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SITTING DAYS—2013

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- BRISBANE 936AM
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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—Cory Bernardi, Thomas Mark Bishop,
Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards,
David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall,
Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt and Ursula Mary Stephens

Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy

Deputy Leader of the Government in the Senate—Senator Hon. Penelope Ying Yen Wong

Leader of the Opposition in the Senate—Senator Hon. Eric Abetz

Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC

Manager of Government Business in the Senate—Senator Hon. Jacinta Mary Ann Collins

Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips

Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy

Deputy Leader of the Australian Labor Party—Senator Hon. Penelope Ying Yen Wong

Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz

Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC

Leader of The Nationals—Senator Barnaby Thomas Gerard Joyce

Deputy Leader of The Nationals—Senator Fiona Nash

Leader of the Australian Greens—Senator Christine Anne Milne

Chief Government Whip—Senator Anne McEwen

Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley

Chief Opposition Whip—Senator Helen Kroger

Deputy Opposition Whips—Senators David Christopher Bushby and
Christopher John Back

The Nationals Whip—Senator John Reginald Williams

Australian Greens Whip—Senator Rachel Mary Siewert

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
## GILLARD MINISTRY

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<td>The Hon Julia Gillard MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Digital Productivity</em></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Asian Century Policy</em></td>
<td>The Hon Dr Craig Emerson MP</td>
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<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Mental Health Reform</em></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<td>The Hon Stephen Smith MP</td>
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<td>The Hon Dr Mike Kelly AM MP</td>
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Tuesday, 12 March 2013

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12:30, read prayers and made an acknowledgement of country.

BUSINESS

Senate Temporary Orders

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:31): At the request of Senator Carr, I move:

That the Senate adopt the recommendations of the first report of 2013 of the Procedure Committee.

The recommendations are as follows:

Electronic petitions

The committee recommends that the following interpretation continue to be applied:

(i) petitions which have been posted on the internet continue to be accepted as in conformity if the senator presenting them certifies that they have been duly posted with the text available to signatories;

(ii) the requirement in standing order 70(5) for a petition to be signed be satisfied by the provision of a person's email address;

(iii) a petition containing links to extraneous material be regarded as attracting standing order 70(7) and therefore not in conformity;

(iv) there be no change to current practice regarding acceptance of non-resident signatories.

Petitions outside these interpretations will continue to be assessed as not in conformity with the standing orders and dealt with in accordance with existing practices (last expounded in the committee's First report of 1997).

Consideration of non-controversial legislation

The committee recommends that standing order 57(1)(d) be amended as follows:

Omit standing order 57(1)(d), substitute:

(d) On Thursday:

(i) Petitions

(ii) Notices of motion

(iii) Postponement and rearrangement of business

(iv) Formal motions – discovery of formal business

(v) Consideration of committee reports under standing order 62(4)

(vi) Government business

(vii) At 12.45 pm, non-controversial government business only

(viii) At 2 pm, questions

(ix) Motions to take note of answers

(x) Any proposal to debate a matter of public importance or urgency

(xi) Not later than 4.30 pm, general business

(xii) Not later than 6 pm, consideration of government documents under general business

(xiii) Not later than 7 pm, consideration of committee reports and government responses under standing order 62(1)

(xiv) At 8 pm, adjournment proposed

(xv) At 8.40 pm, adjournment.

Open-ended adjournment debate on Tuesdays

The committee recommends that the proposed amendment to standing order 54(6), as follows, be adopted on a trial basis until 30 June 2013:

(1) Omit standing order 54(6), substitute:

(6) On the question for the adjournment of the Senate on Tuesday, a senator shall speak to that question for not more than 5 minutes, except in accordance with the following paragraphs:

(a) if no other senator wishes to speak for up to 5 minutes, a senator who has not already spoken may speak for up to 10 minutes; and

(b) if no other senator wishes to speak under paragraph (a), a senator who has not already spoken may speak for up to 20 minutes.

(2) That this order operate as a temporary order until 30 June 2013.

Question agreed to.
BILLS

 Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator THORP (Tasmania) (12:31):

One of the first referendums was the 1967 referendum, where the Australian people were asked whether Aboriginal people should be counted in the national census and be subject to Commonwealth laws rather than just state laws. This referendum was a landslide, winning close to 91 per cent of all votes cast. No referendum before or since has been so heartily endorsed by the Australian people. The overwhelming result gave the government at the time a clear mandate to enact policies that would benefit Aboriginal people.

Another nation-defining event was the historic 1992 Mabo decision. Here the High Court ruled that the Meriam people of the Murray Islands in the Torres Strait were 'entitled as against the whole world to possession, occupation, use and enjoyment of most of the lands of the Murray Islands'. In doing so, they rejected the longstanding, but patently false, concept of terra nullius—land belonging to no-one. That was a big step, indeed, and one which led to the drafting of the 1993 Native Title Act by the Keating government.

Keating reinforced the need to admit the truth of our history in the now famous Redfern speech of 1992. This watershed speech was the first time that an Australian Prime Minister had acknowledged the impacts of government policies since Federation on Aboriginal and Torres Strait Islander people. It clearly placed reconciliation on the national agenda and has since been referred to as one of the most powerful and important speeches of all time. But, more than that, it reflected a commitment to make the future better. In Keating's words:

This is a fundamental test of our social goals and our national will: our ability to say to ourselves and the rest of the world that Australia is a first rate social democracy, that we are what we should be—truly the land of the fair go and the better chance.

Sixteen years after Keating's message of acknowledgement and respect came another unforgettable speech and another milestone on the path to reconciliation. The 2008 National Apology to Aboriginal and Torres Strait Islander Peoples by then Prime Minister Kevin Rudd was one of those very rare speeches that united the House and the nation. I daresay there are many Australians who will remember exactly where they were that day and how moved they were. In Mr Rudd's words, the apology was a recognition that:

The time has now come for the nation to turn a new page in Australia's history by righting the wrongs of the past and so moving forward with confidence to the future.

This was a truly defining moment in our national history, of which I am immensely proud. The speech went to the very heart of the Labor values that are so close to my heart: fairness, equality, inclusiveness, opportunity and respect. Since Kevin Rudd's watershed apology, this government has been working very hard, in partnership with the states, to achieve better outcomes for Indigenous Australians. In 2008 the Council of Australian Governments agreed to six ambitious targets to address the disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment.

But despite all the hard work and commitment towards rectifying inequality and creating opportunity for all, we still have...
one major hurdle to leap. That is, the formal recognition of Aboriginal and Torres Strait Islander people within our Constitution. To this end, the bill enshrines some very important elements. It recognises that the continent and its islands, now known as Australia, were first occupied by Aboriginal and Torres Strait Islander peoples and acknowledges the continuing relationship of Indigenous people with their traditional lands and waters. It also formalises respect for the continuing cultures, languages and heritage and acknowledges the need to secure the advancement of Aboriginal and Torres Strait Islander peoples. It also recognises that Aboriginal and Torres Strait Islander languages are the original Australian languages and are part of our national heritage.

The will for this recognition is clearly there in the community. We only need to look at the groundswell of public support across the nation. Political representatives on both sides of this chamber also agree. But we must face the reality that constitutional amendments are notoriously difficult to achieve. Of 44 referendums held since Federation, only eight have passed. And we know that failed referendums can lead to important decisions being discarded for decades—one springs to mind, Mr Deputy President. If we were to rush into this, we would risk condemning this important acknowledgement to just another footnote in history.

(Quorum formed)

Senator SMITH (Western Australia) (12:39): I rise today to add my thoughts to the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012. The purpose of this bill is to give expression to the parliament's recognition of Aboriginal and Torres Strait Islanders as the original inhabitants of Australia and also their ongoing connection with their traditional land and waters, cultures, languages and heritage. It establishes a mechanism to review the preparedness of the Australian community to support a referendum giving constitutional recognition to Aboriginal and Torres Strait Islander peoples and the preferred form of these proposed constitutional changes.

My own party's record regarding Aboriginal and Torres Strait Islander issues and representation is a proud one, most notably the election of the first Aboriginal Australian to sit in federal parliament and the election of the first Aboriginal Australian to sit in the House of Representatives. There are of course many other achievements and milestones that have been characterised by strong bipartisanship. I begin by echoing the comments of the shadow Attorney-General, my colleague Senator the Hon. George Brandis, in regard to the care and caution that must be shown in this debate as we move towards the finer detail of a proposition. He has said in this debate that it is 'just as important to persuade people with conservative views as people who consider themselves to be progressive. If this is to happen, the proposal must be modest and the tone of the debate must be respectful.'

I come to this issue with a great deal of caution, indeed some apprehension. I am very cautious about the merit of recognition in our constitutional document. That said, I believe there to be tremendous merit and popular support for two of the proposals contained in the expert panel report, Recognising Aboriginal and Torres Strait Islander peoples in the Constitution; namely, those proposals that seek to remove reference to race. I also recognise that others have started from a similar position to my own and have been able to reconcile their concerns and are now prepared, while remaining cautious, to modest proposals.
The difficulty in finding an appropriate form for securing recognition in our Constitution and the legal uncertainty it introduces should not come as a surprise to anyone who has taken the time to properly understand the report of the expert panel. I have been drawn to the more conservative and cautionary analysis and scrutiny given to this issue by accomplished constitutional experts. I think it is a shame and an ominous sign that their views have not been given more coverage.

It is worth reminding ourselves how we got to the debate on the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012. As a preface, I would add that I do not believe we are close to a point where there is a clear, concise and popular proposition. The expert panel reported to the Prime Minister on 19 January 2012, recommending a referendum on five constitutional changes. The first would remove section 25, which contemplates the possibility of state laws disqualifying people from voting at state elections on the basis of their race. The second would remove section 51(xvi), which can be used by the Commonwealth to enact legislation to discriminate for or against people on the basis of race. The third involves the insertion of a new section 51(a) that would recognise Aboriginal and Torres Strait Islander peoples and preserve the Australian government's ability to pass laws for the advancement of Aboriginal and Torres Strait Islander peoples. The fourth would insert a new section 16(a), banning racial discrimination by the Commonwealth. Finally, the fifth would insert a new section 127(a), recognising that Aboriginal and Torres Strait Islander languages were the country's first tongues while confirming that English is Australia's national language.

Recognising that there was not yet enough community awareness or support for change and wanting to maintain momentum for change, this bill was prepared to assist Australians to become familiar with formal recognition of Aboriginal and Torres Strait Islander peoples ahead of constitutional change. I note that this approach has a parallel in our history and was used in the 1890s to build and maintain momentum amongst the colonies for Federation. The comments of the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples in its interim report in January this year makes a salient point that is worth emphasising. The committee cautions that if the proposal is the victim of overreach it will fail. While the committee does not seek to limit the scope of public discussion, it nevertheless considers that only a relatively modest proposal is capable of engendering the bipartisan consensus which is a prerequisite to success.

My caution has two root causes. Firstly, in my mind the link between constitutional recognition of Indigenous peoples and better outcomes for them, their families and communities has not yet been established. I think constitutional recognition is unfounded if there is not an expectation of some tangible, practical improvement in the lives of Aboriginal and Torres Strait Islander peoples. As we embark upon this public discussion on the merits of any constitutional amendments, I believe Australians have a clear view of what their Constitution has been designed to do, or more accurately what it has not been designed to do. In the simplest terms, I believe they see their Australian Constitution as a rule book, established as a set of guidelines for how a newly created Federation was to govern itself and conduct its activities. I accept that for a smaller group of Australians, the Australian Constitution may be seen not so much as a rule book but as a mission statement, a catalogue of intent, ideals and
statements about where we want to be heading as a nation. I am not opposed to any of those things; aspiration is a virtue. No nation can be secure for long without a clear notion of its identity or purpose. For me, as a self-confessed constitutional conservative, I am not persuaded that the ideal place to be giving expression to these aspirations for reconciliation and recognition should be in the text of the Australian Constitution.

Secondly and more substantively are the serious but conveniently ignored legal considerations. Of all the commentary and analysis, I am most inclined to trust the work of Professor Anne Twomey, Director of the Constitutional Reform Unit at the University of Sydney, who has given careful and dispassionate accounts of the possible legal pitfalls and shortcomings of various forms of recognition canvassed to date. I particularly agree with her comment that a lack of clarity about the purpose of Indigenous recognition will always leave the issue open to accusations of it being a 'false promise or a Trojan Horse'. For this reason, I am particularly pleased the bill has been silent on what form recognition should take. It is a wise course that this bill lacks a form of words for agreement and is silent on whether recognition should be incorporated in a preamble or in the substantive provisions of the Constitution.

I believe progress can easily be made in two areas proposed by the expert panel while others, with sound reason, are more contentious and should be treated with great suspicion. The propositions to remove section 25 and section 51(xvi) should be agreed to. Section 25 has been regularly recommended for repeal by many constitutional review bodies since 1959. In the words of Professor Twomey:

It is therefore appropriate to repeal it – not as a racist provision, but one whose work is now done.

Section 51(xvi) should be repealed on the basis that there should be no provisions in our Constitution that permit laws to be enacted by reference to race. A repeal of this section would also be acceptable to many. A difficulty arises here because this particular section underpins the Native Title Act 1993 and the heritage protection of sacred sites. I do remain confident that there is an answer to this dilemma. It may be that a refined and carefully worded new power could be substituted. However, the remedy proposed by the expert panel is most definitely unacceptable. It has proposed, firstly, that a new section 51A to recognise Aboriginal and Torres Strait Islander peoples and to preserve the Australian government's ability to pass laws for the benefit of Aboriginal and Torres Strait Islander peoples should be treated with great caution; and, secondly, a new section 116A that would introduce into the Constitution a prohibition of racial discrimination. This suggested remedy has been construed by some as giving effect to a small bill of rights, the essence of which will be to give a greater role to the courts than to parliament in determining the meaning of 'advancement' and 'discrimination'. On these points I encourage the reading of analysis by Professor Twomey again, who has suggested:

The greatest controversy will hang on the fact that it would ultimately be a matter for a court to decide what was, or was not, for the advancement of Indigenous Australians.

In regards to the new section 16A, she has commented:

... such a provision can be interpreted by the courts in ways that were not intended and there is no option of reversing such an interpretation by legislation.

And further:

The level of discretion left to the courts in determining what amounts to discrimination, who is protected and whether a law or executive act is
for the purpose of overcoming disadvantage etc, is significant.

On this point, I am confident Australians will treat with great reluctance the shift of these judgements from parliament to the courts. If we stay on this course of approach to constitutional recognition the proposal will fail, not because people do not endorse the principles inherent but because they object to a shift of power on matters of definition from parliament to the courts. This is a concern shared by even Aboriginal commentators who have correctly identified that this could open a Pandora's box of litigation and dispute.

Above all else, I am curious that in a modern era like this with all the high hopes for a brighter reconciled future between Aboriginal and Torres Strait Islander peoples and other Australians, our constitutional remedy still involves at its core the acknowledgement of one group of Australians to the exclusion of others. I believe the only acceptable constitutional reform for a modern, progressive nation such as ours is one that seeks to remove all reference to race.

My final comment goes to the purpose of the review and its role in assessing the readiness of the community to support a referendum and the identification of proposals most likely to be supported. I agree with the sentiments of some others that there is a more important question than one of success or popularity. I think again the comments by Professor Twomey deserve greater appreciation by many. She says:

The more important question is what form of amendment is right, appropriate and consistent with the operation of the rest of the Constitution. There should be scope for the making of some kind of judgement as to what the best form of amendment would be, as well as would attract the most popular support.

She adds:

It may be inappropriate for example to make an amendment that is popular if it causes unresolved conflicts with other constitutional provisions potentially giving rise to unanticipated and unwanted consequences. More thought needs to be given to the long-term operation of any constitutional amendment and how it will operate consistently with the rest of the Constitution.

To end, I agree that popularity can only be part of the measure of a proposal's suitability.

Senator SINGH (Tasmania) (12:51): I rise also to speak to the Aboriginal and Torres Strait Islander Peoples Recognition Bill and to commend it to the Senate. This bill delivers our nation a very clear path towards amending the Australia Constitution to ensure we rightfully recognise Aboriginal and Torres Strait Islander peoples. I can say with certainty that the Gillard Labor government is committed to respectfully recognising Aboriginal and Torres Strait Islander peoples in our Constitution.

I believe that constitutional change is a necessary and important act that all members of parliament should be committed to delivering. It is through this change that we can create a better future, a future of recognition, respect and acknowledgement of the inhabitants of Australia and their ongoing connection with their traditional land, waters, cultures, languages and heritage. It is my belief that our nation should be proud to embrace and acknowledge the longstanding heritage of Aboriginal and Torres Strait Islander peoples within the Constitution, as it is only by recognising our country's first people that we as a nation can build a strong future together.

This is an issue that I have been passionate about since before I became a senator in this place. Australia has always prided itself on being a multicultural nation, one that welcomes people from faraway shores, one that appreciates diversity and
respects the influence and beauty each culture delivers to our social fabric. Yet our Constitution does not reflect our heritage. It does not reflect or recognise the powerful role our first Australians played in our future. I believe that it is time we moved to right those wrongs of our past and move towards a Constitution that reflects the dignity of all Australians, especially Aboriginal and Torres Strait Islander peoples.

I would like to acknowledge the substantial work that has been done to prepare for this change. In 2010 Labor established the Expert Panel on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. This panel was co-chaired by Professor Patrick Dodson and Mr Mark Leibler AC, as well as Indigenous leaders, parliamentary members and constitutional experts, including a member from my home state of Tasmania, Bill Lawson, with whom I have met to discuss the significance of these reforms.

The panel was given the task of leading wide-ranging public consultation and through this consultation the panel was able to deliver a report to the Prime Minister. This report provides a clear proposal on how best to proceed in recognising Aboriginal and Torres Strait Islander peoples. The expert panel's recommendation is that the best way forward is to achieve constitutional change. On 20 September 2012, in response to the expert panel's report, the government committed to constitutional change. That includes: a statement of recognition of Aboriginal and Torres Strait Islander peoples and their unique history, culture and connection to this land; removal of references to race, reflecting the nation's fundamental belief in the importance of equality and nondiscrimination; and acknowledgement that additional effort is needed to help close the gap in Aboriginal and Torres Strait Islander people's disadvantage.

Cross-party support, though, is required to achieve this result, and with that in mind the government made a commitment to establish a Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples. The joint select committee takes on the role of engaging with the broader community and discussing referendum proposals for constitutional change.

Among the Tasmanian Aboriginal leaders from my home state I know that my friend and stalwart advocate of human rights with Amnesty International, Rodney Dillon, has been awaiting the day that this recognition could take place. Speaking with Rodney about this bill, there is no doubt that he and many other Tasmanian Indigenous people believe that constitutional recognition is an essential part of a prosperous future for Australia. Like me, he believes that it is important that when Australians stand up for our nation and our country we all stand up for the same reasons. It is time that the patriotic songs Australians sing and the nation for which we all come together are carried on through the voices of Aboriginal and non-Aboriginal Australians. And while we cannot and should not attempt to bury the past, we can certainly go ahead as a new and united Australia.

This bill sends an important signal to the broader Australian community. Not only does it begin the parliamentary and electoral process towards a referendum, a very important process as part of any reform to our Constitution, but it also marks the beginning of a campaign to build community support in earnest. That is a very significant step because without community support, as we know through various referenda in the past in our nation, we simply do not receive
a change to our Constitution. The history of Australian referenda shows that broad and bipartisan community support is necessary to make any Constitutional amendments. A Constitution is only a document unless its spirit is reflected in our actions. Recognition is something that we must do as a community as much as a polity and, if we are to achieve this change, we will need to have that support of the community.

This bill is also an important act of recognition, an act that begins a process here that will be concluded by the next parliament and then by Australian voters and citizens. It will be the most significant of a number of landmark acts of reconciliation in recent decades. I am sure that many senators in this place will recall that some 10 years ago 300,000 people walked proudly across Sydney Harbour Bridge in recognition and support of Indigenous Australians. This walk was soon replicated in other capital cities across Australia and it generated a strong awareness of the need for reconciliation. Indeed, I remember in my home state of Tasmania walking across the Tasman Bridge with thousands of local Tasmanians all in support of reconciliation.

Of course, further back than that one only has to remember that in 1992 our nation witnessed Paul Keating speak so strongly on the need for healing in his watershed Redfern speech. Keating’s speech put reconciliation on our nation’s agenda. Then in 2009 Kevin Rudd made a national apology to the forgotten Australians, the half a million children who were raised in institutions. This bill will move Australia even closer to repairing the bonds between Australians with a formal recognition of our Indigenous peoples. The Gillard Labor government has invested some $10 million to help educate people about this change and build the momentum for that change. Over the next two years, Reconciliation Australia will be helping to promote awareness about this issue as well as play a role in educating Australians of its importance. I commend the work of Reconciliation Australia. I know they are already undertaking that role right across our nation. They have quite a task ahead of them and need all of our support as they go about our nation educating Australia.

I believe that as parliamentarians and senators in this place we are all tasked with the responsibility to lead this change. By supporting the passage of this bill through the Senate we are ensuring that constitutional recognition for all Australians is placed firmly on our nation’s agenda—somewhere it certainly should be placed.

Senator XENOPHON (South Australia) (13:00): I make it clear that I support the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012, but I also think we should be going much further much more quickly. I believe our laws and our Constitution, the supreme law under which our government operates, should apply equally to all.

A century ago, Aboriginal and Torres Strait Islander people were excluded from shaping our Constitution. Indigenous Australians were not even considered citizens until 1967. We cannot go back and right the wrongs that have occurred since European settlement but we can make a change today. Our Constitution currently excludes Aboriginal and Torres Strait Islander peoples and as a result our nation has failed to acknowledge their role and the fact that they are the first peoples of this nation. It is a basic fact, but a brutal flaw. I find it hard to believe that anyone could think that we need to take more time before we decide to take action. It is time to move on from the politics of this issue and take it to the Australian people. My preference is that this matter should go to the Australian
people at a referendum. I think there is enough understanding in the community and enough compassion for a change of this sort.

There is no question we have come some way. In 1988, the landmark Mabo case gave recognition to native title in Australia for the first time. In 1992, then Prime Minister Paul Keating delivered his historic Redfern address—and I note that Senator Singh made reference to that. Keating poignantly argued: We cannot imagine that the descendants of people whose genius and resilience maintained a culture here through 50,000 years or more, through cataclysmic changes to the climate and environment, and who then survived two centuries of dispossession and abuse, will be denied their place in the modern Australian nation.

In 2008, then Prime Minister Kevin Rudd delivered an apology to Indigenous Australians for the stolen generations—a significant, watershed moment. We have come some way, even in the last few years, but I think we ought to go further.

I understand there is a fear that if a referendum were held it would not succeed. My view is that with good will and bipartisanship such a referendum could succeed. Simply having a review at this time is not the brave course to take forward. We need to be brave; we need to take a step, to make a move, to hold a vote. I usually believe that when it comes to change you have to work on bringing people with you, but I think we have brought people with us over the years. We need to have a vote on constitutional recognition sooner rather than later. A review, whilst welcome, does not take the step we ought to be taking. I only hope that what this bill represents will be the beginning of change that is long overdue.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (13:03): The Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 represents a clear step forward towards holding a successful referendum to change the Australian Constitution to recognise Aboriginal and Torres Strait Islander peoples. This bill will establish an act of recognition acknowledging the unique and special place of Aboriginal and Torres Strait Islander peoples as the first peoples of our nation. This government is committed to recognising Aboriginal and Torres Strait Islander peoples in the Australian Constitution. We believe that the Australian Constitution should, firstly, recognise Aboriginal and Torres Strait Islander peoples and their unique history, culture and connection to this land; secondly, reflect our country’s fundamental belief in the importance of equality by removing all references to race; and, thirdly, acknowledge that additional efforts are needed to close the gap on Indigenous disadvantage in this country.

The government appointed an expert panel to consider, consult and advise on how best to recognise Aboriginal and Torres Strait Islander peoples in the Constitution, and on possible options for change that would likely get the support of the majority of Australians at a referendum. The expert panel consisted of a range of respected and accomplished individuals, including Aboriginal and Torres Strait Islander and community leaders, constitutional law experts and parliamentary members. Following wide-ranging consultation in 2011 the government received the final report of the expert panel in January 2012. We publicly acknowledge the hard work and dedication of expert panel members which have led to us having, for the first time, a proposal for constitutional change.

We recognise that there is not yet enough community awareness or support for change to hold a successful referendum at or before the next federal election. The act of
recognition that this bill establishes will continue to build the momentum we need for a successful constitutional change. To maintain momentum towards a referendum, a sunset provision in the bill limits the effects of the act to two years. The sunset date ensures that legislative recognition does not become entrenched at the expense of continued progress towards constitutional change. The sunset provision will provide an impetus for a future parliament to reassess how the campaign for change is travelling and the appropriate timing for a successful referendum. The bill also provides for a review to consider and advise a future parliament on proposals to submit a referendum, taking into account the valuable work done by the expert panel.

This bill is not a substitute for constitutional recognition; legislation is not the appropriate forum to address all of the recommendations of the Expert Panel for constitutional change. We are pleased there is strong commitment across the parliament to supporting this bill. We are also pleased that the new Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples considered this bill as its first order of business and recommended it be passed unamended.

The government is committed to building stronger relationships with Indigenous people based on mutual respect as well as a reconciled future where all Australians are equal partners with equal opportunities in shaping the future of our country. That is why the government funds Reconciliation Australia: to improve relationships between Indigenous and non-Indigenous Australians. And that is why the government delivered the national apology to Indigenous Australians, which helped build a bridge of respect between Indigenous and non-Indigenous peoples.

Meaningful constitutional recognition of the nation's first peoples is another step—a crucial step—in Australia's journey toward reconciliation. The Australian Constitution is the foundation document for our law and for our government, but it is silent in respect of the special place for our first Australians. This bill in an important step toward a meaningful recognition in our Constitution of Aboriginal and Torres Strait Islander peoples.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Ludlam) (13:09): No amendments to the bill have been circulated. Before I call the minister to move the third reading, does any senator wish to have a committee stage on the bill to ask further questions or clarify further issues? If not, I call the minister.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (13:09): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
powers in relation to vessels, installations, aircraft, protected land areas and isolated persons on certain grounds. It also provides for the enforcement powers available to maritime officers, including boarding, obtaining information, searching, detaining, seizing and retaining things and moving and detaining persons, and creates offences for failure to comply.

The principal bill proposes to consolidate the powers and functions that currently exist in existing law, chiefly under the Customs Act 1901, the Migration Act 1958, the Fisheries Management Act 1991 and the Torres Strait Fisheries Act 1984.

The unique aspects of the maritime environment merit a tailored approach to maritime powers, helping to ensure flexibility in their exercise and to assist maritime officers to deal with quickly changing circumstances and difficult and dangerous situations. The powers contained in the bill are primarily based on powers currently available to operational agencies.

The bills were referred to the Senate Legal and Constitutional Affairs Legislation Committee, which reported on 12 September 2012. Coalition senators, in a dissenting report recommended that the bills not be supported.

Coalition senators believe this legislation may represent a surreptitious attempt to remove the Commonwealth's power to turn back unauthorised boats as part of an effective national border control policy.

The term 'surreptitious' was used because agency witnesses before the committee were unable to state whether this power is preserved in the bill. Agency witnesses suggested that clause 5 of the bill purports to preserve the Commonwealth's prerogative powers, which would include the power to repel unauthorised vessels.

However, given that the principal bill clearly seeks to codify Commonwealth maritime powers, it seems clear that any prerogative powers must be read down. For example, clauses 31 and 32 seek to provide in a comprehensive way for acts that may be performed and for what purposes they may be performed by an authorised officer, which do not include turning vessels back. Similarly, the powers of stopping, manoeuvring and chasing in clause 54, and those of detaining vessels in clause 69, are also silent on turning vessels back.

The coalition will be moving amendments to ensure that this legislation is not read down in a way that brings into question the undoubted power of the Commonwealth to refuse entry into Australian waters or, if necessary, to tow back unauthorised maritime arrivals. This is a matter upon which the coalition expects bipartisan support. After all, on the eve of the 2007 election Mr Rudd told the Australian newspaper:

… Labor would take asylum-seekers who had been rescued from leaky boats to Christmas Island, would turn back seaworthy vessels containing such people on the high seas …

"You'd turn them back," he said of boats approaching Australia, emphasising that Labor believed in an "orderly immigration system" enforced by deterrence.

"You cannot have anything that is orderly if you allow people who do not have a lawful visa in this country to roam free," he said. "That's why you need a detention system. I know that's politically contentious, but one follows from the other.

"Deterrence is effective through the detention system but also your preparedness to take appropriate action as the vessels approach Australian waters on the high seas."

Mr Rudd's Labor government was elected on a policy that included the interdiction and repulsion of illegal entry vessels. The
coalition has always maintained that turning boats around where it is safe to do so is an important part of the suite of measures necessary for the effective management of Australia's borders, and in this we apparently had the agreement of the Labor Party—at least up until the 2007 election. Of course, we now know that the subsequent Labor governments have made a complete hash of the protection of our borders and the maintenance of an orderly immigration program. In fact, since that 2007 election, 570 boats carrying 33,495 people have arrived.

This is almost 20,000 more people, and more than double the number of boats that arrived during the entire 11 ½ years of the Howard government. More than a thousand people have drowned. We hear of asylum seekers on bridging visas released from detention centres being lodged in university halls of residence, abandoned houses and office buildings. This is at a cost of billions of dollars, while those accepted under our humanitarian resettlement programs are made to wait; and now the government demonises skilled migrants—the backbone and success story of our immigration program.

