved by capping the number of commercial television broadcasting licences that use broadcasting services bands spectrum, at three for each licence area.

The Bill repeals existing provisions that prohibited the Australian Communications and Media Authority (ACMA) from allocating additional commercial television licences unless directed to do so by the Minister for Broadband, Communications and the Digital Economy, as these are now redundant.

The Government's decision to 'cap' the number of licences at existing levels was guided by the increasing commercial pressures faced by
television broadcasters as a result of structural changes caused by convergence.

The cap will also ensure that the remaining capacity in the television broadcasting services bands, known as the 'sixth channel', remains available for other types of broadcasting services.

This includes, but is not limited to, community broadcasting services, narrowcasting services, datacasting services, or other communications services.

In light of these decisions, the Bill repeals a now redundant obligation to undertake statutory reviews into the use of the broadcasting services bands spectrum to provide additional television broadcasting services or other broadcasting services.

Repeal of the captioning and content review requirements

The Bill will also repeal a separate obligation to undertake a statutory review of the Australian content and captioning rules applicable to digital multichannels.

The review is now unnecessary given the new and modified Australian content requirements introduced by the measures outlined above, and the extensive reforms to captioning arrangements implemented through the Improved Access to Television Services Act 2012.

Updating ABC and SBS Charters

The Bill proposes amendments to the Charters of the ABC and SBS to recognise their roles as providers of digital media content.

This is not an expansion of their present roles, but merely recognises what the national broadcasters are already delivering.

And it reflects the value and importance of digital engagement to the work of the ABC and SBS.

International broadcasting services provided by the ABC

The proposed Bill also implements the Government's decision that the ABC should have the sole responsibility, and be funded by Government, to provide international broadcasting services on an ongoing basis.

The amendments recognise that Australia's international broadcasting service is an important public diplomacy platform, which should be provided by Australia's national broadcaster.

Indigenous non-executive director for the SBS

With the establishment of the free-to-air National Indigenous Television service on the SBS, amendments are proposed to require the Minister have regard to the need to ensure the SBS Board includes at least one Indigenous director.

This strengthens the SBS contribution to the communications needs of Indigenous communities.

Senator BIRMINGHAM (South Australia) (19:02): I rise to speak on these bills, the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and the Television Licence Fees Amendment Bill 2013. These bills are not unreasonable bills, but they are bills being dealt with in an unreasonable manner. These bills are subject to, as it has demonstrated time and time again, this government's poor management of this Senate, to its approach of downgrading proper debate in this chamber. These two will be Nos. 160 and 161 in the long, long list of bills guillotined by this government. Like the previous bill, the NDIS legislation, this is completely and utterly unnecessary because these bills command broadly bipartisan support. These bills are subject to, as it has demonstrated time and time again, this government's poor management of this Senate, to its approach of downgrading proper debate in this chamber. These two will be Nos. 160 and 161 in the long, long list of bills guillotined by this government. Like the previous bill, the NDIS legislation, this is completely and utterly unnecessary because these bills command broadly bipartisan support. They have been roped in together with a media package that is incredibly controversial and which the opposition vehemently opposes. But these two bills we do support.

These two bills deal with a number of matters that flow from the convergence review, a review that the government received 12 months ago. For 12 months the government has had the convergence review and the associated Finkelstein report. Minister Conroy has had them on his desk. He has had all the time in the world to deal
with these two reports, and now—at the
eleventh hour of this parliament, the eleventh
hour of this session of the parliament, the
eleventh hour of this sitting week—
suddenly, finally, some degree of response to
the convergence review is presented and is
rammed through the parliament with
guillotines applied here and limited debate in
the other place and less than one week of
consideration for the legislation.

That is right, these bills were first
introduced into the parliament last Thursday.
Last Thursday is the first time the parliament
saw them. Nonetheless, the coalition are
willing to support the passage of these two
bills. We are willing to support the passage
of these two bills because, unlike the other
reforms proposed, these bills do not provide
an unfair or undue new level of regulation on
the Australian media. Unlike the other bills
that are tangled up in the House of
Representatives at present, these bills do not
restrict the operation of a free press, of
journalists and of a free media in Australia.

Unlike the other bills, the content of these
bills have at least been subject to some
reasonable consideration and negotiation and
discussion with key industry sectors. It was
like chalk and cheese going through the
Senate inquiry—which Senator Cameron
only just tabled the report for—when you
asked media industry companies about
negotiation on these bills and negotiation on
the four bills currently before the House of
Representatives. On these bills, television
companies in particular indicated that there
was ample discussion with the government
and the terms of these bills were largely
settled in November last year.

And while I know there are organisations
that would have preferred to have had a
greater period of time to have some input
into these bills—in particular, I know the
Screen Producers Association of Australia
have genuine concerns about some elements
of these bills and yet were not given the time
or opportunity to put a submission to or give
evidence in the Senate inquiry due to the
rushed nature of the consideration of these
bills—the coalition at least acknowledges
there was some level of industry consultation
that went into these two bills we are debating
tonight. Should the House, sadly and
foolishly, pass the other four bills under
consideration, well then it will be a different
matter. Nobody had any forewarning about
the material contained in those bills, or their
details, until last Thursday when they were
first published.

The Broadcasting Legislation Amendment
(Convergence Review and Other Measures)
Bill 2013 amends the Broadcasting Services
Act, the Australian Broadcasting Corporation
Act and the Special Broadcasting Service
Act. In doing so it achieves a number of
outcomes which, generally speaking, flow
from recommendations of the Convergence
Review. In particular, it changes rules
prescribing the amount of Australian content
that is shown on commercial television to
enhance the availability of such content
according to the intentions and objects of
these changes. The current requirement for
55 per cent local content during prime time
viewing hours on main or primary channels
will be elevated to a legislative arrangement
rather than a regulated arrangement. An
Australian content quota will also be
introduced for the first time to multichannels.
Those being the second and third digital
channels operated by the three major
commercial free-to-air networks. Networks
will have therefore more scope to meet their
content obligations regarding drama,
documentaries and children's programming
across all of their channels.

These reforms also restrict the number of
commercial television networks in Australia
to three by preventing the Australian
Communications and Media Authority from issuing more than three broadcasting licences. I am sure everyone in this place would know that it has long been a topic of debate in Australia as to whether a fourth licence should or should not be issued. Obviously, the dynamics of that debate have changed in the era of multichannels and because of the fact that most Australians now enjoy access to many more free-to-air channels than was the case just a few years ago. This bill will restrict the number of commercial networks to three, as I say, and in doing so reflects those changes.

It also amends the Australian Broadcasting Corporation Act and the Special Broadcasting Services Act as recommended in the Convergence Review to expressly reflect their online activities. Once again we have seen a change in dynamic, as has occurred right across the media landscape, where the ABC and SBS have responded to that changing dynamic and nowadays undertake far more activity online than was ever foreseen in the drafting of their legislation. So to ensure that without any doubt the ABC and SBS are able to continue to provide that digital content the legislation will be amended to facilitate that and specifically allow for it.

Reflecting the fact that SBS has merged or undertaken the operations of the NITV, the legislation also amends the SBS Act to require the minister to have regard to the need to ensure that at least one of SBS’s non-executive directors is an Indigenous Australian. That, again, is a sensible reform and a reform that the coalition is very happy to support, as we have supported the elevation in standard, availability and access to NITV around Australia.

The legislation also repeals a statutory review provision relating to Australian content and captioning of television programs. The legislation also deals with a restriction on the Commonwealth funding international broadcasters, ensuring the ABC can be the only international broadcaster; and, in handling SBS online digital arrangements, the legislation makes some changes relating to SBS advertising. I will have a little more to say about both of those issues.

As indicated, the commercial broadcasters support most of the measures in this legislation, particularly the flexibility on Australian content and making the 50 per cent rebate on licence fees ongoing. That, of course, relates to the other bill that is before us—the Television Licence Fees Amendment Bill 2013. That bill provides a permanent reduction to the annual licence fees payable by commercial television broadcasters by 50 per cent, which will see their licence fees, on an ongoing basis, being 4½ per cent of their gross earning.

It is important in these debates to emphasise that those licence fees are based on gross earnings. That of course means it is not their profits but, in fact, their total revenue stream. This amounts to a reduction in fees for broadcasters nowadays of about $140 million per annum, which has already been factored into the 2012-13 forward estimates as updated in MYEFO and is, of course, reflective of rebates provided over recent years. The reduction in those fees will bring broadcasters into close alignment with their international counterparts, who generally pay lower fees, and also recognises that TV broadcasters will be using half as much spectrum as previously as a result of the shift to digital broadcasting and the freeing up of spectrum through that process.

The free spectrum will be auctioned as part of the digital dividend in April, although, I do note news reports today that indicate that the government has reallocated
the year in which those funds will be received, which is a curious little budgetary measure by the government. They are shuffling, it appears, the funds from being recognised this year, where they were once seeking to achieve a budget surplus, into the next financial year—no doubt so as to make the next budget look as attractive as it possibly can in the lead-up to an election.

Generally speaking, on all of those substantial and detailed issues, the opposition has no concern. We equally have no concern with the matter of allowing advertising on the SBS and allowing advertising on SBS digital content. Indeed, that is something that the coalition, when in government, did allow and facilitated amendments to the SBS Act to allow for advertising. We are supportive of measures that allow SBS to generate revenue in an appropriate manner, including through advertising and sponsorship arrangements on their digital media services. But I do, and not for the first time today, note the hypocrisy of the communications minister and the leader of the government in this place, Senator Conroy, in making these changes, given his past very strident opposition to advertising measures properly implemented by SBS in accordance with the SBS Act.

Back in 2006 the SBS board approved a new structure allowing for in-program advertising, having program breaks. The then shadow minister for communications and information technology, Senator Conroy, railed against those measures. At Senate estimates he argued that such advertising was not in accordance with the SBS Act or the intent of parliament. Senator Conroy said:

Do you seriously believe that the SBS's interpretation is consistent with the intent of parliament?

... ... ...

It just seems to me that with the way the act was written—and I have spoken to some of the people who were involved in drafting it—it was not open slather. Clearly, it does not say: 'Just have ads wherever you want;' it says: 'You can have ads in only a couple of places,' and yet, as you have testified, there is now open slather in every single program. That just seems to me to be inconsistent with the intent of the limits that the legislation attempted to set. You have now defined those limits as being unlimited.

Senator Conroy has now been Australia's communications minister, sadly, for around five years—five very long years for anybody who has looked at his track record. In that time he has not once sought to address this issue of SBS advertising that he was so concerned about back in 2006. In this legislation he actually opens up the SBS Act and makes amendments not to do what he claimed he would do or restrict advertising on SBS that he claimed he was concerned about but to enshrine further in the legislation the capacity of SBS to have advertising on its digital content.

The coalition support those changes. We supported in an open and transparent way when we were in government the right of SBS to have in-program advertising and we support here in opposition the right of SBS to have advertising on its digital platforms. Unlike the minister for communications, we are not guilty of hypocrisy when it comes to matters like this. That is what we stood for in government, stand for in opposition and will stand for when we are in government again, I hope. Senator Conroy, however, is caught out by these reforms. No doubt he was hoping that five, six or seven years down the track people would have forgotten. Well, we have not forgotten what he used to stand for and we have not forgotten the fact that he crab walked away from those complaints the moment he became the minister for communications.
There is one area where the coalition has concern with these bills—clause 27 of the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill, which proposes to insert new section 31AA that legislates for the Australia Network to remain with the Australian Broadcasting Corporation, the ABC, in perpetuity with no possibility of the service ever again being put out to tender. I know there is a fair degree of sensitivity on the other side, especially with Senator Conroy, in this regard. There should be deep embarrassment about the handling of the last Australia Network contract, a contract that was acknowledged as being corrupted—and that was the word that was used—in its context and in its handling. The minister twice sought to get an outcome and, when he did not like the recommendation of the tender review panel, he twice subverted the process so that he eventually got his own way, not of course in the end through an open tender process but by abandoning the tender process and instead simply allocating the tender back to the ABC.

The coalition is not opposed to the ABC operating the Australia Network and it may be that the ABC will forever be the best party to operate the Australia Network, but the coalition does not believe that there should be a legislative prohibition on governments exploring other alternatives as this legislation proposes. The coalition believes it would be helpful to at least maintain an element of competitive tension in this regard. What happens when the current contract expires in a little under 10 years time? What happens then when the minister goes back to the ABC and says we need to renegotiate a contract for you to provide the Australia Network? I will tell you what will happen: the ABC board and managing director will look at the minister of the day and say: ‘We don’t need to negotiate. The law of the land says we are the only ones who get to do it. The law of the land says you must use us.’ That is what this bill will see happen.

We do not think that is good public policy. We think it is foolish to let this slip through. So the one amendment to these reforms that the coalition will be proposing and that I will be moving in the committee stage is to remove clause 27 of the convergence review and other measures bill to ensure that proposed new section 31AA is not incorporated into the ABC Act so that all future governments will have a degree of flexibility in their handling of these matters.

The coalition are happy overall to facilitate the passage of these two bills. We have grave concerns that I have outlined about the rushed process behind this but we are not concerned overwhelmingly with any of the content in these bills, save the one clause that I mentioned. I am concerned, however, that in this media debate Senator Conroy seriously appears to have gone missing in action. Mr Wilkie confirmed this afternoon that all of his discussions about the media reform legislation before the other place were with Ms Gillard and Mr Swan. Senator Conroy was nowhere to be seen. I have not seen him in the chamber since question time, and I have been here a lot of the time and we have debated a lot of procedural motions relating to his legislation. I do not know whether the government has put him in hiding—that could well be the case for their best interests—or whether he is hiding under a rock of embarrassment somewhere because of the deep strife his legislation seems to have gotten his government into.

Senator Ludwig: Be relevant to the debate. Come back to the debate.

Senator BIRMINGHAM: It is very noble of Senator Ludwig to try to defend the
Leader of the Government in the Senate, but the Leader of the Government in the Senate's handling of these reforms has been appalling and has been an embarrassment for the government. It has put this Senate and this parliament in an awkward position of having to deal with legislation—

**Senator Ludwig:** Mr Acting Deputy President, I rise on a point of order on relevance. I was prepared to allow the usual slurring and misstatements that go on, but at this point, Senator Birmingham, I think you have gone a little bit longer than needed. Quite frankly, we should get back to the debate. You have a limited time. You do not want me to burden your time by taking points of order to bring you back to relevance. You might note that you yourself went missing on carbon. It is a shame that you did, but at that point on the whole debate—

**The ACTING DEPUTY PRESIDENT (Senator Edwards):** Minister, please address the chair. There is no point of order, and I ask Senator Birmingham to resume.

**Senator BIRMINGHAM:** It is to the shame of Senator Conroy and the government that they have allowed him to get away with the mishandling of such important reforms.