Yet here we are debating a bill on the powers of our maritime officers to deal with unlawful incursions—whether of people, contraband or disease—into Australian territorial waters, and its drafters cannot definitively tell us whether those powers include the power to turn the boats around. That is why the coalition will move the amendments that have been circulated in the chamber. It is not our expectation that those powers will be exercised routinely; however, situations will arise where it is safe and proper to do so. In those cases, the necessary orders will issue and those responsible for issuing the orders will find that under the legislation.

As I have said, this should not be a controversial proposition. It was explicitly discussed in the Houston report. The Houston report found that turning boats back 'can be operationally achieved and can constitute an effective disincentive'. At page 126, the report states:

The following principles for implementing turnbacks are based on international and domestic legal considerations, as well as diplomatic and operational considerations:

(1) The State to which the vessel is to be returned would need to consent to such a return.

I pause here to say that the government and the Greens have failed to acknowledge that, as the report confirms, this consent may be provided by acquiescence. 'Acquiesce' is a very specific term, as the drafters of the Houston report were well aware. This is precisely what was invoked when the policy of turning back boats was last implemented under the Howard government. The second principle was:

Turning around a vessel outside Australia's territorial sea or contiguous zone...or 'steaming' a vessel intercepted and turned around in Australia's territorial sea or contiguous zone back through international waters could only be done under international law with the approval of the State in which the vessel is registered (the 'flag State').

These provisions, I note, are set out in article 8, paragraph 2 of the Protocol against the Smuggling of Migrants by Land, Sea and Air. This does not, however, address the situation of a flagless vessel, which is how the majority of cases first present at sea, and provide a legal basis for interception.

Paragraph 7 of that same protocol states:

A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that State Party
shall take appropriate measures in accordance with relevant domestic and international law.

The third principle cited by the Houston report states:
A decision to turn around a vessel would need to be made in accordance with Australian domestic law and international law, including non-refoulement obligations, and consider any legal responsibility Australia or operational personnel would have for the consequences to the individuals on board any vessel that was to be turned around.

There is certainly no clear legal obligation arising under article 33 of the refugee convention to prevent Australia doing this in extraterritorial waters. The US Supreme Court held in Sale v Haitian Centres Council that the US Coast Guard's high seas interception and return of Haitian asylum seekers did not contravene article 33. This argument is strengthened by the position that non-refoulement has increasingly become an established principle of customary international law. In addition, Indonesia is a signatory to numerous other conventions that also deal with non-refoulement, including the convention against torture. It is also a signatory to the International Covenant on Civil and Political Rights.

The Houston report's fourth principle is:
Turning around a vessel would need to be conducted consistently with Australia's obligations under the SOLAS Convention, particularly in relation to those on board the vessel, mindful also of the safety of those Australian officials or Defence Force personnel involved in any such operation.

The Guidelines on the Treatment of Persons Rescued at Sea 2004 state that the government responsible for the search-and-rescue region in which survivors are recovered is responsible for providing a place of safety or ensuring that such a place of safety is provided. The safety of Defence Force personnel is managed by the chain of command, which has always been the coalition's policy. Sadly, we are now seeing vessels in distress are being rescued by our border protection agencies, which have every legal right to return people to the closest place of practicable safety but are not doing so. Instead, they are being treated as a water taxi service to facilitate asylum claims on the Australian people. Some such claims are made by intimidation through threats to their own safety and potentially, later, to the crew themselves to force the hand of these vessels.

We have a clear difference in attitude here between the government and the coalition. The government has been dragged kicking and screaming to deal with these issues of enforcing our sovereignty at sea on our borders. The coalition has always believed in it. We believe we need strong laws and we also believe we need a government that is prepared to use those strong laws and use every option available to it to protect our borders. This government does not have that track record and it does not have the trust of the Australian people.

Senator RHIANNON (New South Wales) (13:20): The Maritime Powers Bill 2012 and the Maritime Powers (Consequential Amendments) Bill 2012 seek to create a single enforcement area in Australia's maritime zones and, in some instances, on the high seas or in the territorial waters of a foreign state. The main bill will repeal duplicate enforcement provisions with other Australian legislation. The Maritime Powers Bill will establish an enforcement and authorisation system for maritime officers to operate under. With regard to instances of seizures and detention, the bill provides processes for dealing with items seized and people detained. The bill creates an offence regime for failure to comply with its provisions.
The Greens still have significant concerns about the breadth and content of the bill. Clause 14 of the bill has the potential to expand the reach of Australian domestic law in a way that is not mandated by international law—specifically, the United Nations Convention of the Law of the Sea, commonly known as UNCLOS. Clause 14 allows Australia to apply Australian law extraterritorially in the presence of an agreement between itself and another nation. Yet, no mention is made of UNCLOS nor the importance of any such agreement adhering to the text of the convention for the agreement to be valid. This should be deeply concerning for a nation that seeks to be a lawful international citizen. Clause 14 clearly manifests in an expansion of Australia's imprisonment of fisherfolk on the PNG border much in the same fashion as current operations on the Indonesian border.

A submission from the Australian Lawyers Alliance outlines the impact of this aggressive expansion of maritime powers along the Indonesian border. They set out how the expansion of powers will contribute to the desperation of communities in Indonesia to seek an income for their families and to the liability of the Commonwealth to pay compensation. There is also at least one instance, chronicled by the ABC in 2011, of an Indonesian fisher who was charged with unlawful fishing outside an Australian zone. He was later acquitted, returned to Indonesian and then began people smuggling, having lost his ability to fish.

By continuing practices like this Australia is helping to create a class of disenfranchised Indonesian sea captains who are available to the highest bidder. Invariably, many will end up as victims of predatory people-smuggling syndicates, captaining boats that are smuggling people to Australian waters. Eventually they are caught by Australian officers and subject to the mandatory sentencing that accompanies a people-smuggling conviction. In instances where disenfranchised fishers are not turning to people smuggling, they are returning to their communities to suffer the social dislocation and isolation that comes with losing a primary means of subsistence.

By extending the aggressive enforcement measures to PNG, there is a real fear that we condemn these traditional fishers to a similar fate. Of equally grave concern is that these fishers who are detained under this regime often have absolutely no knowledge of the distinction between Australian enforcement zones and their coastlines, let alone that they are breaching any laws. More needs to be done to ensure that the fishing communities who are likely to be affected by this legislation when it is passed are educated about the change in circumstances. It is not appropriate to merely focus on enforcement when similar issues can be pre-emptively addressed through an effective education campaign, certainly at a much lower cost to the fishing communities concerned, and arguably the Australian public as well.

This expansion also seems to undermine the provisions of the Torres Strait Treaty, which affords protection to traditional fishing. The regional processing act may potentially allow for the detaining of Papua New Guinean citizens engaging in traditional fishing. I do welcome the provision of clause 95 for the treatment of persons under this act, namely that they be treated with humanity and with respect for their human dignity and are not subject to cruel, inhuman or degrading treatment. However, I do contend that, for clause 95 to be more than mere platitude, it needs to provide a closer examination of the measures the persons who come under this bill will be subject to. For instance, clause 75 states that restraint is not arrest, which seems to be a thinly veiled...
attempt to block claims of unlawful detention. To uphold a sense of human dignity like that referenced in clause 95, there needs to be greater accountability in instances where someone's personal autonomy is compromised under this bill. It needs to be made clearer under what circumstances 'restraint' becomes 'detention' and what remedy there is available for someone who questions the nature of his or her restraint under this bill.

Clause 9 contains a concerning reference to 'intention to contravene a law', but there does not seem to be an appropriate test for proving intention. Once someone is adjudged to 'intend to contravene the law', a maritime officer may then authorise the exercise of maritime power. Considering the authoritarian nature of maritime power, I argue that there needs to be a more stringent test for intention; otherwise, we cannot be sure we are not subjecting people to arbitrary arrest.

The implications in this legislation are actually huge. There seems to be a contradiction between the spirit of clause 95 and the operation of clause 100 and clause 101. Clause 100C provides that an officer does not need to inform the person of the offence for which they are arrested if the officer, and I quote, 'believes on reasonable grounds that the person does not speak English'. Clause 101 provides that the officer must take the person before a magistrate as soon as practicable. There is a distinct possibility that the operation of clause 100 in conjunction with clause 101 will see people charged before they understand what they are charged for. There need to be provisions to ensure that those detained by the Commonwealth have access to the same legal rights any Australian citizen would expect.

While we are discussing legal options for those detained, there is also concern around the remedies provided for people whose vessels have been confiscated by the Commonwealth. Clause 81 states that an application for things to be returned must be made within 30 days from the notice of Commonwealth ownership. I am concerned that this is not enough time considering the impoverished situation of those who are most likely to come under this bill. I do not think it is reasonable to expect that, within 30 days of seizure, these fishers will return to their homes, access a translator, obtain legal representation and then mount a legal challenge to the Commonwealth's possession of their property. They are also expected to undertake such a challenge at their own cost during a period when they have been deprived of their livelihood.

For all intents and purposes, this clause, alongside clause 91, which provides for the destruction of seized vessels, will serve to deprive people of the tools that sustain their livelihoods, further contributing to the cycle of poverty that they have been trying to get out of for themselves and their families. We are particularly concerned about any provisions that allow for the destruction of vessels, given that heavy-handed approach of Australian authorities in the past. There have been instances, much to our shame, where Australian authorities have destroyed up to 30 per cent of a community's fishing fleet. For many people who lose their livelihood in this way such a loss has huge implications and can result in considerable ongoing hardship. We should take great care before including similar provisions in this bill.

Failure to have a sustainable approach to the treatment of fishing boats means that the Commonwealth government is not utilising its expenditure effectively. The process of finding and destroying boats, imprisoning individuals, paying compensation to
families, paying legal fees in such claims and then supporting the now disenfranchised communities through AusAID is a cyclical pattern that must be broken. This cycle is not only costing the livelihoods of regional fishing communities; it is also costing the Australian public. Such inconsistencies do need to be rectified and alternative policy solutions sought. With this legislation there is clearly a number of problems that need to be fixed up. Thank you.

Senator THISTLETHWAITE (New South Wales) (13:30): I rise to speak in support of the Maritime Powers Bill 2012 and the Maritime Powers (Consequential Amendments) Bill 2012. As Australia is an island continent and has sovereign rights over a vast area of ocean, the harmonisation of several bills in the maritime powers area is a very important reform.

Australia has 60,000 kilometres of coastline. It is the third-largest exclusive economic zone in the world, after the United States and France. Our maritime search and rescue region covers one-tenth of the Earth's surface. We have the world's third-largest fishing zone, extending up to 200 nautical miles out to sea, and our commercial fishing and aquaculture industry is worth over $2 billion to our economy annually and employs 16,000 Australians.

Australia faces a litany of maritime threats which require constant vigilance from dedicated officers working under difficult conditions across a range of portfolios. These committed professionals do a very important job on behalf of the Australian people, and they deserve our thanks and our support. Often the important work of our border protection agencies goes unrecognised and unnoticed. For instance, recently three Indonesian fishermen were convicted for illegal fishing. The men, who were operating in two boats, were blast fishing with explosives inside Australian waters in early October of last year. Both vessels were initially sighted by surveillance aircraft from the Australian Border Protection Command and were apprehended by patrol boats from the Australian Customs and Border Protection Service. The first boat was apprehended on 1 October at Scott Reef, about 250 nautical miles north of Broome, and the second boat was apprehended on 2 October at Evans Shoal, about 100 nautical miles north-west of Darwin and 18 nautical miles inside Australian waters. Both vessels had chemicals on board, including TNT and detonators, to make small bombs for the purpose of fishing. Both masters admitted to using the equipment to undertake blast fishing in Australian waters. Following investigations by the Australian Fisheries Management Authority, the three men were charged by the Commonwealth Director of Public Prosecutions and all pleaded guilty in the Darwin courts. They were fined a total of $43,000. Both boats were confiscated by AFMA and were destroyed.

The Maritime Powers Bill will ensure that AFMA and our border protection agencies have the tools they need to continue their difficult tasks into the future. In 2008, the Prime Minister commissioned the former Secretary of the Department of Defence and Ambassador to China and Indonesia, Mr Ric Smith, to report on the best and most efficient way to coordinate Australia's national security arrangements in the maritime area. The review recognised that many threats are cross-jurisdictional and transnational in nature. The review recommended an additional focus on threats and hazards other than terrorism, including emergency management, serious and organised crime and electronic attack. The review identified, amongst other things, that there was scope to streamline the legal
framework for maritime enforcement activity.

Commonwealth agencies are responsible for the enforcement of a broad range of laws in the maritime domain, including illegal fishing, customs, migration, quarantine, environmental protection and trafficking of illicit substances. However, despite similarities in the powers required, legislation governing enforcement has been largely agency or issue-specific. When then Attorney-General Robert McClelland announced the development of this bill back in 2009, he highlighted the fact that Australia's maritime agencies were operating under at least 35 separate Commonwealth acts. He also stated that the differences in the powers of each act and the associated procedures had the potential to create operational problems, legal uncertainty and policy difficulties in making sure that enforcement remains up to date and consistent.

This bill responds to those concerns and creates a more streamlined, more harmonised approach through a single maritime enforcement law. Operational agencies will not lose any powers that they currently have available to them. Significantly, the bill will provide a mechanism to implement and enforce international agreements that have a maritime enforcement aspect. For example, the bill will provide a comprehensive regime for Australia to implement its high-seas boarding and inspection rights and obligations under regional fisheries agreements. The bill will also provide for the implementation and enforcement of decisions of international bodies such as the United Nations Security Council.

The bill establishes a range of appropriate safeguards in relation to the exercise of maritime powers, including instituting a system of authorisations for enforcement actions on specific grounds by senior maritime officers. The bill also elaborates the chain of command at sea to allow maritime officers to exercise powers in relation to vessels, installations, aircraft, protected land areas and isolated persons, including where they are reasonably suspected of contravening Australian law, to administer or ensure compliance with Australian law, or where an international agreement or decision applies.

The bill provides a simpler, more cohesive set of guidelines surrounding maritime enforcement powers and the purposes for which maritime officers may exercise those powers. The bill does impose geographical limitations on the exercise of maritime powers. It establishes processes for dealing with things that are seized, retained or detained, and for persons held as a result of the exercise of maritime powers. The powers are largely based on those that currently operate in existing legislation and are necessary and appropriate to enforce laws in Australia's maritime area.

According to the Customs and Border Protection Acting Chief Executive Officer, Michael Pezzullo, intelligence shared across borders and organisations makes all the difference. In 2012, Customs and Border Protection officers made over 6,600 detections to stop more than three tonnes of illicit drugs and precursor substances from hitting Australia's streets. This is more than double the number of detections in 2011. In 2012, Customs and Border Protection also detained over 1,100 firearms and firearm parts, accessories and magazines and approximately 247,000 other weapons. This is indicative of the battles that our border protection authorities fight every day, for which they need our full support and, importantly, laws that allow them to carry out the dangerous work that they do in the most effective and safest way possible. This
The bill will go a long way toward achieving that goal.

The bill provides a smarter and simpler approach to maritime enforcement through streamlining the framework for use by our on-water enforcement agencies. Where existing maritime enforcement powers overlap with powers in the Maritime Powers Bill, the Maritime Powers (Consequential Amendments) Bill 2012 will reduce that duplication. The bill has been subject to extensive consultation processes with agencies and relevant stakeholders to ensure that the consolidation exercise maintains current operational power for agencies. I commend the bill to the Senate.

Senator IAN MACDONALD (Queensland) (13:38): Any amendment to legislation that assists our border control agencies and our Defence Force in dealing with the protection and security of our borders should be supported. This bill, the Maritime Powers Bill 2012, would be supported without qualification if it made clear that the amendments would in fact ensure that Australian officials had all of the right powers to do it. As I understand the bill, though, and as I understand the report of the Senate committee looking into the bill, there is some uncertainty on whether the provisions of this bill will actually take away from Australian enforcement agencies some of the rights which they currently enjoy. To that end, as Senator Payne has said in leading the debate, the coalition will be moving some amendments to make absolutely certain to clarify the fact that, should it be necessary, Australian officers, officials and agencies will be able to turn around boats.

You do not need a Western Australian state election to highlight the fact that most Australians are appalled at the current government’s complete inability and, it seems, disinterest in stopping illegal arrivals to our country. There are good reasons why Australia should have an ordered immigration program and an ordered refugee program. I say particularly to the Greens political party when this issue is raised: what do you say to the tens of millions of UNHCR-determined refugees living in squalid detention camps and refugee camps right around the world who are patiently waiting for their turn to come into Australia in accordance with United Nations and Australian rules? Every one of those who come to Australia illegally means that those who are waiting in the queue in these squalid detention camps and refugee camps around the world are put back another year because of people coming here illegally. I say to the Greens political party: when all of you rail about that, get on TV and shed the crocodile tears, what do you say to those people waiting their turn in the refugee camps around the world? These are people who have been determined by the United Nations High Commissioner for Refugees to be genuine refugees. They are people who, when spaces become available in Australia, Canada, the United States, Europe or New Zealand, take their turn. But, with people arriving here illegally, those people are put back. Never once have I heard the Greens—or the Labor Party, for that matter—address that position. That is why it is essential that we in fact have laws that enable Australian agencies to deter those who would enter our country illegally.

I want to refer to just a couple of quotations that should indicate the depth of support for effective means of deterring illegal entrants to our country. I quote a former Labor leader who I expect might be the next Labor leader. I do not know what happened this morning in caucus. Have we had a change of leadership yet, or is that for next Tuesday? Anyhow, Mr Rudd said before the 2007 election:
... Labor would take asylum-seekers who had been rescued from leaky boats to Christmas Island, would turn back seaworthy vessels containing such people on the high seas … "You'd turn them back," he said of boats approaching Australia, emphasising that Labor believed in an "orderly immigration system" enforced by deterrence.

Who could disagree with that? In fact, Mr Rudd was enumerating the Howard government's position. Mr Rudd was saying what I think—and the people of Western Australia clearly demonstrated this on the weekend—most Australians would expect.

But what has happened under the Gillard government and indeed the Rudd government? Talk is always pretty cheap for the Labor Party, but have a look at what its actions are. Since Labor has been in power, there has been an enormous increase. Some 33,495 people have arrived under Labor's watch, and they have arrived by entering Australia in a way that is not authorised by law. There have been 570 boats since Labor came to power. In this year alone we have already had 1,500 arrivals. In 2012, 25,000 people entered Australia in this fashion, contrary to the law.

I want to make it clear that the coalition are not against immigration, and we are certainly not against refugee intake. In fact, we, along with all political parties in Australia, welcome immigration and, importantly, we do our share in taking into our country genuine refugees who have been determined as such by the United Nations High Commission for Refugees—and so we should. I think all Australians appreciate that. In fact, on a per capita basis, Australia is one of the most generous countries in bringing in genuine refugees. But that is why we do need a proper deterrent. I make no determination, but there are certainly suggestions that a lot of people coming in are not refugees, are not in fear of their lives or their liberties, but are looking for a better life. I do not blame them for looking for a better life, but we do have rules and regulations and we have a very genuine and generous refugee program that should be enforced. We now have the situation where the current government have completely lost control of the borders.

There is sometimes some debate on whether you can turn boats around safely. I refer senators to the evidence given by the distinguished seaman who is now Chief of Navy, Rear Admiral Griggs. During a Senate estimates committee, I think it was in the budget estimates last year, he explained how, as a mere patrol boat captain—that is how he referred to himself at the time—he did turn boats around. That was in the Howard years. He also explained, I might say in fairness, that in some instances that was not possible, but he did say, and it is on the record, that you can turn boats around. That is what happened in the Howard years. Do you know the impact that had? Those who would spend $10,000, or $15,000 or $20,000—I do not know what the going rate is, but a lot of money—to pay criminals, people smugglers, to come into the country, would not spend up to $100,000 for their family to come to Australia by these illegal means if they knew that the government was serious about enforcing the protection of our borders; if they knew they were just going to be put straight onto a plane and sent back, or if they knew that the boat they were on was going to be turned around, then they would not come. That would have a couple of results. It would mean that 1,000 people who lost their lives trying to come to Australia on leaky boats that should not have been put out to sea—boats that are run by criminals, who are, ipso facto, supported by the Labor Party's inability to control our borders—might still be alive today. They might still be alive today if there had been a deterrent which
said to those people: 'If you want to come to Australia, do it in the right way. Make the application like other people do, or if you're a genuine refugee, abide by the rules of the UNHCR and Australia for bringing in those people'.

If this bill did what the minister indicated that it would do in his second reading speech, then it would be a bill which the coalition would unequivocally support. There is, however, this thought that it may be that the consolidation of various rules actually takes away some of the ability of our enforcement agencies to properly protect our border. I note that there was a dissenting report in the Senate inquiry into this piece of legislation. Coalition senators reported:

… this legislation may represent a surreptitious attempt to remove the Commonwealth's power to turn back unauthorised boats as part of an effective national border control policy.

I think that the minority report indicated that the term 'surreptitious' was used because agency witnesses before the committee were unable to state whether this power was preserved in the bill. That is a bit of a worry and that is why the coalition will be moving amendments to make sure that the powers are there to allow authorised officers to turn boats back where it is safe to do so. Similarly, I understand that the committee ascertained that the powers of stopping, manoeuvring, chasing and detaining vessels in clauses 54 and 69 are silent on the question of turning back those vessels. I hope that those amendments, when they are moved, will receive the support of the Labor Party at least.

I also refer senators from the Labor Party to the principles enunciated by Mr Rudd when he was their leader about the powers that were needed. I also refer senators to some parts of the Houston report, which looked into this issue some months ago.

Senators might recall that the Houston report's fourth principle is:

Turning around a vessel would need to be conducted consistently with Australia's obligations under the SOLAS Convention, particularly in relation to those on board the vessel, mindful also of the safety of those Australian officials or Australian Defence Force (ADF) personnel involved in any such operation.

So again recognising that there are times when vessels can be turned around. There are examples of it—it happened during the Howard years. And what happened during the Howard years? The flow of illegal arrivals to Australia stopped, because people realised that if they are paying out $50,000 to $100,000 to get here it might all be in vain if they were dealt with in the way that the Australian officials had powers to do.

We are a generous country when it comes to entering Australia as a refugee. There are so many people who have been determined to be refugees waiting in squalid refugee camps around the world who, every time an illegal arrival comes, get put back by yet another year. That is something we have to address.

I urge senators in this chamber to make it quite clear that this bill does enhance powers, not detract from them. As I said at the beginning, you do not need a Western Australian election to tell you that people around Australia are concerned about the porous nature of our borders. If Ms Gillard spoke to any genuine people in Western Sydney last week, they would have told her that they, like every other Australian, believe that our borders should be secure. We should have a regular immigration system and a refugee system that works, is ordered and well-determined. So I urge senators, when the time comes, to support the coalition's amendments to make sure that our officials have the maximum powers to properly enforce our laws.
I rise to speak on the Maritime Powers (Consequential Amendments) Bill 2012. I understand this will provide a single standard framework for authorising and exercising maritime enforcement powers and repeal those powers in a number of other acts, including the Fisheries Management Act 1991 and the Torres Strait Fisheries Act 1984. Amongst other things, this may streamline the pursuit of foreign fishing vessels suspected of operating illegally in the Australian Fishing Zone, AFZ.

I welcome legislation to make Australian powers to police the AFZ against illegal foreign fishing vessels more effective. What I question is the Labor government's willingness to enforce this legislation. I have seen precious little evidence of this government taking any action to enhance the Australian fishing industry—in fact, just the opposite. The Labor government has taken numerous actions during its term in office that can only damage the Australian fishing industry. Policing—or, rather, non-policing—our Australian Fishing Zone is just one example. Rear Admiral David Johnston, Commander of the Border Protection Command, admitted to a Senate estimates committee hearing on 12 February 2013 that no Australian vessel had conducted a patrol in the Southern Ocean for a year, and is not likely to do so any time soon. This is the first time in a decade Australia has not had a presence in the Southern Ocean. Between two and five patrols were conducted each and every year for the previous nine years. The admiral did say that French vessels patrol the region, and one or two Australian officers sometimes hitch a lift with them. Should we be relying on the charity of the French navy to guard Australian fisheries? Of course not. This demonstrates the complete disinterest of the Labor government in protecting our fishing and seafood industries.

I would criticise the Labor government policy for recreational and commercial fishing, but the fact is the Labor government does not have a fishing policy. What it does have is a policy to maintain the support of their effective coalition partners in government, the Greens—a policy that has been scripted by international environmental lobbyists. This involves locking out fishermen, both commercial and recreational, from vast areas of Australian waters containing stocks of fish that all the science says are being caught sustainably. Fisheries science says they can be caught, common sense says they should be caught, but, of course, the international environmental lobbyists have ordained they will not be caught. Those are the people this government listens to.

Under its same non-policy the government has allowed the reputation of Australian fisheries science and fisheries managers to be trashed without speaking a word in their defence. Worse still, the government itself has actively promoted the notion that Australia’s fisheries science and fisheries management are inadequate and incompetent. The government has overridden sensible recommendations made on the basis of rational fisheries management and instead implemented short-term policy fixes. It has created doubt and uncertainty where none need have existed. The situation has been summed up by Dr Robert Kearney, who has been involved with Australian fisheries research and management for over 40 years. Dr Kearney is an emeritus professor of fisheries at the University of Canberra. He made a submission last year to the House of Representatives Standing Committee on Agriculture, Resources, Fisheries and Forestry. Dr Kearney told it like this:
The effectiveness of Australian science and analytical capacity to sustainably manage the Australian fisheries and aquaculture is constrained not by the lack of science or capacity, but by the lack of strategic assessment and government policies for the future security of Australia's seafood supply.

He said it was 'shameful'—and shameful it is indeed. Let us step back and look at the bigger picture. Labor has not created a fishing industry policy, but in its dealings with the seafood industry it has created a perfect template for how to destroy a primary industry. Let me tell you how this Labor government is destroying the fishing industry. First, work in a policy vacuum, then let a department, wholly and utterly unsympathetic to the industry—

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Senator Abetz: Mr President, I rise on a point of order, first of all. I note the absence from the chamber of the Leader of the Government in the Senate. I understand that he is doing a media conference. However, if the deputy leader or somebody could, if possible, indicate to us to whom any questions directed to Senator Conroy should be addressed.

Senator Wong (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:00): Mr President, I do understand that Senator Conroy was doing a media conference in the Blue Room and was intending to be here.

Senator Ian Macdonald: Far more important than coming to the Senate chamber!

Senator Wong: We have another example of relevance deprivation that the good senator appears to suffer from. I assume Senator Conroy will be here very shortly. If the senator wishes to commence I can indicate that I can take questions until he arrives.

The President: Senator Conroy is now walking through the door.

New South Wales Labor Government

Senator Abetz (Tasmania—Leader of the Opposition in the Senate) (14:01): My question is to the Minister for Foreign Affairs. I refer to the need for Australia's Minister for Foreign Affairs to have an unblemished reputation for probity. Accordingly, I refer to the statement by former New South Wales Premier Morris Iemma: 'It took Eddie Obeid 20 years to build the power and influence that he had and, for 17 of those, Bob was leader.' I also refer to Mr Iemma's statement that he, former Premier Carr, made Obeid a cabinet minister:

… he waltzed into the caucus room when the vote was happening and very publically voted for him … To send a message …

Don't Mr Iemma's statements cast serious doubts on the minister's claims on Four Corners last night that he saw Eddie Obeid as a 'marginal figure, never to be taken seriously' and therefore reflect on the minister's reputation and our reputation overseas?

Senator Bob Carr (New South Wales—Minister for Foreign Affairs) (14:02): What these Liberals will do, in pursuing their factional fights! In an effort to embarrass Senator Sinodinos, this matter gets raised today. The fact is that there stands—

Senator Sinodinos: Mr President—

Honourable senators interjecting—

The President: Order! Senator Sinodinos, you are entitled to be heard in silence on both sides.

Senator Sinodinos: Mr President, I rise on a point of order. The minister should
answer the question. This is all about relevance. He is not getting to answer the question of Senator Abetz.

Senator Wong: Mr President, I rise on a further point of order. I would ask you to consider—

Honourable senators interjecting—

The President: Senator Wong, I cannot take your point of order until the debate has ceased in the chamber.

Senator Wong: Mr President, on a further point of order: whilst I have no doubt Senator Carr is quite capable of answering this question very well, I would ask you to consider whether any aspect of that question in fact related to his portfolio.

The President: There is no point of order. The ruling is that I draw the minister's attention to the question and the minister has one minute 41 seconds remaining to answer the question.

Senator Bob Carr: This is a disgraceful attempt to embarrass a factional figure in the Liberal Party, who was nothing less than chair of an Obeid family company. Senator Sinodinos had Obeids on his payroll. He was chair of a company.

Senator Brandis: Mr President, I rise on a point of order. The minister entirely disregarded your ruling that he address the question, from the moment he resumed his answer. And I might point out, Mr President, that when you ruled against Senator Wong's point of order she continued from her seat to shout at you and dispute your ruling. You must assert your authority, Mr President.

The President: I reject that.

Honourable senators interjecting—

The President: Order, on both sides! The minister has one minute 31 seconds remaining to answer the question.

Senator Bob Carr: I would have thought the Obeid reputation was well known, when Senator Sinodinos of the Liberal Party chose to chair an Obeid family company, a company owned one-third by the Obeids, with the Obeids on his payroll. And, further, he pretended that—

The President: Order! Senator Bob Carr, when you are called to order you will resume your seat. When there is silence, we will proceed. The time to debate the issue is after three o'clock.

Senator Ian Macdonald: Mr President, I raise a point of order: yet again this minister has shown you the discourtesy of continually turning his back on you and addressing others besides you. Senate requirements are that we address you and address our remarks through you. That cannot happen while the minister has his back to you. It is a lack of good manners.

The President: Order! That is not a point of order. I draw your attention to the standing orders. That is not a point of order. Minister, you have one minute 12 seconds remaining.

Senator Bob Carr: While Senator Sinodinos had Obeids on his payroll, of a company in which he had a five per cent interest, he knowingly hid this from the Australian public and claimed that as a one-third shareholder—

Senator Abetz: Mr President, I raise a point of order. There was a clear imputation against the character of Senator Sinodinos in that desperate answer by the minister and it needs to be withdrawn. To accuse a fellow senator of knowingly engaging in a certain activity is a clear imputation against that fellow senator's reputation and needs to be withdrawn.

The President: Senator Carr, I ask you to withdraw that part of the response to the question.
Senator BOB CARR: I am happy to withdraw.

The PRESIDENT: Thank you. Continue. You have 55 seconds remaining.

Senator BOB CARR: Apparently this question was drafted by NSW Liberal Senator Fierravanti-Wells as a way of undermining an opponent within the NSW Liberal Party—

Senator Kim Carr interjecting—

Senator Fierravanti-Wells interjecting—

The PRESIDENT: Order!

Senator Fierravanti-Wells: Mr President, I rise on a point of order. I think Senator Kim Carr made a comment which reflects on my integrity and I ask you to ask him to withdraw that comment.

The PRESIDENT: I did not hear any reflection. If there was a reflection on the senator, it needs to be withdrawn.

Senator Kim Carr: Mr President, I am happy to withdraw, but what was the reflection?

The PRESIDENT: I do not enter into that; you know that.

Honourable senators interjecting—

Senator Kim Carr: This is a question that raised matters to do with the integrity of a senator; namely, the Minister for Foreign Affairs. When he responded, all sorts of protests were made by those who drafted the question. It is somewhat hypocritical for senators now to complain when the foreign minister points out the hypocrisy of this question.

The PRESIDENT: Order! That is debating the question. There is no point of order. The minister has 45 seconds remaining.

Senator BOB CARR: One of the saddest things we witness in this chamber, or any other parliamentary chamber, is the sad effect of factionalism on a once great political party. How sad it is to see over there the factionalism of the NSW Liberal Party manifest: one senator drafts a question for her leader that raises embarrassing matters about the business affairs of another senator—

The PRESIDENT: Order! Senator Bob Carr, resume your seat.

Honourable senators interjecting—

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

Senator Brandis: Mr President, I rise on a point of order. The minister is out of order for two reasons. Firstly, he is in defiance of your ruling to address the question. With only 19 seconds remaining, he has not even tried to pay you the respect of observing your ruling. Secondly, when you asked him to resume his seat while you could take a point of order, he entirely disregards your ruling and continues to speak. As I said before, and I did not say it lightly, this chamber is entitled to have you assert your authority over this minister.

The PRESIDENT: Order! There is no point of order there at all. The minister has 19 seconds remaining to address the question.

Senator BOB CARR: The question raised the issue in this Senate of the Obeid influence in politics and there is only one senator with a deep link with Mr Eddie Obeid—that is, Senator Sinodinos. He chaired the company, one-third owned—

Honourable senators interjecting—

The PRESIDENT: Order! I remind honourable senators that the appropriate time to debate this is post question time. Senators on both sides are not doing themselves any credit by continuing this debate.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:12): Mr
President, I ask a supplementary question. I refer to the minister’s desperate attempt to distance himself personally from Mr Obeid and ask: is it correct that he was so keen to have Eddie Obeid on his frontbench that he voted for him not once but twice and sought to dump sitting frontbenchers to make way for him? How can the minister be treated internationally as a person of probity if he cannot tell the truth about his conduct as Premier of New South Wales?

The PRESIDENT: The minister can answer that insofar as it pertains to the portfolio.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:13): The question implies I should relate this to my portfolio as foreign minister. There is only one thing to be said here: there is only one member of this Senate—that is, Senator Arthur Sinodinos—who was in a business partnership with Eddie Obeid, a business partnership that saw him disguise his five per cent ownership in a company owned one-third by Mr Obeid and employing Eddie Obeid Jr on its payroll. This is being asked in a desperate attempt by one faction of the Liberal Party to embarrass a member—

The PRESIDENT: Order, Senator Carr!

Senator Abetz: I raise a point of order, Mr president. With great respect, sessional orders do require direct relevance. And direct relevance would require the minister not to seek to obscure the question by referring to others, but deal with the issue as to whether this minister can be treated internationally as a person of probity if he is not telling the truth about his conduct as Premier of New South Wales.

Honourable senators interjecting—

The PRESIDENT: When there is silence on both sides we will proceed. There is a debate going on at the other end of the chamber which is not assisting the progress of question time.

Honourable senators interjecting—

The PRESIDENT: I am not giving anyone the call until there is silence, Senator Joyce. And I have got somebody on their feet ready to stand for a point of order before you.

Honourable senators interjecting—

Senator Conroy: Mr President, on the point of order, the question from Senator Abetz was barely within standing orders. It has a clear imputation that the Minister for Foreign Affairs had been misleading and not telling the full truth, and I think Senator Bob Carr is absolutely entitled to treat a question that broad with the contempt with which I think he is treating it. He is well within relevance to the question that he was asked, and I ask you to dismiss this frivolous point of order.

The PRESIDENT: Wait a minute, Senator Brandis. I had Senator Joyce on his feet before you wanting to take a point of order.

Honourable senators interjecting—

Senator Joyce: Mr President, I rise on a point of order—Senator Faulkner was referring to an Ian Macdonald as a grub. I just wanted to make sure that he was referring to his former colleague and not imputing the character of Senator Macdonald, who we know is not. I can understand his factional ally is a grub. I can understand that particularly.

The PRESIDENT: That is debating the issue. There is no point of order.

Honourable senators interjecting—

The PRESIDENT: I am waiting for silence on both sides. Senator Brandis.

Senator BRANDIS: Mr President, you have not, I do not think, ruled on the
previous point of order previous to Senator Joyce's. On the point of order, two things. Firstly, Senator Conroy in his contribution concedes that the question was within standing orders by conceding that it was barely within standing orders; it either is or it is not.

**The PRESIDENT:** That is debating.

**Senator Brandis:** Secondly, in your ruling I ask you to make it clear to all senators—but particularly the Leader of the Government—that it is not within sessional or standing orders for a minister to respond to a question by, to use Senator Conroy's words, 'treating it with contempt'. It must be answered.

**Senator Jacinta Collins:** Mr President, on the point of order, this is the third occasion—and to countless points of order from the opposition—that this issue has scurrilously been raised. There is no issue of contempt for the chair.

_Honourable senators interjecting—_

**The PRESIDENT:** It would assist question time if people on both sides settled down. If people feel so passionately about this they can debate it at the end of question time, that is the appropriate time. There is no point of order.

**Senator BOB CARR:** There is only one international implication of the career of Mr Eddie Obeid—late of the New South Wales parliament—and that is that a member of the Australian Senate was in business with him, in deep business with him. A member of the Australian Senate had a five per cent interest concealed and hidden from the public gaze in a company—(*Time expired*)

**Senator ABETZ** (Tasmania—Leader of the Opposition in the Senate) (14:20): I ask a further supplementary question, Mr President. Does the minister agree with Labor Senator Faulkner, who said last night that Eddie Obeid 'ran Labor governments in New South Wales'? How can the minister be treated as a person of probity on the world stage while he falsely maintains that Eddie Obeid was a marginal figure, not to be taken seriously, when he publicly voted for him not once but twice, and sacked people to make room for Eddie Obeid on his very own frontbench?

**The PRESIDENT:** You are not required under standing orders to give an opinion on a matter, Minister, but you are entitled to answer that part of the question that applies to your portfolio.

**Senator BOB CARR** (New South Wales—Minister for Foreign Affairs) (14:21): I thank you for your guidance, Mr President. The international implications of this, the international reputation involved here, are probity and falsity. For a member of the Australian Senate to conceal a five per cent shareholding in a company one-third owned by Mr Eddie Obeid, now the subject of some public attention, does raise matters of repute and matters of credibility.

_Honourable senators interjecting—_

**The PRESIDENT:** Order! When the Senate is ready on both sides we will proceed.

**Senator Fifield:** Mr President, I rise on a point of order on relevance. There is only one senator in this chamber who appointed Eddie Obeid as a minister.

**The PRESIDENT:** There is no point of order. That is debating the issue. You have the time after question time to debate it.

**Senator BOB CARR:** To confirm that, I can reveal to the Senate that the ICAC has seized records of Australian Water Holdings relevant to the chairmanship of this company, an Obeid family company one-third owned by Mr Obeid, of the secretary to
the Leader of the Opposition, Senator Sinodinos.

Senator Abetz: Mr President, I rise on a point of order. Sessional orders are very clear: answers need to be directly relevant. Could you please explain to the Senate and the viewing public how that answer in any way, shape or form is relevant, let alone directly relevant?

The PRESIDENT: There is no point of order.

Senator BOB CARR: And, when asked about this by the Sydney Morning Herald, Senator Sinodinos's response about not revealing the shareholdings, as he was required by law, was, 'I had a gentlemen's agreement with Mr Obeid.' I think that speaks for itself. Thank you for the question.

Senator Heffernan: Mr President, I rise on a point of order. For the record: those shares were declared on the pecuniary interest register.

Honourable senators interjecting—

The PRESIDENT: Order! There is no point of order. I remind honourable senators on both sides that, if there is a desire to debate the question, the question can be debated after 3 o'clock.

Education

Senator CAMERON (New South Wales) (14:24): My question is to Senator Kim Carr, the Minister representing the Minister for School Education, Early Childhood and Youth. Given the importance of teacher quality, what is the government doing to make sure that we have the best possible teachers for our students?

Senator KIM CARR (Victoria—Minister for Human Services) (14:24): I thank Senator Cameron for his interest in education and for this policy question. It is a pity we do not hear more about these types of things in this chamber, because we appreciate that education is, of course, the first priority of a Labor government. This is a simple proposition. We regard education as absolutely fundamental to the future of the nation. On this side we believe that quality teaching is fundamental to the learning experience of all students. Every senator here I am sure would recognise the importance of making sure that every teaching graduate has the required skills to be an effective teacher and positive role model. That is why this government will introduce new, more rigorous standards for teacher training courses.

Senator Mason interjecting—

Senator KIM CARR: I note, Senator Mason, that members on your side of the chamber have in fact supported this approach. We acknowledge that on this matter there is a bipartisan approach to ensuring that we lift the quality of teacher education in Australia.

These new standards that the government will introduce will improve the quality of teachers graduating from universities and being employed in Australian schools. The four main elements to this plan include more rigorous and targeted admissions into university courses; a new literacy and numeracy test to ensure that students will have to satisfy before they graduate; a national approach to teacher practicum to ensure that new teachers have the skills, personal capacities and practical experience they need to do well; and a review of all teaching courses by the Tertiary Education Quality Standards Agency—TEQSA. Putting these steps in place will ensure that school communities have confidence in the abilities of new staff and will help ensure that parents— (Time expired)

Senator CAMERON (New South Wales) (14:26): Mr President, I ask a supplementary question. Can the minister confirm that state
cuts have reduced school funding indexation rates from six per cent to 3.9 per cent this year?

Senator KIM CARR (Victoria—Minister for Human Services) (14:27): You are quite right. Despite the bipartisan approach on teacher quality, the fact remains that conservative state governments around this country have been cutting funds to education, and that has an immediate impact on students, on schools and on their families. Of course, there is a flow-on effect of these cuts; and, under the current funding system—a funding system that the opposition remains wedded to—these cuts will reduce the level of indexation and therefore the level of expenditure over time.

In 2012 the indexation measure came down to 3.9 per cent. Senator Cameron is quite right about this. Because of the slower growth in the state funding arrangements, it has come down from a revised 6 per cent to 5.6 per cent across the forward estimates on a 10-year weighted average. The current funding system, if it is retained as those opposite would urge us to do, would see further reductions in that amount. (Time expired)

Senator CAMERON (New South Wales) (14:28): Mr President, I ask a further supplementary question. Can the minister confirm that the National Plan for School Improvement requires state governments to pay their fair share?

Senator KIM CARR (Victoria—Minister for Human Services) (14:28): I can confirm that the National Plan for School Improvement promises much better resources for all schools but does require the states to come to the party. The fact remains that, under the current indexation arrangements, about 60 per cent of those formulas are a result of the cost of schooling, particularly for teaching. That has seen a reduction in the level of support because the state governments are forcing down wages for schoolteachers despite the promises they made, particularly in Victoria. We are seeing that national responsibility is going begging because the state governments are refusing to take up the opportunity of a national school improvement plan.

We understand that Premier Baillieu of Victoria—when he was the Premier—argued that he had a different plan. Premier Newman supported him in that approach. The Baillieu plan was a dud. Premier Baillieu is no more. (Time expired)

Regional Development Australia Fund

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:29): My question is to the Minister representing the Minister for Regional Australia, Regional Development and Local Government, Senator Conroy. I refer the minister to the government’s decision last week to allow 19 applications for regional development funding from the Greater Western Sydney RDA to proceed to full application status. All other RDA organisations in Australia have been permitted just three applications to proceed to full application status. Does the minister think it is fair that Central Queensland, an area that produces 40 per cent of Queensland’s coal, is allowed just three applications when 19 applications from Western Sydney are allowed to proceed to full application status? Why does the government believe that the entertainment precinct of Parramatta is deserving of the term ‘regional’, just as Cunnamulla, Birdsville and Quilpie are considered regional? Why would the entertainment precinct of Parramatta go to the next stage of this application funding when the government has rejected the Tennant Creek Child Care Centre?
The PRESIDENT: Before I call the minister, that part of the question that asks for an opinion does not require a response. The question is given to you in your representational capacity as the Minister representing the Minister for Regional Australia, Regional Development and Local 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) (14:30): I apologise; the press hounded me out of the room. I thank the senator for his question. The Gillard government has a strong record of delivering support to our regions. Our Regional Development Australia Fund of almost $1 billion supports Australia's regions and enhances the economic development and liveability of their communities. This government is building on the $4.3 billion investment announced in the 2011-12 budget by continuing to invest in regional health initiatives, education, liveability, skills and infrastructure in the 2012-13 budget. The government has established a $6 billion regional infrastructure fund to address critical infrastructure needs in areas supporting the mining industry, including $573 million allocated to RDAF.

We have committed to establishing a new RDA committee for Greater Western Sydney, home to two million people. Where Melbourne had four RDA committees, Sydney had one. Establishing a Greater Western Sydney RDA means that this region, which has a bigger population than South Australia, can more effectively identify projects that stack up and leverage partnership investments. The new Greater Western Sydney RDA will help unlock economic growth and improve liveability in the region. It will also strengthen the region's chance of securing investment through the RDAF. It is appropriate that all projects seeking funding are considered in the context of this new agreement. (Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:33): Mr President, I ask a supplementary question. I refer to the fact that none of the regional grants so far from this fund have been made to areas in capital cities, which would make sense, because people would think that they were capital cities and urban areas, not regional areas. So why have regional projects such as the Cooktown foreshore development, the Gracemere water supply augmentation and the Richmond Shire Council water treatment plant been knocked back when all the applications for Western Sydney have been allowed to proceed? Why is the government being so disingenuous with this on-the-run, cynical redefinition of the term 'regional' when what it should really be talking about is a growth area? (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) (14:33): Coming from the princes of pork-barrelling in that far corner, let me be very clear. We have Auditor-General report after Auditor-General report demonstrating how corrupt the processes of the former government were when it came to allocating regional development funds. Senator Joyce, don't come in here and think you can, with a remote sense of credibility, complain about a proper process which is being gone through when you have the track record of those regional rorts and those regional rorters that the Auditor-General so cruelly exposed so regularly.

The projects seeking funding may address new priorities arising out of the MOU and
the new RDA committee's engagement with the local communities. The independent RDAF panel will assess and prioritise Western Sydney region projects against the same criteria as all the other applications.

(Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:34): I note that it is not the same criteria, because—

The PRESIDENT: Order! You need to ask the question. It is not a statement.

Senator JOYCE: I remind the minister that the RDA fund was a promise that the government made to the Independents to secure their support. Having broken a promise to the member for Denison on poker reforms, having broken a promise to all Australians on the carbon tax and having broken a promise to deliver a surplus on the economy, is the government now going to break a promise made to its own Independent allies?

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) (14:35): I always enjoy Senator Joyce talking about broken promises. For those of us who have been in the chamber long enough—and, Mr President, you are one of them—we will remember: 'I will not vote for the sale of Telstra.' Senator Joyce ran on a platform; he said it; he campaigned on it; he came in here and he talked a big fight. Then he got in the room and, as usual, the little puppy dogs in the Nationals rolled over and let Mr Howard tickle their tummies and off they went—

The PRESIDENT: Come to the question, Senator Conroy.

Senator CONROY: When it comes to broken promises in this chamber Senator Barnaby Joyce is example No. 1. This chamber has had to witness coalition—

Senator Joyce: Mr President, on a point of order on relevance—

Senator Conroy interjecting—

Senator Joyce: I am sorry, I cannot hear. There is someone trying to censure our comments.

The PRESIDENT: Senator Joyce, just address your question to me.

Senator Joyce: I rise on a point of order on relevance. Is the government going to break its promise to the Independents that this is going to go to authentic regional areas, or is it going to start using this to pork-barrel the Western Suburbs of Sydney? It is fine if they want to pork-barrel—they can go ahead and do it—just be upfront about it—

The PRESIDENT: You are now debating it. There is no point of order. The minister has 11 seconds remaining.

Senator CONROY: The single greatest broken promise in this chamber was when you cast a vote to support the sale of Telstra, when you promised every Queenslander you would not, under any circumstance, do that Senator Joyce. (Time expired)

Zygier, Mr Ben

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:37): My question without notice is to the Minister for Foreign Affairs, Minister Carr, regarding Ben Zygier, otherwise known as Prisoner X.

Minister, have you formerly requested from the Israeli government a full copy—not just the published extracts—of Judge Kedrai's report into the circumstances surrounding the alleged suicide of Ben Zygier? If so, when did you request that full report and information? Was it before or after your own department's full report on the issue, given you told the Senate estimates you would not be doing anything until you
got that report? And further, have you received that report? If not, are you pursuing it?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:38): The Secretary of the Department of Foreign Affairs, before he furnished me with his report, requested all relevant information from the Israeli government—all information. When I was last advised on this it was to the effect that no information was forthcoming. There are aspects about this case that we have no capacity to answer. We do not have the capacity through our mission in Tel Aviv to conduct an inquiry into the circumstances of Mr Zygier's death. We have no—

Senator Abetz: You have a mission in Lebanon.

Senator BOB CARR: Sorry?

The PRESIDENT: Order! Ignore the interjections.

Senator BOB CARR: Mr President, I thought it might be a helpful intervention from Senator Abetz.

The PRESIDENT: No, ignore the interjection.

Senator BOB CARR: Instead it was one that tried to make mocking humour out of a matter of life and death and the serious matter of international relations. I, for one, am disappointed in the approach the coalition has taken.

To return to the question: I think the Australian people would like, if not every aspect of this matter of Mr Zygier's treatment in imprisonment revealed to the light of day, then certainly a good deal of it. But that is a matter for the government of Israel. We have made it very clear to them that we want a full statement of Mr Zygier's treatment while he was in prison.

I might say, as I have said before about this: Mr Zygier chose to be a dual citizen. He was an Australian who went to Israel and lived there for 10 years, taking out dual citizenship. He opted to work for the Israeli government, and according to reports that have appeared in the Israeli media—reports that I cannot confirm nor deny—he worked for Israeli security. None of these matters relieve us of an obligation to fulfil— (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:40): Mr President, I ask a supplementary question. Minister, I presume all information from the Israeli government includes that judge's report. Can you now tell the Senate whether the cell in which Mr Zygier was held was suicide proof and whether it was under surveillance? Or whether cameras where filming when Mr Zygier allegedly hanged himself, given that the Israeli minister for justice said he does not know, and the commissioner for prison services in Israel has said that, in fact, it was not a suicide-proof cell and it was not under surveillance? (Time expired)

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:40): Again, this is relevant to my point: we have not got a capacity to conduct inquiries about these matters from our mission in Tel Aviv. We cannot summon witnesses, we cannot ask the prison administration, we cannot gain entry to the prison and we cannot inspect the cell. We are dependent for any insights into Mr Zygier's condition and Mr Zygier's treatment—especially in the last days in late 2010—on information the Israelis will give us or choose to give us.

We do know some things: we know that his family had 50 visits to him. During that 10 months or so that he was in prison we
know that neither his family nor his legal representatives made any request of the Australian embassy or any other Australian government instrumentality for further consular representation. *(Time expired)*

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:41): Mr President, I ask a further supplementary question. Thank you, Minister. Are we to understand that you accept the reports of the Israeli government, and that is an end to it? Or is there any further action you intend to take, since your criticism of your own department was that they failed to follow up on the guarantees that we received from the Israeli government? What follow up are you going to take?

**Senator BOB CARR** (New South Wales—Minister for Foreign Affairs) (14:42): Again, we will seek information. But let me underline—again as well—that Mr Zygier chose to work for the government of Israel. If reports are to be believed, he chose to work for them in the area of security and intelligence. That is not something I can confirm or deny. He chose to do that, if reports in Israel are to be believed, and he lived in Israel for 10 years with his dual citizenship. In future, while we would seek to do everything to protect an Australian citizen in his position with more attention to detail and a greater focus on accountability than was the case in this instance, there are not many guarantees you can give where an Australian citizen makes such choices. Mr Zygier went to live and work in a difficult area in a most challenging part of the world.

**Prime Minister: Western Australia**

**Senator BACK** (Western Australia—Deputy Opposition Whip in the Senate) (14:43): My question is to the Minister representing the Prime Minister, Senator Conroy. I refer the minister to my question to him on 27 February relating to the Prime Minister's next visit to my home state of Western Australia. Now that the Prime Minister has made it as far west as Western Sydney in an attempt to salvage her Prime Ministership, can the minister advise the Senate when we can expect Ms Gillard to venture even further west to save Labor in Western Australia?

**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) (14:44): I thank the senator for his question. The government's plans for the future will help drive jobs and opportunity in Western Australia. Since Labor came to office in 2007, 186,300 jobs have been created in Western Australia: 1.3 million more Western Australians are in work than ever before.

Western Australian households with a $300,000 mortgage are now paying $5,000 a year less in repayments under Labor than they were when the Liberals last held office. Almost 120,000 families receive the schoolkids bonus, worth $123.6 million. Thanks to the Gillard government's tax cuts, 779,000 Western Australians are paying less tax, 58,000 Western Australians are paying no tax and 628,000 got a tax cut of more than $300. More than 358,000 Western Australians are getting a boost to their retirement savings through a low-income superannuation contribution, and those 358,000 Western Australians know that if an Abbott government is elected that $300 will be taken back from them in a tax hike imposed by those opposite. *(Time expired)*

**Senator BACK** (Western Australia—Deputy Opposition Whip in the Senate) (14:46): I have a supplementary question, Mr President. Given that the people of Western Australia resoundingly rejected Labor, the carbon tax and the mining tax at
last Saturday's election, will the minister assure the Australian community that federal Labor will now listen to their state Labor colleagues and the wider electorate and remove those toxic taxes?

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) (14:46): Two hundred and seventy-four thousand small businesses in Western Australia are benefitting from the Gillard government's instant tax write-off. There is $3.6 billion as part of a six-year nation building program to upgrade and modernise the state's road, rail and public transport infrastructure. In fact, we have almost doubled annual infrastructure spending, from $154 to $261 per Western Australian. I am also pleased to indicate that the next community cabinet in Western Australia is on 27 March and the Prime Minister and many of her cabinet colleagues will be in Western Australia.

(Time expired)

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (14:47): Mr President, I ask a further supplementary question. When the Prime Minister does next visit Western Australia on 27 March, will Ms Gillard and her ministers explain to Western Australians why the government has introduced policies that are destroying jobs in Australia's economic powerhouses, including the other states and territories around Australia?

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) (14:47): As I have already stated, the Gillard government will be able to say to the people of Western Australia that, since 2007, 186,300 jobs have been created. We are in the process of the major roads project, where funding will cut travel time and improve safety for more than 450,000 motorists and truck drivers a day, and, over the longer term, deliver back to the Western Australian economy social and environmental benefits worth $5.7 billion. When Ms Gillard and her cabinet go to Western Australia they will have a proud record of achievement, a proud record of creating jobs, a proud record of cutting taxes and a proud record of building the infrastructure that the state needs—unlike those opposite who have nothing but negativity about all of these projects and who voted against the small business offsets. (Time expired)

Migration

Senator GALLACHER (South Australia) (14:49): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Lundy. Can the minister update the Senate on the government's support for all Australian workers?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:49): Australia is a vibrant multicultural nation and generations of migrants have contributed to our national prosperity. The Gillard Labor government understands this and we appreciate the values that so many migrants have brought to this country. This has been reinforced by our multicultural policy and it is why we have proudly identified the multicultural affairs portfolio initially as having a parliamentary secretary and now with a minister.

When migrants settle in Australia we want to make sure that they have the best chance to get a job, just like their fellow Australians. That is why the Gillard government recently
announced changes to the overseas temporary worker 457 visa system—because we knew the system was being exploited. When the 457 visa system is exploited it ultimately means that all Australians, including permanent residents and migrants, miss out on jobs right here in Australia. There are already more than 100,000 temporary workers here—

Senator Bernardi interjecting—

Senator Cameron interjecting—

The PRESIDENT: Order! Senator Lundy, resume your seat. When people debate this issue across the chamber it is disorderly. Senator Lundy is entitled to be heard. Please continue.

Senator LUNDY: Thank you, Mr President. There are already more than 100,000 temporary workers here in Australia—a 22 per cent rise on a year ago. At the same time, skilled workers living here are looking for work. Let me be very clear: the Gillard government wants to make sure Australians—permanent residents and migrants whose home is Australia—get first dibs on Australian job opportunities. We need a 457 visa system that is fit for purpose, but for genuine demonstrable skill shortages—that is what was designed to be. We do not want it to be misused to the detriment of people for whom Australia is home.

Senator Bernardi: They're all hanging their heads in shame.

Senator Cameron: Not me.

Senator LUNDY: That is why we have made the changes—

Senator Ian Macdonald interjecting—

The PRESIDENT: Order, Senators Bernardi, Cameron and Macdonald! Senator Lundy, please continue.

Senator LUNDY: Thank you, Mr President. Perhaps I should conclude on the point that, in contrast, the Leader of the Opposition has made his position clear: he wants to flood Australia with people on the temporary overseas worker plan, taking away the permanent job opportunities available. (Time expired)

Senator GALLACHER (South Australia) (14:52): Mr President, I ask a supplementary question. Can the minister inform the Senate of what other measures the government is undertaking to protect Australian workers?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:52): Last sitting period we had yet another clear example of how the opposition will not stand up to protect Australian wages and conditions, with the introduction of the Employer Sanctions Bill which they voted against. This is an opposition that talk tough when it comes to so-called illegal immigration and cynically exploit an incident, which is currently before the courts, to cause fear and unrest in the community but, when it actually comes to a specific opportunity to do something about employers exploiting our overseas temporary skilled worker program to the detriment of employment opportunities and to the detriment of those temporary skilled workers involved, they are nowhere to be found. They had an opportunity in this place to support the Employer Sanctions Bill and they chose not to do it. (Time expired)

Senator GALLACHER (South Australia) (14:53): Mr President, I ask a second supplementary question. Is the government placing undue pressure on Australian businesses with changes to illegal hiring practices?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry
and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:53): Thank you for the second supplementary question. Members of the opposition have said that the reason they opposed the Employer Sanctions Bill in the Senate—a bill which would enable the government to successfully prosecute members who wilfully ignore their responsibility—was that it would increase red tape for employers. That was the argument presented. I can tell the Senate again that not one extra requirement on employers, not one piece of red tape, not one additional process for employers to go through, occurred as a result of this legislation—not one; not a single new requirement for employers. This was made clear before the debate and during the debate and yet the opposition still opposed the bill. So there goes their smokescreen. Not only are they hypocritical on matters such as this is but they also cannot help themselves in opposing everything this government puts forward that is both constructive and fit for purpose and is designed to strengthen the system of our overseas temporary skilled worker program. (Time expired)

Aged Care

Senator FIERRAVANTI-WELLS (New South Wales) (14:54): My question is to the Minister representing the Minister for Mental Health and Ageing, Senator Ludwig. I refer the minister to the announcement of the Aged Care Workforce Compact last Tuesday. Minister Butler stated at the Aged and Community Services Australia's national conference in Hobart in September 2010, 'We will be working with the sector to consider a proper and deliberative transition period for any reforms that we decide to introduce'. How can the minister contend that he has consensus when everybody boycotted his announcement and why could he not find an aged-care facility where he could make his announcement? Instead he had to do it in the front of a church and then wrongly accused the local priest of stealing a car—

The PRESIDENT: Order! That is debating it. You have made your point of order. I do not want the generality; I want the specifics. I asked the minister a specific question and that was: how can the minister contend that he has consensus when everybody boycotted his announcement and why could he not find an aged-care facility where he could make his announcement? Instead he had to do it in the front of a church and then wrongly accused the local priest of stealing a car—

Senator Ludwig: Thank you. Mr Butler announced a very significant public policy for aged care, and what the opposition are now doing is focusing on the event rather than the policy that underlies it. The policy that underlies it is a very significant improvement for aged care. Those opposite continue to want to denigrate the aged-care area, where Mr Butler has lifted and
improved the outcomes for aged care—and that announcement underpins that.