**Senator LUDLAM** (Western Australia) (19:22): The Greens are firmly on the record condemning the decision made by the government to impose such an arbitrary time frame for examining these bills, so it will not surprise the chamber to know that I disagree with much of the contribution just read in by Senator Birmingham, apart from his comments on the process that this chamber, and indeed this parliament, has been subjected to over these bills. There is no reason that I am aware of why these bills could not have been introduced last June, last November or, indeed, this February. It is not at all good enough to say that the comprehensive debate and examination undertaken during the course of the Convergence Review and the Finkelstein review into media reforms can be applied to this package.

What we have here are some elements from those much more comprehensive reports and much more detailed and considered recommendations. What we have here is a diminished and partial set of proposals—some of them derived from the Convergence Review, some of them grabbed from remnants of the Finkelstein report and some of them plucked from somewhere else and bundled into this overarching but nonetheless diminished package. We have been working around the clock since the announcement was made that these bills would be tabled to understand how they would operate in the real world, quite practically, and how they can be improved. It has put enormous pressure on staff—not just ours but the coalition's and the crossbenchers' both here and in the other place—committee secretaries and, most important to acknowledge, witnesses and people who gave evidence to these inquiries on the basis of a phone call and, in some instances, less than a day's notice.

The Greens are on the record as supporting a much broader approach, and we should indeed go back to the rationale for the Convergence Review, which was to investigate proposals for a converged regulator. The whole reason—or one of the greater reasons—that we are having this debate at all is that the media landscape is changing before our eyes in this so-called phenomenon of convergence whereby people are consuming news, current affairs, entertainment and content on a variety of platforms and some of the old ways are breaking down. In that context it makes very little sense to have one regulator looking
after what is left of the print sector, one regulator looking after the broadcast sector and nobody really looking after what happens online. That appears to have been left by the side of the road some time ago.

Neither the Finkelstein review nor the Convergence Review was perfect. They were in their own way partial, but nonetheless these are important bodies of work that have been put into the public domain, and I do not accept it when the minister says, 'Look, these matters have been under discussion for two years, so you have to cop less than a fortnight's debate on what the government ultimately decided to bring forward as their media package.' It is not true.

However, the fact that the opposition communications spokesperson and the Leader of the Opposition, Mr Abbott, rejected the package before they had seen it, and were clearly not interested in debating the merits of the package or the bills days before they had even seen them, effectively leaves the crossbenchers in a situation where, as the minister said last week, we have to take it or leave it. We are then forced into the position of having to decide whether the proposals put before the parliament are an improvement to the status quo as far as media regulation is concerned or whether they take us backwards. That is the simple proposition.

One of the things that I believe are driving this rapid and arbitrary timetable that the minister and the government have placed on the entire parliament is that the government are not sure that these proposals would even survive the Easter recess. Perhaps on this we have common cause with the coalition. That is potentially one entirely plausible reason why the government have decided that this deadline needs to be imposed: that they are simply not confident that they can hold onto themselves and hold themselves together for long enough to pass it otherwise. What a remarkable position to put the crossbench and the parliament in that that is the deadline that has been imposed. Nonetheless, we are sent here to do a job, and in this instance it means analysing these proposals to determine whether it is in the public interest that the proposals or a subset of them be passed, rejected or amended.

I will confine my comments largely to the bills that are before us tonight, recognising that there is a larger package: there are another four bills relating to media reforms. There is an amendment still floating around the building relating to the lifting of the reach rule, which obviously interests broadcasters. However, tonight I will confine my comments largely to discussion of the two bills that have in fact reached us from the other place, the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and the Television Licence Fees Amendment Bill 2013.

The Television Licence Fees Amendment Bill provides a full 50 per cent reduction in licence fees for the commercial TV broadcasters, to a maximum of 4.5 per cent of gross earnings. That is an enormous cut to Commonwealth revenue and to licensing fees, and the Greens believe that a reduction of somewhat less than 50 per cent would still have been a very significant recognition of the commercial pressures that are faced by Australia's TV industry. We do not deny that. We have seen Australian TV networks on life support in recent months. We know that they are facing pressures. We know that audiences are shifting, as the new head of Channel 10 admitted in an interview the week before last. Young people are not watching scheduled television in the same way as earlier generations did, because there are so many more options. That is one of the
things that are placing commercial pressure on free-to-air television.

However, broadcasting spectrum is not a free gift; it is a public good, and the commercial TV broadcasters should be required to put a minimum of Australian content on their stations. Senators may note that the Greens have circulated an amendment which is identical in form to one which we proposed in the other place when the bill was debated last night. This would meet some of the concerns of the Australian screen production sector, who have said it is entirely possible that the TV networks will be gaming the amendments that the government proposes to make to local content rules. This is a complex quota system that involves points for certain kinds of content, hours for certain kinds of content and different quotas attached to main channels as opposed to multichannels, and I think it is very difficult to ascertain whether it will be possible for the TV networks to effectively bid down the price of Australian content.

So we are seeking an undertaking from the government—and I understand that the government supports this view and believe it is a view that may be held by Senator Xenophon as well—that an annual review be undertaken to ascertain whether we are getting more or less local content on TV stations, on which of the main or multichannels it is running and how the broadcasters are allocating the points that they need to achieve to meet their licence conditions. I suspect that the amendment will be lost on the votes of the major parties, but I did want to point out now that we have put that amendment into play again tonight as we did last night in the hope that there can be some recognition that the Australian screen sector is an enormously important part of Australian culture and that we should support it not because their product is any poorer but because it is so much cheaper simply to dump endless repeats of content produced at lower cost principally in the United States but elsewhere as well.

The Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 stipulates that in return for spectrum Australian content will be shown on the commercial TV stations across all of their channels as it happens. There will be 730 hours in 2013, 1,095 hours in 2014 and 1,460 hours from 2015. And yet the proposed regulation for Australian content on the multichannels is comparatively very low and will in fact, if my reading of the bills is correct, require the networks only to screen local content for 12 per cent of the total broadcast hours across their multichannels. The government might come back and say: 'Who cares? People can channel hop. They can find the stuff that they're looking for.' The fact is that audience share on the multichannels is vastly lower than on the main channels, and we are very concerned that the broadcasters will in fact be bidding down the price of content and effectively gouging Australian content producers.

A review will not prevent it from happening but will identify whether it is happening, so we are looking to the minister representing the government or to a government senator to speak during the course of the debate tonight and make clear exactly what it is the government is committed to in that regard. I acknowledge that Senator Ludwig has pricked up his ears and is making a note. The Greens are concerned that, for example, sport and repeats count for full points of Australian content. While of course that is content that many people enjoy, it should not be allowed to simply soak up what should be going into points for creation of quality original Australian drama and Australian stories.
We believe that there needs to be a safety net that adequately protects the Australian public from cheap foreign imports. These imports, according to Screen Australia, typically cost around 75 per cent less per hour than the Australian equivalent content. We are seeking an undertaking from the government acknowledging that it is likely that the Australian Greens amendment to protect local screen producers will be lost.

I turn now to what the Greens support, why we will be supporting these bills and an acknowledgement of the coalition's support for these bills which I thought might have been at risk. Senator Birmingham's comments have allayed some of those concerns. As senators know, last year I introduced a private senator's bill that would keep the Australia Network in public hands by requiring the ABC to be the sole provider of Commonwealth funded international broadcasting services. Senator Birmingham has indicated that he has circulated an amendment to carve that out. Depending on the course of the debate tonight, I will notify the coalition that the Greens will not be supporting the amendment that they proposed to retender the Australia Network out. We know from the chaotic process that ensued the last time this was put out to tender that there were no substantive justifications put forward for tendering that service out in the first place any more than we tender out any of the other highly valuable functions that the ABC provides to Australian broadcasting. We believe that having the Australia Network in public hands is in the national interest, as are the rest of the services that the ABC provides.

The Australia Network informs Australia's relationship with nations in our region and also globally. Other countries provide international broadcasting services. The BBC has the World Service, Germany has Deutsche Welle and Australia has the ABC—recognising that the budget is proportionally much lower than those stations. But can you imagine if in the United States the Voice of America were tendered out to a private entity or, here, News Limited, perhaps, provided the voice of Australia in our region?

The ABC has a charter that obliges it to reflect Australian cultural diversity and the arts with public editorial policies, independent review mechanisms and, I might say, very high standards of production. Commercial broadcasters do not share many of these qualities, responsibilities or statutory obligations; and, as private broadcasters, nor should they be required to. But they are driven by different motivations, and that is why the Greens support the ABC being our international broadcaster. So I congratulate the government for bringing that reform forward, because it means I can stand down my private senator's bill, which would have gone to the same effect. That is one less thing for us to worry about.

I also want to address the issue of ABC online. The ABC provides an extraordinary range of services online like catch-up TV with iview and news services provided on mobile devices. The ABC's online presence is, in fact, an excellent example of what we mean by convergence. This bill— with, I am pleased to note, support from across the parliament—will protect the ABC’s capacity to provide these digital online services, which are certainly part of the broadcaster's future. A 2010 Newspoll survey found that 88 per cent of Australians believe the ABC provides a valuable service to the community no matter what platform they receive the service on, so enshrining the ABC's online presence in the charter is timely and appropriate. I note that during the committee's inquiry I was able to clarify that the prohibition on advertising remains.
That, of course, brings us to SBS. NITV becoming a part of the SBS was a move that the Greens strongly supported and means that it makes sense that at least one Aboriginal non-executive director be appointed, and this bill provides for that. I should note, however, that there appear to be no restrictions whatsoever as to SBS's advertising presence on its website, unlike that of the ABC, and that in fact what this bill provides for is essentially unregulated advertising. At least on SBS's channels—although we disagree with it, and Senator Birmingham was quite correct to point this out—the government when in opposition had a policy of opposing in-program advertising, for example. No such restrictions will apply online. I understand that the government is proposing this and that the coalition appear to have no problem at all with an unlimited and unregulated amount of advertising on SBS, so a Greens amendment on this matter would also be lost.

I also want to draw the attention of the chamber to an area that is frequently neglected, and that is our enormously important and valuable community broadcasting sector—not just neglected in this bill but, I would say, neglected during the entire course of debate on these issues. It is not specifically noted in the bills that television spectrum has been set aside for community broadcasters. The minister has, I acknowledge, publicly stated that a portion of this spectrum will indeed be reserved for community television as well as datacasting, narrowcasting and other services. So may I say to Senator Ludwig: if you are keeping a list, we are seeking an acknowledgement from the government—and I understand that will be forthcoming—that that spectrum be reserved for community television broadcasting. I understand that that commitment has been made. I would not mind an explanation as to why that did not make it into the bill, but if that is the government's intention then they should be happy to put that on the record tonight.

The community broadcasters deserve this spectrum. The community broadcasting sector provides a lot through up to 80 community TV licences reaching more than 3½ million Australians. The sector overall engages 23,000 volunteers, with more than 70 per cent of television and radio broadcasting stations located in rural, regional and remote areas providing a highly diverse range of services, including cultural and specialist talks programming, alternative news and current affairs, music of all genres, Aboriginal language content, print handicapped, religious, ethnic and multicultural services and so on. It is time that the community broadcasting sector was given its place in the sun.

During the course of an election year it may be that two metropolitan community radio broadcasters fall over, go dead, because the Australian government cannot find less than $1½ million to maintain the digital radio program. While we are handing back hundreds of millions of dollars in licence fees to the commercial broadcasters, acknowledging the pressure that they face, somehow the government has been unable to find $1½ million to prevent community radio broadcasters from going off the air. There is nothing on that in this bill and there is very little for the community broadcasting sector in this package.

The Greens are disappointed that the government has chosen to bring these important reforms through the parliament in such an unbelievably shambolic fashion. I have been here for nearly five years. There are senators in this place who have been here for much longer than that, but in my brief time here I have not seen a package handled in this way. We deserve and the Australian
public deserve a much better process. That is why we have the parliament; it is why we have the committee system; it is why we submit matters like this to debate; it is why we take evidence; it is why we hear expert views. To have, on matters as important as this, those processes short-circuited is extraordinary. Senator Macdonald is to follow my contribution. I expect him to give the government and the cross-benches both barrels for permitting what the government has proposed.

Senator Ian Macdonald: You are right!

Senator LUDLAM: Yes, quite right. I am looking forward to it, Senator Macdonald—not. However, I will concur with you that this is not the process that the government should have followed and nowhere have we seen a rational justification for why it has been done. Unlike the coalition, however, we did not reject this package out of hand. We think it is our obligation to protect media diversity in Australia. We have proposed some sensible amendments to the other package of bills, which the government this afternoon has accepted, and we believe that that is the way forward.

This is a diminished set of reforms. The story of convergence is not done yet. In fact, every day that we delay, some of the reforms that were proposed and reviewed in depth by the two reports become more urgent. We could in fact emerge from this process not simply with a regulator for print and a regulator for broadcasters but more than one regulator for print. Multiple press councils was in the government's original drafting. I am pleased that we have been able to at least close that loophole. We now believe that the remaining bills are in fact in the public interest, will help protect media diversity and should be passed by this parliament.

For tonight, however, the package that is before us involves only the two broadcasting bills, acknowledging that the government has undertaken to make some commitments on reviews for local content and a commitment for spectrum for community broadcasters. Nonetheless, and understanding that Greens amendments in these matters would otherwise be lost, we believe that these bills are at least a step forward and that they enshrine the important place of our national public broadcasters as they continue to break new ground and provide an essential service to Australians online here in Australia and now in the region.

Senator IAN MACDONALD (Queensland) (19:42): Senator Ludlam has the advantage of being able to comment on all six bills because he at least seems to know what the other four bills will say. The rest of us in this parliament will just have to wait until Senator Conroy, the minister responsible, and Ms Gillard eventually get around to informing the Australian people what sort of a deal they have done with Mr Katter, what sort of a deal they have done with various of the Independents and what sort of a deal they have done with the Greens political party. I want to refer to all six bills, because the way the Greens political party and the Labor Party will guillotine or curtail this important debate—one of the most important debates on freedom ever had in our country—is reminiscent of the totalitarian regimes of the mid-1900s. I will start with a quote said in a debate: To trivialise it by saying that it can be cut off at the whim of a majority—maybe the uninterested majority, at that—and to prevent those who find this matter extraordinarily and hugely important and deserving of the greatest consideration is very bad parliamentary process. I think it is unconscionable: the unconscionable is occurring to what we proclaim as the conscionable. It is bad parliamentary process and a total abrogation of the whole idea that, when we get to complex and
important ethical mileposts like this in the progress of our society, the matter should be given greater importance and should not be cut down by a guillotine …

Who said that? None other than the then leader of the Greens political party. That was just one of the flourishes that Senator Bob Brown and current members of the Greens political party would use on the rare occasions that the coalition in government did, after much debate, cut off the bill.

I remember, dealing with Senator Brown for 26 hours on the Regional Forest Agreements Bill 2002. We would not cut it down; we wanted everyone to have their say—the only person saying anything against it was Senator Brown. After 26 hours, we allowed the debate to go and that was on something as innocuous as saving the Tasmanian forests with the Regional Forest Agreements Bill 2002. Yet here we are with a bill dealing with freedom of speech in this country and it is going to be guillotined by Senator Brown's political party, the Greens, and the Labor Party.

We have heard Senator Ludlam concede that the process is an absolute shamble. We are not dealing with Tasmanian forests here. We are dealing with freedom of speech in this country, and the Greens and the Labor Party will curtail speech to a few hours. I should not be talking about those other four bills, but I know that I am not going to get another chance to talk about this because the Greens and the Labor Party will be savagely curtailing speech on those very important bills. Isn't it ironic that they will be curtailing freedom of speech on these bills that are all about freedom of speech in our country?

The coalition is deeply opposed to those parts of the overall package that have the effect of increasing regulation of the news media and diminishing or restricting freedom of speech. Senator Brown once confessed in a book that had he been around in Germany in the 1930s he would have been a member of the Hitler Youth. Perhaps it is appropriate, that the party that he founded in this parliament is taking the sort of actions that led to the establishment of the Hitler Youth in the 1930s.

This sort of thin edge of the wedge of government control of the media is the sort of thing that, if you look through history, is how totalitarian regimes started. Senator Ludlam, in his contribution, also acknowledged that our side would be attacking the Labor Party on the process. He said he agreed with us. He expected us to attack them. Yet, does it make any difference to the Greens? They still join with the Labor Party in everything the Labor Party wants them to do, even to the extent of curtailing and having government control over the media in this country. I know it was the Greens political party who originated the term 'the hate media', but you can see it coming into play now as the Greens join with Senator Conroy in introducing legislation that will effectively allow politicians and Labor Party puppets to control what goes into the press.

The imposing of these sorts of controls over the freedom of the press will bully and threaten those who would publish in the newspapers, on TV and on radio to toe the government line. Isn't that what this is all about? The Gillard government has, in recent times, been getting an absolute belting from every section of the media. I cannot remember when the Age and the Sydney Morning Herald were so anti the Labor Party. But even they now understand that this incursion into their right to print and say what they like is too much even for the Fairfax press to understand and to allow it to go through.

This legislation is the first government control over what is being published in
newspapers in Australia's peacetime history. There has been some need for censorship in times of war, but in a peaceful country, in a country that was until now as democratic as Australia, to have this control directly and indirectly over what papers and other media can say is something that I think most Australians find abhorrent. If the number of emails and phone calls to my office in the last three days is any guide, most Australians have the same view. The Labor Party will find out to their detriment. Unless they get rid of Ms Gillard and her current communications minister, and get someone who understands the impact on the freedoms that our country enjoys, then the Labor Party will be decimated at the next election. You do not need me to say that. Have a look at any opinion poll, but have a look at the polls in a few weeks after the full impact of this curtailment of the freedom of the press is concerned.

We also have this farce, which shows how the Labor Party has absolutely no interest in truthfulness or freedom or exposing some of the bad elements of these bills. There is a committee set up by this parliament called the Scrutiny of Bills Committee. It is set up in a bipartisan, non-partisan way to look through, without making any opinion comments, on different pieces of legislation. The terms of reference of that committee are to identify pieces in acts of parliament which:

(i) trespass unduly on personal rights and liberties;

(ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;

(iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;

(iv) inappropriately delegate legislative powers; or

(v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

That committee met when the first iteration of these bills came to the parliament and identified some particularly nasty elements of these bills now before the parliament. We have not yet had a look at the other bills.

It is very important in the normal course of events that, following the deliberations of the Scrutiny of Bills Committee in identifying these particular provisions that made rights and liberties dependent upon non-reviewable decisions or made rights and liberties subject to ill-defined administrative powers, members of the Senate have the benefit of the identification of those before they debate this bill.

But, again, thanks to the Australian Labor Party and the Greens political party we were even prevented from tabling that bill in time to allow senators to understand it. I would be committing a breach of the Senate standing orders if I were to tell you what is in the Scrutiny of Bills Committee report because it has not yet been tabled and discussed by the Senate, as it would in the normal course of events. But I am going to risk my hand, just to alert my colleagues to the fact that there are particular provisions, even in these first two bills—you would almost call them the two more innocuous bills of the whole package—that do unduly trespass on rights. There are provisions in the bills with retrospective effect. There are provisions in the bills that deny any merits review process—that is, once the decisions are made by these administrative authorities you cannot review them. That is almost unheard of in English jurisprudence. But these bills take away that merits review in certain instances. Very broad discretionary powers are given. The bills as presented give no indication of how you enforce what is said to be public consultation and a direction to consider any submissions received on the public interest media authority. So their decisions will be almost unchallenged.
There are provisions that trespass on personal rights and freedoms, privacy and freedom of expression. These were all identified by the Scrutiny of Bills Committee. But the Labor Party and the Greens would not even allow those to be tabled here before debate was to be held on those particular provisions. So not only will Labor and the Greens join together to bring these constraints on the freedom of our press before parliament but, by guillotining the debate, they are preventing any other aspect of these bills that would really frighten the general public if they understood them completely from being identified. The alerts of these horrendous provisions of the bills are not even allowed to be tabled in this chamber.

Senator Siewert: Mr Deputy President, I rise on a point of order. That amendment did not get up to allow those reports to be tabled, but the government then gave leave and Senator Macdonald said no.

The DEPUTY PRESIDENT: Senator Siewert, that is a debating point; it is not a point of order.

Senator IAN MACDONALD: Thank you, Mr Deputy President. The President, when he is in the chair, is supposed to be balanced and supposed to not take sides. If the President said something—and I am not quite sure what that had to do with the debate and I would comment outside this chamber otherwise on the President's handling of the whole issue—the facts will speak for themselves, Senator Siewert. You have a look at it in Hansard. Leave was sought and was refused. The amendment was moved and it was opposed by both the Greens and the Australian Labor Party.

The Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Subcommittee, like the Scrutiny of Bills Committee, looks into pieces of legislation that impinge upon human rights in our country. It is a joint committee made up of members of both houses, members of all parties, with a preponderance of Labor Party members. This is what the joint committee said in relation to these media bills, and I quote:

'On the basis of the material provided with the bill, it is difficult to assess whether the limitation of freedom of expression is justified.'

So there is no doubt in the mind of the subcommittee on human rights, with a Labor majority, about accepting this bill brings a limitation on freedom of expression. Their comment is: 'There is nothing in the material to say why that limitation on the freedom of expression is justified.' They go on to say, 'Neither the explanatory memorandum nor the statement of compatibility demonstrate why these reforms are necessary.' They said 'reforms'; I would not call them reforms. But that was the joint parliamentary committee, with a Labor majority. Clearly, they are not
of Senator Conroy's faction, the Labor members on that. But I would ask those Labor members of this chamber who are on that committee to explain to the Senate why it is they say that they accept there is a limitation on freedom of expression and why they say that there is nothing in the material or in the bills that justifies this curtailment of freedom of expression.

I know, as I started to say before, that this government has been hammered by the media across the country, and that Senator Conroy does not like it. Ms Gillard does not like it. So what do you do? Try and improve your performance on the things the media are rightly criticising—things like Ms Gillard lying to the Australian public prior to the last election—

The DEPUTY PRESIDENT: Order! Senator Macdonald, you will have to withdraw that about the Prime Minister.

Senator IAN MACDONALD: About Ms Gillard lying?

The DEPUTY PRESIDENT: Yes, and not repeating it.

Senator IAN MACDONALD: Okay, I withdraw that. Sorry, Mr Deputy President.

Things like Ms Gillard deliberately misleading and telling untruths to the Australian public before the last election. And the media criticised her for that, validly. But Senator Conroy and Ms Gillard do not like that, so what do you do? You do not try and run a decent government that is honest and democratic; you shut down the media. You are certainly going to put in a government watchdog over the media which will make sure that the government's view predominates.

No other Prime Minister in Australia's history has ever attempted to muzzle the press as Ms Gillard has done. You might recall that she had a go at this a few years or so ago when she called in the media proprietors. They were running stories about her dodgy dealings as part of Slater & Gordon, with the slush fund for the unions. You will remember when those stories were being accurately reported and that Ms Gillard did not like that, so she called the media proprietors in. She threatened them at the time, and for a moment it did have some use.

Mr Deputy President Ludlam, I wonder if you are going to keep talking all the way through my presentation? Are you going to keep talking to the minister all the way through my presentation?

The ACTING DEPUTY PRESIDENT (Senator Ludlam): Order! Senator Macdonald, you have the call.

Senator IAN MACDONALD: I would just like the chair to ensure some order here and stop this minister—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, I do not need your assistance in chairing the chamber! You have the call.

Senator IAN MACDONALD: Well, that is a question for debate, Mr Acting Deputy President. But this minister—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, that is a reflection on the chair and I ask you to withdraw it.

Senator IAN MACDONALD: I withdraw.

The ACTING DEPUTY PRESIDENT: You have the call.

Senator IAN MACDONALD: Mr Acting Deputy President, here is the minister, trying to curtail freedom of speech, and here he is distracting you yet again in the rudest, most unparliamentary way. And you, Mr Acting Deputy President, are acquiescing in his conduct that is anything but
parliamentary. But what else can you expect—  

**The ACTING DEPUTY PRESIDENT:** Senator Macdonald, that is a reflection on the chair and I ask you to withdraw it!  

**Senator IAN MACDONALD:** Well, Mr Acting Deputy President—  

**The ACTING DEPUTY PRESIDENT:** Senator Macdonald, it is not a debating point. I ask you to withdraw that reflection on the chair.  

**Senator IAN MACDONALD:** I withdraw it, Mr Acting Deputy President. Can I ask you when you are going to sit this minister down? He does not—in fact, I will take the point of order. I will stop my speech here so I do not—  

**The ACTING DEPUTY PRESIDENT:** Senator Macdonald, there is no point of order before the chair—  

**Senator IAN MACDONALD:** I am taking a point of order, I am sorry!  

**The ACTING DEPUTY PRESIDENT:** You cannot during your contribution, Senator Macdonald. You have the call.  

**Senator IAN MACDONALD:** On what ruling is that?  

**The ACTING DEPUTY PRESIDENT:** Are you seriously proposing that you are taking a point of order during your own contribution?  

**Senator IAN MACDONALD:** Yes. Mr Acting Deputy President, my point of order is that the minister, in breach of parliamentary orders, is wandering around the chamber, chatting with you—  

**The ACTING DEPUTY PRESIDENT:** Senator Macdonald, that is not a point of order.  

**Senator IAN MACDONALD:** Is it not a breach of standing orders?  

**The ACTING DEPUTY PRESIDENT:** Senator Macdonald, it is not a point of order, as you well know. Please continue with your contribution.  

**Senator IAN MACDONALD:** Mr Acting Deputy President: you have the Greens political party, you have the Labor Party and a minister who has no interest in the freedoms which Australians have enjoyed since time immemorial. This package of bills are bills which must be defeated, and I certainly hope that somewhere during the course of this debate that the Greens political party and some of those in the Labor Party who have been criticising it internally will have the courage to do something about it. *(Time expired)*  

**Senator XENOPHON (South Australia)** *(20:05):* I note that there are 22 speakers after me in relation to this debate and that this debate is due to conclude at 9 pm. To say that this is an abrogation of our duties in the Senate to properly review legislation would be an understatement. But this is the way it is. You have to cut your suit according to your cloth, and in this case I think we might be able to make a pocket. It will be made of crimplene.  

This is not a good way to legislate, and I think we should look at the commentary by Seven West Media, which said, 'It is disrespectful to both industry stakeholders and the parliament for such a complex and significant package of legislation to have been announced, introduced, considered by committees and voted on in little more than a one-week time frame'. I agree with those comments from the Seven network.  

I do want to congratulate the Environment and Communications Legislation Committee and its secretariat for their heroic effort in managing to produce a comprehensible and comprehensive report in relation to this package of bills. I will confine my comments
to two or three points, because I am aware that there are many other speakers who wish to make a contribution. And there is a letter, an important piece of correspondence that I received from Senator Conroy, that I will seek to table with the consent of the chamber.

I think it is fair to say that the key issues in these least controversial bills, the one in relation to Australian quotas—and I want to say parenthetically that I do not support the regulator being proposed by the government in any shape or form; I think that is fundamentally wrong. It is an intrusion on a free press and also it sets a dangerous precedent, so if those bills get in here I will not be supporting them—that the bill is somewhat vague in terms of the definition of 'Australian content'. The Media, Arts and Entertainment Alliance said that they were concerned that the quotas would not be increased under the provisions of the Broadcasting Legislation Amendment Bill—this bill. The MEAA concluded that:

The bill as it stands ... will result in a dilution of Australian drama on the main channels. Insofar as it is fulfilled on the digital channels, it is likely to result in lower average licence fees.

That, I think, is a very real issue, although there is an argument regarding the definition of Australian drama, which includes fully scripted sketch comedy, whereby some people listening to the proceedings earlier tonight might have thought that we could have complied with the Australian drama provisions!

There is one issue that I am particularly concerned about, and that is local content. I introduced legislation into this parliament last week, triggered by WIN TV pulling out of its regional television broadcasts in the Riverland and in the south-east of South Australia, which has a big impact on those communities, because of an anomaly in the legislation. I have moved an amendment to ensure that there is a review of section 43A of the Broadcasting Services Act. That amendment would require that the minister, within three months of the date that this act receives royal assent, direct the chair of the Australian Communications and Media Authority to undertake a review of the section with a particular focus on the importance of broadcasting material of local significance to people in distinct regional areas of Australia, and a whole range of other measures which I think are pertinent and which are relevant. While the government has indicated to me that it will not support it, I have received correspondence from the minister just a few moments ago. I seek to table this letter from Senator Conroy, dated 20 March 2013, in relation to the amendment.

The ACTING DEPUTY PRESIDENT: Leave is sought by Senator Xenophon. Is leave granted?

Leave granted.

Senator XENOPHON: I table a true copy of that letter. Can I say that despite whatever differences I have with Senator Conroy about other aspects of this legislation, I am grateful that the minister has agreed to effectively put into place, through his direction to ACMA, such an inquiry into local content, which I think is an unambiguously good thing for regional broadcasting in this country, and will be of particular significance to my home state of South Australia. I think that will be a good process, a thorough process. It effectively is almost identical to the amendment that I have moved. I think that is a win for regional television not just in South Australia but in Western Australia and the Northern Territory as well.

The process is deeply flawed. The process of these bills is completely unsatisfactory, but it seems that these two bills on
convergence in respect of license fees will go through tonight. They are a package which I think there is general consensus on. I will be supporting the amendments that you, Mr Acting Deputy President Ludlam, have foreshadowed for the Australian Greens about greater Australian content. I think that is a good thing.

I am very pleased that the minister has agreed, and I am grateful, that there will be, through ACMA, a thorough review of regional broadcasting and local content that is of significance to regional communities. With those remarks, I can indicate my support for this legislation and I think that we should just get on with it. I think it is also important that if the other bills get to this place, they must not be rushed through this chamber because there are some fundamental issues involving freedom of the press and free speech that must not be guillotined, and their debate must not be constrained.