The announcement provides significant funding for aged care. Increasing incentives through investment in aged-care is vital to ensure that there is a sufficient supply of aged-care services to meet the needs of an ageing population. That is the underlying issue, and this government is addressing that in aged care. Those opposite could do better by coming on board and joining with Mr Butler with respect to the policy rather than complaining about the event. But that is not surprising, Mr President, when all they do is focus on negativities. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:59): Mr President, I ask a supplementary question. After ripping $1.6 billion out of the aged-care funding instrument, why is the government now pushing ahead with forcing a third of the aged-care workforce onto EBAs? Why is the government tying aged-care funding to an industrial process? Is this not just a backdoor way of forcing more aged-care workers into unions and especially refinancing the Health Services Union?

Honourable senators interjecting—

The PRESIDENT: Order! If you wish to debate it, debate it after question time.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:00): It is disappointing to see in the area of aged care—where we face significant challenges with an ageing population—that all the opposition want to do is to go back to their Work Choices campaign around industrial relations. That is what Senator Fierravanti-Wells is underlining with her question. What you do not want to do is expose your true policy around industrial relations. If you look at the way the government has continued to support wages in aged-care facilities you will see that the government recognises that the employees play a vital role in aged care, in ensuring that frail older Australians receive the care and support they deserve. While the government has an overarching role as funder of programs and services, aged-care providers are responsible, together with their staff, for negotiating wages and conditions. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (15:01): Mr President, I ask a further supplementary question. According to Aged Care Services Australia, only 40 per cent of aged-care providers operate in the black. With so many providers battling viability, can the minister confirm how many of the 352,000 aged-care workers will actually receive an increase in wages from this compact?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:02): Those opposite again ignore the facts. The Living Longer. Living Better aged-care reform package provides $3.7 billion over five years. This includes $1.2 billion to strengthen aged care—unlike when the Howard government was in office, when Mr Abbott ripped a billion dollars out of health. It seems that the opposition only want to hark back to those days. They liked them so much that the premise of the question seems to suggest that they want to do the same here—and we will not.

Senator Conroy: Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

New South Wales Labor Government

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:03): I move:

That the Senate take note of the answer given by the Minister for Foreign Affairs (Senator Bob Carr) to a question without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) today relating to ministerial conduct.

Australia is entitled to be assured that its senior representative on the international stage is a respectable and credible person. Putting political differences aside, nobody could doubt that Mr Kevin Rudd, when he was the foreign minister, was a respectable and serious person. Nobody could doubt that his predecessor as foreign minister, Mr Stephen Smith, was a serious and reputable person. But I am sorry to say that the current foreign minister, who likes to posture and present an urbane face to the world, is not, on inspection, a serious and reputable person. All that glisters is not gold, and, although Senator Bob Carr is so intellectually vain that he even wrote a book about how many books he has read, when you look at Senator Bob Carr's record as a public figure in New South Wales, and when you consider the response today in the Senate when he was taken to task for it, that record is one of shame and disgrace. This is what his successor as the Labor Premier of New South Wales, Mr Morris Iemma, said yesterday:

It took Eddie Obeid 20-odd years to build the power and influence he had and for 17 of those Bob—

that is, Senator Bob Carr—

was leader.

He said further:

Well he made him a cabinet minister and not only did he make him a cabinet minister, he waltzed into the caucus room when the vote was happening and very publically voted for him. To send a message that, 'Not only am I gonna vote for Eddie, but here, look at this, all of you should vote for him as well.' And why was he made a cabinet minister? For services rendered and support given.

Those are not the words of a Liberal politician. Those are the words of Mr Morris Iemma, Senator Bob Carr's successor as the Premier of New South Wales.

Such was the cesspit of corruption in New South Wales politics during the time of Mr Bob Carr's premiership, such was the Sumerian gloom into which that state had descended when he led it, that counsel assisting the ICAC inquiry before Justice Ipp, which is sitting in Sydney at the moment, described it as the most corrupt government of New South Wales since the Rum Corps—again, not a politician, not a political opponent, but the QC assisting the Ipp inquiry.

The person who presided over that corrupt government—the person who fostered the political career of the source of the corruption, as we now know, Mr Eddie Obeid—was none other than Senator Bob Carr. Senator Carr might mock his accusers on the floor of the Senate today and he might mock the President of the Senate, who seeks to call him to order, but one thing he cannot escape is the stain on his reputation: that he, Senator Bob Carr, as the Premier of New South Wales, presided over the most corrupt government of New South Wales since the Rum Corps and that he, Senator Bob Carr, promoted, fostered, advanced and protected the political career of Mr Eddie Obeid, in the words of Mr Morris Iemma, 'for services rendered and support given'. That is Senator Bob Carr's legacy, and all the honeyed words, all the courtly phrases and all the intellectual grace and charm which Senator Bob Carr affects with all the credibility of a
kabuki actor cannot conceal his record, now exposed for the public of New South Wales and the public of Australia to see: that corruption flourished like a forest plant under Senator Bob Carr's premiership. This, embarrassingly, is the face Australia now presents to the world.

Senator CROSSIN (Northern Territory) (15:08): I rise this afternoon in response to the answers that were given in question time and in response to Senator Brandis and, no doubt, speakers that will follow him. I take offence at some of the comparisons that Senator Brandis used then in relation to one of my colleagues—in fact, in relation to any senator in this chamber. It is an unfortunate position you find yourself in when you cannot actually take note and debate the facts and you have to resort to some personal intimations. I think people listening to this do not appreciate that.

There are just two things I want to say before I talk about foreign affairs. One is that, of course, Senator Bob Carr has not been Premier of New South Wales for nearly seven years now, so people out there will probably be thinking, 'What is this all about now that he is not only a member of the federal parliament but also Australia's foreign minister?' So let us get that on the record.

Secondly, I just want to say something in relation to what happened today, when we spent 15 minutes on this first question in the Senate—which, of course, was not related at all to any policy matter or any significant area of reform that this government is trying to undertake. One thing I know is that, when we all come into this chamber as senators, we are asked to complete accurately—always accurately and truthfully—our declaration of senators' interests. One of the things we know, which is now fact, is that one senator in this place, Senator Arthur Sinodinos, did not complete his register of senators' interests correctly—surprisingly, you may say, because he was former Prime Minister John Howard's chief of staff. Why would he not have done that? Surely it was not because he did not know to do it; he clearly did.

Senator Brandis: Mr Deputy President, on a point of order on relevance: the question was directed entirely to Senator Carr's conduct and reputation as the Premier of New South Wales. I might remind you, Mr Deputy President, that when Senator Carr, in answer to that question, sought to do what Senator Crossin is now doing—that is, cast aspersions at another senator—the President drew him to the question and, by doing so, ruled that that matter was not responsive to the question.

The DEPUTY PRESIDENT: Thank you, Senator Brandis. There is no point of order, as Senator Crossin is responding to the answers given—whether they be in order or not in order—by Senator Carr.

Senator CROSSIN: You see, it is relevant, because all roads in relation to the declaration of interests by Senator Sinodinos lead to Mr Obeid and to the fact that Senator Sinodinos had shares in a business that was owned significantly by that gentleman and they were not declared on his interests. The point I simply want to make here is that we can spend forever and a day trying to throw aspersions at Senator Carr, throw mud at Senator Carr and malign his nature and his character, but he has been out of New South Wales politics as the Premier for seven years now. He is Australia's foreign minister and, as much as you want to argue about Mr Obeid and what has happened with ICAC in New South Wales, if you are going to have a look at what is going on at this side of the chamber—or purport to look at what happened on this side of the chamber—then
you want to have a really good look at what is happening a couple of seats down from you and the failure to declare in your declaration of interests any interests you might have had in this matter at all.

But last week we celebrated International Women's Day, so let us try and turn this debate now to something positive that Foreign Affairs is doing in this country. It gives me a chance in relation to Senator Carr and his portfolio to talk about what work we are doing overseas in supporting women. In the context of International Women's Day, we have through AusAID made a significant commitment to—

The DEPUTY PRESIDENT: Senator Crossin, I did rule that you were in order in the first part when there was a point of order taken, but now I think you are straying from the topic, as Senator Carr did not mention that in any of his answers at all. So I just draw you to the fact that we are taking note of the answers given by Senator Carr.

Government senators interjecting—

The DEPUTY PRESIDENT: Order! We are taking note of the answers given by Senator Carr. So you cannot have it both ways, Senator Crossin.

Senator CROSSIN: I do not want to reflect on the decision of the chair, but what the coalition is clearly trying to do is suggest that somehow, in some way, Senator Carr at some stage in his past has been involved in activities that are not scrupulous. That is seriously not the case. It is seven years ago. We have debated this topic, and no doubt it has been raised in the media. But, if we want to talk about Senator Carr and his performance, let us talk about his performance as foreign affairs minister. Why are we not talking about that during question time? Why are we not asking Senator Carr, on the back of International Women's Day, about the role we play for women overseas—

Senator Brandis: Mr Deputy President, on a point of order, it can hardly be relevant for a senator, in addressing a question before the chair, to ask rhetorically why we are not talking about a different question which she then poses to herself.

The DEPUTY PRESIDENT: Thank you. Senator Crossin, you have the call, and I will remind you of the matter that we are taking note of: the answers given by Senator Carr.

Senator CROSSIN: What we are taking note of, I would have thought, is the foreign minister's integrity. As often as Senator Brandis might want to pop up like a jack-in-the-box and suggest that we ought to talk about some negative aspect of this person's integrity and his judgement, we can also talk about the positive role this foreign minister has played. We could also talk about some of the outstanding achievements we have made, particularly when we talk about our commitment to women overseas on the back of International Women's Day. Or we could talk about all of the other senators in this place who actually do lodge a declaration of interest when they are required to, and it is accurate and it is truthful and it does not miss out aspects of our lives that we know have to be recorded in this parliament. (Time expired)

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (15:15): I also rise to take part in the debate on the motion to take note of answers by Senator Bob Carr to questions from Senator Abetz. Although I am a Victorian senator, I actually feel well qualified to take part in this debate. I used to work for a New South Wales government; I used to work in the New South Wales parliament. I used to work for a government that was led by a good, decent and honest premier in Mr Nick Greiner. I did work for that outstanding
minister Mr Bruce Baird. And I did have the opportunity to observe closely the then Mr Carr and the way that New South Wales Labor operated. You might recall a fellow by the name of Rex 'Buckets' Jackson, who was a minister in a government in which Mr Carr himself served. Mr Jackson was the corrections minister in New South Wales—

Senator Carol Brown: Mr Deputy President, I rise on a point of order: as much as I am very interested in the CV of Senator Fifield, I do not think that was part of Senator Bob Carr's response today. If you could bring Senator Fifield back to order, that would be good.

The DEPUTY PRESIDENT: I will remind Senator Fifield of the matter before the chair.

Senator FIFIELD: I am coming to the point. Mr Jackson went to jail for selling early releases for prisoners, as a prison minister. We are always told that these are aberrations, that these are isolated instances, and that they do not go to the very heart of the culture of the New South Wales Labor Party. Mr Carr used to straddle New South Wales as some sort of political colossus, so I must say that it did bring a smile to my face when Senator Carr, on Four Corners, in reference to Eddie Obeid, said that he was:

... a marginal figure, someone lurking in the corridors, never to be taken that seriously...

That is the old Deidre Chambers defence. You might recall Bill Hunter in the movie Muriel's Wedding, when he was the mayor of Porpoise Spit, walking into a restaurant and his mistress, Deidre Chambers, was there. He saw her and he said: 'Oh, Deidre Chambers. What a coincidence!' We are meant to believe that every time Bob Carr had any association, or was even in the same room as Eddie Obeid, it was: 'Eddie Obeid. What a coincidence! Fancy seeing you here!' They were cheek by jowl. Mr Carr chooses to ignore the method, the manner, the when of the appointment of Eddie Obeid to the frontbench. He prefers to say that it was actually Mr Iemma who gave him a special status. It was Mr Carr who first appointed Mr Obeid as a minister of the Crown.

You know whenever Mr Carr is under pressure because he always reaches for some sort of Chairman Mao story. We saw that on Four Corners when he said: 'Forget about how Eddie Obeid was appointed, let me tell you about how I took on the 'Terribles'. Let me tell you about when I had Eddie Obeid in my office and I pushed him out of the ministry. I got so frustrated I had to reach for my Chairman Mao jar, which held my pencils and pens, and I threw it against the bookcase and, oh boy, I tell you, go and see Barry O'Farrell. Book an appointment with Barry, and if you go into the office you will still see the bookcase and you will still see the nick out of the bookcase the shattering jar caused.' That is part of the Bob Carr—

The DEPUTY PRESIDENT: Senator Carr.

Senator FIFIELD: Senator Carr MO, to come up with a colourful story to distract attention. But it was, in fact, Mr Carr who appointed Eddie Obeid as a minister, and Eddie Obeid served as a minister in that government in 1999, in 2000, in 2001, in 2002 and 2003. This was no short-term sojourn on the frontbench; this was five years as a minister of the Crown courtesy of Mr Carr.

But 1999 was not the first time Mr Carr tried to appoint Mr Obeid to the frontbench. He tried in 1995. He backed Mr Obeid over the then opposition frontbencher Mr Bob Martin. It is part of New South Wales Labor folklore that the vote was split at 22-all between Mr Obeid and Mr Martin and the name ended up being drawn not out of a hat, because they could not find one, but out of a
briefcase. Mr Martin's name was drawn out and Eddie did not get to be a frontbencher. But Senator Bob Carr, as early as 1995, was fighting to have Eddie Obeid in his ministry. He eventually got there. He got there as the minister for minerals and fisheries. And let us not forget Ms Gabrielle Harrison, who was dumped to make way for Mr Obeid so that he could become the minister for minerals and fisheries. He was known and Mr Coal and Mr Fish.

Bob Carr has been cheek by jowl with Eddie Obeid. He stands condemned. He is not a credible figure to be our foreign minister. (Time expired)

Senator BILYK (Tasmania) (15:20): I too rise to take part in the debate on the motion to take note of answers by Senator Bob Carr to questions from Senator Abetz. I do not know Senator Sinodinos all that well—we do not serve on any committees together—but I have come to the conclusion that he is quite a polite gentlemen. He often says hello to us in the corridors and he is generally very polite, and so I was very disappointed that he had failed to declare an interest on a number of board—

 Senator Brandis: Directorships?

Senator BILYK: directorships—thank you so much. I think it was about six all up. That is of great concern to me because when we first come to the Senate we are all told how important it is to declare all of our interests. Everybody else manages to do that, but Senator Sinodinos, who is obviously smart—I understand he was handpicked to work for Mr Howard—could not get it right and declare these interests. I wonder whether that was an oversight because he might have been embarrassed that he too has been linked to Mr Obeid.

For the opposition to come in here and try to make a mountain out of a molehill and put it back on Senator Carr personally is absolutely disgraceful. Senator Carr is highly commended on the international stage as the foreign affairs minister. He is highly commended—

 Senator Brandis interjecting—

 Senator BILYK: Are you standing to interject or just walking around? I know you jump up and down all through question time.

 It took 25 minutes, I noted, to discuss this issue in question time today. One would have to wonder if those on the other side have got no questions to do with policy. We know that that is probably part of why they ran this issue today.

I want to mention something that happened when Mr Howard was Prime Minister and when one of the other senators failed to disclose his shareholdings in various businesses. That, of course, was none other than former senator Santo Santoro. Senator Santoro was sacked by Mr Howard when Mr Howard was Prime Minister for failing to disclose his shareholdings in various businesses.

Senator Fifield: Mr Deputy President, I rise on a point of order. I know it is against standing orders to reflect on serving senators. It must be perilously close to being against standing orders to reflect on a former senator. For the record, Senator Santoro resigned. He was not dismissed, he was not sacked. He chose to leave the front bench in the parliament.

The DEPUTY PRESIDENT: It is a debating point, Senator Fifield. There is no point of order. Senator Bilyk, you have the call.

Senator BILYK: Whether he resigned or whether he was sacked—I understood he was sacked, and if I am wrong I am happy to retract that—the issue was it all happened because he failed to declare on his register of interests that he had shareholdings in various businesses. I will quote what Mr Howard had
to say at that time, and the reason I am doing this is that I am wondering why Mr Abbott has not taken up the issue with Senator Sinodinos about this. Mr Howard said at the time:

This is a clear breach of the Senate rules and of his obligation to me—
that being Mr Howard. He went on:
He had no alternative but to resign.
So I take it back, Senator, and I apologise—
he did resign. He was going to be sacked so he jumped first, obviously. The quote went on:
I am frankly angry and disappointed at the Senator's conduct.
This is still former Prime Minister—

Senator Brandis: I raise a point of order, Mr Deputy President. I do not rise on this point of order merely for the sake of defending my very dear friend Santo Santoro—though I am proud that he is and always has been a very dear friend of mine. The purpose of the point of order is to point out that this is not relevant. I took a point of order earlier on when Senator Crossin was making her contribution and she reflected on Senator Sinodinos. You ruled against me because you said—as I understood you—that Senator Carr in his answer had referred to Senator Sinodinos and therefore that was relevant to the debate. But there was no reference, not remotely, to former Senator Santoro—or, as I should describe him now, Commendatore Santoro—and therefore I would ask you to rule that this contribution by Senator Bilyk is irrelevant.

The DEPUTY PRESIDENT: Thank you, Senator Brandis.

Senator BILYK: The question was brought up by those on the other side and there was some debate about why they would try to do that to themselves. There is concern, I know, about whose seat Senator Sinodinos might take to get him to the front bench—whether it is when you are in government or in opposition. I know that most people on the other side will do whatever they can to smear and belittle people on this side of the chamber, as they tried to do with Senator Carr, who, as I said, is most highly respected in international area. He has managed to do so much for Australia in the relatively short time he has been the foreign minister. He has secured a seat for Australia as a non-permanent member of the United Nations Security Council for the term 2013-14. He has announced a road map for reducing sanctions against Zimbabwe. He has developed and finalised a charter for the Commonwealth. Those are just three things out of a number of things that Senator Carr has been able to do in the time he has been in
that position. Those on the other side will do anything to throw mud at this side. They know that one on their side did the wrong thing— (Time expired).

Senator FIERRAVANTI-WELLS (New South Wales) (15:28): I also rise to take note of answers given by Senator Bob Carr to questions asked by Senator Abetz. The question here today really should be: how much of what is happening in New South Wales today could have been avoided had Eddie Obeid not been appointed to the ministry? Yesterday evening on the ABC program Four Corners we heard Mr Carr saying:

It's breathtaking, the wreckage that he has done—a single person who we saw as a marginal figure, someone lurking in the corridors, never to be taken that seriously, could produce this. Well there's something epic ...

You bet you're right, Senator Carr! Had you not promoted him to the ministry and supported him and sponsored him and done all those things, one really wonders whether we would be seeing the worst scandal since the Rum Corps in New South Wales. Also in last night's Four Corners interview Senator Carr said:

I remember he did a very big Lebanese fundraiser in about 1988. So he must've been … He must've been a personality but some time he emerged from the semi-darkness and began to get a special prominence.

Somebody that is just there, in the background et cetera—did not really know him, did not really know much about him et cetera. Funny about that, because in 1988, the very same year, there is Mr Obeid's company donating to Mr Carr's Maroubra campaign. Funny about that—did not really know him, but there he was donating to him.

Then in 1988, the very same year, for then Minister for Planning and the Environment Carr the issue arose about the Valhalla stables lease. Funny about that—all at the same time he is trying to paint the picture that he did not really know him, he was somebody in the darkness, but here we have then Minister Carr after he met Eddie Obeid twice as minister for the environment during the caretaker period for the 1988 election campaign over changes that Mr Obeid was seeking for his Valhalla stables snow-lease development. Yes, we all know about the snow lease and snowfields in other recent revelations, but Mr Carr could never explain the briefing note from the then director of the National Parks and Wildlife dated 3 March 1988 with respect to Valhalla stables and the difference between what was on the public record and his recollection. This briefing note, in part, said:

The minister requested the service, reviewed the request—that is, the request from Mr Eddie Obeid—with a view to providing alternatively worded provisions that could meet the requirements of the lessee.

When we see Mr Carr being thanked by Mr Obeid in his maiden speech, it is little wonder. Why was he made a cabinet minister and why, as my colleagues have said so correctly, did Mr Carr go out of his way to make sure that he became a cabinet minister? It was, as Morris Iemma correctly said, 'for services rendered and support given'. As Senator Faulkner said on yesterday evening's Four Corners: 'He'—Eddie Obeid—'ran Labor governments in New South Wales. That's what he did.'

Of course, he was promoted. He was promoted to the ministry of 1999, and from 1999 to 2004 Bob Carr was asked on at least nine occasions, in the New South Wales parliament and other places, about the behaviour of Mr Obeid. On every one of those occasions, Mr Carr stood by Mr Obeid—whether it was repeatedly about Mr Obeid's pecuniary interest disclosures or
whether it was about the Oasis Liverpool development or whether it was about Mr Obeid's involvement in the company related to one of the Keating piggery companies. All along Mr Carr never gave any answers. All he did was stand by his little mate. (Time expired)

Question agreed to.

PETITIONS

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

Better Access to Mental Health Care
To the Honourable President and members of the Senate in Parliament assembled:
The petition of the undersigned shows from 1 January 2013 the Australian Government intends to cut psychological treatment in the 'Better Access' scheme, from the current 16 appointments per calendar year to just 10 sessions, with no exceptions. Limiting therapy to 10 appointments is unacceptable. When distressed people experiencing a mental health disorder reach out for help, we need to have a system that gives them a fair chance to recover. We are asking for evidence-based reform, allowing those with a diagnosed mental health condition to access the internationally recognised standard of care.

Your petitioners ask that the Senate to amend the Better Access to Mental Health Care initiative, to provide a minimum of 15 appointments of psychological treatment, with an additional 5 sessions per year for those experiencing chronic or severe levels of distress.

by Senator Boyce (from 1,030 citizens) and (10,605 citizens).

Petition received.

NOTICES

Presentation

Senators Ruston and Xenophon to move:

That the following matters be referred to the Environment and Communications Legislation Committee for inquiry and report by 30 April 2013:

(a) the Broadcasting Services Amendment (Material of Local Significance) Bill 2013; and
(b) the delivery of news coverage in rural and regional areas by the Australian Broadcasting Corporation.

Senator Bob Carr to move:

That the following bill be introduced: A Bill for an Act to amend the International Organisations (Privileges and Immunities) Act 1963, and for related purposes.

Senator Wong to move:

That the following bill be introduced: A Bill for an Act to prohibit Commonwealth agreements from restricting or preventing not-for-profit entities from commenting on, advocating support for or opposing changes to Commonwealth law, policy or practice, and for related purposes.

Senator Eggleston to move:

That the Foreign Affairs, Defence and Trade References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 14 March 2013, from 4 pm, to take evidence for the committee’s inquiry into the victims of sexual and other abuse in Defence.

Senator Heffernan to move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 March 2013, from 3 pm, to take evidence for the committee’s inquiry into the Foreign Investment Review Board national interest test.

Senator Xenophon to move:

That the time for the presentation of the report of the Joint Select Committee on Gambling Reform on the Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 be extended to 28 June 2013.

Senator Boyce to 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, 14 March 2013, from 10 am, to take evidence for the committee’s
inquiry into the Superannuation Legislation Amendment (Reform of Self Managed Superannuation Funds Supervisory Levy Arrangements) Bill 2013.

Senators Bushby and Polley to move:
That the Senate—
(a) notes that, on 23 February 2013, a stone memorial to those 919 members of the 2/40th Battalion who served their country in Timor and South East Asia was unveiled in Hobart’s Domain, exactly 71 years after the Battalion was captured by the Japanese;
(b) further notes that on the same day in Launceston a memorial garden was dedicated to the 2/40th Battalion;
(c) observes that this Tasmanian Unit lost 271 of its men during battle and subsequent captivity; and
(d) congratulates the surviving veterans and relatives for their unstinting efforts in bringing these memorials to fruition.

Senator Whish-Wilson to move:
That the Senate—
(a) notes:
(i) the recent decision by the Federal Court of Australia in the Coca-Cola Amatil (Aust) Pty Ltd v Northern Territory of Australia [2013] which ruled that the Northern Territory container deposit scheme was invalid, and
(ii) Coca-Cola Amatil has announced that it will withdraw its financial support for the scheme on 18 March while some beverage companies have agreed to voluntarily continue with the scheme; and
(b) calls on all members of the Commonwealth Parliament to work together to find an immediate solution to allow the Northern Territory container deposit scheme to continue.

Senator Humphries to move:
That the Senate—
(a) notes that:
(i) 12 March 2013 is the centenary of the naming of the city of Canberra by the wife of the Governor-General, Lady Denman, in 1913, and
(ii) in the intervening century, Canberra has been developed as one of the great planned garden cities of the world;
(b) recognises Canberra, through its national institutions, as a showcase of the hopes and aspirations, milestones and achievements of the Australian nation; and
(c) congratulates Canberra and its citizens on their centenary.

Senator Ludlam to move:
That the Senate—
(a) notes that:
(i) Australian uranium is confirmed to have been present in each of the reactors at the Fukushima Daiichi Nuclear power station on 11 March 2011,
(ii) the disaster is ongoing 2 years later, with continuing radiation leaks, and that 160 000 people remain displaced from their homes with inadequate compensation to resettle,
(iii) decommissioning is expected to take over 40 years at a cost of A$100 billion, and
(iv) approximately 2 000 samples of food and game tested for radiation between April 2012 and January 2013 exceeded the limit for human consumption of radioactive isotopes; and
(b) calls on the Australian Government to undertake an immediate review of all bilateral uranium supply arrangements to assess the risk of future disasters at nuclear power stations in countries to which Australia supplies uranium.

Senator Ludlam to move:
That the Senate—
(a) notes that:
(i) Australia’s community broadcasters are a vital part of our media landscape and provide radio services that include specialist music, Indigenous media, multicultural and ethnic language programs, religious, educational and youth services, print disability reading services, and community access programs,
(ii) with funding support from the Federal Government, the 37 metropolitan-wide community radio stations in Melbourne, Brisbane, Sydney, Adelaide and Perth launched digital radio services in May 2011, and
(iii) in the 2012-13 Budget the Government allocated $2.2 million per annum for 4 years to support community digital radio services but this is a shortfall of $1.4 million per year for the minimum level of funding required to maintain transmission of all current services; and

(b) calls on the Government to commit the necessary funding for community broadcasters’ digital radio services in the coming Budget.

Senator Milne to move:
That the Senate—

(a) notes the Australian Council of Superannuation Investors annual audit that shows just 15.5 per cent of board positions in ASX200 companies are held by women, and that the median company board is made up of 6 men and 1 woman;

(b) notes that companies with a greater proportion of women in senior management and board positions are more profitable; and

(c) calls on the Government to legislate to ensure ASX200 companies have a minimum of 40 per cent female board directors within the next 5 years.

Senator Hanson-Young to move:
That there be laid on the table no later than 28 November 2013 by the Minister representing the Minister for Early Childhood and Childcare, a report by the Productivity Commission into:

(a) the affordability, flexibility, accessibility and quality of early childhood education and care; and

(b) all Commonwealth funding options and models for various types of care, including long-day care, in-home care, occasional care, family day care, outside-school-hours care and care for children with special needs.

Sensor Rhiannon to move:
That the Senate—

(a) notes that:

(i) recent independent air quality testing in Hunter suburbs near the coal rail line that leads to Newcastle Harbour revealed coal dust pollution levels over 50 per cent above the national standard for particulates 10 micron and less, which affects approximately 30 000 people living within 500 metres of the rail line,

(ii) there are no known safe levels of exposure to particulate pollution, and international studies have demonstrated direct causal links between particulate pollution and adverse health impacts such as asthma, increased risks of cancer, heart and lung disease and birth defects, including in mining regions,

(iii) a current Senate inquiry into the impacts on health of air quality has received many submissions from concerned groups and individuals based in the Hunter,

(iv) Hunter residents will express their concern that air pollution and coal dust from coal mines, coal trains and coal stockpiles is adversely affecting their health and the environment at a community rally in Newcastle on Saturday, 16 March 2013, organised by the Coal Terminal Action Group (CTAG), a coalition of 18 Hunter based community groups, and

(v) the community rally will ask state and federal governments to reject the proposal by Port Waratah Coal Services to construct a new fourth coal export terminal called T4 in Newcastle Harbour that would drive up further coal dust pollution and adversely impact the environment;

(b) congratulates CTAG and the wider Hunter community for taking action to protect their health and the local environment against the impact of coal industry expansion; and

(c) calls on the New South Wales Government and the Federal Government to reject the T4 project.

Senator Rhiannon to move:
That the Senate—

(a) notes that:

(i) the United Nations (UN) endorsed target to meet the Millennium Development Goals is for developed nations to devote 0.7 per cent of gross national income (GNI) to foreign aid by 2015, yet Australia currently contributes a mere 0.35 per cent,

(ii) both the Australian Labor Party and the Coalition went to the 2010 election with a commitment to increase aid to 0.5 per cent of GNI by 2015,

(iii) in the 2012-13 Budget, the Government pushed back by a year its commitment to increase
aid to 0.5 per cent and the Coalition removed its timetable altogether, and

(iv) since the 2012-13 Budget the Government has directed $375 million from the aid budget to pay for the onshore costs of detaining refugees, and the Australian Defence Force wrongly classified almost $190 million in military spending as overseas development aid; and

(b) calls on:

(i) the Minister for Foreign Affairs (Senator Bob Carr) to ensure that the overseas aid budget does not suffer further cuts in the May 2013-14 Budget, and

(ii) the Government and Coalition to publicly reaffirm their commitment to the UN endorsed target of 0.7 per cent and to release their timetable for reaching the target.

Senator Rhiannon to move:

That the Senate—

(a) notes that:

(i) in November 2011, the Federal Labor Conference voted against phasing out the live export trade but agreed to establish an independent Office of Animal Welfare,

(ii) in November 2012 the Labor Caucus voted to have the Caucus Live Animal Export Working Group develop a model for an Office of Animal Welfare to be presented to Caucus by the end of February 2013, and

(iii) in February 2012, the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) failed to show clear support for the establishment of an office under questioning from the Australian Greens in Senate estimates, stating ‘we will continue to look at the issue’; and

(b) calls on the Minister for Agriculture, Fisheries and Forestry to immediately report to Parliament on the progress to establish the Office of Animal Welfare and commit to legislation establishing the office before the 14 September 2013 election.

Senator Collins to move:

That the Senate—

(a) acknowledges the financial hardship that single parent families who were moved from Parenting Payment to Newstart on 1 January 2013 have experienced; and

(b) calls on the Government to reverse Schedule 1 of the Social Security Legislation Amendment (Fair Incentives to Work) Act 2012.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS

(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:33): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Australian Sports Anti-Doping Authority Amendment Bill 2013,

Completion of Kakadu National Park (Koongarra Project Area Repeal) Bill 2013,

Customs Amendment (Anti-Dumping Commission) Bill 2013.

Senator Siewert to move:

That the Senate—

(a) notes that the Health Insurance Act 1973, the Senate approves the Health Insurance (Extended Medicare Safety Net) Amendment Determination 2013 (No. 1) made under subsection 10B(1) of the Act on 27 February 2013.

Senator Collins to move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

Australian Sports Anti-Doping Authority Amendment Bill 2013,

Completion of Kakadu National Park (Koongarra Project Area Repeal) Bill 2013,

Customs Amendment (Anti-Dumping Commission) Bill 2013.

I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.
Leave granted.

The documents read as follows—

AUSTRALIAN SPORTS ANTI-DOPING AUTHORITY AMENDMENT BILL

Purpose of the Bill

The bill will enhance the Australian Sports Anti-Doping Authority's (ASADA) investigation function by providing the ASADA Chief Executive Officer (CEO), or the CEO's delegate, with the power to issue a disclosure notice requiring a person to attend interviews with ASADA investigators, provide specific documents, materials or things (including electronic materials) and enable ASADA to retain those documents or materials for use in proceedings for an anti-doping rule violation.

The bill extends the information sharing arrangements currently enshrined in the ASADA Act 2006 to facilitate information sharing arrangements with other government agencies.

The bill will also improve Australia's anti-doping arrangements by:

(a) enabling the ASADA Chief Executive to engage with sports directly on the issue of sanctions, based on the most up to date information. This includes the evidence collected through ASADA's investigations.

(b) providing clarity around the conflict of interest provisions that the members of the anti-doping bodies established under the Act must abide by; and

(c) confirming the eight-year limitation period for commencing an action against an athlete in relation to a possible anti-doping rule violation.

Reasons for Urgency

Recent revelations of systemic doping in cycling have again highlighted that public confidence in sport can be easily undermined by actions that bring into question the integrity of sport. The public expects our champions to achieve success based on their ability and dedication; and not through improvement by artificial means.

While ASADA's detection program is among world's best practice, ASADA's capacity to undertake investigations can be improved further without changing the intrinsic nature of Australia's anti-doping arrangements. The sooner that these amendments can take effect, ASADA will be better placed to more effectively investigate individual cases of doping that come to its attention.

Urgent passage of the amendments to the Act will also enable the Government to implement a number of recommendations arising from the independent review into Cycling Australia conducted by the Hon James Wood AO QC.

COMPLETION OF KAKADU NATIONAL PARK (KOONGARRA PROJECT AREA REPEAL) BILL

Purpose of the Bill

The Koongarra area is surrounded by the Kakadu National Park and was excluded from the boundaries of the Kakadu National Park when it was proclaimed in 1979.

This exclusion was made to accommodate the prospect of future mining activity. Since that time, a number of parties have pursued the development of mining at Koongarra but no mining tenements have been granted.

The Government has committed to protect Koongarra as part of Kakadu in line with the express views of the traditional owners.

Reasons for Urgency

Koongarra will be incorporated into the Kakadu National Park by Proclamation anticipated to be approved by Executive Council later this year or early next year. This will make the Koongarra Project Area Act 1981 (the Act) redundant.

The repeal of the Act need not occur prior to the incorporation of Koongarra in to Kakadu National Park by way of Proclamation through papers put to the Executive Council. However in the interests of time it would be preferable to be in a position for the two actions to occur contemporaneously.
CUSTOMS AMENDMENT (ANTI-DUMPING COMMISSION) BILL

Purpose of the Bill
The bill will amend the Customs Act 1901 to establish the Anti-Dumping Commission (the Commission). The Commission will be headed by the Anti-Dumping Commissioner and will also comprise Customs Officers made available by the CEO of Customs.

The establishment of the Commission is the key recommendation of the Review into Anti-Dumping Arrangements (the Review) and was announced as part of the Government's response to the Review on 4 December 2012 by the Prime Minister, Minister for Home Affairs and Justice and the Minister for Industry and Innovation.

Reasons for Urgency
It is proposed the Commission will commence on 1 July 2013. To facilitate this, the bill will need to pass in the 2013 Autumn sittings. Early passage of the bill will allow the Minister to appoint a Commissioner and for administrative arrangements to be put in place for the Commission prior to its commencement on 1 July 2013.

Leave of Absence
Senator McEWEN (South Australia—Government Whip in the Senate) (15:35): I move:
That Senator McLucas be granted leave of absence for today for parliamentary business.
Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:35): I move:
That Senator Cormann be granted leave of absence for the period 12 March to 14 March 2013 for personal reasons.
And great personal reasons at that—congratulations to him and to his good wife.
And that Senator Nash be granted leave of absence for 12 March 2013 for personal reasons.
Question agreed to.

Rearrangement
Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:36): I move:
That the following general business orders of the day be considered on Thursday, 14 March 2013 under the temporary order relating to consideration of private senators' bills:
Question agreed to.

NOTICES

Postponement
The following items of business were postponed:
Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Opposition in the Senate (Senator Abetz) for today, proposing the disallowance of the Building Code 2013, postponed till 18 March 2013.

General business notice of motion no. 607 standing in the name of Senator Madigan for today, proposing the introduction of the Treaties (Parliamentary Approval) Bill 2012, postponed till 26 June 2013.

General business notice of motion no. 1076 standing in the name of Senator Madigan for today, proposing the introduction of the Fair Trade (Workers' Rights) Bill 2013, postponed till 17 June 2013.

General business notice of motion no. 1160 standing in the name of Senator Madigan for today, relating to renewable energy certificates, postponed till 14 March 2013.

Withdrawal
Senator SIEWERT (Western Australia—Australian Greens Whip) (15:36): I withdraw notice of motion No. 1148 standing in my name.
COMMITTEES
Foreign Affairs, Defence and Trade References Committee
Reporting Date
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:37): At
the request of Senator Eggleston, I move:

That the time for the presentation of the report
of the Foreign Affairs, Defence and Trade
References Committee on aid to Afghanistan be
extended to 16 May 2013.

Question agreed to.

MOTIONS
Asylum Seekers
Senator HANSON-YOUNG (South
Australia) (15:37): I move:

That the Senate rejects the vilification of
refugees and asylum seekers.

Question agreed to.

Senator CASH (Western Australia)
(15:38): Mr Deputy President, I seek leave
to make a short statement.

The DEPUTY PRESIDENT: Leave is
granted for one minute.

Senator CASH: The coalition oppose
this motion because it does not accept the
premise of it, being that refugees and asylum
seekers in Australia are vilified. Senator
Hanson-Young provided the context of this
motion in her contribution to the Senate
when she moved to suspend standing orders
in the last sitting week. The Greens and the
Labor Party have a hear no truth, see no
truth, speak no truth policy when it comes to
the issue of asylum seekers and their failures
on our borders. Anyone who dares to even
raise the topic or wants to talk about the
government's failures is branded as someone
who vilifies them and is a racist.

Whilst the Greens do not like to admit it
because it does not suit their purposes, it is a
fact that Australia has an excellent record in
the acceptance and placement of refugees
into this country, with the head of the United
Nations acknowledging that Australia has the
most generous humanitarian settlement
services program in the world, with much of
this being achieved because of the policies of
the former Howard government. It is a fact
that the Greens do not like Australia having
strong border protection laws. That is
anathema to the Greens and as such they
want to shut down any form of debate on the
issue. The Greens are a party that tell
Australians— (Time expired)

Senator HANSON-YOUNG (South
Australia) (15:39): Mr Deputy President, I
seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is
granted for one minute.

Senator HANSON-YOUNG: It beggars
belief that the coalition today not just voted
against a motion that says that this place will
not accept the vilification of refugees and
asylum seekers—that is what the motion
said—that the coalition cannot even accept
that. Rather than taking the approach that in
this place, as elected members of parliament,
we should be promoting the positive
contributions that migrant communities
make—whether they be refugees, whether
they be people who have moved here
because of family ties, whether they have
come for work. These people have made a
contribution to this country. Yet all we
continue to hear from the coalition, right
down to when they vote on this motion, is
more nastiness, more cruelty and more lies.

BILLS
Broadcasting Services Amendment
(Material of Local Significance) Bill
2013
First Reading
Senator XENOPHON (South Australia)
(15:40): I move:
That the following bill be introduced: A Bill for an Act to amend the Broadcasting Services Act 1992, and for related purposes.

Question agreed to.

Senator XENOPHON: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator XENOPHON (South Australia) (15:41): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

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

Leave granted.

The speech read as follows—

Last week, WIN Television announced it would be cutting its services to South Australia's South East and Riverland. It's likely this will mean the loss of ten editorial jobs, but it will also have a major impact on the local content broadcasted to these communities.

The importance of local content – broadcasted material that is about local issues, produced by people who live in the area – is important for everyone, not just regional or remote communities. We all want to feel connected with what we see on television: we want to hear our stories, told in our voices.

This is even more vital for regional communities. People living in these areas deserve to have content that is relevant to them, in a way that complements the capital city and national news broadcasts they have access to.

In fact, the importance of local content is so widely acknowledged it has been enshrined in the Broadcasting Services Act 1992.

Since the late 1980s, regional aggregated commercial television broadcasting licences have covered areas in New South Wales, Victoria and Queensland, with the addition of Tasmania in 2008. These licences require broadcasters to meet specific criteria for local content set out by ACMA.

There was supposed to be further studies done on whether regional areas of South Australia, and indeed Western Australia and the Northern Territory, should be added to this licensing regime. But those studies never took place.

I believe this is a major oversight, and an anomaly that is addressed in this bill. Broadcasting has changed significantly since these areas were included in the Act, with the advent of digital television, online broadcasting and media on demand.

But what we have seen, particularly in regional South Australia, is a decline in local content. Because there is no legal requirement for them to do so, broadcasters are simply taking the easy way out. Any cuts to a network's production budgets will obviously target the region where there is no legislative protection, rather than being distributed more fairly.

There may be more ways to get what you want... but less of what you want being aired.

The aim of this bill is to go some way towards rectifying that oversight. By bringing regional South Australia in line with the other areas listed under the Act, we can ensure that local content is protected.

Local content gives local communities their voice, and we must make sure it cannot be silenced.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Citizen Initiated Referendum Bill 2013

First Reading

Senator MADIGAN (Victoria) (15:42): I move:

That the following bill be introduced: A Bill for an Act to enable the citizens of Australia to initiate legislation for the holding of a referendum

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Citizen Initiated Referendum Bill 2013
in reaction to altering the Constitution, and for related purposes.

Question agreed to.

**Senator MADIGAN:** I present the bill and move:

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

Question agreed to.

Bill read a first time.

**Second Reading**

**Senator MADIGAN** (Victoria) (15:42): I present the explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

*The speech read as follows—*

In 1891 Charles Cameron Kingston, South Australian Premier and committed Federationist, drafted a clause for a Citizen’s Initiated referendum which was included in the draft constitution of Australia.

Alfred Deakin, a leader of the Federation Movement and our second Prime minister stated at the Constitutional convention of 1891 that there were many like himself who would be prepared to adopt a Swiss system including “referendums, by which electors themselves were made masters of the situation”.

In the years before Federation the Labor Party in various states included calls for Initiative and Referendum and when in 1900 a national Labor Party was created, its first platform, adopted in January of that year, called for a Federal Constitution that provided for “The Initiative and Referendum for the alteration of the Constitution”. The Labor party of that time described itself at that time as the champion of Democracy.

At the ALP National conference in 1963, an up and coming Adelaide lawyer named Don Dunstan moved a successful motion to drop the policy from the ALP platform.

The DLP advocates Direct Democracy and CIR has always been an important policy for the party.

Direct Democracy is a principle to which every honest parliamentarian should espouse and there is no better example of that than the principles of Initiative and Referendum. We as elected Senators and MPs are here to represent our constituents but so often those same constituents have their needs frustrated by political machines that have little contact with the average Australian.

While the Westminster system of government is a good system it has one glaring fault. It concentrates power in the hands of an elected few, and those elected few maintain tight control of the regulations determining legislation. Centralised power is threatened by CIR because it enables the voters to reject the establishment of a rigidly controlled unitary state.

The popular and more understood form of Citizen’s Initiated Referendum includes the ability for citizen’s to amend or reject unpopular legislation. This occurs in systems such as the highly effective Swiss System and is not considered as part of this Bill. A completely separate Bill, the Citizen’s Initiated Legislation (Plebiscite) Bill 2013 is being considered for introduction later this year to explore that possibility.

This Bill is focused solely on the citizen’s right to initiate a proposal for amendments to the constitution and in this it is in accord with the recommendations of the Constitutional Centenary Foundation established in 1991 to encourage public discussion, understanding and review of the Constitution in the lead up to the centenary of federation in 2001.

A CIR in whatever form is best recognised by two distinct characteristics. Firstly it gives the electors the power to introduce a proposal to initiate a referendum; and secondly, the result of the referendum is binding on parliament and government.

The idea of loosening the reins of power enough to allow the direct participation of the electors is one that terrifies some in parliament. Power is never given up easily, even when that
power actually belongs to those very electors and has been freely given in the hope of proper representation.

There is nothing to fear from this bill. Parliament will not fall, democracy will not crumble and tyranny will not march triumphant through the streets. What many hope will come from this bill is a greater appreciation for the Democratic rights of the people and a closer more intimate relationship between the parliament and the people it serves.

Advancing the democratic rights of any people is an ideal to which we should all aspire. This bill moves a small way along that path and allows the people to decide what the next steps should be, how those steps should be taken and in what direction they will lead.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MATTERS OF PUBLIC IMPORTANCE

Education

The DEPUTY PRESIDENT (15:43): A letter has been received from Senator Fifield proposing that the following matter of public importance be submitted to the Senate for discussion:

The Gillard Government's missed opportunity for real school education reform.

Is the proposal supported?

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

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

Senator MASON (Queensland) (15:44): I thought this matter of public importance should start out on a generous note. I believe the government, particularly the Prime Minister, is concerned about the quality of education for Australian schoolchildren. Last year, I listened to the Prime Minister's address to the National Press Club and she spoke about the transformative power of education. She was passionate and she was sincere. All that you can take as given. But my initial enthusiasm for the Prime Minister's speech—some might even say my joy for the speech—was somewhat mixed with a certain trepidation. How, I thought, are improved learning outcomes going to be achieved? How are they going to be implemented? And also, how much is it all going to cost? Listening to the National Press Club address by the Prime Minister, I had to swallow—and I swallowed very hard—and I thought, 'Oh, no, here goes the Labor Party, yet again.'

What is it about the centre-left agenda ever since World War II, whether it be in health, welfare or education—I could add telecommunications but I am generous this afternoon, so we will not go there—that somehow the policy response has always got to be to spend more money, to throw taxpayers' money away at a problem. Haven't we learnt since World War II that in health and welfare—particularly in Indigenous welfare—and now in education that throwing around money is not always the answer—it is just an easy policy prescription. Labor always suffers from a sort of optimistic belief that if we just spend a little bit more, just a few more billion dollars, we will finally get there. Finally, student learning outcomes in this country will get better, if we just spend a little bit more.

You will recall the Building the Education Revolution school halls. We spent $16,000 million on school halls, and what happened to learning outcomes? They went down. We spent $16 billion and learning outcomes went down. Then the government's contribution to laptop computers was a cool $2 billion. What happened to learning
outcomes? They got worse. Now we have the Gonski proposals: a National Plan for School Improvement premised on Mr Gonski's report. A sum of $6 ½ billion per annum is the cost of this one. We are told by the Labor Party: 'This time trust us. If we just spend it, it will be okay. This time we will get it right. This time learning outcomes will improve.'

The director of the Grattan Institute's School Education Program, Ben Jensen, recently said that the government's Gonski funding model:

... retells the same old, and failed, story of Australian education: that the only way to fix our schools is to spend more money and to change the way it is divided between schools and students.

Mr Jensen noted that in the past decade—this is terribly important—education spending has increased by nearly three times as much as the proposed Gonski increases, yet Australia is just one of four OECD countries where 15-year-olds went backwards according to international testing results between 2000 and 2009. It worries me to death that the government has spent $16 billion on school halls, $2 billion on laptop computers and yet, when the last round of international testing was done in December of last year, it showed that a quarter of year 4 students in literacy and a third of year 4 and year 8 students in maths and science performed below minimally acceptable international standards. That is not good enough. We have thrown a fortune in this country at the problem and now we are going to throw another $6 ½ billion dollars a year at it, and apparently that will be enough. Finally, we will get it right. The money will be worth it. That is Labor's argument. I do not think that it is enough and it will not do the job, and I am very worried about it.

Finally, I will concede that the Minister for Education, Mr Garrett, finally seems to understand that teacher quality is important. The shadow minister for education, Mr Pyne has been talking about this for some time now, and Mr Garrett is now talking about it too. Mr Garrett did say that the government would look at improving teacher quality—and Senator Kim Carr has mentioned this in question time as well—and he did say that there would be more rigorous and targeted admissions into university courses and a national approach to teacher practicum. I accept that these goals are welcome—it has taken a long time to get this far but they are welcome—but still there is no implementation plan, and again the devil is in the detail. We have had plenty of plans in the past from this lot, but no improved outcomes; that is the problem.

While the Gonski report recommends a range of proposals to give school leaders and their communities the ability to more flexibly provide for the needs of students—including more power for the principals to hire staff and control budgets—what does any of that mean? After all this Labor still has no agenda and there is still no way of getting there. What conclusive evidence do we have of the government's plans for educational reform? Well, we do have something. We have a bill. It is nine pages long and is about 1,400 words in length. It is called the Australian Education Bill 2012. I like this bill; it is my sort of bill. It is very short and very sweet. It reads like a UN declaration. I will quote from section 3, the objects of the act. It says, 'The objects of this act are for Australian schooling to provide an excellent education for school students and for Australian schooling to be highly equitable.' Well, yeah. It also says in the preamble, 'The quality of education should not be limited by a school's location, particularly those schools in regional Australia.' Yeah. I agree with all that. It also says, 'It is essential that Australian schooling be of a high quality.' Yeah, I agree with that.
It is essential for Australian schooling to ‘be highly equitable in order to create a highly skilled and successful workforce, strengthen the economy, and increase productivity, leading to greater prosperity for all’. I agree with that too. That is great. It goes on and on.

Section 7—reform directions for the national plan—says:

Australian schooling will provide a high quality educational experience …

This is just a motherhood statement. It reads like one of those appalling Nigerian-sponsored human rights documents the Cubans, Nicaraguans and El Salvadorans used to put out.

This is where we are. This bill is a legislative enactment. This is what the government’s reforms thus far have come to: this flimsy nine-page document and 1,400 words—all rhetoric, worse even than my contributions to the Senate! What is even worse is section 10 of the bill. I have never come across this in more than a dozen years in the Senate: ‘The act does not create legally enforceable obligations’. That is the heading.

Subsection 1 reads:

This Act does not create rights or duties that are legally enforceable in judicial or other proceedings.

So let me get this right. We have a bill before this parliament that does not create rights or duties. Oh. I am not a very good lawyer, but I have never come across a bill that states that it does not create rights or duties. If it does not, what is the point of it? Why do we sit here debating very poorly written rhetoric? This is not Abraham Lincoln.

In the end, we have a government that has spent an absolute fortune on education and results keep getting worse. The problem with this government since it started has been that it cannot implement anything. There is a litany of failure in that direction. But it comes to one thing that the Labor Party has never got over: they can spend money all right but have never been able to spend it well and get value. That is their failure. (Time expired)

Senator WRIGHT (South Australia) (15:54): There is no doubt that the Labor government is now teetering on the brink of missing a once-in-a-generation chance of real school education reform of what is a broken funding model.

Senator Mason: Hear, hear!

Senator WRIGHT: But before I address this in more detail I do want to speak briefly about the breathtaking hypocrisy of the coalition on this issue—you will be happy to hear about that, Senator Mason!

Senator Mason: You started so well!

Senator WRIGHT: Frankly, I find it puzzling as to why the coalition would be indulging in such faux outrage about the government missing opportunities for school reform when their own shadow education minister, Christopher Pyne, is continually saying that there is no need for school reform. It was just two weeks ago that Mr Pyne argued that Australia already has a world-class education system for all students regardless of location, income and school selection. So Mr Pyne must be either ignorant or in denial about the state of public education in Australia to be able to make such a demonstrably false claim with a straight face. Mr Pyne says that the current Australian schools funding system is not broken, but numerous studies, including many of those cited by the comprehensive Gonski review of funding for schools, which marshals national and international evidence, have shown wealth and background are the best indicators of educational achievement in Australia in 2013. So how can Mr Pyne possibly call that a satisfactory system?

The claim that there is no inequality in our schools in the face of all the evidence is
extreme, dangerous and wrong. On one hand we have the coalition shadow minister saying there is no need for reform, which is simply false, and on the other Liberal Party senators today decrying a lack of action on school reform—a total inconsistency. The double standards here are staggering. Indeed, the coalition is so unconcerned about real school education reform that they have actually proposed to continue the current model, which is leaving so many students in disadvantage every year, for a further two years at least.

However, the Australian Greens are undoubtedly concerned and are clearly on the record about the sluggishness of the Gillard government in acting on the Gonski school funding recommendations. The Gonski review is a watershed document which represents the most comprehensive review of Australian schools in two generations, but we have been waiting for action on Gonski for over a year now, and the government is leaving its run perilously late. So far the Labor government has done little more than spruik a set of aspirations. They have been busy selling the need for school funding reform, but there has been little more than talk about how we are going to give every student the start in life that they need. Unfortunately, the inaction on the recommendations from this review is now seriously risking the chance of real reform in the life of this parliament. It is risking a once-in-a-generation opportunity to fix chronic underfunding of public schools.

The Gillard government's management of the Gonski review recommendations has been alarming. Yes, this is complex law reform. It does require a dexterity of handling and careful, respectful negotiations with state and territory governments because we need all levels of government to work cooperatively and collaboratively in the best interests of Australia's students to make sure that we end up with a world-class, equitable school funding system.

The negotiations have also required a serious commitment of serious money. Gonski, as we know, recommended $5 billion per year investment in school funding. In today's terms that is closer to $6.5 billion. It is a serious commitment, so we needed to see a Prime Minister who was embarking on a crusade for better education, determined to make the strong decisions necessary to fund this serious commitment. Instead, since February last year we have seen mismanagement that has alienated state governments and put at risk the biggest chance Australia has had in decades to fix a failed school funding scheme and to make an investment in our children, in our future. Rather than working together with the states, momentum for these crucial reforms has been lost as, one by one, state education ministers have come out after being continually kept in the dark on funding contributions. Many now are threatening to pull out, as we have heard in the past few weeks. There is no room for losing this opportunity. We must be acting cooperatively and responsibly in the greater national interest. There is nothing more important in a country than educating the citizens of the future. Our wellbeing, our social cohesion and our productivity rely on it.

The Gonski review clearly indicates the areas in which Australia's schooling regime is failing, pointing to declining levels of achievement internationally and the pronounced inequity which is a characteristic of our system in 2013. There is now a staggering gap of up to three years in performance between the most advantaged and disadvantaged children in Australia in year 9. This is not related to their inherent ability; it is related to the opportunities they have when they walk through the doors of
the school they attend. We simply cannot ignore this. This is not something we can put off to a later date.

Other indications of disadvantage include a growing body of evidence that the composition of a school's population has a significant impact on the outcomes achieved by all students at the school so that concentrations of disadvantage accentuate underperformance, even for those children from a more advantaged background. There is evidence that schools with high concentrations of disadvantaged students tend to have fewer material and social resources, more behavioural problems, fewer experienced teachers, lower student and family aspirations, fewer positive relationships between teachers and students, less homework and a less rigorous curriculum. Has Mr Pyne been visiting these schools? Over 80 per cent of students who did not reach the level required for proficiency to participate in society in reading and mathematics are in government schools. In relation to reading literacy, the gap between students from the highest and lowest economic, social and cultural status quartiles was approximately three years of schooling. The average performance of Australian students from the lowest quartile is significantly lower than the OECD average.

Of the little detail we have heard from the Gillard government, any funding to fix our schools will be well short of the $6.5 billion cash injection the Gonski review showed we needed to start helping these children. The Gillard government's plan to back-end the lion's share of the funding until 2019 is just not good enough, particularly for those disadvantaged students. Whole cohorts will finish primary school or high school before this government will begin fixing the problems we know are there.

The Australian Greens are not just here to lament the government's handling of the matter so far, or even the parlous state of this debate today. We have a solution for how we can get on with Gonski without any delay, and we must not miss this opportunity. Real school funding reform would see a system where differences in educational outcomes are not the result of differences in wealth, income, power or possessions. Opposition leader Tony Abbott's and shadow spokesperson Chris Pyne's coalition do not believe these reforms are needed, despite all evidence to the contrary. The Labor government may believe in the need, but has so far failed to provide a detailed, funded plan for reform.

The Gonski review has shown that the current school funding model is broken and is failing our most disadvantaged students, but it has also shown us how to fix this. We need the money and the political will, and we need them right now. We need to move beyond political games at every level of government. We need to consider what is best for Australian children and for the future of our country in an increasingly globalised 21st century market. The Australian Greens have been saying consistently that standing up to big business, standing up to the mining companies and plugging the holes in the mining tax would raise significant amounts of money—billions over the forward estimates; enough to fully fund the Gonski reforms. So far the Australian Greens is the only party prepared to stand up the big mining companies to find the money we need to give our children a world-class education. We will all benefit from that; not just the haves but also the whole society. Failing our citizens of the future will impoverish us all.

Senator MARSHALL (Victoria) (16:04): I rise to speak to this matter of public importance on education reform. I wish that
Senator Wright would heed her own advice in this respect and move beyond playing political games, because that contribution by Senator Wright did exactly that: it attacked the government for what it wanted to do and it attacked everybody for wanting to do something and putting in place significant reforms. Somehow, it said that only the Greens political party would be able to do that, yet we have seen no evidence and no demonstration of any serious commitment. I commend Senator Wright personally—I know she is very committed at a personal level to public education in this country—but she ought to come into this place to have a serious debate about these matters and not play the political games which she accuses other people of playing.

Education is the key to innovation and enterprise. It is the foundation of our present prosperity and it is the foundation for our future prosperity as a nation. That is why this government is so committed to education. That is why this government initiated a serious reform and review of the funding process called the Gonski review. It is something this government initiated because we knew that the system in its present form is not delivering the funding to where the education needs of our Australian community are. It is the most comprehensive reform with the most comprehensive set of recommendations that has ever been undertaken in education in this country. It is a difficult process, one that has to be worked through. Senator Wright is not here to hear this, but it has to be worked through with state governments and other stakeholders. There is a lot at stake. The future of the education system in this country is at stake. Those negotiations are happening—they are continuing—and this government is committed to getting an outcome and bringing all participants and all stakeholders with them.

This financial year the Labor government will invest $13.6 billion in our schools. I know it was a little while ago, but compare this with the last year of the Howard government, in which $8.5 billion was spent. This is a significant investment by the Gillard government. It comes on top of record amounts invested in the first four years of the present government—over $65 billion in schools and around $22 billion for early childhood measures by the end of 2015-16.