Senator SINODINOS (New South Wales) (20:11): Tonight we are debating the first two bills, as I understand it, and may I say that the coalition is willing to support the Television Licence Fee Amendment Bill and the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill.

If these bills are ultimately voted upon as stand-alone propositions, these bills include measures that reduce the annual licence fees paid by commercial broadcasters, set new Australian content rules for multichannels, and amend the ABC and SBS charters.

The coalition will move an amendment to one measure in the Broadcasting Legislation Amendment Bill 2013 which has the effect of ensuring that only the ABC may offer Commonwealth funded international broadcast services such as Australia Network and Radio Australia. The coalition believes that these publicly funded services should remain contestable.

In talking about these particular bills, I do have to make some points about the process by which we have come to this particular point. I echo the sentiments, and what has actually been said, by the Minister for Regional Australia, Regional Development and Local Government, Mr Crean, who complained about the process by which this package of bills has come to the parliament, and the process by which they were developed. I think that we are all concerned about that process. It was described in one of the newspapers today as a 'mining tax moment'; in other words, a process by which an industry was effectively mugged by the detail of the measures that the government was considering.

This is not a good way to develop policy, particularly in relation to significant industry sectors that are undertaking substantial structural change. I have long believed that the best way to get structural change is to take people with you, to take industries with you. I do not believe that we have had the sort of proper public debate that would allow us to come to a sensible, national consensus about these issues. The reason I say that is that some of the issues that we are talking about today are fundamental to the nature of our democracy. That may seem a somewhat big statement to make. Yet when we talk about a situation where potentially, for the first time, in some of the bills and legislation that has been foreshadowed we can have a form of censorship of the print media in peace time, we are really talking about a very radical change to the political culture and the regulatory culture of this country. That is something that we should think very carefully about.

We have a government which, under its previous Prime Minister, Mr Kevin Rudd—
someone who is again apparently seeking high office—boasted at the height of the global financial crisis that he would put government at the centre of the economy. In doing so, he was echoing something that he had said in his maiden speech—it is interesting how maiden speeches come back to haunt you or to reflect what your real instincts are—which was that he was about putting government at the centre of the economy. The particular measures that we are discussing, or will be discussing, all go to this issue of the role of the government in regulating certain sectors of the economy. There is no doubt that we have government to do certain things as a collective that we as individuals, families or communities cannot do. But we also boast of the freedom of the press as one of the pillars of a free society. In fact, some of us go further and say that there are times when the law should be broken in order to promote the dissemination of information. You, Mr Acting Deputy President Ludlam, are one who has upheld the principle that there are times when there is a greater public good to be served by the dissemination of information that might otherwise be restricted by government or other authorities. I respect that point of view. I may not always agree with it in all circumstances but I respect it.

Here we have a situation where we talk about the government seeking to do things which are not based on some rigorous assessment of the national interest but, in part, on a view that there are parts of the media which should be silenced because they take a particular stance about the government of the day. I have worked in governments and oppositions that have taken a view about who in the media supports or does not support them. I can recall an instance, for example, when a former Prime Minister, Paul Keating, blasted former Managing Director of the ABC, David Hill, in the corridors of Parliament House because he was not happy about the coverage of the then government by the ABC.

The fact of the matter is issues of bias in the media are very much in the eye of the beholder but we as a parliament—as a collective—have a responsibility at times like this to rise above that and take a broader perspective. I do not believe we have had a process which promotes proper consideration of the very serious issues here at hand. I do not believe that the content of some of these bills we will be debating meets a rigorous test of what is in the national interest. I fear what is happening in this country today is that the political fever is rising, and that is leading to a situation where we are unable to consider issues with a proper national perspective.

Some people may say, 'That is a terribly partisan comment to make. You are blaming the government of the day.' I blame a lot of things. I also blame the spin cycle. I blame the 24-hour media cycle. They are leading to a situation where people feel that they have to fill the media gap, because if they do not someone else will. We are living in a society where increasingly there are so many sources of information available and so many ways in which you can express yourself. Look at the Twittersphere or the blogosphere; look at some of the language and concepts which are peddled in those contexts. In a sense, these bills only deal with the tip of a very large iceberg—and maybe we should not want to deal with that iceberg.

As a society we are faced with issues that are much broader than the issues here. What I fear is that these bills are motivated in large part by angst about a section of the media and its relationship with the government, as opposed to those broader issues. Yes, it is true to say there is convergence in the media, and we have to deal with that, but the reality
is it is very hard for governments and parliaments to deal with convergence of the media. We can try to establish standards and regulate in certain ways but the reality is the way the media is evolving—the forces of creative destruction, if you like, through the advent of technology—is changing the very media landscape we are talking about in ways we find very hard to predict.

The reality for us is there is a point at which we have to stand back and see where the process goes. It is not easy for us to really manage the process of change in the media at the moment nor should we try to do that. I understand why, at times, people say, 'Well, we've seen what's happened in the UK. We do not want to go down the UK route.' The fact of the matter is that what happened in the UK did not happen here. That is not the model that we should follow. If the model is 'Let's try to use what happened in the UK as an excuse to get at certain media in Australia because we don't like them,' I do not think that argument washes.

Broadcasting has always been a terribly complex area because the people who control broadcasting, television and the media have a lot of influence in our society. That is true. The only way to deal with that influence, in my view, is to create a more contestable marketplace. It is not by seeking to regulate the media, in the name of government, in ways that potentially infringe on freedom of speech and personal liberties. I know this is a hard argument to take sometimes. People say, 'Well, governments are there to do things.' Yes, that is true, but sometimes the best response of government is to do no harm as opposed to trying to do something. In this particular case I believe what we must do is follow the logic of where technology is taking us.

I remember years ago one of the founders of Apple talked about the role of technology and personal computers in democratising society: going from a situation where you had big pieces of hardware controlled by corporations to a situation where everybody had a PC on their desk, democratising information and its dissemination. Thomas Friedman talks about open source information, open systems and all the rest of it. Other people, management theorists, talk about how the workplace of the future is going to be modelled on open source systems where your contribution is judged not according to where you are in the hierarchy but according to the intrinsic value of what you are saying. They are using open source architecture in IT as a metaphor for where the future workplace should go. Ultimately, that contestability is the best way in which we can deal with some of these media issues, not by seeking to control old media like print and creating some template based on this idea that they need to be controlled—that you need to replace the media barons with some media advocate appointed by the government. Remarkably, there was discussion in the other place about the Council for the Order of Australia, through a panel of eminent persons, appointing the public media advocate.

My only reaction to that is: who guards the guardians? Ultimately we need to have an industry response to some of these issues which creates greater contestability and which also creates people taking on more personal responsibility—and this is a broader issue than just media. What is happening in society today is that we seem to be continually outsourcing the government to be some sort of moral arbiter on our behalf. We have to have a situation where people also take responsibility for what they say. We see this increasingly in the Twittersphere and blogosphere with some of the stuff that
people spew out there. We need to create a culture where people actually have regard for other people and respect for other people.

My view is, and has remained for a long time, that that element of personal responsibility should not be overlooked in the rush to have government regulate these things. The danger when you have government regulation is always how you can know that the government of the day will act in the 'national interest'. The national interest is always mediated by who happens to be the government of the day, so you have always got to make sure that they are acting from the best motives. All of us, government or opposition, have our strengths and weaknesses, but none of us are the repository of all wisdom. We are not omniscient. For me, there is a real dilemma about the extent to which government sets the rules.

It is true that, through the parliament, you have a clearing house, you have different views, and that clash of views can hopefully lead to a consensus about how to regulate things appropriately. I am concerned about some of the provisions that have been put into some of these bills and the impact they have on the freedom of speech in our society, or the potential they have to restrict that freedom of speech. Yes, I understand the point that people are concerned about the concentration of media ownership, but we already have a number of mechanisms to address those particular issues. We do not need a public interest arbiter on the top of that particular process.

Can I say, on the issues of local content, that I have been surprised and impressed by the extent to which local content has increased in the media in Australia. I think the reason for that is not just because of how we have regulated it but because Australians want to see Australian content. We should not apologise for that and we should not see that as something surprising. It is true of Americans, it is true of British people and it is true of others; we like to see our own content, and that is something that I think we can really build on. My only gripe about that is that I believe we can do more to promote Australian content into the region and elsewhere. I think people are interested to know about Australia, about what we do and about Australian stories because we are a unique culture. The mix we have here is unique in terms of the Indigenous component and our multicultural community. The important thing is that we have something to offer the world that is unique. I do not think that we have to worry about Australian content; Australians want it and it is a great base to build on for the future.

Finally, without being particularly critical of the minister, may I say that I feel sorry for the minister. He was sent out there by the Prime Minister with certain instructions about what to do. With the relish that he brings to any task, that minister went out there to kick heads. He said that it was a 'take it or leave it' scenario and that there would be no negotiation. That, of course, has collapsed in a heap. The Prime Minister has come in to try and resolve the situation and negotiate some compromise on important matters in these bills with the Independents and the crossbenchers, but in the process, the issue of media regulation has become conflated with the issue of the leadership and judgement of the Prime Minister. All I can say in that regard is that it is yet another example, not only to this parliament, but to Australians out there who are watching, of the capacity of this government to shoot itself in the foot. On that point, may I say that, when Australians are looking at the evening news, they see the shemozzle on media regulation, they see the shemozzle on the Labor leadership, and they ask themselves, 'How can the Australian government have been
brought to this point? We all have a responsibility to uphold high standards in this place, and I, along with others, from time to time, probably should have done better in that regard. However, the point I make now is that the minister has a responsibility and an obligation to act in the national interest. He has failed that test and he has taken the Prime Minister with him.

Senator MADIGAN (Victoria) (20:27): I rise tonight to speak about the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and the Television Licence Fee Amendment Bill 2013. The guillotining of legislation leaves me at a loss. When I came to this place, I thought it was going to be a house of review. For the life of me I cannot understand how we can be a house of review when legislation is continually guillotined.

I do not doubt that there are probably some credible things in both of these bills presented to the House, but I question whether these two bills before the Senate tonight are the sweets before the poison. People often say to me that the devil is in the detail, or in this case, I fear, the devil is in the lack of detail. I do not know how anybody could possibly get their heads around such a complex couple of pieces of legislation, leading onto what we have got to look at tomorrow, and do these bills and do our constituents—the people we represent in this place in our states—the duty of care that we owe them as members of the Senate. We have got issues here in the bills after this of the Public Interest Media Advocate. I ask, who polices the police? We are on the verge of giving things to a bureaucracy that we do not even know the detail of, and people in the community honestly fear what this is about.

People I speak to quite often have criticisms of the media, and there are a lot of injustices done and people's characters besmirched in print and in television. But anybody who cares to look at some of the other forms of media will find that there are greater atrocities there that go unchecked. So be careful what you wish for because as you erode the rights of one you erode the rights of all. This will come back to haunt whoever occupies the government benches and for whomever holds the balance of power in this parliament after the next election. Holding the balance of power is not a licence to bludgeon the government, no matter who that government is; it is a privilege and it is a great responsibility for whoever holds that balance of power not to guillotine legislation, but to give the Senate the right that it deserves to do what it was elected to do by the people—that is, to vet legislation.

So as much as there may be some good things in this, I cannot honestly say to my constituents in Victoria that I can vote for any piece of legislation that has just been rammed through this place. It means we as senators cannot do our duty to our constituents. I will not be voting for any parts of any of these bills because this is an abomination of the review process of this house.

Senator McKENZIE (Victoria) (20:31): I rise to comment on the Television Licence Fees Amendment Bill 2013 and the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013. I acknowledge the coalition supports these bills—two of the six in the package rushed through this week. The package was going to be 'take it or leave it', but there has been a little bit of leaving and a little bit of giving, and so here we are tonight with two of the original six that started out last week.

Like my coalition colleagues who have been commenting on these two bills today, I
am outraged at the process that the Labor government has undertaken in bringing these bills to this place as part of the supposed media reforms. Like Senator Birmingham, I was part of the very, very brief inquiry into this package of bills over the past two days and I would like to put on the record our sincere thanks to the secretariat of the Senate Environment and Communications Legislation Committee for staying up late, getting up early and getting quite a comprehensive report on these bills done given the time frame.

Submitter after submitter to that brief inquiry was asked whether the bills before them actually reflected in any holistic or comprehensive way what their individual take of the convergence review was going to be, and whether it was representative of the reforms that they hoped would occur. The union leaders, the industry executives, the academics—one and all—said no, this particular package of bills was not what they thought they would be getting after such comprehensive reviews as the Finklestein and the convergence reviews.

The bills before us tonight we are supporting as a coalition. They include measures that reduce the annual licence fees paid by commercial broadcasters, set new Australian content rules for multichannels now that we live and work in a digital age, and amend the ABC and SBS charters. Importantly, these bills have the support, I believe, of the commercial broadcasting industry. It is important, if you are going to fundamentally change an industry, that you get their support and you get them on board. It will be a tool to assist these businesses to run profitable, successful enterprises in the new media landscape and that is a good thing for Australian content and for Australian consumers.

Much has changed in the television broadcasting landscape in Australia since it first came into our homes in the fifties. Gyngell's 'This is television' speech in 1956 opened the doors to what has been an astounding nearly 60 years of change and growth. In 1961 regional television commenced with the launch of commercial stations like GLV 10 Traralgon, GMV 6 Shepparton and BCV 8 Bendigo and a local voice was given to regional and rural Australia. As a young child, my first understanding of broadcasting and television occurred when, five days before the 1977 AFL grand final between Collingwood and North Melbourne, we became the third family in my very small country town to get a colour television as my father, who was a Collingwood supporter, refused to watch the next week's game without knowing who was who in the zoo.

From 2000 to now we have seen a switch from analogue TV to digital, network multichannels and more viewing choices and more competition for ratings than ever before. The Television Licensing Fees Amendment Bill 2013 will result in a reduction fee for commercial broadcasters of approximately $140 million a year, bringing broadcasters in line with their international counterparts that pay lower fees. These licenses, when they were originally granted in Australia, represented the only way in which people could receive audiovisual entertainment and, indeed, news and information into their homes. Those days are largely confined to history now as we have radio, digital radio, television, news broadcast, live-streaming to mobile phones—particularly in urban areas—and any number of commentators giving live news updates via Twitter.

The coalition and The Nationals particularly understand that a thriving and healthy broadcasting industry provides a
strong platform for television networks to be competitive and to continue to evolve as storytellers, enterprises and news service providers in our local and national communities. The current broadcasting landscape poses great challenges for free-to-air television stations. They face more pressure than ever to fast-track programs from overseas or run the risk of having viewers download them from the internet and possibly not tune in to television at all. As we have seen, expanding online availability of TV programs and other forms of entertainment also poses a threat to advertising revenue for television networks. So the reduction of fees is a good thing for industry.

The Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 changes the rules that prescribe the amount of Australian content on commercial television to enhance the availability of such content. The current requirement is 55 per cent of local content during prime viewing hours on main channels, and that will be lifted by legislation. Additionally, an Australian content quota will be introduced for multichannels operated by the three major networks. When we talk about local content we are talking about drama programs featuring material written by Australian writers, using Australian actors and filmed in Australian locations—such iconic productions as *The Slap* and *Underbelly*.

The commercial television industry invested $1.2 billion in Australian content last year. Obviously, given the support on this side, we hope that that continues to grow. As Senator Sinodinos mentioned, we have a unique place, unique stories to tell and a unique landscape to celebrate. Broadcasting is a way of bringing us together to do that. It also means investment in job opportunities and other economic flow-ons for this industry.

The bill will give networks more scope to meet their content obligations for drama, documentary and children's programs on their multichannels. This is of immense importance and value to enshrining the amount of those types of programs on Australian television. In fact, in evidence given on these reforms to the joint select committee on the reach rule Mr Gyngell, CEO of Nine Entertainment, said:

The future of broadcasting is local content. It is what defines us and it is why 47 of the top 50 shows on television last year were all Australian; out of that, the top 20 shows were Australian.

Whilst I acknowledge the concerns of the Media Entertainment and Arts Alliance that the content quota should be higher, I think that is something to celebrate—that Australians are actually choosing to watch Australian programs. That should be evidence enough that we support local content.

The importance of local news to regional communities was one of the key messages from the Convergence Review's consultations around Australia. Commercial free-to-air broadcasters using spectrum should continue to program material of local significance. That was a fact that broadcasters themselves were cognisant and supportive of.

As the Convergence Review stated:

Australia's media landscape is changing rapidly. Today Australians have access to a greater range of communications and media services than ever before. Developments in technology and increasing broadband speeds have led to the emergence of innovative services not previously imagined.

These services take a number of different forms. In Bendigo we have our own IPTV station, where people can view lifestyle information programs and news bulletins made in and for the residents of Bendigo by streaming it onto their laptops, tablet devices
or mobile phones. That is a fantastic development for many people in regional areas. However, services like IPTV, iView et cetera are still not available in a number of towns—even in my home state of Victoria. Towns like Jumbuk or Mirboo North, in the state's south, do not have broadband coverage. These places need Australian drama programs, sports and news, national and local, delivered to them via a medium that they can access, and, for the moment, that is television.

Around the issue of the convergence of media there have been some conversations around local content and the importance of it to regional communities. I highlight the need that regional Australian communities have access to local media and local content, specifically news and weather produced locally, because it helps us do our job. When you are relying on local weather patterns to ensure that you put your crop in at the right time, that actually makes a difference to the whole economic viability of your local community. Having that local content—not just the diversity of voices at a national level which, as we know, has increased over time—is important. We are an incredibly diverse media environment nationally, but, as a National Party senator, I am very concerned that that diversity is also represented at a local level.

Several witnesses have outlined their concern that legislation that will be coming before the Senate in the future, but also the concurrent discussions we have been having as a community on the removal of the 75 per cent reach rule, would significantly impact on the diversity of local content offerings. The CEO of WIN Television, Andrew Lancaster, stated his concerns about the removal of the 75 per cent reach rule very plainly:

It would be the end of regional television … there would be no differentiation between what comes out of Sydney and what is aired in Victoria. However, the Convergence Review presented no evidence on what proportion of Australians use the internet or watch TV, nor did it analyse what would be the impact on regionally produced news or local content if the rule were to be removed. It did not make a compelling case to remove the reach rule. The proposed removal of the rule, along with three other rules around ownership, covered just half a page in the convergence report. Whilst it was a guiding principle, as stated earlier, to ensure local news coverage in regional areas, the report itself really did not go to solving the problem.

On the issue of converging media contributions to an increase in the diversity of media voice in the Australian media context, throughout the Senate inquiry into the whole package of bills, the ABC made reference to the fact that increasingly people access news and current affairs programs through wireless computers and tablet devices. I again reiterate the fact that we do. When I am in Parliament House that is exactly how I access my news and current affairs and even my weather, because I have access to a fantastic wireless signal. However, it is important to note that this is simply not the case in so many places in regional Australia. Until that is the case and until regional Australians can access the diversity of media voices in the same way that their urban cousins can, obviously any move to change legislation or the act in a way that would in any way diminish local content must be challenged.

The government's proposal to remove the reach rule has not been properly explained and fails the government's own guidelines for regulation making. It is misleading because the government has spoken of safeguards to protect local content but it has
not outlined what they would be. Obviously, National Party senators will not support the removal of the reach rule.

I am conscious that there are many coalition senators who have something to say about the draconian way that this Labor government has once again usurped the people and has once again usurped the processes of this place in guillotining our conversation on legislation that actually matters to people's lives, to their businesses and to how they are informed and can ultimately participate fairly in a democracy. The rushed nature of this inquiry has already been commented on and I have made my own comments around that. It is absolutely ridiculous that here we are commenting on, as the minister has said himself, reviews and consultations that have gone on for upwards of five years yet we had a two-day Senate inquiry and four days to actually examine the legislation and make decisions. It is completely unacceptable when you look at the outcomes of the rest of the package that will be coming before us.

We are being asked to support the setting up of a regulator that will actually set the standards for media outlets and thereby the journalists who work for them. It is absolutely abhorrent in a society that values, appreciates and is built on the concept of freedom of the press. When the minister can hire PIMA, when the minister can sack PIMA and when PIMA reports to the minister, we cannot stand here in all good conscience and say that PIMA will not give any regard to what the minister thinks about its decisions.

That goes no way to actually commenting on once again another classic Labor bill before us with lack of detail. I go to sections of the legislation that may be before us tomorrow. The legislation uses vague terms such as 'fairness'. I do not think it is the media's job to be fair at all. Who is going to be crying foul of that fairness? I could go on for hours on the faults in that bill, but I do, however, support the two bills before us tonight. I look forward to watching a lot more Australian content locally.

Senator SMITH (Western Australia) (20:47): I also rise to speak on the Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013 and the Television Licence Fee Amendment Bill 2013, but before I do I think it is important to remind those who might be listening to the Senate this evening across Australia that this afternoon we saw the peak of this government's disregard for proper parliamentary process and proper parliamentary scrutiny of legislation. We have heard much in the last few days about the importance of a National Disability Insurance Scheme but what we saw today was total disregard for proper parliamentary participation and bringing that debate to a proper conclusion. Instead we saw it guillotined, as we have seen with these bills. At nine o'clock this evening the debate will end on these bills and they will be put to a vote. It is disappointing that I and other senators may not have—

Senator McKenzie: Shame.

Senator SMITH: Shame, indeed. It is a great shame for those people who put great value on our parliamentary traditions in this country.

As has been indicated to the Senate, the coalition does not oppose these bills. The purpose of the first bill is to amend the Broadcasting Services Act 1992, the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991 to enhance rules surrounding local content to provide networks with more scope to meet their content obligations and make
changes to the charters of both the ABC and SBS to reflect their online activities.

As Senator Birmingham has already indicated, the coalition will move an amendment to deal with the provisions of the bill that prevent outlets other than the ABC from broadcasting taxpayer funded international news services. The purpose of the Television Licence Fees Amendment Bill 2013 is to permanently reduce the annual licence fees payable by commercial television broadcasters by 50 per cent to 4½ per cent on gross earnings. As I indicated a moment ago, the coalition will not oppose these elements of the government's media reform proposals.

Yesterday during my comments when taking note of answers in this chamber I said that people throughout this building were wondering which would go first: Senator Conroy's reforms or the Prime Minister's leadership. The House has not passed the remaining elements of the media reform package tonight, as I understand it, Senator McKenzie—and others might have a different understanding—and the House has now moved to the adjournment debate. It is clear to me, and I am sure to many others watching this charade, that the minister's reforms are now in very desperate trouble. It remains to be seen how much longer the Prime Minister's leadership will survive them or indeed how long Senator Conroy's stewardship of these reforms will actually survive.

While the coalition does not oppose these bills, I do have to express my deep concerns regarding other aspects of the government's proposed changes to media laws which will have a deleterious impact on the freedom of the press in this country and contain the most disturbing ramifications for the operation of our democracy. No Australian should be under any illusion about the seriousness of what is being discussed in relation to the other bills that form part of this total package. For the first time in our country's peacetime history the government is proposing to regulate the content of the news Australians read and digest. This is a most extraordinary step for any democratic government to take. What makes it all the more baffling though is that, after all the discussions on this issue over the last week, neither the Prime Minister nor Minister Conroy have been able to offer a single solitary example of why they need to introduce this regulation.

The government is proceeding to try to pass these bills with unedifying speed. The minister announced on Tuesday last week that the legislation would be introduced and demanded its passage by the end of this week. The legislation did not actually appear in the other place until Thursday. It was not actually debated there until yesterday, and it was pushed through and presented to us here in the Senate with the demand that we get it all passed by the end of this week. As I understand it, the government is still struggling to get a deal to pass the rest of the package through the House of Representatives.

Normally that kind of speed is referred for dealing with legislation required to handle the gravest of crises—a natural disaster or an imminent invasion. So quite naturally we on this side of the chamber, the media and the Australian people are left asking: why the rush? Why the great speed? What is the crisis here? Where is the emergency? What is going on that demands the sort of pressure the Gillard government is placing upon this parliament and our democratic process in demanding it pass some of the most far-reaching reforms to media law imaginable in a democracy by the end of this week?
Of course, we all know what is going on really. The government is not pushing these bills on their merits; it is not even really trying to defend them on their merits. However, this is no longer a government that governs by prosecuting its arguments and attempting to persuade people that it is right on the issues. That time passed a long while ago. This week we have all seen that Labor are far too busy focusing on being a political party to worry about being a government. Legislation is introduced and then casually abandoned. Ministers are briefing against the Prime Minister in the media and then issuing non-denial denials to try and cover it up. There are fugitive meetings in far-flung corridors in this building as the assassins sharpen their knives. During question time in the other place, a procession of members make a pilgrimage to the member for Griffith's place on the back bench, doubtlessly pledging their loyalty to the once and future king. It is a pathetic sight: the once great Australian Labor Party brought low by a rabble of second-rate union hacks, faceless men and bewildered malcontents motivated by nothing other than the need for personal survival.

The total absence of leadership or even purpose within Labor ranks has been especially evident during the debate on these media law reform bills. Labor members and senators do not have a clue why they are being asked to rush these bills through our parliament. They just know they need to pass something—anything—to show that they are still alive and to try and hoodwink the Australian people into believing they are still governing.

Some of the performances we have seen from the government in its attempts to promote its changes to media laws have been absolutely pitiful. When asked to justify the rationale for these changes, Labor representatives have variously tried to claim they are protecting diversity in the media, protecting privacy or trying to civilise the tone of our public discourse. During Monday's committee hearing, Senator Cameron referred to the UK phone-hacking scandal as justification for these laws. Precisely why the Australian parliament needs to legislate in response to events in the United Kingdom when there is no evidence whatsoever of the same thing occurring here in our country remains a mystery to me, to the public and to many, many others—and, I suspect, to most Australians.

So, while the coalition is supporting these two bills, should the House pass the remaining bills within this package tonight the coalition will oppose them in the Senate for two primary reasons. The first is the creation of the Public Interest Media Advocate. This individual—or it could be a committee; we do not yet know, because the government cannot yet tell us—will be responsible for protecting the public interest. They will be enforcing a public interest test. They will use this test to determine whether media acquisitions can proceed by determining if such transactions are in the public interest or in the public benefit. How are a public interest and a public benefit to be defined? The short answer is that they are not, and that goes to the nub of what is wrong with this whole suite of proposals. What is the test? The government cannot tell us. How will it be applied? The government cannot tell us. What is the length of the Public Interest Media Advocate's term? What is their salary? The government cannot tell us any of this. The government is asking us to give huge, sweeping powers to the Public Interest Media Advocate, a person or body appointed by the government and answering to the government. Yet the government is unable to define the scope of these powers. In a free, liberal democracy like Australia, that fact alone should send a shiver up the
spines of all of us. I draw the attention of senators to the words of Mr Greg Hywood, the CEO of Fairfax, who noted the other major problem with the Public Interest Media Advocate:

The practical application of this legislation is that it sets up a model where a minister of the government can pick up the phone to his own appointee and say 'fix it', fix it being 'get the media off our backs'.

Senator McKenzie interjecting—

Senator SMITH: Thank you very much, Senator McKenzie. I thought you had gone. 'Fix it; get the media off our backs,' would be the demand of government to the Public Interest Media Advocate. It is our strong view that the fact that a government feels it is not getting a fair go from one or another media outlet is a very poor reason to regulate. In fact, it is the worst reason. Remember, Minister Conroy is the same minister who boasted to an audience overseas that he is so powerful he can force business executives to wear underpants on their heads. Minister Conroy thinks we should give him more power. It is profoundly disturbing that this senator—this minister—thinks that the Australian public should give him more power.

This brings me to the other major problem with the proposal: the restriction these bills place on freedom of speech in this country. As someone who started out quite cautious about the work of the Parliamentary Joint Committee on Human Rights, I was pleased earlier this week to participate in one of its meetings, where I took part in that committee's inquiry into these bills. I encourage all senators to examine the findings contained in the committee's report. That report found:

Neither the explanatory memorandum nor the statement of compatibility demonstrate why these reforms are necessary. They do not provide any detailed information or empirical data on the extent of the unacceptable intrusions by the news media on personal privacy in Australia, or of the adequacy or otherwise of existing procedures (media specific or under the general law) for obtaining redress if there is a violation of the right to privacy.

It is worth bearing in mind that this is a cross-party committee, so we know these concerns are not merely partisan. As I have noted before, the government has been totally unable to provide a single example of the wrong that these bills are supposed to correct—not one example.

With the limited time available to me, I thought I might quote Adam Smith in The Wealth of Nations. There is a passage in that book which seems eerily prescient.

Government senators interjecting—

Senator SMITH: Oh, I thought the government had fallen asleep, but they are awake. Welcome back. There is a passage in that book which seems eerily prescient about the actions of this government:

The proposal of any new law or regulation of commerce which comes from this order, ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined, not only with the most scrupulous, but with the most suspicious attention. It comes from an order of men, whose interest is never exactly the same with that of the public, who have generally an interest to deceive and even oppress the public, and who accordingly have, upon many occasions, both deceived and oppressed it.

The DEPUTY PRESIDENT: Pursuant to order earlier today, the time for debate has expired.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (21:00): I table a document that will be useful to the chamber.

The DEPUTY PRESIDENT: The questions are now going to be put. The
question is that these bills be now read a second time.

Question agreed to.

Bills read a second time.

The DEPUTY PRESIDENT (21:00): Senator Xenophon, I seek your guidance. Are you going to be withdrawing or moving your amendments?

Senator XENOPHON (South Australia) (21:00): I withdraw my amendments on sheet 7373.

The DEPUTY PRESIDENT: In that case I now put the question that Greens amendments (1) and (2) on sheet 7358 be agreed to:

Schedule 1, item 5, page 5 (line 10), omit "1,095", substitute "1,460".

Schedule 1, item 5, page 5 (line 17), omit "1,460", substitute "2,920".

Question negatived.

The PRESIDENT: The question is that item 27 of schedule 1 stand as printed.

The Senate divided. [21:06]

(The President—Senator Hogg)

Ayes.....................36
Noes.....................26
Majority.................10

AYES
Bishop, TM
Brown, CL
Cameron, DN
Collins, JMA
Crossin, P
Di Natale, R
Evans, C
Farrell, D
Faulkner, J
Feeney, D
Furner, ML
Gallacher, AM
Hanson-Young, SC
Hogg, JJ
Luddam, S
Ludwig, JW
Madigan, JJ
Marshall, GM
McEwen, A (teller)
McLucas, J
Milne, C
Moore, CM
Polley, H
Rhiannon, L
Siewert, R
Singh, LM
Stephens, U
Sterle, G
Thistlethwaite, M
Thorp, LE
Urquhart, AE
Waters, LJ
Whish-Wilson, PS
Wong, P

AYES
Wright, PL
Xenophon, N

NOES
Back, CJ (teller)
Birmingham, SJ
Carr, KJ
Cash, MC
Carr, RJ
Edwards, S
Conroy, SM
Fawcett, DJ
Di Natale, R
Fifield, MP
Farrell, D
Hannahs, G
Ferro, H
Humphries, G
Kroger, H
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Smith, D

NOES
Bernardi, C
Bushby, DC
Colbeck, R
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Joyce, B
Mason, B
Nash, F
Payne, MA
Ruston, A
Sinodinos, A
Williams, IR

PAIRS
Bilyk, CL
Bilyk, CL
Abetz, E
Abetz, E
Carr, KJ
Carr, KJ
Cormann, M
Cormann, M
Carr, RJ
Carr, RJ
Boswell, RLD
Boswell, RLD
Conroy, SM
Conroy, SM
Johnston, D
Johnston, D
Lundy, KA
Lundy, KA
Boyce, SK
Boyce, SK
Pratt, LC
Pratt, LC
Brandis, GH
Brandis, GH

The Senator divided. [21:06]

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Bernardi, C
Carr, KJ
Carr, RJ
Conroy, SM
Carr, RJ

Noes.....................26
Back, CJ (teller)
Birmingham, SJ
Bushby, DC
Colbeck, R
Nash, F
Payne, MA
Ruston, A

Majority.................10
Bills read a second time.

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Majority.................10

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Brown, CL
Bernardi, C

NOES
Back, CJ (teller)
Birmingham, SJ
Bushby, DC

PAIRS
Bilyk, CL
Bilyk, CL
Abetz, E
Abetz, E
Carr, KJ
Carr, KJ
Cormann, M
Cormann, M
Carr, RJ
Carr, RJ
Boswell, RLD
Boswell, RLD
Conroy, SM
Conroy, SM
Johnston, D
Johnston, D
Lundy, KA
Lundy, KA
Boyce, SK
Boyce, SK
Pratt, LC
Pratt, LC
Brandis, GH
Brandis, GH
Rural and Regional Affairs and Transport References Committee

Membership

The PRESIDENT: I have received a letter from a party leader seeking variations to the membership of a committee.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (21:09): by leave—I move:

That Senator Colbeck replace Senator Nash on the Rural and Regional Affairs and Transport References Committee for the committee’s inquiry into the Auditor-General’s reports nos 26 of 2007-08 and 22 of 2013-13 in relation to the Tasmanian forest industry, and Senator Nash be appointed as a participating member of the committee.

Question agreed to.

BILLS

Broadcasting Legislation Amendment (Digital Dividend) Bill 2013

Financial Framework Legislation Amendment Bill (No. 2) 2013

Foreign Affairs Portfolio Miscellaneous Measures Bill 2013

Insurance Contracts Amendment 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) (21:10): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (21:10): I table a revised explanatory memorandum relating to the Broadcasting Legislation Amendment (Digital Dividend) Bill 2013 and I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

BROADCASTING LEGISLATION AMENDMENT (DIGITAL DIVIDEND) BILL 2013

The Broadcasting Legislation Amendment (Digital Dividend) Bill 2013 proposes minor amendments to the Broadcasting Services Act 1992 and the Radiocommunications Act 1992 to facilitate the early commencement of telecommunications services in the digital dividend spectrum, while that spectrum is still considered part of the broadcasting services bands.

In 2010, the Australian Government announced its decision to release 126 Megahertz of broadcasting spectrum as a digital dividend.

This spectrum is expected to be cleared of all existing services by 31 December 2014.

The release of this broadcasting spectrum is a significant benefit of the digital switchover process.

The auction of this spectrum in April 2013 will pave the way for next generation mobile
broadband services in Australia, such as 4G mobile services.

Following the auction's completion, the Australian Communications and Media Authority (ACMA) will consider applications on a case-by-case basis to allow successful bidders to commence services, before the digital dividend spectrum is redesignated out of the broadcasting services bands.

In order to ensure successful bidders are not unduly restricted in the types of services that can be provided in the interim period, the Bill amends the Broadcasting Services Act to limit the scope of datacasting regulation.

For the foreseeable future, only commercial and national broadcasters are required to hold a datacasting licence for the delivery of datacasting services in broadcasting spectrum.

To achieve this limitation in the scope of datacasting regulation in the Broadcasting Services Act, the Bill will introduce the concept of 'designated datacasting services'.

This is defined as a datacasting service provided by a commercial television broadcasting licensee, a commercial radio broadcasting licensee, or a national broadcaster.

The Bill will also empower the Minister to specify, by legislative instrument, other services that are 'designated datacasting services'.

This will allow flexibility to expand the scope of the datacasting regime if the circumstances warrant.

For example, this may apply where a provider seeks to use broadcasting spectrum to provide a datacasting service that the Minister considers should be subject to the conditions of service and codes of practice that apply to licensed datacasting services.

The Bill will also make a number of minor consequential amendments to the Broadcasting Services Act and the Radiocommunications Act to implement these changes.

Amendments to this Bill were passed in the other place to assist in managing the transition of the wireless audio devices community to alternate spectrum and provide clarity about the future operation of their devices.

As amended, the Bill will require the Minister to direct the ACMA to review and report on the provision of spectrum for low interference potential device class licences and provide a transition pathway for such licences by 30 July 2013.

In addition, the main operative provisions in the Bill will not commence until 1 October 2013.

It should be noted that datacasting regulation under the Broadcasting Services Act will not apply to any services using digital dividend spectrum after the Minister removes this spectrum from the broadcasting services bands.

This is intended to occur after that spectrum is cleared of digital television services as a result of the restack, scheduled for completion by 31 December 2014.

The proposals in this Bill will provide certainty and clarity around the conditions placed on the digital dividend spectrum in the interim period prior to its reallocation.

FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2013

The Financial Framework Legislation Amendment Bill (No. 2) 2013 would, if enacted, amend five Acts across three portfolios.

This Bill forms part of an ongoing program to address financial framework issues as they are identified and assists in ensuring that specific provisions in existing legislation remain clear and up-to-date.

Keeping the existing financial framework legislation up-to-date is also consistent with the reforms foreshadowed in the Government’s proposed Commonwealth Financial Accountability Review.

First, the Bill would amend the Financial Management and Accountability Act 1997 to authorise the Commonwealth to form, or participate in forming, companies, as specified in the Financial Management and Accountability Regulations 1997.

The Bill would also amend the Financial Management and Accountability Regulations...
to specify the objects or activities of existing Commonwealth companies.

For the avoidance of doubt and to address potential constitutional issues raised by the High Court's decision in Williams v Commonwealth, the Bill would confirm the Commonwealth's existing involvement with companies. The proposed amendment would provide explicit legislative authority for the Commonwealth's involvement in companies.

The Bill would amend the Administrative Decisions (Judicial Review) Act 1977 (the ADJR Act) to provide for decisions made under the proposed amendment to the FMA Act, as I have outlined, not to be subject to administrative review. As decisions about the formation of, and participation in, Commonwealth companies are not administrative decisions impacting on the interests of individuals, the Government considers that it would not be appropriate for such decisions to be subject to administrative review.

The second set of amendments in the Bill would establish a framework for dealing with overpayments within the Judges' Pensions Act 1968, the Remuneration Tribunal Act 1973, and the Social Security Act 1991 in relation to Australian Government Disaster Relief payments. These changes are technical in nature and would address instances where payments are made by the relevant agency from a special appropriation to recipients, that are not, in practice, consistent with the requirements or preconditions imposed by these Acts and risk breaching section 83 of the Constitution. The proposed amendments are similar in nature to the amendments delivered by the Financial Framework Legislation Amendment Act (No. 2) 2012.

Finally, the Bill would allow deferred tax asset relief to the Commonwealth Superannuation Corporation in relation to the transfer of assets from the Military Superannuation and Benefits Fund to the ARIA Investments Trust that occurred in May 2012. This is an operational amendment and follows the Government's decision to consolidate the trustees of the Commonwealth's main civilian and military superannuation schemes.

This Bill is, accordingly, another step to help ensure that specific areas of the Commonwealth's financial framework remain effective and up-to-date.

FOREIGN AFFAIRS PORTFOLIO
MISCELLANEOUS MEASURES BILL 2013

The bill amends two Acts, the Intelligence Services Act 2001 and the Work Health Safety Act 2011.

The Staff of ASIS

The amendments to the Intelligence Services Act will create a mechanism for Australian Secret Intelligence Service employees to move to an Australian Public Service agency in the same way that Australian Public Service employees can voluntarily transfer from one Australian Public Service agency to another under section 26 of the Public Service Act 1999.

These amendments will better facilitate the protection of an ASIS employee's identity as an ASIS officer and broaden the mobility opportunities for ASIS employees in the Australian Public Service.

ASIS employees are not Australian Public Servants. Instead they are Commonwealth officers employed under the Intelligence Services Act.

ASIS officers perform difficult and, at times, dangerous tasks in distant locations. Information about their work and their identities is closely held in order to protect them, their activities and the people they interact with. Indeed it is an offence under section 41 of the Intelligence Services Act to identify a staff member of ASIS, other than in a few prescribed circumstances.

In order to protect their identity ASIS officers are typically identified as public servants. However, this may have unintended consequences when an ASIS officer seeks to move to a public service agency as there is no obvious reason why a person identified as a public servant would not transfer under the Public Service Act like any other public servant.

The amendments include mechanisms by which the Public Service Commissioner and the Director-General of ASIS will agree on how the ASIS classifications correspond to the APS classifications. This will ensure that ASIS levels
have an equivalent Australian Public Service level for operation of this new provision and the other related aspects of the Public Service Act (for example the special requirements in respect of merit that apply in relation to promotion).

This proposal does not detract from the Australian Public Service merit principle in engagement. Under section 35 of the Intelligence Services Act the Director-General must adopt the principles of the Public Service Act in relation to employees of ASIS to the extent to which the Director-General considers they are consistent with the effective performance of ASIS’s functions. In accordance with this obligation, ASIS’s recruitment and promotion policies are based on merit.

Work Health and Safety

This Bill also contains amendments to the Work Health Safety Act 2011. These amendments will enable the Director-General of ASIS, with the approval of the Minister responsible for the Work Health Safety Act, to make a declaration that specified provisions of the Work Health Safety Act do not apply, or apply subject to modifications, in relation to persons carrying out work for the Director-General.

These amendments clarify rather than amend existing Work Health Safety policy with regard to national security. The amendments make clear that in administering ASIS and in the exercise of the power to make a declaration the Director-General must take into account the need to promote the objects of the Work Health Safety Act to the greatest extent consistent with the maintenance of Australia’s national security.

The Work Health Safety Act already recognises that national security may not always be compatible with full compliance with Work Health Safety Act and the need to ensure that national security is not prejudiced. However, currently there is no mechanism to modify the operation of the Act to people who perform work for the Director-General of ASIS.

This is in contrast to the position of the Australian Security Intelligence Organisation (ASIO) and the Australian Defence Force (ADF). Both of these agencies have mechanisms for modification of the WHS Act under sections 12C and 12D of the Act respectively.

The environments in which ASIS operates overseas are very similar to the environments in which ASIO and the ADF operate.

In these environments the requirements of national security may not always be compatible with full compliance with Australian work health and safety obligations. Indeed full compliance could in some circumstances place people who work for the Director-General of ASIS at risk and prejudice national security.

Therefore there is a similar need for the Work Health Safety Act to be modified in its application to ASIS in appropriate circumstances. Any modification will only occur with the agreement of the Minister responsible for the Work Health Safety Act.

INSURANCE CONTRACTS AMENDMENT BILL 2013

Having a safe, efficient and well-functioning insurance market is vital for all Australians. Insurance enables people and organisations to participate in social and economic activities that they otherwise would not be able to engage in, as they are able to price and transfer risks associated with those activities and with other aspects of their lives.

The important role that insurance plays in Australian society has become even more evident in the past few years with the devastating impact of natural disasters on so many lives.

In recognising the critical role insurance plays and the impact that insurance has on families and businesses the Government has taken and continues to take a number of steps to improve the insurance market in Australia.

In this regard, on 23 November 2011 the Government introduced the Insurance Contracts Amendment Bill 2011 into Parliament. The Bill received Royal Assent on 15 April 2012. The 2012 Act introduced the framework for a standard definition of flood for home building, home contents, small business and strata title body corporate insurance contracts and for the
provision of a Key Facts Sheet for home building and home contents insurance policies.

During 2012, regulations to give effect to these two measures were made and I am pleased to say that a significant number of insurers have adopted the standard definition early. This measure in particular ensures that Australians can rely on a common understanding of what flood actually means in these type of insurance contracts.

This Bill, the Insurance Contracts Amendment Bill 2013, is yet another example of how the Government is improving the insurance market in Australia. The law governing contracts of insurance has a direct influence on the effectiveness and efficiency of the insurance market.

This Bill has been developed over a long period. Its history began back in September 2003, when a Review Panel comprising Mr Alan Cameron AM and Ms Nancy Milne was established to embark on a comprehensive review of the Act.

The Review Panel’s final report was released in 2004. The report noted that the Insurance Contracts Act 1984 (the Act), which is the primary source of laws regulating the rights and obligations of insurers, insureds and relevant third parties, had generally been operating satisfactorily to the benefit of insurers and insureds. However, the Review Panel found that some changes would be beneficial given the passage of time from the Acts original enactment. Consequently, the Review Panel made some recommendations to give effect to the beneficial changes that they had identified in the review. The review panel also recommended that further consultations should be undertaken on the details of any proposed amendments to give effect to their recommendations.