It is why we are driving reform in respect of the national curriculum. It is why we are driving reform in terms of transparency. It is why we are driving reform to assist those who I think are very professional teachers to become even better equipped for the challenges of classroom teaching in this country. We have in this country a world-class education system but it can be better, and that is why this government has set a goal of being in the top five international education systems in the world. We are confident that we will achieve those goals, given the amount of spending, the amount of reforms, the amount of professional development and the amount of assistance we are going to give our educators in achieving those goals.

We have delivered the most significant education improvements in living memory. They are based on Labor's values of fairness, equality, accountability and transparency. Thanks to this government every Australian student will have access to a great education, no matter where they live or the school that they attend. This is something that has been lacking in this country for too long; we must move to the areas where the need is most. We need to ensure that the low-performing tail in this country—which is too large—is brought up, and close the gap between the lowest-performing students and the highest-performing students. Unfortunately, a lot of
that is based on where you live—on your postcode. We want to ensure that every Australian child—regardless of their background, or how privileged their upbringing may have been or how educated their parents may be—has the ability to fulfil their education abilities.

One of the great hallmarks of this government—I think one of the great legacies that will be remembered for generations to come—is the Building the Education Revolution, particularly during the global financial crisis. When it came time for the Australian government to invest back into our economy to support jobs we chose, as one of our watershed expenditures, to support jobs and to support the economy—and only a Labor government would do this—building and rebuilding schools in this country. We invested more than $16 billion across nearly 10,000 primary schools, rebuilding classrooms, building school halls, upgrading facilities, building science labs, and libraries—facilities that had been neglected—and we did that in every primary school across the country and in many secondary schools too. The Catholic education system regularly said to me, when I was involved in the opening of those facilities, that this was a once-in-a-generation opportunity for them. The plans that we were able to put in place to build those facilities were things that they would never have been able to do over the next 20 or so years. It will be a long, important and lasting legacy.

But, of course, our reforms have not been simply about building facilities. They have been about assisting teachers to deliver better programs and more targeted programs to get better educational outcomes for our kids. Our parents and school communities now have more information about schools than ever before through the MySchool website. Schools and students are benefitting from the $2.5 billion we are spending in the Smarter Schools National Partnerships, helping to improve literacy and numeracy, to boost teacher quality and to provide extra support to low-SES schools. We have invested an additional $243.9 million in improving literacy and numeracy in a new national partnership to build on the successes of the Improving Literacy and Numeracy National Partnership. We are investing $2.1 billion in the Digital Education Revolution, which has delivered more than 967,000 computers—one for every student in years 9 to 12—tools of the 21st century.

Australia now has the first ever national curriculum from foundation to year 12, starting with English, maths, history and science from foundation to year 10 and $2.5 billion is being invested by this government in trade training centres, giving high school students access to industry-standard training which is helping them to complete school and to get a job.

We have committed an extra $200 million to help students with disabilities to get the best education possible. One thing we do know for sure is that if people with disabilities get a good, adequate and proper education—and that is what they deserve—then their employment prospects and their future prosperity is underpinned by those things. We are investing in that, and we have been investing in it.

We are rolling out the first phase of the Empowering Local Schools initiative to 926 schools across the country, giving principals more local decision-making powers over things like staffing and budgets. We as a government—as a Labor government—are delivering an Aboriginal and Torres Strait Islander Education Action Plan to states, territories and non-government schools. We have invested $128.6 million to help boost school attendance, literacy and numeracy skills, strengthen the education workforce
and provide extra resources to schools that are in most need of help. These are the things that the Labor government is doing.

Indigenous students in the Northern Territory will benefit from the $583 million Stronger Futures in the Northern Territory national partnership, which will focus on attracting high-quality teachers to Northern Territory schools, introduce a new Improving School Enrolment and Attendance scheme and provide funding for a School Nutrition Program so that children are getting access to healthy meals.

We are spending more than $706 million over four years investing in the National Partnership on Youth Attainment and Transitions to help more young people stay in school and successfully transition to work or further education. We, as a Labor government, introduced the first ever national certification process for highly accomplished and lead teachers based on the first ever set of nationally agreed professional teaching standards. And while we are on teaching, let me just say that I think Australia has a fine professional and excellent teaching profession in this country. We want to help make that even better and improve the learning outcomes for all our children.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (16:14): May I firstly applaud the tone of Senator Marshall’s address, given that Senator Wright before him commented and deliberated on the parlous state of the debate on this particular matter of public importance. I thought that was quite a striking observation to make during her own speech. But I will leave it for others to make their own judgement on that.

I would also like to share one thing with the comments that Senator Marshall just made and that is that, without question, education is the key to unlocking the potential of our young people for decades to come. There is no question about that. I think we would all support the fact that it is the key to unlocking the potential of our young. But what I do not support—and I have been listening for probably a good three or four minutes—and where I fundamentally disagree with Senator Marshall and the government is that you do not achieve that by throwing a bucket of money at it. You actually have to see an outcome for what you are doing and then ensure that that money is invested wisely so that it does genuinely unlock the potential of young Australians.

The current Prime Minister, Julia Gillard, was the Minister for Education under former Prime Minister Rudd. Since she became Prime Minister she has not been particularly consistent in public policy in too many areas. But the one area I will commend her on, the one area where she has been consistent, has been her rhetoric—screaming and shouting, if you like, from the rafters—about her commitment to education. It is all rhetoric; it is all spin. But she has certainly been consistent in the way she has continued to pursue this. In fact, when Julia Gillard became Prime Minister she referred to herself as, and assured the Australian public that she would be—and I quote—the ‘Prime Minister of education’. Those were her words.

What extraordinary hubris, these meaningless words. But what is more tragic is the way in which she has continued to fail Australia’s children and our leaders of the future. Since 2007 she has been decrying the neglect of the education sector and the lack of appropriate resourcing, and all we have seen is a continued denigration of students’ standards across the board. Not surprisingly, for more than five years we have seen a demonstration that the Labor government, as I said earlier, has a total lack of
understanding—that you do not throw a bucket of money at something to come up with the right solution. There has to be a clearly crafted framework to advance the education standards that we have here in Australia.

One of the initial claims of the Prime Minister when she was education minister was that every student would have a computer on their desk. Then she massaged that message and it was changed to 'Every child from year 9 onwards would have a computer on their desk.' In the last few months we have seen not only that that is not the case but also there is no more money to ensure that every child does have a laptop on their desk.

This is a consistency of approach that we are seeing time and time again not just in education but also in other areas. I think it is incredibly tragic for those in the education area. As Senator Marshall and Senator Mason before him pointed out, $16.6 billion was spent in building school hall monuments to Prime Minister Gillard. To my mind, there could not be a greater example of money wasted in terms of investing in the education sector and, essentially, the opportunity that has been lost by that money being directed in that way instead of being spent in far more effective ways.

*Senator Thistlethwaite interjecting—*

*Senator Thorp interjecting—*

**The ACTING DEPUTY PRESIDENT (Senator Fawcett):** Order! I remind senators on the right that Senator Kroger has the right to be heard in silence.

*Senator Kroger: Thank you, Mr Acting Deputy President. The truth hurts. The fact of the matter is you only have to read the Auditor-General's report on the Building the Education Revolution—*

*Senator Jacinta Collins interjecting—*
matter of order or to call attention to a quorum.

Senator KROGER: It is a tragedy that not all Victorian senators are looking after their constituents. The Catholic education sector, in particular, has valid concerns about the funding they will receive under the government's model and the likelihood that funding cuts will force an increase in school fees, which parents simply cannot afford. Clearly I am one of the few Victorian senators who listen to principals in the state of Victoria. The principal of Aquinas College in Ringwood, Mr Tony O'Byrne, recently wrote to the parents of that school, and I will very briefly read out a chunk of what he has written. He wrote:

It is important that politicians from all political parties understand the requirement that Catholic education continue to be funded at least at its current level plus any indexation for rising costs. Parents will be well aware that currently Catholic schools operate on approximately 90 per cent of the financial resources that are available to government schools and it is clear in negotiations that the government is seeking to discount what might be available to Catholic schools.

Senator THISTLETHWAITE (New South Wales) (16:23): I am pleased to speak on this motion which has no basis whatsoever in fact—another wonderful example from the Orwellian group of motion writing within the Liberal Party. I visit many schools throughout New South Wales—it is one of the great pleasures that you have as a senator—and I find that you can always tell a good school about 10 minutes after you walk into one. Some of our schools are struggling, particularly some of those public schools in rural and regional areas. That is reflected in the objective international comparison of performance of our students. The Programme for International Student Assessment is based on an annual testing which looks at the rankings of educational systems within the world. Australia has been declining relative to other countries in terms of our international rankings. That decline began under the Howard government, under the previous Liberal government. In 2003, Australia ranked fourth when it came to reading literacy and we ranked eighth when it came to mathematics. In 2006, in reading literacy we had dropped to seventh place, and we had dropped out of the top 10 when it came to mathematics. In 2009, the decline continued. We fell to ninth when it came to reading literacy and 15th when it came to mathematics.

We have a problem in our education system, and the problem is declining standards. Objectively, that is the issue we have to deal with as a nation. Why is it that we are declining? All of the studies show us that other nations are investing more in education, more per income in education. We need to heed those results, particularly what many of our Asian competitors are doing when it comes to funding education. There is a need for reform and Labor is delivering that reform. We have invested $2.5 billion in Smarter Schools National Partnerships. We introduced the My School website to ensure that parents had objective information about schools in their local areas and, importantly, that the government had information regarding the performance of schools and which areas needed additional funding. We have introduced computers into schools—950,000 throughout Australia, and national partnerships for improving teacher quality.

But, most importantly, on the issue of funding and addressing this problem of
declining standards, we consulted with the experts. We set up an enquiry chaired by Professor Gonski, to have a look at these issues. It included the likes of educational expert, Ken Boston, and Kathryn Greiner. They went around the country talking to principals, experts, academics, teachers and parents, working out the best way to improve results in educational standards in our country. They came up with a report. It is commonly referred to as the Gonski recommendations.

What are we to do as the government? Are we to ignore those recommendations; ignore all that work that has been undertaken by the experts and which international comparisons tell us is the basis of Australia’s failing performance? We would be a government that is ignorant if we failed to heed those recommendations, but that is what the opposition expects us to do. The government is developing a new funding model so that no school will lose one cent of funding and we will see better results throughout the country. That includes base funding with loadings for disadvantage, for Aboriginal and Torres Strait Islander students, for disability and for low socioeconomic areas. We are delivering this plan. We have a plan to improve results, to stop the rot that began under the Howard government.

But the opposition are doing what conservative governments do. They do not want the system to change. The opposition education spokesman, Mr Christopher Pyne, has said that the current system is adequate. They keep saying that we are throwing money at the problem. But their argument is deficient because, if money were not the issue, why do parents pay a lot, particularly those who send their kids to private selective schools? Why do they pay that extra money? They pay that extra money because they want their kids to get a better education, because they know if they make that investment with that extra money their kids will have a better opportunity at a better education. So their argument about throwing money at the issue is deficient. We have seen what Liberal governments do when it comes to education. They cut services and they cut funding. In New South Wales, in my state, they have cut $1.7 billion from the education budget, and the effects of that are beginning to be felt throughout schools in my state.

Senator Kroger mentioned the Building the Education Revolution. This is one of the programs that I am most proud of as a member of this government—$16 billion invested in new facilities throughout this country. I often tell the story of East Maitland Public School. I had the great fortune of opening their new BER facilities last year. This school received $2 million from the Gillard government to build two new special-needs classrooms. They have a wonderful principal at that school, Sheree O’Brien—

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Senator Thistlethwaite, resume your seat. I remind senators on the left that senators have the right to be heard in silence.

Senator THISTLETHWAITE: Sheree O’Brien is passionate about special needs education. She fought with the education department to ensure that the BER funding that the school received went into building special needs classrooms for kids with profound Down syndrome and autism. I went to the school and opened these wonderful new facilities, and I met the teachers, the students and their parents. At the afternoon tea that occurred afterwards, one of the parents came up to me and said, ‘I want you to go back to Canberra and thank Julia Gillard and Kevin Rudd for what they have done for our local school.’ I asked her, ‘Why
is that?’ She said, ‘I have a son with profound autism. We moved our family from Perth to get our son into East Maitland Public School.’ They did that because they found out about how passionate Sheree O’Brien is about special needs education. She said, ‘You have no idea what a difference it has made to my son’s education and to his relationship with his family—in particular with his two younger siblings who are also students at the school.’ That is real change for the better that probably will not show up in any of the educational statistics that you see when you compare international students.

What you have to understand about special needs education is that there is never just one teacher in the room. Teaching special needs kids requires additional resources. There will generally be two teachers, at the very least, and a teacher's aide working with them. When you talk about $1.7 billion worth of cuts to education from the New South Wales budget, guess what will be the first positions to go at East Maitland Public School? It will be the teacher's aides that assist with that special needs education. That is the difference between a Labor government and a Liberal government when it comes to education. The $2 million that went into building special needs classrooms at East Maitland Public School, which will give these kids a better chance at an education, is referred to by Senator Kroger and the opposition as waste. They have referred to the Building the Education Revolution program as waste for the last three or four years in this place. Ask the parents of those special needs kids at East Maitland Public School—and at every other school throughout this country that has benefited from the Building the Education Revolution funds—whether they think that the money that this government has invested in their kids' schools is waste. I think you will find that they have a different view to those opposite, and it perfectly highlights why those opposite are out of touch when it comes to education funding and education policy in this country. That is the difference between a Labor government and a Liberal government. In New South Wales we are now facing the prospect of some of these schools losing their special needs support staff and losing some of their programs because $1.7 billion is being cut from the education budget.

I reiterate the point that has been made: if money is not the issue, then why are schools in other countries that are spending more per capita on education than we are moving ahead of us each year? The answer is simple. It is because they invest more in their future and more in their education system. That is what this Labor government is seeking to rectify with the Gonski reforms, and that is why those opposite should support them.

Senator McKenzie (Victoria) (16:33): It gives me great pleasure to contribute to the debate on the Gillard government's dismal record on education reform and the missed opportunities that this government has had—for the entire period of time that it has been in government—to actually attain real change in our Australian schools. It was interesting to hear Senator Thistlethwaite's contribution in which he brought up the Building the Education Revolution. When we look at my own state, Victoria, and the waste that that program delivered on the ground—and I see Senator Thistlethwaite shaking his head as he leaves the chamber—that waste was not evident where the school system was able to choose their own method of spending. For state schools, they had a prescribed list of educational resources they could access, and they had to go for it.

When I think about missed opportunities and real education reform, I think about the first missed opportunity. As a former lecturer...
in education training, I know that our universities’ capital infrastructure needs have been severely lacking. The former government recognised that and set up a fund to take us forward: the now-defunct Higher Education Endowment Fund. I think that the first missed opportunity of this government was to not spend it all on capital infrastructure for higher education.

Similarly, in another missed opportunity, there was a federal Labor commitment of $16 million to stem the shortage of maths and science teachers by fast-tracking bankers, accountants and engineers into classrooms. By the way, those three particular cohorts of people—we have all got friends in those cohorts—are in classrooms now. Think about it. There is a reason that they did not choose education as their first choice of career. It has been an incredible, expensive failure with just 14 participants recruited. Those who are experienced in banking and who are highly successful engineers and accountants may be able to perform certain types of arithmetic, but I would doubt their capacity in terms of flux equations and partial differentiation.

Prime Minister Julia Gillard announced the Teach Next scheme during the 2010 election, promising that Labor would over four years recruit 450 mid-career professionals to teach. However, just 14 participants have been placed into schools, after two intakes, and every state and territory, except Victoria and the ACT, has either not participated in the scheme at all or has pulled out. The computers in schools program blew out by $1.4 billion. The school hall program, mentioned earlier, blew out by $14.7 billion to $16.2 billion. The blow-outs in these two programs alone are more than double Wayne Swan’s projected 2012-13 now-dumped surplus—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! I remind you to address members in the other chamber by their correct titles.

Senator McKenzie: Thank you—Minister Swan.

Senator Carol Brown: Mr Swan.

Senator McKenzie: ‘Minister’ will be fine. Taxpayers’ money was spent on these programs instead of on real education reform, and that is because of waste. Just throwing a lot of money at a problem does not mean you are actually going to fix it, and when we look at educational outcomes in this country over the whole period of time that this government has been in power we can see that money definitely has not fixed the problem. The air bubbles, thought bubbles and media releases to tackle the perceived educational issues have not actually fixed them. If the government is serious about improved learning outcomes for students, the rhetoric has to end. We saw that in MYEFO the government actually cut money out of education. So there are missed opportunities throughout this federal government’s tenure. With the Prime Minister being the former education minister and purporting to have such a strong and passionate commitment to education, I am befuddled as to how we can have so many botched schemes.

As a Nat, I am predominantly concerned with the close to a million students—young Australians—studying at private and public schools throughout our nation. Over 687,000 of our young Australians outside our capital cities are studying at public schools. So I am excited by the thought of a highly equitable and effective education system being delivered to our students attending public and private schools, and I note we have some fine young Australians up in the gallery watching this debate at the moment. I talk specifically about the Gonski legislation before us. The lack of detail in this bill is
incredible. There are aspirations galore but not a shred of detail on how it is going to happen and what metrics are going to be used in certain sections of the legislation. The areas that we are targeting are areas of disadvantage, and the coalition is so supportive of ensuring that the taxpayers' dollar is well spent and spent in areas of need, on students that are experiencing disadvantage, but we do not know what the metrics are. But the AEU, in evidence before the Senate inquiry into the bill, were very confident that it is all going to be fine. But, from my perspective, this government has form in not getting it right in education and not getting it right for regional Australia. So, when I talk about the over 600,000 young Australians attending government schools outside capital cities, I want to ensure that the loading mechanism in the Gonski legislation actually delivers for them. Given this government's poor track record on the youth allowance debate and its inability to draw lines on a map that result in effective public policy, you can sense the concern of many stakeholders in this debate. Similarly, there is no idea about the other loadings. We have only just come with a definition of 'disability', and this is for a funding model that is going to fund our schools next year. It just does not wash, and it is so very typical of Labor. (Time expired)

Senator THORP (Tasmania) (16:40): Nelson Mandela was spot on when he said, 'Education is the most powerful weapon which you can use to change the world.' An effective education system has the capacity to mitigate disadvantage and elevate all young Australians to achieve their potential. Education is an issue about which I am passionate, as someone who has spent many years working as a teacher. I have long believed that our school funding needs to be directed towards public schools, especially towards schools in our most disadvantaged communities. Every single Australian kid has the potential to live a full, rich life and to be a contributor to our country's economic and social wealth. Every school needs to be a great school. Every school needs to have inspired and inspiring teachers who are passionate about their jobs and their students. That is why we cannot afford to have huge differentials in the funding and outcomes of our schools.

This government proved its commitment to a fair education system when it commissioned the Gonski review, the most comprehensive investigation into the way schools are funded in over 40 years. This financial year, the Labor government will invest $13.6 billion in our schools, compared to a shameful $8.5 billion spent by the Howard government in its last budget. This comes on top of record amounts invested in the first four years of the Gillard government: over $65 billion in schools and around $22 billion for early childhood measures by the end of 2015-16. We have delivered the most significant education improvements in living memory based on Labor's values of fairness, quality, accountability and transparency, and we also recognise that there is so much more to do. Thanks to Labor, every Australian student will have access to a great education no matter where they live or which school they attend.

We have built or upgraded school facilities throughout Australia, and I do take exception to some of the outrageous statements that have recently been made in this place about the spending of the BER funds. Coming from the state of Tasmania, I can absolutely guarantee to this place that those funds were spent where they were needed and spent very well. In fact, there was a commendation by the Auditor-General of the administrative group that oversaw the spending of the BER funds. The group saw
the spending come in under target, and they were highly commended for doing so.

Students and schools are benefiting also from $2.5 billion in the Smarter Schools National Partnerships. We have invested an additional $243.9 million in a new Improving Literacy and Numeracy National Partnership to build on the success of the Literacy and Numeracy National Partnership, and $2.5 billion is being invested in trade training centres—and I hope those opposite do not think that the trade training centres have not been an extraordinary investment, giving high school students throughout the country, many of them in regional Tasmania, access to industry-standard training which helps them complete school and get a job. More than $706 million over four years is being invested in the National Partnership on Youth Attainment and Transitions to help more young people stay in school and successfully transition to work or to further education. And that is not all. This year the Labor government will finalise a National Plan for School Improvement to ensure that all students at all schools get a great education. We have also introduced the Australian Education Bill into parliament.

It seems a bit disingenuous to me for the opposition to suddenly turn around and pretend they actually care about the quality of our education system. It is clear that the opposition education spokesperson, Christopher Pyne, does not care, as he has not bothered to ask the Minister for School Education, Early Childhood and Youth a single question in parliament since 2010. Last year the shadow minister found time in question time to ask 38 questions. Not a single one was addressed to the education minister and only one had any relevance to education.

Last year Mr Pyne confirmed that the coalition would keep in place a broken funding model that could result in cuts of up to $5.4 billion from Australian schools. He also dismissed the findings of the Gonski review, which has been welcomed elsewhere across the country, not to mention plans to sack one in seven teachers, squeeze more kids into classrooms and slash funding to disadvantaged schools. The Liberal Party does not care about education. Labor works on the principles of fairness and equity, not privilege and elitism. The Liberal mantra requires a system that produces workers to produce wealth for a few; Labor sees every Australian as a valuable contributor to wealth for all.

The ACTING DEPUTY PRESIDENT (Senator McKenzie): Order! The time for the discussion has expired.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator McKenzie) (16:46): I present documents listed on today’s Order of Business which were presented to the President and the Temporary Chair of Committees after the Senate adjourned on 28 February 2013.

The list read as follows—

Committee reports

1. Finance and Public Administration References Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—Implementation of the National Health Reform Agreement (received on 7 March 2013)

2. Joint Select Committee on Constitutional Recognition of Local Government—Final report on the majority finding of the Expert Panel on Constitutional Recognition of Local Government: the case for financial recognition, the likelihood of success and lessons from the history of constitutional referenda (received on 7 March 2013)
Government document

Australian Meat and Live-stock Industry Act 1997—Live-stock mortalities during export by sea—Report for the period 1 July to 31 December 2012 (received on 7 March 2013)

Statement of compliance relating to contracts

Australian Organ and Tissue Donation and Transplantation Authority (received on 7 March 2013)

Ordered that the Finance and Public Administration References Committee report be printed.


I seek leave to move a motion to provide for consideration of the committee reports just tabled.

Leave granted.

Senator CAROL BROWN: I move:

That consideration of the committee reports be listed on the Notice Paper as separate orders of the day.

Question agreed to.

COMMITTEES

Finance and Public Administration References Committee

Report

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:47): by leave—I move:

That the Senate take note of the Finance and Public Administration Reference Committee report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator McKenzie) (16:47): I present a response from the Chief Minister of the Northern Territory (Mr Mills) to a resolution of the Senate of 22 November 2012 concerning conviction records.

The response read as follows—

Thank you for your letter dated 26 November 2012 regarding the Senate resolution calling on Australian states and territories to enact legislation to purge convictions imposed on people prior to the decriminalisation of homosexual conduct.

I advise that the legislative policy for the Northern Territory concerning historic criminal records or repealed offences is contained in the Criminal Records (Spent Convictions) Act. The practical effect of a spent criminal record is that the record will not appear on a criminal history check (except in relation to certain excluded matters).

Again, thank you for bringing the Senate resolution to my attention.

COMMITTEES

Constitutional Recognition of Local Government Committee

Report

Senator RHIANNON (New South Wales) (16:47): by leave—I move:

That the Senate take note of Joint Select Committee on Constitutional Recognition of Local Government report.

It was a privilege to sit on the Joint Select Committee on Constitutional Recognition of Local Government. With the report being tabled today, I would like to re-emphasise the Green's support for constitutional recognition of local government. It is incredibly important, and we are inching closer to that point.

Now that the parliamentary inquiry has recommended a referendum to recognise
local government in the Constitution at the coming September election, I do hope that the Labor government will move quickly to pass the required legislation between March and July to facilitate this referendum. That is the next step, and that step needs to be taken. We need that time to build a strong community campaign and cross-party support. The importance of informing the community and building that support came up constantly at hearings for this committee. Dragging the chain would rob the campaign of time to educate the public about the importance of constitutional reform. As we know, this financial recognition is vital to formalise and secure financial certainty for local communities. This issue came up time and time again when we were having the hearings, particularly in respect of the relationship with the High Court cases. The past two High Court cases have created uncertainty, as we know, around the ability of the Commonwealth to directly fund local councils.

The expert panel expressed doubt about the constitutional validity of direct grant programs that do not fall under a head of Commonwealth legislative power. This poses an imminent challenge to the continuation of directly funded programs in many important areas across the board of all the great work that local councils do, including aged care, child care, climate change and infrastructure. One of the witnesses spoke about some great work around light rail that is being undertaken in Queensland, and they were very concerned about such programs being under threat.

Many local councils face expanding roles and responsibilities and have expressed their concern about the increasing uncertainty surrounding council decisions. Councils are the level of government closest to the community—we say that because it is a reality, and those councils need to be given support so that they can carry out their work effectively—and without direct federal funding, residents face reduced services or higher rates. That was a slogan that so many of the councillors and people who are working for councils took to the hearings of the committee that I had the opportunity to sit on as a member.

Both the expert panel and the joint committee have recommended holding a referendum at the September election to amend section 96 of the Constitution. Again, we are on track here. We now need the Labor government to come on board and get the required legislation into this place. I do urge that the government move quickly. There is just one recommendation, and so it is very clear what needs to be done here. We all know how difficult referendums are to pass in this country so that is an added reason why we need to get going.

On behalf the Greens, I particularly want to congratulate the Australian Local Government Association for their readiness to spearhead the public referendum campaign. The Greens are strongly supporting that campaign and we urge all political parties, state governments, territory governments and local governments across the nation to get behind the referendum. The time has come to get the recognition in place. We just have to get some of the mechanics set out so that can be achieved.

Question agreed to.

DOCSUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

Details of the documents also appear at the end of today's Hansard
COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator McKenzie): The President has received letters from a party leader requesting changes in the membership of committees.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (16:53): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education, Employment and Workplace Relations References Committee—

Appointed—

Substitute member: Senator McKenzie to replace Senator Boswell for the committee's inquiry into teaching and learning – maximising our investment in Australian schools

Participating member: Senator Boswell

Rural and Regional Affairs and Transport References Committee—

Appointed—

Substitute member: Senator Fawcett to replace Senator Nash for the committee's inquiry into an aviation accident investigation on 18 March 2013

Participating member: Senator Nash.

Question agreed to.

BUSINESS

Rearrangement

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (16:55): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Education, Employment and Workplace Relations Legislation Committee, the Community Affairs Legislation Committee and the Environment and Communications Legislation Committee, as listed at item 16 on today's Order of Business, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.
BILLS
Maritime Powers Bill 2012
Maritime Powers (Consequential Amendments) Bill 2012
Second Reading
Debate resumed on the motion:
That these bills be now read a second time.

Senator BOSWELL (Queensland) (16:55): I was saying just before lunch that the Labor government is destroying the fishing industry and I was explaining how. First, work in a policy vacuum. Then let a department that is wholly and utterly unsympathetic to the industry effectively take over control—that is, the environment department. Then, when we are trading in a global market and the price of our product is critical to sales success overseas, add unnecessary cost burdens at every stage of production, like the carbon tax and renewable energy target. This also makes our own seafood less price competitive against cheap imports on our own domestic market. At the same time, put no facility in place for the industry to easily gather funds from innovation, thus making it even more difficult to run marketing campaigns. Then reduce the area open for fishing by declaring 2.3 million square kilometres of our oceans as marine parks and ban commercial and recreational fishing in these vast areas, reducing the catch even further. At the same time, refuse to compensate many of the businesses directly affected and destroy much onshore infrastructure needed to support the catching sector. After that, override the recommendations of experienced fisheries managers and fisheries scientists for the sake of short-term political expediency, raising doubts in the minds of the community about the management of our commercial fisheries. Finally, to ensure that no-one can make any future investment plans with any confidence whatsoever, launch a root-and-branch examination of fisheries management.

Overall, demonstrate that you do not value the industry as a vital producer of healthy, high-quality food and as a provider of crucial jobs in often remote areas where there is little alternative employment, and demonstrate that you care more about the accolades of overseas, city based environmental activists and the continuing political support of Labor's coalition partners in government, the Greens. That is how to destroy an industry. That is how Labor is destroying the commercial and recreational fishing industry.

The Minister for Agriculture, Fisheries and Forestry, Joe Ludwig—he is a fine fellow; I get on well with him—is fisheries minister in name only. Everyone in government, everyone in fisheries science and management and everyone in the fishing industry knows that the portfolio is in fact run by the environment department and its minister, the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke. Senator Ludwig's views, advice and recommendations have been ignored or overturned on one major fisheries issue after another. When it comes to real decisions on the big issues affecting the seafood industry, the environment minister has the call. A fishing portfolio run by an environment minister results in a fishing industry offered up as a sacrifice to environmental activists. This makes it impossible for the fishing industry business to predict what access to fisheries resources will be available to them in future and makes forward planning and sensible development of the industry impossible.

The Australian dollar is close to record highs against the US dollar and other international currencies. This makes our
exports dearer in overseas markets and makes our imports cheaper in our domestic market. So it is harder than ever before for our fishermen and seafood marketers to make a profit or even sell their product in the first place. It makes our fishing charters relatively more expensive compared with charters in overseas locations.