In 2010 after extended consultation with industry and consumer groups, the Insurance Contracts Amendment Bill 2010 (2010 Bill) was introduced into Parliament. While the 2010 Bill passed the House of Representatives, due to the calling of the 2010 Federal election the 2010 Bill lapsed.

On the Government’s return, it was decided that it was appropriate to consult further with key stakeholders to ensure that the amendments to the Act struck an appropriate balance between providing certainty for insurers and ensuring that insureds are able to obtain appropriate outcomes under the Act. Through this engagement, some additional refinements have been made to the proposed amendments to the Act. These refinements further add to the beneficial nature of the amendments to the Act.

The Government appreciates the constructive and thoughtful way that consumer representatives and industry have worked closely together throughout the development of the amendments to the Act.

The Bill includes measures that will:
- remove impediments to the use of electronic communication for statutory notices and documents;
- make the duty of disclosure easier for consumers to understand and comply with, especially at renewal of household/domestic insurance contracts;
- make the remedies in respect of life insurance contracts more flexible and suited to modern life insurance products;
- clarify the rights and obligations of persons named in contracts as having the benefit of cover, but who are not parties themselves; and
- clarify what types of contracts are exempt from its operation.

Although many of the amendments are technical adjustments to the Act rather than significant changes to the framework of the Act, as a package they will operate to streamline and clarify requirements while maintaining appropriate consumer protections.

The Government is also in the process of developing draft legislation to extend the unfair contract terms laws to general insurance. This will ensure that the protections against unfair contract terms that are enshrined in Australia’s consumer protection legislation will also apply to general insurance contracts, which have until now been excluded.

In conclusion, this Bill is yet another significant step made by the Gillard Government, in improving the insurance market in Australia.
This Bill provides for a package of improvements and efficiencies to how the Act operates, while maintaining the right balance that the Act aims to strike between the interests of insurers, insureds and the wider public. This Bill will help ensure a better functioning, more efficient insurance market that will ultimately benefit the entire Australian community.

Debate adjourned.

**Senator JACINTA COLLINS:** I move:

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

Question agreed to.

**Water Efficiency Labelling and Standards (Registration Fees) Bill 2013**

**Water Efficiency Labelling and Standards Amendment (Registration Fees) 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) (21:12): 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) (21:12): 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—

**WATER EFFICIENCY LABELLING AND STANDARDS (REGISTRATION FEES) BILL 2013**

The Water Efficiency Labelling and Standards (Registration Fees) Bill 2013 will provide the necessary legal basis for cost recovery for the WELS scheme.

**Background**

When the WELS scheme was established by the Council of Australian Governments in 2005, the scheme was intended to recover 80 per cent of its costs through registration fees.

In practice, this level of cost recovery was never achieved. The Water Efficiency Labelling and Standards Act 2005 provides for charging of fees in relation to a service. The effect of this is that only the costs of registration-related activities may be recovered through WELS registration fees. Other activities of the scheme, including compliance and enforcement, communications, and product standard development, may only be taken into account in scheme fees when authorised by a cost recovery taxing statute.

The COAG Standing Council on Environment and Water has sought changes to the scheme to allow the realisation of its cost recovery target.

**Purpose of the Bill**

This Bill provides the necessary legal basis for the WELS scheme to recover costs for all its activities. Consequential amendments to the Water Efficiency Labelling and Standards Act 2005, provide for the collection and administration of the fees, and are made in the Water Efficiency Labelling and Standards Amendment (Registration Fees) Bill 2013.

This Bill is enabling and mechanistic in nature. It does not itself set the amount of the fees or affect the intended outcome for the scheme registrants. The fees will be set in a ministerial determination, which is a disallowable instrument and which is to be made following consultation with the States and Territories. The Bill does not allow the scheme to recover more than 100 per cent of its costs.

**Conclusion**
This Bill enables recovery of the full suite of the schemes costs, supporting a directive of the COAG Standing Council on Environment and Water that the capacity of the scheme to recovery costs should be strengthened to ensure the long term viability of the scheme.

WATER EFFICIENCY LABELLING AND STANDARDS AMENDMENT (REGISTRATION FEES) BILL 2013

The Water Efficiency Labelling and Standards Amendment (Registration Fees) Bill 2013 amends the Water Efficiency Labelling and Standards (WELS) Act 2005. This Bill complements the Water Efficiency Labelling and Standards (Registration Fees) Bill 2013.

Background

The Water Efficiency Labelling and Standards, or 'WELS' scheme was established by the Water Efficiency Labelling and Standards Act 2005 as part of the Council of Australian Governments' National Water Initiative.

The WELS Act 2005 provides for charging of fees only in relation to a service. The effect of this is that only the costs of registration-related activities may be recovered through fees charged in relation to registration of WELS products.

Other activities of the scheme, including compliance and enforcement, communications, and product standard development, may only be taken into account in scheme fees when authorised by a cost recovery taxing statute.

Purpose of the Bill

This Bill is complementary to and introduced with the Water Efficiency Labelling and Standards Amendment (Registration Fees) Bill 2013.

The Bill makes the necessary consequential amendments to the WELS Act 2005 to ensure that registration fees set under the Registration Fees Bill will be able to be collected and appropriately administered by the WELS Regulator.

Conclusion

This Bill is integral to the success and long term viability of the WELS scheme, as it makes essential amendments to the WELS Act to allow the proper collection and administration of WELS administration fees; which will be able to recover any or all costs of the WELS scheme.

Debate adjourned.

COMMITTEES

Human Rights Committee

Report

Senator McEwen (South Australia—Government Whip in the Senate) (21:13): On behalf of the Parliamentary Joint Committee on Human Rights, I present the fourth report and fifth report of 2013 on the examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, together with the minutes of proceedings of the committee and the transcript of evidence.

Ordered that the reports be printed.

Senator McEwen: I seek leave to move a motion in relation to the reports.

Leave granted.

Senator McEwen: I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

PARLIAMENTARY JOINT COMMITTEE ON HUMAN RIGHTS

FOURTH AND FIFTH REPORTS OF 2013

TABLING STATEMENT (SENATE)

WEDNESDAY 20 MARCH 2013

The Fourth Report of 2013 of the Parliamentary Joint Committee on Human Rights sets out the committee's consideration of 24 bills introduced during the last parliamentary sitting week and four legislative instruments that the committee had previously deferred for further consideration.

The committee has identified 12 bills that do not appear to give rise to human rights concerns. The committee will seek further information in
relation to the remaining 12 bills and the four legislative instruments.

This Fourth Report of 2013 includes the committee's examination of the six bills that make up a package of legislation on media reform. The committee noted that these bills are the subject of inquiry by three other parliamentary committees. The committee therefore decided to expedite publication of its comments on these bills to assist the work of those committees.

The committee has set out its expectation that the timetable for the consideration of legislation should allow sufficient time for the Parliament to examine draft legislation in some detail. The committee has noted that a fundamental premise of the Human Rights (Parliamentary Scrutiny) Act 2011 is that the examination of draft legislation for human rights compatibility is an important component of Australia's Human Rights Framework, and that the role of the committee is not a purely formal one, nor is it intended to provide after-the-event commentary on legislation.


Since the committee's interim report on this legislation was tabled in September 2012, additional material has become available to the committee. This Fifth Report of 2013 takes account of that additional information; confirms the committee's interim views where relevant; and presents the committee's final views on this legislation.

The completion of the examination of this legislation has been a long and formative journey for the committee. Senators will appreciate that this matter came before the committee very early in its existence, before it had established work practices around the routine scrutiny of legislation.

I draw the attention of senators to the analytical framework applied by the committee in its interpretation of the underlying human rights obligations and principles engaged by this legislation.

The committee has taken the view that there is considerable overlap between limitations on rights and retrogressive measures, particularly where such measures interfere with an existing enjoyment of a right.

Throughout its consideration of the measures in this legislation, the committee has focussed on three key questions:

- Whether the measures are aimed at achieving a legitimate objective;
- Whether there is a rational connection between the measures and that objective; and
- Whether the measures are proportionate to that objective.

The committee will continue to age pensioner ploy this approach consistently to its assessment of limitations of rights.

In closing, senators will note that I avoid paraphrasing the committee's reports in my tabling statements because it is not possible to do so and still capture the import of the committee's conclusions.

Therefore, I encourage senators to read the committee's comments on legislation in their entirety. To not do so diminishes the work of the committee.

I would like to take this opportunity to thank my committee colleagues for their principled approach to the consideration of these complex and contentious issues.

On behalf of the committee I again emphasise our gratitude to the committee's secretariat for their diligence and professionalism in carrying out their work, and their contribution to the collegiate actions of the committee.

I commend the committee's Fourth and Fifth reports of 2013 to the Senate.

Debate adjourned.

Community Affairs References Committee Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (21:14): I present the Community Affairs References Committee report Australia's domestic response to the World Health Organization's
Commission on Social Determinants of Health report 'Closing the gap within a generation', together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT (Western Australia—Australian Greens Whip) (21:14): I seek leave to move a motion in relation to the report.

Leave granted.

Senator SIEWERT: I move:

That the Senate take note of the report.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

Scrutiny of Bills Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (21:15): On behalf of Senator Macdonald, the Chair of the Senate Standing Committee for the Scrutiny of Bills, I present the 4th report of 2013. I also lay on the table Scrutiny of Bills Alert Digest No.4 of 2013.

Ordered that the report be printed.

Rural and Regional Affairs and Transport References Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (21:15): On behalf of Senator Heffernan, the Chair of the Rural and Regional Affairs and Transport References Committee, I present an interim report of the committee on fresh pineapple imports, New Zealand potato import risk analysis and fresh ginger import risk analysis.

Ordered that the report be printed.

Corporations and Financial Services Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (21:16): On behalf of the Parliamentary Joint Committee on Corporations and Financial Services, I present the committee's report Family business in Australia, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Environment and Communications References Committee Report

Senator BIRMINGHAM (South Australia) (21:16): I present the Environment and Communications References Committee's report The Australian Broadcasting Corporation's commitment to reflecting and representing regional diversity, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BIRMINGHAM: I move:

That the Senate take note of the report.

I commend the contents of the report to the Senate and highlight the five recommendations which deal with the ABC's coverage of regional content. I note that this is a particularly emotive issue in some states.

I seek leave to continue my remarks.

Leave granted; debate adjourned.

ADJOURNMENT

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(21:17): It is with great enthusiasm that I move:

That the Senate do now adjourn.

Western Australia

Senator MARK BISHOP (Western Australia) (21:18): Acknowledging that Easter is approaching, this is our last parliamentary sitting week until May. As such, I would like to briefly reflect on the achievements of the Rudd and Gillard governments and, in doing so, as a senator for Western Australia, acknowledging the impact these achievements have had in that state.

Significant changes have taken place, particularly in helping Australians with everyday living costs. On this side of the chamber, we are very proud of our achievements. We have gone out of our way to help Australian pensioners. Since September 2009, we have given 300,000 Western Australian pensioners a pay rise of up to $182 per fortnight, allowing them to live their lives with increased dignity. This week, I am pleased to say, they received a further cost-of-living increase.

We are increasing Australians' retirement savings through an increase in superannuation from nine per cent up to 12 per cent. Of course, this increase over time will have a major set of implications. An average 30-year-old on full-time wages will receive an extra $108,000 in retirement savings.

Unlike the rest of the world, we have avoided recession. We have maintained our AAA credit rating. We are one of only seven countries in the world to do so—something never achieved under the opposition.

Twenty-eight million people have been added to unemployment queues worldwide. In Australia, by comparison, we have created jobs, the latest figure disclosing 920,000 extra jobs since we came to government.

We have bullet-proofed the Australian economy and kept it well out of recession, and this during the worst economic downtown since the Great Depression. That is in contrast to the Japanese economy, which shrank around 1½ per cent in the last four or five years, the European set of economies, which shrank around two per cent, and the United States economy, which grew by just above 2¼ per cent. Australia's economy in that same period grew by a massive 13 per cent. I think that is a figure well worth repeating, so let me say this again: Australia's economy, despite the global financial crisis, has grown around 13 per cent under Labor—something that, on this side of the chamber, we are greatly proud of.

Our fiscal discipline and management has put downward pressure on interest rates. Interest rates are now just three per cent, compared to 6½ per cent when the Howard government left office, saving families on an average $300,000 mortgage around $5,000 a year.

From July last year, we have given working families a tax cut. They get more money in their fortnightly or monthly pay cheques.

Across the country, more than 230,000 new parents are benefiting from up to 18 weeks leave. When the child starts school, parents receive a schoolkids bonus of $410 and up to $820 a year per child. There is a further boost to family payments, with eligible families with teenagers aged between 16 and 19 receiving over $4,000 per teenager.

This is very welcome news for families right across Australia. There are 900,000 Australian families, over 65,000 of them in
Western Australia, benefiting from Labor lifting the childcare rebate.

In Labor, we are helping low-income Australians. A new $210 Supplementary Allowance for singles and $350 for couples will assist with essential living costs. We are investing a further $4.6 billion in dental care, assisting low-income families. That now makes it easier for almost 3½ million kids to see their dentist.

We have doubled investment in school education, upgrading facilities at every school right across the Commonwealth, with over $100 million of new school infrastructure in my duty electorate of Swan alone.

We have built science blocks, state-of-the-art training centres and purpose-built kindergartens and pre-primary classrooms. Through the My School website we have provided more information for parents than ever before.

We are delivering the skills and training required for the jobs of the future. We have invested $3 billion through our Jobs and Skills package. We are rolling out the National Broadband Network, bringing affordable, high-speed broadband to all Australians and Australian businesses, no matter where they are. We are very excited that residents in the Perth area of Victoria Park will be among the first in Western Australia to switch on. Very soon, they will have access to some of the world's highest speeds of broadband. It promises better education, better healthcare and better access for Australian homes and businesses.

Federal Labor have invested a record amount in infrastructure. We have invested $3.7 billion in Western Australian projects through the Nation Building Program. Under Labor, federal infrastructure spending in the state has nearly doubled, from $154 to $261 per person.

We are transforming and revitalising the state by sinking Perth's railway line through the city centre. We are widening the city's major access road, the Kwinana Freeway. We are transforming the state's busiest and most important transport hub: $686 million is being invested in a project known as the Gateway project. We are upgrading regional highways in Bunbury, Port Hedland and state-wide. Millions more are being invested in dangerous black-spot funding; that will save lives.

I am acknowledging these achievements as part of the work of a government of which I, for one, am very proud to be a member.

**Indigenous Employment**

**Senator PAYNE** (New South Wales) (21:24): There are very serious community and professional concerns relating to this government's apparent, if not admitted, dismantling of a highly effective scheme for giving Indigenous Australians the chance of a real job and the opportunity to endeavour to avoid the poverty trap that tragically ensnares many of those communities.

When the Prime Minister stood in the other place just last month to deliver the annual Closing the Gap speech, the parliament agreed, as it has previously, that addressing the low level of Indigenous employment—currently 44.7 per cent, compared with 72 per cent in the general community—was something for which we all bear responsibility, and towards which we must all work in a bipartisan way to increase those numbers. The Prime Minister described this as a massive and unacceptable gap. She also described the broader mission to close the gap as 'a plan of unprecedented scale and ambition'. Lofty words indeed.

Sadly, however, the Labor government's real commitment to closing the gap in Indigenous employment in recent times is questionable. The continued feedback that I
am receiving from job placement providers across Australia, who operate under the Indigenous Employment Program is vexed with frustration and despair at this government's handling of the Indigenous Employment Program. I understand their frustration, as I myself have been unable to obtain clear answers on a number of issues. For example, an answer from this government as to when a moratorium on funding under this scheme, which started in June 2012, is formally due to cease.

One organisation, Habitat Personnel—and I asked a question in relation to them in the chamber earlier this week—which operates on the south coast of New South Wales and in the ACT and surrounding areas, has particularly felt the harsh edge of the government's approach to the IEP. I have met with those Habitat representatives; they are genuine, committed and keen individuals, trying to do a good job for Aboriginal Australians.

I am advised by them that after their contracts ceased for Indigenous job placement in the private sector in April 2012 they continued to operate so as not to let down the Indigenous jobseekers they are so committed to helping. Over the nine months since then, whilst only having funding for a small public sector recruitment program, they have still placed 97 Indigenous jobseekers in jobs—a commendable achievement, and a real example of closing the gap.

Habitat Personnel was informed by the Department of Education, Employment and Workplace Relations in December 2012 that the funding moratorium had been lifted. However, they have received no formal notification of this, and no further funding has been granted. Habitat, in its case at least, has a number of other business operations that do provide them with revenue which will allow them to keep up their Indigenous job placement service for the moment. But without any further acknowledgement or indication of funding from the IEP from the department, this particular Indigenous job placement service will cease operating in May 2013. For those of us who are familiar with the areas in which they operate—the south coast of New South Wales and the environs of the ACT and the ACT itself—that will be a tragedy.

And they are not alone. There are a number of other organisations that have actually closed their doors from December 2012 as a result of the government's approach to the administration of this policy. As I alluded to earlier, I have asked questions in this chamber as to when the funding moratorium started and finished. I have not received a clear answer. I have been told about overall funding amounts that have nothing to do with the specific organisation that I mentioned, and I have heard that hoary old chestnut, 'There's been a very high demand for funding'—an explanation which I had previously thought was reserved for the Green Loans plan and pink roof batts in the ceiling, where costs have blown out completely under this government.

This sort of response, this sort of handling and this sort of so-called management is an insult to excellent organisations like Habitat Personnel and many other businesses that have been left hanging, waiting for some sort of real direction in their work. It is quite clear to observers, quite frankly, that Labor has lost control of this budget and is working relentlessly, and perhaps quietly, towards dismantling the Indigenous Employment Program as it previously existed. In my view, this damages Labor's record on closing the gap and it also, most importantly, undoes some of the good work done earlier in the government. If the money has run out—and I would not be surprised; they are addicted to
spending, after all—they really should be up-front and honest with the IEP providers and acknowledge that their services are no longer required. Palming them off with answers about 'high demand' and 'extremely competitive' is not good enough. These are real businesses in real communities with a real job to do for Aboriginal Australians.

Another organisation that has had similar success in placing Indigenous Australians in jobs is the Replay Group. I asked the government in this chamber for answers on the status of its IEP funding late last year, again without success. Minister Wong has since tabled some further information on the amount the Replay Group has received so far, including a small increase in January this year, but the questions of future funding are outstanding. They have placed more than 1,100 Indigenous job seekers into real jobs in the aged-care and childcare sectors since 2000. All of those have completed at least half a year of continuous employment and achieved the appropriate Certificate III in those areas. The list of examples continues to grow, unfortunately. The minister refused to guarantee any funding for the Replay Group despite the fact that a review by her own department into IEP providers, commissioned by the minister herself, found that its job placement service was the best of the six providers examined in that review.

The recent Senate additional estimates offered further examples of the mess that this program has become and its distinct lack of transparency. My colleague from Western Australia Senator Smith asked about another organisation similarly struggling under the moratorium: Southern Aboriginal Corporation in Albany in Western Australia. They reported that they placed 245 Indigenous job seekers into ongoing employment over the past three years. That is a very good result, especially as the Great Southern regional development area, where Albany is located, experienced an overall increase of eight percentage points in unemployment for working-age Indigenous people, from 16.9 per cent to 24.9 per cent, between 2006 and 2011 according to the ABS census numbers. When Senator Smith asked for an update on the moratorium that was put in place, he did not receive a straight answer either, but it was reported that Southern had exceeded the target for employment and training commencements by 25 per cent. How perverse is it to have a situation where IEP providers are faced with the incentive of apparently being penalised for success because the government cannot manage their money? We all know what the government's record is on that.

There is a plus side. One provider, the Aboriginal Employment Strategy, did receive a six-month funding extension, to 30 June this year, following concerted pressure from AES—their founder, Dick Estens, and his team—and the odd question from the coalition as well. That is a short-term reprieve. We welcomed it, but this is a situation that never should have been allowed to get to the point where decisions like this have to be made and winners and losers have to be chosen.

I attended the GenerationOne third anniversary party breakfast in this place today. Andrew Forrest gave an inspirational speech. I had not met Andrew Forrest before. I had heard the disparaging things that those on the other side had said over time, but his speech genuinely stopped the room. It was genuinely inspirational. He truly, honestly and personally wants to make sure that he and his organisation, GenerationOne, and the Aboriginal employment covenant make a real difference to the opportunity for Aborigines in this country to have real jobs, not training for training's sake. We are way beyond that, and the organisations that have been working under the administration of the
previous Indigenous Employment Program and under the administration of previous ministers deserve better than they are receiving from this government now. There are outstanding bills of up to $50,000 to small organisations which, through administrative manoeuvring, will no longer be paid. It is not good enough. It is not good enough to close the gap, and it is not good enough for what Indigenous Australians deserve.

Asylum Seekers

Senator MADIGAN (Victoria) (21:34):

There was a time when Australia was a country known for its compassion and hospitality. It was a place to which many turned for assistance and refuge. We welcomed displaced persons from Europe after the Second World War, and we welcomed subsequent waves of refugees. How many in this House know that in the 1960s we welcomed religious refugees from Poland, and Czech refugees from the crushing of the Prague Spring? We are all aware of the huge effort this country put into welcoming refugees from Vietnam and our generosity towards Chinese students after the Tiananmen Square repressions. Australians have traditionally been generous contributors of funds to overseas trouble spots and encouraged their country to do the same. There was a time when we could be proud of our implementation and support of human rights.

Australia's political leadership continues to grandstand on our commitment towards human rights, but the reality is different. In recent years there has been a noticeable hardening of attitudes. The most obvious is the attitude of successive governments towards the plight of asylum seekers who arrive in Australia by boat. Never mind that they make up such a small percentage of the refugees we accept in this country and a tiny percentage of our total migrant intake.

What is particularly reprehensible is that we remain untouched by the tragedy of their stories. We acknowledge that their homelands are war-torn and the ruling regimes often maintain peace through persecution. Why else would we commit our defence forces to try and establish some order in the very places they are fleeing? Yet, upon arrival on our shores, we place them in situations of continuing hardship. We demonise them and judge them from our lives of comfort and privilege. The ongoing inability to resolve the asylum seeker crisis is a matter of serious concern for the moral wellbeing of our nation.

As compassion for asylum seekers hardens, these attitudes are also reflected in the increasing tendency to ignore human rights abuses, often in the very places these asylum seekers are fleeing. Respect for human rights is fundamental to democracy and fundamental to building trust and harmony internationally. If we do not respect human rights, our international relations are flawed and built on shifting sands. Australia is increasingly turning its back on human rights violations, some of which are occurring on our very doorstep.

Our commitment to the Lombok Treaty speaks loftily about recognising sovereignty. In practice, it means ignoring the plight of the West Papuan people, whose sovereignty and right to self-determination were curtailed by the Indonesian annexation in the 1960s.

Many Australians have compassion and empathy for the people of Timor Leste. There are numerous religious and private organisations in Australia that have built firm and lasting relationships with the people of East Timor—one of our poorest neighbours. Yet our attitudes towards East Timor and the Timor Gap Treaty
demonstrate an attitude more pragmatic than compassionate.

Tamils are amongst the growing number of asylum seekers. They were victims of horrific persecution and torture prior to the end of the civil war. Civil wars generate destructive animosities which require long periods of reconciliation and healing. There is still significant evidence that this reconciliation has not occurred and that Tamils are still victims of persecution. Many are still living in displaced persons camps. Such conditions are not helpful in enabling them to become integrated in Sri Lankan society. Australia has returned asylum seekers who have been victims of torture to Sri Lanka in circumstances where their wellbeing cannot be monitored.

Further afield, Western Sahara remains a trouble spot, with the Sahrawi people deprived of their right to self-determination through occupation by Morocco. They are subjected to serious violations of the right to life, liberty and freedom of expression, and face the constant threat of torture and imprisonment. Their life is dominated by the presence of the Moroccan security forces. Australia must use its voice at the United Nations to work towards a resolution. Perhaps it is time for Australia to follow the lead of other nations, and indeed companies such as Wesfarmers, in implementing sanctions to help turn this situation around.

Failure to address human rights issues on our own shores and in our relations with our neighbours undermines the rights and claims we make for ourselves. If we do not respect the rights of others we have no ground on which to stand to protect ourselves.

If we are genuinely concerned about human rights, refugees and the like, why do we not possibly double or triple our efforts in diplomacy and advocacy for those around the world who are currently landing on our shores and who may possibly come in the future? Let us be proactive and not reactive.

**Open Government Partnership**

Senator FAULKNER (New South Wales) (21:40): Tonight I would like to highlight inconsistent evidence provided at the recent budget estimates round by the Attorney-General's Department and the Department of Foreign Affairs and Trade in relation to Australia joining the Open Government Partnership.

I first raised this issue at the Finance and Public Administration Legislation Committee at the additional estimates round on Monday 11 February this year. I asked the Department of Prime Minister and Cabinet questions in relation to a letter sent from the then Attorney-General, Ms Nicola Roxon, to the Prime Minister. No witnesses could recall the letter, but the matter was taken on notice and I expect answers to my questions will be provided soon.

On Tuesday 12 February, the Attorney-General's Department and the Australian Information Commissioner informed me that the Attorney-General's Department is the lead agency in respect of Australia's membership of the Open Government Partnership; that the then US Secretary of State, Hillary Clinton, wrote to the Australian government in August 2011 about Australia joining the Open Government Partnership; that this letter had not been responded to; and that the Attorney-General wrote to the Australian Information Commissioner, Professor John McMillan, on 27 June 2012 to inform him that the Attorney-General had written to the Prime Minister, to the Minister for Foreign Affairs and Trade and to the Minister for Broadband, Communications and the Digital Economy with a proposal that Australia join the Open Government Partnership. And the committee ascertained that Australia had met the criteria
for joining the Open Government Partnership.

Hansard records this exchange:

Senator Faulkner: … Is there, for example, some form of IDC that has been established to work through this issue? You made the point in answer to previous questions, Ms Kelly, that there are other agencies, which I accept. Of course there are other agencies that have an interest in these issues. Is there an IDC, or some internal government mechanism that allows other agencies and, obviously, the Office of the Australian Information Commissioner and others to do the necessary work here?

Ms E Kelly: There has not been an IDC established at this point, …

Following on from the next question, Hansard records that the witness said:

Ms E Kelly: We have not started the consultation process with a view to developing the action plan.

I was surprised to hear that the Attorney-General's Department, as the lead agency, had not responded to the United States government and had not established an interdepartmental committee on this issue.

However, I was more surprised to hear the conflicting evidence about an IDC provided two days later on 14 February this year at the Defence, Foreign Affairs and Trade Legislation Committee. At that committee, Hansard records Mr R Rowe saying:

We have, at officials level, been participating in the interdepartmental committee which has been led by the Attorney-General's Department, which has been considering how to develop a coordinated, whole-of-government approach. Mr Rowe went on to explain that the Australian government had not only received high-level communications from the United States Secretary of State but also received a letter from the United Kingdom's Minister for the Cabinet Office, who wrote to the Australian foreign minister about the same matter in January of this year. Neither letter had been responded to—but, to be fair to DFAT, it had been less than a month since the letter from the United Kingdom had been received. An official from the Department of Foreign Affairs and Trade also assisted the committee's understanding of why the letters were not responded to, so let me quote Mr Rowe from Hansard again:

It is because this is a relatively new initiative. It is a whole-of-government initiative. DFAT is not the lead coordinator on this. There is a process that has been launched by another agency, which we have been party to, and we have been actively involved. So the reply has been held pending the identification of a coordinated, whole-of-government response.

So let me summarise for the benefit of senators. On Tuesday, 12 February, I asked the Attorney-General's Department if an interdepartmental committee had commenced in relation to the Open Government Partnership. The Attorney-General's Department witnesses assured the committee that no IDC existed and the process had not started. On Thursday, 14 February, I asked a similar question of the Department of Foreign Affairs and Trade, and I was told that an IDC did exist. In fact, the committee heard:

The IDC has met several times … at director level …

… … …

The IDC met most recently in January.

Well, where does the truth lie?

Tonight I request that the Attorney-General's Department and the Department of Foreign Affairs and Trade explain the inconsistencies in the evidence they have provided to the Senate. I request that a clear statement be made on this important matter of the Open Government Partnership as soon as possible in relation to, first of all, the existence of an interdepartmental committee on the Open Government Partnership. I also want to know its membership, the dates of its meetings and its work program. It goes without saying that, if any inaccurate or
misleading evidence was provided to either Senate committee, as I have referred to, that is a matter on which I think action should be taken as soon as possible to ensure that the record is corrected. As Senator Feeney is in the chamber at the moment—and doing overtime—I do hope that Senator Feeney will draw my concerns to the attention of Attorney-General Dreyfus and Foreign Minister Carr.

Senate adjourned at 21:49

DOCUMENTS

Tabling

The following government documents were tabled:

*Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers: 796/12, 799/12, 810/12, 816 and 817/12, 828/12, 830 to 832/12, 838/12, 842 and 843/12, 849/12, 859/12, 861/12, 867/12, 870/12, 875 and 876/12, 947/12, 960/12, 968 and 969/12, 973/12, 983/12, 1012/12, 1020/12, 1041/12, 1045/12, 1053/12, 1055/12, 1057 to 1059/12, 1062/12, 1064/12, 1073 to 1100/12, 1106/12, 1118/12, 1128/13 and 1149/12—*

Commonwealth Ombudsman's reports.


Snowy Hydro Limited—Financial report for the period 3 July 2011 to 30 June 2012.

*Answers to Senate Questions on Notice will no longer be published in the Senate Hansard. The full text of Questions on Notice and their answers are available online at www.aph.gov.au/SenateQON*