Despite the fact that the industry is already doing it tough, this government has added more and more costs that fishermen, processors and marketers have tried to absorb. The carbon tax—the renewable energy charge—is a classic example. Of course, the Labor government is not really managing fisheries—not coherently, rationally or predictably. It is moving from one ill-considered, illogical short-term decision to the next, going wherever it is led by the environmental activists.

Take the case of the Abel Tasman, where the government took its lead from Greenpeace. This is the so-called supertrawler. The government invited the trawler to Australia, and its Australian-based operators went through the proper process. And yet the government went to water when the vessel actually arrived. Environmental minister Tony Burke banned it from fishing for the last two years. He did this against the sound advice of the fisheries scientists and fisheries management. His action trashed the reputation of Australian fisheries science and raised unnecessary doubts in the mind of the Australian public about the state of the fish stocks and their management.

Banning the Abel Tasman you can chalk up to Greenpeace. However, their fellow environmental multinational, the Pew foundation, the World Wildlife Fund and others had a far bigger win. This was on 16 November, when the environmental minister, Tony Burke, declared 2.3 million square kilometres of new marine reserves that will lock commercial and recreational fishers out of vast swathes of our ocean. I expect this week that Minister Burke will table in the other place the management plan for these marine reserves. These plans will have enormous impact on the commercial and recreational fishing industries, and on small business and individual rights right around the Australian coast. They should be rejected by parliament. Minister Burke should be made to go away and try again and then bring back proper management plans for the marine zones.

The current plans have not taken proper notice of good science, just what Labor regards as good politics. There has not been proper consultation with recreational or commercial fishermen, just backroom deals with local and international environmental activists. There has not been any proper consideration of the terrible impact the plans will have on the lives and businesses of people in the coastal centres right around Australia. It is just simply to boost Labor's image in the inner-city seats in the federal election.

What Minister Burke has put in these management plans is bad policy development, for the wrong reasons. They are not about protecting the marine environment; they are about protecting Labor votes and preferences. They are shoddy—absolutely shoddy. Quite apart from the terrible impact these marine reserves will have on regional economies, there is the question of how these vast areas of soon-to-be-empty oceans will be policed.

What Minister Burke described as the 'jewel in the crown' of the marine reserve network is almost one million square kilometres of the Coral Sea. Much of this vast area will be completely closed to all fishing. Effectively, what this means is that the commercial fishermen and charter boat
fishermen, who are the eyes and ears of enforcement there, will be banned. These are the very people who are in a position to spot any illegal fishing vessel operating in the waters hundreds of kilometres from the Australian mainland, and they will not be allowed in there.

How does this Labor government intend to police this area of almost one million square kilometres? No-one is prepared to say. I heard someone say that scuba divers will keep their eyes open on their way to their dive trips. Maybe we can ask the French to send some patrol boat from New Caledonia. This is a very serious question. The government is bringing in this Maritime Powers (Consequential Amendments) Bill, but how will it enforce these marine powers? How will it enforce the protection of our fisheries in the huge new marine reserves and the huge new zones where Australian commercial and recreational fishermen will no longer be allowed to fish?

It is really just creating protected fishing zones for illegal foreign fishing vessels—places where foreign fishing operators will no longer have to worry about being spotted by Australian commercial and recreational fishermen. Australia has the largest area of marine parks of any country in the world—more than three million square kilometres. Sadly, that is not a proud boast; it simply means that we have locked away more of our seafood, more of our exports and more of our recreational fishing areas than any other country in the world.

It is no wonder that we now have to import more than 70 per cent of the seafood we eat in this country every year and that international anglers are choosing alternative fishing destinations—when they look at the map all they see is green—before they make a decision to come to Australia or not to come to Australia. How ironic that a major report released by the Minister for Agriculture, Fisheries and Forestry, Joe Ludwig, in December demonstrates that Australian key wildlife fish species are well managed. Over 80 of the country’s leading fisheries researchers collaborated to produce a report on 49 species contributing over 80 per cent of the value and 70 per cent of the volume of Australian wildcatch fisheries. They found that fisheries are operating sustainably and our seafood stocks are in good shape—they are in great shape.

This government has demonstrated more than once it cares nothing for the opinions of the commercial and recreational fishing industries and all the families involved in fishing for sport or business. What matters is that it maintains the support of the Greens and the international environmentalists. As far as consultation with the industry is concerned on things like new marine reserves, the government is just ticking the boxes. It does nothing more than the minimum it is required to do. For example, the government released its draft management plans for new marine reserves with just the minimum 30 days of consultation in the middle of the Christmas school holidays. Of course, many of the people most interested in commenting on these very complex plans for the future of fishing in vast areas of ocean around Australia’s coastline were on holidays—they had literally gone fishing. Both recreational and commercial fishing representatives requested the government extend the period for consultation from 30 days to 90 days. This very reasonable request by these representatives and others was totally disregarded. Now Minister Burke is rushing these plans through Parliament just as quickly as he can.

In relation to the fishing bans to be imposed by the new marine reserves, the government has said professional fishers
directly impacted will be able to apply for some compensation. However, charter boat operators will miss out entirely and so will related businesses such as tackle shops, seafood processors, seafood wholesalers, ship chandlers, providores, repair facilities and other suppliers of goods and services. At the same time, just to further muddy the waters and make sure the seafood industry cannot plan ahead with any uncertainty as to what the rules will be, fisheries minister, Senator Ludwig, announced a major review of Australian fishing policy and legislation, so the industry will have to continue treading water while the review is completed, his recommendations considered and then any changes to the legislation are framed, tabled and debated—more uncertainty for the seafood industry.

Senator Ludwig announced the terms of reference for the review on 13 September last year and said the review would be conducted within three months, yet six months later we have still not seen the review. Industry has to wait. Not once has this government stood up for the Australian primary producers and defended them against the outrageous claims and demands of the environmental multinationals. It is a valid question to ask whether this Labor government really has the will to protect Australian fisheries and the Australian fishing industry from a range of threats. We know the government has already caved in to pressure from the international environmentalists and their local franchises and is banning fishing from vast areas of Australian waters. Does the government have the will to genuinely protect our fish stocks from illegal fishing vessels? I do not believe so. Many senators will remember under the Howard government in 2003 the pursuit of the Uruguayan flagged vessel Viarsa by the Australian Customs and Fisheries patrol vessel Southern Supporter. The Viarsa was spotted in the Australian waters near Heard Island, suspected of illegally catching toothfish. The vessel fled when the Southern Supporter approached and so began a 7,000-kilometre, 21-day pursuit through stormy seas and icebergs in the Southern Ocean, until Viarsa was finally stopped in South Africa and escorted back to Australia. There it was forfeited and scrapped.

Of course, that was under a coalition government. Now we know that Australia has not conducted a single patrol in the Southern Ocean for over a year. The difference is simple: the Labor government is providing for the protection of our Australian Fishing Zone on paper. In government, the coalition will enforce fishing laws where it really matters—out on the water. When Tony Burke announced the proclamation of Labor's 2.3 million square kilometres of marine reserves he declared that Australia's precious marine environment has been permanently protected. He should have added it had been protected on paper. It has certainly not been protected out on the water.

All Labor has done is ban commercial and recreational fishing and left our offshore waters more vulnerable than ever to illegal foreign fishing vessels. The government does not have a policy for the fishing industry and it does not have a policy for protection of our fish from illegal foreign boats. Worse still, it does not have the will to protect our fishing zones. The only way to see a policy developed for our valuable seafood industry and to genuinely protect our Australian fishing zone from illegal foreign operators is to change the mindset of the government—and the only way to do this is to change the government itself. Fishermen will get their chance to help do that later this year, and I know they will respond accordingly.
It is my pleasure to rise to speak on the Maritime Powers Bill 2012 and to indicate that I see in this legislation the reinforcement of a pattern of behaviour on the part of the Labor government, a government which, all too often, has set out with a grand vision of reforming a particular area of the law and an intention to make clear what was characterised by a series of disparate and sometimes disjunctive pieces of legislation and bring it all forward. That is the intention.

To cite some recent examples, it was the intention of the privacy legislation amendments, it was the intention of the human rights legislation that was discussed recently and it was the intention of the Maritime Powers Bill in each case to bring together, codify and make clear the position with respect to that particular area of law in a comprehensive way.

But I regret to say that, like the privacy bill and like the human rights bill, the Maritime Powers Bill is grand in conception but in some respects fails to deliver what it promises—although I would not go so far as to describe the Maritime Powers Bill as being as grand a fiasco as those other two pieces of legislation. If I might cut in there, those of us who were involved in the inquiry conducted by the Senate Legal and Constitutional Affairs Legislation Committee into that piece of legislation know that almost every witness who came before the committee from every sector criticised the legislation as being unclear, as muddying the waters, as creating confusion and as leaving so many questions unresolved that it caused considerable concern in the broader community, who rely on that legislation.

In this case the level of confusion is not as severe or as widespread, but it is deficient in one very key respect, and I think it is impossible for this chamber to walk past this issue without it being comprehensively settled and resolved. The question is, very simply, whether this legislation preserves the ability of the Commonwealth, through those who operate our naval vessels and other vessels on the sea, to exercise a power to turn back vessels that are in or approaching Australian territorial waters. That is the critical question. It is a matter on which there has been considerable public policy debate in recent years. It is a matter where, in the past at least, public policy has been applied to exercise such a power to ensure that boats have been turned around and sent away. This is not a moot question; it is a question of what powers the Commonwealth actually might exercise in a maritime setting. It is reprehensible that the Commonwealth government has brought to the Senate for passage a piece of legislation, in the form of the Maritime Powers Bill, without a clear answer to the question: does the bill preserve the power of the Commonwealth, the prerogative power of the Crown, to turn boats around?

I say that that is a question which is not answered because, when the Senate Legal and Constitutional Affairs Legislation Committee considered the legislation, it was unable to obtain a clear answer from officers of the Attorney-General's Department as to whether that power was preserved. To, I think not unfairly, paraphrase those who gave evidence before the committee, there was a suggestion that perhaps the prerogative power was still preserved in the legislation.

I asked specifically where I could find it referred to in the legislation and I was told that it was not necessarily contained in the words of the legislation, that in fact the power as a prerogative power of the Crown is a power which inherently lies with a nation state to be able to exercise with respect to the regulation of its borders. I thought that was a good answer, but not a...
complete answer. What the Maritime Powers Bill and its sister legislation, the Maritime Powers (Consequential Amendments) Bill, purport to do is to codify the powers of the Commonwealth that it might exercise in a maritime setting; to describe comprehensively what a person exercising such powers may or may not do—what the captain of a naval vessel or a Customs vessel, or some such person, might do—in the setting where they were confronted with a vessel attempting unlawfully to enter Australian waters. They might wish not to allow that to occur, and might wish to know whether the powers were there for them to turn that boat back. They might understandably make reference to, either personally or through some commanding authority back on the mainland, the place where such powers are enumerated and codified—namely, the Maritime Powers Act, as it would then be.

If they looked in that place—if this legislation were to pass in the form that is before the Senate today—they would not find such a power. There is not in the legislation anywhere a clear description of the power of the Commonwealth or its servants and agents to be able to turn back boats, in the circumstances where indeed Australian maritime powers have in the past turned back boats—in circumstances that were considered appropriate—in ensuring that unauthorised arrivals did not reach Australia’s shores.

The answers to those questions to officers of the department were, with great respect to them, unclear and unconvincing. But I would be very assured if the minister at the table were able to assure the Senate categorically that this legislation does preserve the power of the Commonwealth to turn back boats in circumstances where that course of action is warranted. If that assurance can be given to us, I think it would go a long way towards mollifying the concerns we have had about this legislation.

As a belts-and-braces matter, however, I think we would proceed with the amendment which is before the Senate at the moment. Senator Brandis is moving it to make it clear that that power does rest with this legislation, which of course is meant to be a comprehensive enumeration of the powers of the Commonwealth in a maritime setting.

Why do we talk about this? Why is this a consideration, given that it has not been a power that has been exercised, apparently, for some time? The answer of course is that it must be available as a possible response if the circumstances warrant that being the case. No-one is suggesting that it would be an everyday occurrence for Australian naval vessels to turn boats around on the high seas. It would not be an everyday occurrence. We would hope it would not be an everyday occurrence, and it was not an everyday occurrence during the years of the previous government when this power was indeed exercised. Obviously, it is a power which is to be exercised only in very special circumstances. But it is important to have such a power available in the armoury of responses by Australia as a nation state to the circumstances where people choose to make journeys to this country and seek to enter its territorial waters, and for which there is no lawful reason for that to occur.

The suggestion that officers of the Royal Australian Navy have said that the exercise of such power either is inappropriate or not legally possible is a suggestion which has no foundation. I have sat in meetings of the estimates committee—as I know Senator Feeney, the parliamentary secretary at the table, has—and I have heard officers at the table answer questions about the circumstances in which such powers might be exercised. It is true that they have said
that it is very dangerous to exercise those powers, that there are risks associated with the exercise of those powers and that there are all sorts of reasons why it needs to be done with great care, but I have heard nobody in that setting say either that the power does not and should not exist or that it could never be exercised. The fact that such a power until now has existed, does exist and might be exercised in circumstances where it is in Australia's interest to do so in my view means that we should be careful today to make sure that this legislation does not pass through the Senate without that power being preserved.

If it is the government's view that the power should be preserved, it may not wish to exercise the power. I gather that, although the previous Prime Minister thought that it should, the present Prime Minister does not—fair enough. Whatever the views of the government of the day, it would be unfortunate if the power were to be wiped from the statute books or from the common law by virtue of the passing of a piece of legislation which had the effect of repealing the power or removing the power from Australian authorities. Obviously, if the Australian people see fit at an election later this year to have a new government—

Senator Feeney: It is unthinkable!

Senator HUMPHRIES: A fanciful suggestion, I am sure you would think, Senator Feeney! If they happen to do that, I imagine that a new government would be very much of a mind to make sure that a strong signal was sent to people smugglers that Australia's borders were no longer open borders and that Australia would take every measure it possibly could to ensure that their business of smuggling people was smashed. If the threat, or perhaps the actual use, of a power to turn boats around in circumstances where it was safe to do so added to that policy and made that policy real and effective then it would be employed by an incoming government.

It goes without saying that the policy this government has pursued generally on the protection of the borders and on ensuring that people, wherever possible, seek asylum in this country through lawful means has been a spectacular and unmitigated failure. I think that barely needs to be stated. The government has had, on my reckoning, five different positions on how to deal with the flow of boats across the Timor Sea, and no doubt before the election there is time for a sixth version if it decides that the policy is just too malodorous for the Australian people to be able to support.

So we will see what comes out of the coming election campaign, but what I do know is that the Australian people want a policy which is effective. They want our immigration policy to be strong and resilient and to have support across the entire community. They want the policy on the treatment and handling of refugees to be one which maximises Australia's generosity towards those who are deemed to be genuine refugees and ensures that, wherever possible, a person applies to Australia for asylum in a way which ensures that their processing is done in an orderly fashion and, if possible, offshore through application in such places as refugee camps under the auspices of bodies like the United Nations High Commissioner for Refugees or the International Organization for Migration so that once again Australians can have confidence that we are, as one of the most generous nations in housing and offering refuge to refugees, able to process such applications in a fair, merit based arrangement where the cost to the Australian taxpayer is not prohibitive. None of those things can be said at this point in time.
We make it very clear that, if we are the government that is elected later this year, we will radically alter the policies which have been by applied so ineffectively by this government. We will ensure that we have a policy which strongly discourages people from using unseaworthy boats to enter Australia’s waters in order to obtain status as an asylum seeker, processed by Australian authorities. We will do our best to make sure that this vile business is brought to an unceremonious end. Of course we can only do that if we have the full suite of powers available to us that were available to the Howard government. It is very clear that the judicious use of that policy was an effective tool in the hands of the previous government to ensure that boats did not arrive in anything like the numbers that have arrived since 2008.

For those who have a vision in their mind of the circumstances of a boat being turned back that might conjure images of chaos on the sea or of something being done which is extremely unsafe, which is unsatisfactory from a humanitarian point of view, I want to make the point to senators that Australia has exercised this power in the past in a way which did not produce those sorts of outcomes and which were an aid to effective public policy in preventing and discouraging people from using that device to enter this country. If we take the example of an Indonesian fishing boat captained by an Indonesian captain with an Indonesian crew having departed from an Indonesian port perhaps a couple of hundred kilometres off the coast of Indonesia, which an Australian naval vessel decides to turn around, one could hardly say that was a particularly onerous or unfair arrangement to enter into if that resulted in that presumably unseaworthy vessel being forced to return to an Indonesian port.

Senator Humphries: That may be the case, Senator Feeney, or it may not. But until we apply the policy we will not know. Let us see what happens. It was not the case in the past. We know how to do this. We have done it before. If you are not confident in exercising a power in those circumstances, let somebody who has done it before exercise such a power. I predict that it will not take long for these businesses—that is what they are—designed to exploit the misery of human beings who are seeking refuge to very quickly get a message about what it is that Australia is prepared to do to protect the integrity of its borders and to ensure that an orderly process for processing refugees is applied once again, one that creates a system which Australians and others around the world can respect for the way in which it is operated.

I urge the Senate to consider very carefully the powers that are in this legislation but even more carefully consider what is not necessarily in the legislation. I look forward to the minister clarifying what the status of that power is. As I said, I would be greatly mollified by an assurance that the power is absolutely preserved. Perhaps it does require the authority of a minister to make the statement that we are seeking.

Senator Feeney: You are stuck with me.

Senator Humphries: You are close enough, Senator Feeney. It was not an assurance we got from officers of the department. But we would be greatly reassured if the minister at the table were to make that assurance in the course of this debate.

Senator Feeney (Victoria—Parliamentary Secretary for Defence) (17:29): I thank honourable members for their contribution to this debate. I will do my very best to mollify your points, Senator Humphries. I am sure by the end of my
eloquent address, you and I will be seeing eye to eye on these questions and voting side by side. Before I make such bold predictions, let me roll on.

This government is committed to supporting the hard-working Australians who work on our behalf to uphold Australia's maritime laws. These men and women are required to operate in a difficult, dangerous and quickly changing maritime environment, an environment which regularly presents risks often unknown. This environment poses particular challenges to the effective enforcement of laws. Enforcement operations in maritime areas frequently occur in remote locations, isolated from the support normally available to land-based operations and constrained by the practicalities of sea-based work.

Under the current maritime enforcement regime, operational agencies use powers contained in at least 35 separate Commonwealth acts. This structure is inefficient and can lead to operational difficulties for the primary on-water enforcement agencies. The government has developed the Maritime Powers Bill 2012 and the Maritime Powers (Consequential Amendments) Bill 2012 to address these challenges. They provide a smarter and simpler approach to maritime enforcement by streamlining the operational framework for our on-water enforcement agencies.

The Maritime Powers Bill establishes a system of authorisations under which a maritime officer may exercise enforcement powers in the maritime domain. The powers contained in these bills are modelled on and preserve the suite of powers currently available to agencies to conduct maritime enforcement operations—a key point to which I shall return. In particular, the bills consolidate all maritime powers in the customs, fisheries and migration regimes, constituting a large majority of Australia's maritime enforcement operations. The bills will, therefore, effect a substantial consolidation of Australia's maritime enforcement regime in relation to areas of highest priority.

The bills also include a range of safeguards to make sure maritime enforcement powers are authorised and exercised appropriately and for a proper purpose. A key safeguard is the requirement for the exercise of powers to be authorised on specific grounds by a senior maritime officer or member of the Australian Federal Police. This provides clarity around who must make decisions to take enforcement action and ensures appropriate oversight in relation to the exercise of powers. The Maritime Powers (Consequential Amendments) Bill repeals maritime enforcement powers in a number of other acts where they overlap with powers in the Maritime Powers Bill.

I will turn for a moment to some of the specific comments made by Senator Humphries regarding the opposition's concern about this legislation and in particular speak to their amendments. Senator Humphries sought what might be called an undertaking about the impact of these bills and how they will change or bend the regime as it exists. He used the phrase 'have previous powers wiped from the statute books'. Let me see if I can give him some comfort in this important respect. These bills do not change the powers of maritime authorities, so to the extent that it was possible previously to turn back boats it remains possible. Let me provide a little more meat on that proposition.

The Maritime Powers Bill will not affect the legality of tow-backs or turnarounds. Currently, to the extent that the power resides in legislation, it is in section 245F of
the Migration Act. To the extent that it will reside in the proposed legislation, it sits primarily in clauses 69 and 72, together with clauses 21, 32 and 41 concerning jurisdiction and clauses 52 and 54(1) concerning the exercise of power. To the extent that the power exercised is the prerogative power of a government to control its borders, that prerogative power is preserved by clause 5 of this bill. The government has no plans to reinstitute tow-backs or turnarounds at this time, as you are well familiar with, but this legislation does not change the powers available to a government and, so to the extent that it was previously possible, it remains possible.

We would make the point—and I am sure Senator Humphries would be disappointed if we did not make the point—that this debate and the amendments in this debate are in our view something of a furphy. You are, in our judgement, making amendments that have no practical effect. You are not strengthening the prerogatives or powers of a government in the way that you say you want to, because you are simply adding words that do nothing to add power.

But you are doing this: you are making the political point and highlighting the political point that you want to turn back the boats. I suppose on that partisan point we say that the expert panel that dealt with some of these issues found that the conditions necessary for the safe and lawful enforcement of tow-backs did not presently exist. Senator Humphries, the government's position is that turn-backs and turnarounds are obviously not going to become a tool deployed by this government. We say—and perhaps I will go further into this in committee, if it is desired—that the expert panel report raised a number of questions, including treaty obligations for Australia about why that particular methodology of turning back boats is inappropriate, that it breaches safety of life at sea conventions and the like. But the critical point for you, I say, is this: your policy, notwithstanding the fact that we say it is crazed, is not defeated or undermined by this legislation. This legislation does not constrain this government or any future government from undertaking the sorts of powers that you describe the Howard government exerting.

While we do not agree about the substantive policy point and while I think the government is making its point that this amendment is about political posturing not about strengthening the legislation—

Senator Brandis: No, it's about reforming the law actually.

Senator FEENEY: I am sure we will debate this in committee, Senator Brandis. To the extent that towing back the boats was possible under previous legislation, it remains possible under this.

The unique aspects of the maritime domain pose particular challenges to the effective enforcement of laws. This warrants a tailored approach to maritime powers. The Maritime Powers Bill ensures flexibility in the exercise of these powers, allowing maritime officers to deal with quickly changing circumstances in often difficult and dangerous situations. These bills will streamline and modernise Australia's legal framework for maritime enforcement. They are another aspect of the government's work to provide Australia with a modern legal framework. I commend the bills to the Senate.

Question agreed to.

Bills read a second time.

In Committee

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

Senator RHIANNON (New South Wales) (17:38): Minister, why is there no
mention of the UN Convention on the Law of the Sea even when this bill allows the extraterritorial application of maritime powers?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:39): Thank you for the question. The government asserts that this bill has been drafted to ensure that it allows Australia to fulfil entirely its obligations under the UN Convention on the Law of the Sea and to exercise its rights at international law. The geographical limitations in division 5 of part 2 ensure that the exercise of enforcement powers in Australia's maritime zones in other countries and between countries is consistent with international law. In particular, the bill reflects the provisions of the UN Convention on the Law of the Sea that outline the jurisdictional rights of coastal states to take enforcement action on the seas. For example, UNCLOS, the UN convention, gives states the right to identify vessels without nationality on the high seas, and this is provided for in the bill. Maritime officers will also be able to exercise maritime powers available under international decisions, such as UN Security Council resolutions and international agreements between Australia and other countries. I would particularly refer the senator to clauses 12, 19 and 33.

Senator RHIANNON (New South Wales) (17:40): Thank you for that, Minister. Moving on to another aspect of the bill, what is being done to ensure that the fishing communities that are likely to be affected by this bill are educated about the changing circumstances? I am interested in how this will work, because it appears from reading the bill that the focus is on enforcement when surely having an effective education campaign could help avoid some of the problems that usually arise.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:41): I am advised that this bill is essentially a consolidation bill cleaning up or consolidating a whole range of different legislative regimes. In that sense it is a continuation of the status quo. There are, I am advised, no specific plans at this time to run, for want of a better word, not meaning to put words in your mouth, an educational campaign. But to the extent that I am wrong about that, I will be sure to come back to you with further advice. That is my understanding at the moment.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (17:42): by leave—I move amendments (1) to (4) on sheet 7348:

(1) Clause 41, page 30 (line 5), omit "Australia", substitute "Australia (which may include repelling vessels from the contiguous zone, or prohibiting vessels from entering or further entering the contiguous zone, or towing vessels to another place whether inside or outside the contiguous zone)".

(2) Clause 41, page 30 (line 24), omit "chased without interruption", substitute "towed or chased without interruption".

(3) Clause 54, page 38 (line 8), omit "Note:", substitute "Note 1:"

(4) Clause 54, page 38 (after line 9), at the end of subsection (1) (after the note), add:

Note 2: A specified course or speed may include a direction to adopt or maintain a course that will take the vessel to a place outside Australia.

The parliamentary secretary, Senator Feeney, has already in a sense anticipated the debate on these amendments. Contrary to what Senator Feeney has said, the opposition is not satisfied that the powers gathered together and consolidated in this bill do make it sufficiently clear that the powers of masters of Australian vessels or those in control of Australian vessels, including naval
vessels, do include the power to turn around and tow back other vessels, foreign vessels. For that reason, the effect of these amendments is to insert a provision into the act, in particular by amendment to proposed section 41 of the act, that makes it clear beyond doubt. The relevant words in the principal amendment which we move, amendment (1), are to make it clear that the powers to enforce laws of Australia in relation to foreign vessels include the power of repelling vessels from the contiguous zone, or prohibiting vessels from entering or further entering the contiguous zone, or towing vessels to another place whether inside or outside the contiguous zone.

It is essential, in the opposition's view, that the existence of this power be clarified in this bill. This is the bill that consolidates in a rational scheme which the opposition otherwise supports all of the maritime powers that have hitherto variously been located in a variety of different acts of parliament. What an appalling oversight it would be if, in effectively codifying those powers in a single act of parliament, that act of parliament omitted the biggest issue that is on the minds of the Australian public at the moment when it comes to the exercise of maritime powers, and that is the exercise of a maritime power to repel from unlawful entry into Australian waters foreign vessels and, in particular, vessels containing unlawful entrants or unlawful attempted entrants.

The parliamentary secretary said in his remarks—reading from a script no doubt written for him by officials—'To the extent that Australian law contains such powers, they are preserved by the bill.' The introductory or qualifying words of his contribution 'to the extent that' in a sense make the opposition's point, because it is by no means clear from this bill that that power exists as clearly as it should. We the opposition make no apologies for saying that the power to repel or turn around foreign vessels should exist and that the existence of that power should be made explicit in this codification of Australian maritime powers. It is as simple as that.

Might I remind honourable senators and those who may be listening to the broadcast this evening that, when Mr Kevin Rudd—remember Mr Kevin Rudd; of course, you do, Madam Temporary Chairman Stephens, because you are one of his supporters, and are you one of his supporters, Senator Feeney; I can never keep track of the Labor Party; they are like a merry-go-round—was elected as the democratically elected Prime Minister of Australia in 2007, during that election he said, emphatically, 'We will turn the boats around.' It was very controversial within the Labor Party but, nevertheless, Mr Kevin Rudd was elected on that promise in November 2007: we will turn the boats around. I have to concede that when Mr Kevin Rudd said that, Mr Howard, the then Prime Minister, could hardly say that Mr Rudd was not taking the issue seriously. But, unfortunately, within a year of the election of the Rudd government, by legislation introduced into this chamber, in August 2008, by the then Leader of the Government in the Senate and the then minister for immigration, Senator Chris Evans, the Howard government's tough border protection policies were repealed. And the rest, as they say, is history.

We went from a situation in which Australia's borders had been protected and our maritime borders had been made secure, since the Howard government's reforms of 2001, to a situation in which a green light was given to the people smugglers. I think people know that, the people of Western Sydney know that, the people of Western Australia know that and people in every region of Australia know that. I see my distinguished colleague Senator Michaelia
Cash, a very distinguished Western Australian senator, nodding in agreement. She will no doubt speak in this debate from a Western Australian perspective.

But let me remind you of the facts. There was a problem of the borders getting out of control at the end of the 1990s. There is no doubt about that. In 1999, 86 unlawful asylum seeker boats made it to our shores and, in 2000, it was not a lot better — there were 51. Then in 2001 the government of Mr John Howard introduced tough policies. He introduced, in particular, temporary protection visas and a suite of policies which were designed to send a message loud and clear to the people smugglers: we are going to destroy your evil trade and we are going to put you out of business.

Do you know what happened? The policy worked because, in the year after it was introduced, in the calendar year 2002, not one asylum seeker vessel tried to enter Australian waters — not a single one. In 2003, one asylum seeker vessel tried to enter Australian waters; in 2004, there was not one; in 2005, there were four; in 2006, there were six; in 2007, there were five; and, in 2008, there were seven. In the course of those eight years there were 23 vessels, an average of about three a year, because the policy worked.

But out of an excess of zeal and moral vanity, Senator Chris Evans repealed those policies by legislation introduced into this chamber in August 2008, regardless of all of their retrospective affectations and posturing of toughness — and that is this government, the government of Mr Kevin Rudd and Ms Julia Gillard. They also know that there is another side of Australian politics which gave the red light to the people smugglers which drove them out of business, and that was the side of politics that I represent — the government of John Howard, who, by introducing tough measures in 2001, stopped the people smugglers and saved lives. Who can say how many lives would have been lost in those years between 2001 and 2008 if we had not had the spine to introduce the measures to drive the people smugglers out of business? But we know how many lives have been lost, because in 2008 your government, Senator Feeney, did not have the spine to hold onto those tough measures: more than 1,000.

I feel sorry for Senator Chris Evans. I have served in this Senate for as long as I have been a senator with Senator Chris Evans. He is, in my view, undoubtedly a good and decent man. But he took responsibility for a catastrophic error and intentions. I remember his profession of humanitarian sentiment when he stood at that table, in August 2008, and announced these changes. But the problem is that when a bad policy is so bad that it reignites a trade like people-smuggling, in which innocent women and children are taken across perilous waters and their lives are placed in peril and, as a result, more than 1,000 of them drown, it is not just an academic exercise; a dreadful, horrible, human price was paid for that catastrophic policy decision by this government. It is a decision that it has been trying, without admission or acknowledgement of its error, to walk away from ever since.

The Australian people know that there is one side of politics that gave the green light to the people smugglers in August 2008, regardless of all of their retrospective affectations and posturing of toughness — and that is this government, the government of Mr Kevin Rudd and Ms Julia Gillard. They also know that there is another side of Australian politics which gave the red light to the people smugglers which drove them out of business, and that was the side of politics that I represent — the government of John Howard, who, by introducing tough measures in 2001, stopped the people smugglers and saved lives. Who can say how many lives would have been lost in those years between 2001 and 2008 if we had not had the spine to introduce the measures to drive the people smugglers out of business? But we know how many lives have been lost, because in 2008 your government, Senator Feeney, did not have the spine to hold onto those tough measures: more than 1,000.

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people died in their hundreds—in their thousands, possibly, certainly more than 1,000—as a result of that policy error. That is, I am sorry to say, something with which his name will always be associated and I feel sorry for him. But in these jobs we have to take the responsibility for the consequences of our decisions. If those consequences are as grievous as the consequences of that particularly egregious policy error then I am afraid that is the record that history has left.

We moved this amendment to ensure that in codifying maritime powers, the policy that worked under Howard—and will work again if the Australian people elect Mr Tony Abbott and his shadow ministers to government later this year—will be enabled to work again, to turn back the boats when it is safe to do so, to embrace temporary protection visas and to reopen Nauru. The government have already walked back on the issue of Nauru—we know that—in a terribly humiliating backdown, a backdown made more humiliating by the fact that the government did not have the grace to admit that it had made an error and was reversing an earlier policy decision to close down Nauru. But without introducing the whole suite of policies, including turning the boats around—the policy on which you were elected to office, Senator Feeney—and temporary protection visas then the people-smuggling business model will not be broken.

You said that this amendment was introduced to make a political point; not so, Senator Feeney. The amendment is introduced to make sure that it is as clear as can be in this bill that the power exists. But there is an important point to be made, and call it a political point if you will, but the reality is and the record shows, indisputably, that there was a will and a steel to break the people smugglers that was supported by effective policies when my side of politics was in office that will be restored if my side of the politics is elected to office which your side of politics entirely lacks.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:57): Firstly, the government do not support the opposition amendments and Senator Brandis is quite right that I did assert in my earlier remarks, when responding to Senator Humphries, that ultimately the coalition was motivated to put up this amendment not so much because it clarified or changed the bill, and in fact we say it does not, but to make a political point. Insofar as my observation required any confirmation, the contribution just made by Senator Brandis made the point better than I ever could.

I will begin by dealing with some of the questions of fact before returning to some of Senator Brandis’s more expansive and indeed outrageous remarks. To repeat what I said earlier, the government is satisfied that the bill does not affect the government’s executive power, including its prerogative power. This is preserved in clause 5 of the bill and as set out in the explanatory memorandum of the bill, specifically pages 12 and 13. Clause 5 provides that the bill does not override the ability of the executive government to exercise any of those powers traditionally known as Crown prerogatives. These enable the executive to make certain decisions without the need for parliamentary or legislative approval. That is, for Senator Brandis’s purposes, one would think, the end of the matter.

As I alluded to in my earlier remarks, responding to Senator Humphries, further observations were made by the expert panel regarding tow-backs and turnarounds. In particular, the expert panel found that the
conditions necessary for the safe and lawful enforcement of tow-backs did not presently exist. The panel did identify the theoretical circumstances in which tow-backs could take place. The expert panel report at paragraph 3.77 and attachment 3 also identified the following international law obligations relevant to tow-backs and turnarounds. Firstly, on jurisdiction, Australia has very limited powers to deal with stateless or foreign flagged vessels on the high seas, so as a general rule we would require the consent of the flag state of the vessel either to intercept the vessel outside our territorial sea or contiguous zone or to steam it outside those waters. Secondly, our obligations under the Safety of Life at Sea convention mean we would not be able to cause a vessel to be placed in a situation of distress. Thirdly, Australia has taken on so-called non-refoulement obligations under a range of human rights treaties and the refugees convention, which generally means that Australia cannot send a person to a place where they will be persecuted on the grounds of race, religion, ethnicity, membership of a social group or political opinion, or where they would be subjected to torture, cruel, inhumane or degrading treatment or punishment, arbitrary deprivation of life or the imposition of the death penalty. Lastly, we would require the consent of the state to which Australia intends to return the vessel.

The expert panel noted—as the government has been telling those opposite from time to time—that those circumstances simply do not exist for us at the moment. The government agrees with the conclusions of the expert panel's report.

That sets out in a logical and concise way how the government says that the opposition's amendments add nothing to this bill. They do not protect or achieve the purpose for which Senator Brandis and others say they were intended. But, of course, that is not the true intention. The true intention of the coalition's amendments is to once again be able to raise the spectre of asylum seekers and—as the opposition leader has referred to it—the peaceful invasion of Australia.

In this respect, I cannot let Senator Brandis's farrago of distortions passed by unremarked upon. Perhaps, as an introduction to the farrago of distortion that was Senator Brandis' remarks, was this extraordinary proposition that the coalition have throughout recent years remained stoically and consistently resolved in providing a hard line or red light to the people smugglers. It is a black and white assessment which utterly belies the conduct of the coalition in recent years. Let us remind ourselves about where we are and how it is we came to be here. Firstly, Senator Brandis launched a series of statistics at us about ship arrivals during the period of the Howard government. And I guess it should be reassuring, particularly to those economists amongst us, that, just as the coalition insist that the global financial crisis never happened, so too do they insist that the invasion of Iraq in 2003 or the conflict in Afghanistan played a absolutely no part in the arrival of refugees either. The wars in Iraq and Afghanistan during those periods were at a phase where refugees and displaced persons were not making their way to Australia in the numbers that they presently are, nor for that matter was the aftermath of the civil war in Sri Lanka upon us. Those external factors remain completely unremarked upon by Senator Brandis because they, just like the global financial crisis, would reveal the fact that there are global externalities which are of critical importance in this debate, a debate of nuance to which the coalition is not well prepared.

Let me continue, because if we think about how it is that we got where we are, we
cannot forget for a moment the decision of the High Court to strike down critical parts of this legislation. The impact of the High Court was such that it would have rendered impossible parts of the Howard solution, let alone rendered impossible parts of the contemporary government’s mechanisms for dealing with this problem. In the aftermath of that extraordinary High Court decision, you will recall that the Prime Minister and the government reached out across the aisle and said, ‘This is an issue of importance to both of us. Both parties have important commonalities here. This is a critical piece of national interest and we can work together to make a proper and considered fix, proper and considered amendments to the legislation that enable our policy and would indeed enable yours.’ What was your response to that very sensible, amicable, bipartisan approach? It was ruthless and implacable rejection.

So, Senator Brandis, I, on Senator Evans’s behalf, take mighty exception to your proposal to lay thousands of dead at his feet in what I think is a particularly scurrilous allusion on your part, when I might just as easily say the same of the opposition for your disgraceful conduct during those dark days in the aftermath of the High Court decision. I might say the same about your refusal to let this government undertake the Malaysia Solution: a solution which, in this government’s judgement, would do precisely what it is you say you want to do, and that is to break the—

**Senator Cash:** Doug Cameron does not support them.

**Senator FEENEY:** I did not interrupt the barrages I have been confronted with, Senator Cash. You might do the same.

**Senator Cash interjecting**—

**Senator FEENEY:** Or you might not. Let me simply make this point, Senator Brandis. You have deliberately as a ruthless political stratagem sought to obstruct this government, you have sought to obstruct this government’s capacity to have legislation that enables its solutions. You have denigrated and destroyed wherever possible the Malaysia Solution, a proposal this government says would have dealt with the people smuggler model. You have conducted yourself in a way so as to ruthlessly exploit this issue for every vote you think that it might bequeath you. And to have done all of that and then lay the tragic dead of those dreadful tragedies at Senator Evans’s feet—who, as you said, is a fine upstanding member of this place—is a disgrace. I am sure it will be thought of as such by everyone listening to this debate.

**Senator HANSON-YOUNG:** I rise to clarify that the Greens will not be supporting the opposition’s amendments as circulated and spoken to by Senator Brandis. In fact, I am extremely concerned that we are debating the introduction of amendments that absolutely fly in the face of international law when it comes to the laws of the sea. We know that the proposals that have been put forward by the coalition are incredibly dangerous. The idea that we would turn back asylum seeker boats on the high seas is a policy that the opposition have been spruiking for years. All of the evidence from those who have worked in this field previously such as the former Chief of the Defence Force, Admiral Barrie, clearly says that it will not work, it puts the lives of our brave men and women at risk and it pushes people to take desperate acts which we just should not be promoting. In fact, Admiral Barrie said only last year:

My expectation wouldn’t be very high it’s going to work in many cases, and I would be very conscious that our commanding officers at sea must act in accordance with international law.
The problem with the coalition's policy is that it drives people to very desperate measures, and I do not think it is something we should promote.

Of course there are many Australian defence personnel and international law experts on the record condemning this policy of the coalition, but there is also the Indonesian government, which has said time and time again that it simply will not accept this policy by the coalition. And we know that when Tony Abbott, the Leader of the Opposition, had an opportunity to raise this issue with the President of Indonesia, he could not even bring himself to put this topic on the table for discussion, because the Leader of the Opposition knew very well that the Indonesian government, the Prime Minister of Indonesia and the Foreign Minister of Indonesia have all flatly rejected this as a workable option.

I will read one statement from the Indonesian foreign minister from March 2010:

… simply pushing boats back to where they came from would be a backward step.

The general concept of pushing boats back and forth would be an aberration to the general consensus that has been established since 2003. That is what the Indonesian government says about this ludicrous, dangerous, extreme policy of the coalition.

The Greens will not be supporting this desperate measure. I think it is incredibly unhelpful. It is illegal under international law. It is rejected by our neighbours, the very people we need to engage with in a positive way if we are to establish a genuine regional approach to people who are seeking asylum. Rejecting their opinion of this, dangerously pushing boats back to the high seas and not listening to our neighbours are not the ways you engage the very people you need in order to get us through what is going to be a challenging decade when we know that the number of people in our region who are seeking asylum and on the move is growing.

It beggars belief that the opposition continue to bang on about this issue despite all of the evidence showing that it will not work and is dangerous. Our Navy officers will not do it. That is what the Chief of the Defence Force has said. They will not accept their officers breaking the law and putting lives at risk. And our closest neighbour, whom we need to engage, says they will not have a bar of it. And of course Tony Abbott knows this; as I have reminded us here today, he could not even bring himself to bring it up with the President of Indonesia when he was here. It is all guff and bravado and has no substance in terms of a workable policy. I suggest we move on and vote for the amendment to get it knocked off.

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (18:11): I will disregard the moral posturing of Senator Hanson-Young, but I do want to respond in three particular respects to some observations made by Senator Feeney. First of all, let us deal with who bears responsibility for this tragic and catastrophic policy mistake, because these things we know. Firstly, we know that in the second half of 2008 the policy was changed by the Rudd government. I do not remember whether you were in the Senate. Were you in the Senate in 2008?

**Senator Feeney:** Yes.

**Senator BRANDIS:** Then you were here and you will remember that the policy was changed by the Rudd government. Secondly, we know that, before the policy was changed, in the period between 2001 and 2008 there had been a negligible number of asylum seeker vessels, in two years of that period not a single one—not one—and
across those seven years a total of 23, an average of about three a year. Those are the facts, and you cannot—and, in fairness to you, you did not—controvert them.

The third thing we know, because we remember Senator Evans saying it, is that the policy was changed for humanitarian reasons, to do away with what were described as ‘the harsh policies of the Howard government’. Senator Evans told Senate estimates how proud he was to have been responsible for doing away with those harsh policies. That is on the record.

The next thing we know that is not in dispute is that, immediately after those policies were changed, the number of unlawful asylum seeker vessels seeking to come to Australia went through the roof so that, in the 4½ years since, more than 500 vessels came. That is a fact. You may choose to believe, or to persuade yourself, that there was not a cause-and-effect relationship between that policy change and the sudden and continued escalation of people-smuggling. But if you seek to persuade yourself that there was not a cause-and-effect relationship then, with great respect to you, you are deluding yourself.

This last fact we know, too: hundreds and hundreds of people at least—on the most conservative estimates more than 700 people—whose bodies have been counted and recovered, died. Credible agencies, including Amnesty International and the UNHCR, have estimated that the likely number of deaths was more than 1,000. How many more than 1,000 is unknowable because we do not know how many bodies were never recovered. We do not know how many SIEVXs there were.

I do not wish to say anything cruel about Senator Evans, whom I regard as a good person, but it is a fact of life for senior political decision makers that they have to take responsibility for their decisions, which is why there is such a high price on bad decisions. This was a catastrophically bad decision made from the purest of motives. It was catastrophically wrong, and nobody, no matter how good or pure their intentions, can walk away from responsibility of the consequences. I think it was Saint Bernard of Clairvaux who said, ‘The road to hell is paved with good intentions.’ It has become a cliche, but it is also a truth. All ministers, in particular, are responsible for the consequences of the decisions they make, particularly when the likely consequences of those decisions were pointed out time beyond number in this chamber by the opposition. We were told that we were fear-mongering. The truth, as we know—the grim, fatal, statistical reality—shows that that was not so, that this was a terrible error which the government, albeit without acknowledgement, has been trying to walk away from ever since.

Secondly, let me say something about the Malaysia solution. The government chastised the opposition for supporting the Malaysia solution—

Senator Feeney: Not supporting.

Senator BRANDIS: I beg your pardon: for not supporting the Malaysia solution. We do not support the Malaysia solution—we never have—and we are unashamed of not supporting it because, as the High Court of Australia itself found, there were fundamental gaps in human rights protection in Malaysia which the so-called Malaysia solution did not deal with and could not guarantee protection from. One of those gaps was the custom of the Malaysian authorities to subject asylum seekers as a matter of routine to corporal punishment—to whipping. Do you think that we are ashamed of not sending men, women and children to a jurisdiction where they were liable to be
whipped? No, we are not. We do not think that that was the right thing to do. It was not then, it still is not. We did not support it and we are proud not to have supported it. The Malaysia solution predated, in the government's consideration, the Nauru solution—the solution which worked.

Thirdly, Senator Feeney, let me take up what you say about Australia's international treaty obligations. Australia's international treaty obligations should be respected by all sides of politics, but treaties are obligations between nation states; they are always subject to domestic laws. Senator Hanson-Young, in the weird, cloud cuckoo land of the Greens, where everyone greets one another as a fellow Earthian, seems to think that there is a hierarchy of laws that puts international law above the laws of nation states. Not so, Senator Hanson-Young. We do not have global government—thank goodness! Treaties are obligations between nation states; they are always subject to and able to be attenuated by domestic legislation—not the other way around. Australia's treaty obligations are subject to the laws of this parliament—not the other way around. And while a law of this parliament might adopt a treaty obligation, the fact of the existence of a treaty not domestically legislated for does not tie this parliament's hands in seeking to abate or attenuate the obligations assumed under the treaty.

We make no apology at all for saying that the will of the Australian parliament, reflecting the will of the Australian people, is the paramount consideration here. If that means that a law passed by this parliament, with the mandate of the Australian people, abates a treaty obligation, then so be it. But nobody should say that a treaty obligation is superior to the domestic law of Australia in circumstances where the treaty obligation has not itself been enacted by the domestic law of Australia.

Senator CASH (Western Australia) (18:22): I, too, rise to support the amendment moved by my colleague, Senator Brandis, and in doing so will take the opportunity to respond to some of the points made by the minister, and by Senator Hanson-Young.

In responding to the minister's—or parliamentary secretary's—comments in relation to what Senator Brandis had to say, I think the response can be summed up by this: the comments were nothing more and nothing less than from someone who clearly comes from a government that is weak on policy, and someone who is clearly representing a government that has no spine at all when it comes to securing Australia's borders. The speech that was given by the parliamentary secretary in relation to the comments made by Senator Brandis were excuse, after excuse, after excuse, after excuse as to why this government refuses to take steps—not only just steps but steps that have been proven to work under the former Howard government—to ensure the security of Australia's borders.

The parliamentary secretary also said in his comments that Senator Brandis himself had made some outrageous comments. The only thing outrageous about the debate that we are having today is that in not supporting the amendment put forward by the coalition, the government clearly does not have a view on the fact that in excess of 33,600 people have now arrived in Australia by boat under their failed border protection policies. That is the only outrageous thing about this debate! Clearly, the parliamentary secretary does not see as outrageous what Senator Brandis put squarely on the record; that is that we only know of some of those people who have perished, unfortunately, whilst trying to
undertake the perilous journey to Australia. We do not know how many have actually died as a result of the loosening of Australia's strong border protection regime.

The parliamentary secretary also said that the government does not support the opposition's amendment, and that the only reason the opposition moved the amendment was to make a political point. Nothing could be further from the truth. The parliamentary secretary will know that these bills were referred to the Senate Legal and Constitutional Affairs Legislation Committee and that that committee reported on 12 September 2012. Coalition senators provided a dissenting report and they stated in the dissenting report:

...this legislation may represent a surreptitious attempt to remove the Commonwealth's power to turn back unauthorised boats as part of an effective national border control policy. The term ‘surreptitious’ was used because agency witnesses before the committee were unable to state whether this power is preserved in the bill. So for the parliamentary secretary to say that the coalition moved this amendment merely to make a political point, I can only assume that either he or the advisers who are allegedly advising him have not read the legislation properly and do not properly understand the implications of the legislation that is currently being debated. The reason that Senator Brandis, on behalf of the coalition, has moved the amendment that is currently before the Chair is to ensure that this legislation is not read down in a way that brings into question the undoubted power of the Commonwealth to refuse entry into Australian waters or, if necessary, to tow back unauthorised maritime arrivals.

In his second reading speech, Senator Brandis indicated to the chamber that we would be looking for bipartisan support for our amendment. Why would Senator Brandis state that we would be looking to the government to support our amendment? The answer is quite obvious: because turning back the boats was actually Labor Party policy. It was the policy that the former Prime Minister of Australia—now the former Foreign Minister of Australia and merely backbencher, Mr Kevin Rudd—took to the 2007 election. Indeed, on the eve of the 2007 election Mr Rudd told the Australian newspaper:

... Labor would take asylum-seekers who had been rescued from leaky boats to Christmas Island, would turn back seaworthy vessels containing such people on the high seas …

To quote Mr Rudd:

"You'd turn them back," he said …

That was the policy the then Labor opposition, under former opposition leader, Mr Rudd, took to the 2007 election—a policy whereby if they were elected they would turn back the boats. That might give us an indication as to why Senator Brandis said he would expect bipartisan support for this amendment. But perhaps the policy of former Prime Minister, former Foreign Minister and now merely backbencher, Mr Rudd, was not enough to convince those on the other side that they should support this amendment.

Let us put on the table what the current Prime Minister—and, again, I use that term very loosely—Ms Gillard had to say about the policy of turning back the boats when she was the shadow minister for immigration. This is what the current Prime Minister said on 3 December 2002 about turning the boats around:

We think that turning boats around that are seaworthy, that can make the return journey and are in international waters, fits with that.

We think that turning boats around that are seaworthy, that can make the return journey and are in international waters, fits with that.

What the Prime Minister, the then shadow minister for immigration, was referring to was statements that we had made issuing
new instructions to Northern Command to commence to turn back the boats when it was safe to do so. Let us look again at what Ms Gillard said:

We think that turning boats around that are seaworthy, that can make the return journey and are in international waters, fits with that.

So the Prime Minister herself supported turning the boats around when she was in opposition; yet we have a parliamentary secretary standing here today, responding to an opposition amendment which would assist both the current Prime Minister and the former Prime Minister to ensure that their former policies are implemented, and stating that the only reason Senator Brandis moved this amendment was to make a political point.

Parliamentary Secretary, with all due respect, I think the only person making a political point here is the parliamentary secretary himself. Like on so many things, members of the Labor Party take one thing to an election and then, when they are elected, do a complete turnaround and implement something else. This is a government that has continually said for a number of years that it 'wants to stop the boats'. However, if one were to do an analysis of statistics to date, two scenarios arise. Labor either does not mean what it says—which I put some credence on, given that it is the party that said there 'would be no carbon tax under a government that I lead' only, once it was elected to power, to completely change its mind on that issue—or, alternatively, it is incapable of doing it. I am not quite sure what is worse.

Is the Labor government totally incapable of securing our borders or has it yet again completely misled the Australian people? Why do I say that? Let us look at the statistics. The total number of arrivals since November 2007, when Mr Rudd was elected to government, is now 33,600 people. The total number of boats to arrive since November 2007 is 576. The total number of arrivals since polling day on 21 August 2010, bearing in mind that Ms Gillard was the leader of the Labor Party at that election—and one of the reasons Ms Gillard was the leader of the Labor Party was that former Prime Minister, Mr Rudd, had failed to stop the boats and Ms Gillard was going to stop the boats—is 423 boats carrying 26,251 people.

I am sure that, in his response, the parliamentary secretary may well tell the chamber that turning back the boats does not work and that is why the government will not support the opposition's amendment. Again, let us look at the facts, the actual statistics in relation to turning back the boats when implemented with temporary protection visas and offshore processing. As Senator Brandis pointed out to the chamber, we admit that in the early 2000s there was an influx of boats to Australia. Unlike the current government, the opposition does not shy away from that. We say, 'Yes, there was a problem.' It is as simple as that. It is not nearly as bad as the problem that the current government is facing. In fact, the total number of boat arrivals under the Howard government pales into insignificance compared to the total number of arrivals under this government. But we openly admit that in 2000 to 2001 approximately 54 boats with 4,137 people arrived. The difference between us and the Labor Party, however, is this: we took strong and decisive steps to implement policies that would secure Australia's borders, that would show those coming here illegally that Australia as a sovereign nation would dictate who comes to this country and the manner in which they come. Guess what? Our policies worked.

The statistics back that up as a fact. After the implementation in 2001-02 of the former Howard government's strong border
protection policies, in 2002-03 the number of boat arrivals dropped to zero, with the number of people arriving in Australia being reduced to zero. One boat arrived the following year with 82 people on it. Zero boats arrived in the following year with zero people. This government says that it wants to stop the boats. If it truly means that, we expect the government to take the opportunity to support the coalition's amendment when it is finally put, because this amendment has been proven to assist in stopping the boats.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:37): I seek to respond to some of the remarks made by Senator Cash on the Maritime Powers Bill 2012 and the Maritime Powers (Consequential Amendments) Bill 2012. A whip once observed that 'Humanity is blessed with two ears and one mouth and they are best used in those proportions.' Reflecting on that, Senator Cash, I think a critical point needs to be made, and that is that you have missed, in its entirety, the central issue at debate here, which is whether your amendments actually affect any change at all.

I have said that the purpose of your amendments is to have this debate that we are having and probably to have this debate in the very terms you have it. But be very clear, Senator Cash, that as far as the government is concerned this is not a debate about tow-backs or turnarounds or whatever you might want to call them. This is a debate about whether completely superfluous amendments should be adopted into legislation even though those completely surplus amendments are indeed superfluous. The prerogative powers of this government are not expanded or improved by your amendments. Your amendments achieve absolutely nothing, except to give you 20 minutes in this chamber to preach to this government about responsibility.

So let us just talk a bit about responsibility. Who is it who bears responsibility? Another whip once said, 'There are lies, damned lies and statistics', and again that is proven wholeheartedly with your use of statistics. It is a truism—perhaps unfortunately in this debate—that the coalition has tended to overestimate pull factors and the ALP has, from time to time, had a tendency to overestimate push factors. For those looking for the truth in this issue, the play between push and pull factors is critically important—but not for you, Senator Cash. For you the world is a very simple place indeed—there was no global financial crisis, there was no war in Iraq, there is no conflict in Afghanistan, there was no civil war in Sri Lanka, thousands of people were not cast up upon the shores and there are not 300 million refugees in the world today. For you the world is a very simple place.

That is unfortunately at the core of this problem, because it is not simply possible for you to say that the coalition's policies are the solution here, when the coalition has ruthlessly, at every turn over the past few years, sought to achieve nothing more than gridlock and stagnation. You are not interested as legislators in fixing this problem. You are not interested in working with the government. You declined to work with us on the expert panel. You declined to work with the government on amendments to the immigration legislation in the aftermath of the High Court decision. At every turn you have refused to work with this government. Why? Because you vote with your feet, Senator, and your feet and your vote are always for gridlock and stagnation. As entertaining as that debate is, that debate does not belong here, Senator Cash, except insofar as you can desperately try to make it
so. This is a debate about whether completely superfluous amendments that achieve absolutely nothing for you or for us should be included in the bill. We say no. We say no for self-evident and obvious reasons.

Let me finish with this. I noted with interest, Senator Cash, that you spoke with great enthusiasm about the Labor Party's utterances in 2007. Next time you refer to a 2007 commitment as though it was an article of canon law, consider this: where is your commitment to the carbon trading emissions scheme which formed such a central part of the platform you were elected on? Where is your commitment to the 2007 platform of Howard and Turnbull to which you were committed? Dare I say it, before you start throwing rocks you should observe the glasshouse in which you reside.

Senator FIERRAVANTI-WELLS (New South Wales) (18:41): Clearly the parliamentary secretary has forgotten one piece of history, and that is when Ms Gillard told us that every boat arrival was a policy failure. According to her standard, since November 2007 we have had 3,600 policy failures. On her watch, 27,048 people have arrived since she became Prime Minister.

Parliamentary Secretary, let me take you back to the comments that were made at the time when I was in Senator Cash's position as shadow parliamentary secretary in this area. Senator Evans was sitting there at estimates and telling us about the changes that he was proposing, and I was taking him through those changes. He sat there and he told us that he was dismantling 26 programs in the immigration portfolio. How can you change 26 programs in the immigration portfolio and not have a consequential impact with those changes? The people smugglers listened to every word that Senator Evans told the Senate. They were tuning in wherever they were and listening to every word and thinking, 'Great, our product has just improved on the international market and we will be able to promise a lot more and deliver a lot more for a higher price. You beauty; we are going to make a lot more money.'

I would also say to you, Parliamentary Secretary, that as a former government lawyer I did my fair share of immigration law. So do not come into this chamber and sanctimoniously preach about detention. Look back into your own dark days when your predecessors, Gerry Hand and the Keating government, introduced mandatory detention. If you want to go out there and preach, you should go back and look into your own history, because over my legal career I have done my fair share of immigration law. If you want to talk about throwing stones in glasshouses you ought to look back at your own history on these issues.

Today we are talking about a bill that provides for enforcement powers available to maritime officers, including boarding, obtaining information, searching, detaining, seizing and retaining things, and moving people into detention. We know that the maritime environment is a particular environment. My husband was in the Navy for 35 years, and at one stage of his career he was commanding officer of the patrol boat squadron out of Darwin at a time when we used to have boats coming in. Yes, it is a very difficult situation, but it is a situation which requires absolute flexibility in officers' ability to exercise judgement at sea and to deal very, very quickly with changing and difficult circumstances.

This bill was examined by the Senate Legal and Constitutional Affairs Committee, and I refer the Senate to the dissenting report of coalition senators, who said it was their
belief that this legislation represented a surreptitious attempt to remove the Commonwealth’s power to turn back unauthorised boats as part of an effective national border control policy. I quote from the report:

We say 'surreptitious' because the Government, in evidence before the Committee, was unable to say categorically whether this power, used by past Federal governments as an important tool in maritime policy, is preserved in the present legislation.

That is the reason the report went on to say:

We note that the power to turn back boats has been exercised in the past and has been exercised by various agencies, in particular by the Royal Australian Navy.

Of course, turning back the boats is not new. Before the last federal election, as Senator Cash has correctly pointed out, we had Mr Rudd telling us that turning back the boats was precisely what he was going to do. We saw his quotes in the Australian, and he told everybody before the election that that was precisely what he wanted to do.

Coalition senators in their dissenting report observed that the Maritime Powers Bill 2012 purported to set out comprehensively the powers of authorised officers in a maritime setting. However, officers of the Attorney-General’s Department were unable to tell the committee how, if at all, the power to turn back boats was replicated in this bill. One would have thought that the officers of the Attorney-General’s Department would have been able to tell the Senate committee about a very important point in this legislation and to explain where in the legislation it is guaranteed that that power would continue. It was suggested that clause 5 of the bill preserves the prerogative powers of the Commonwealth, including the power to repel unauthorised boats. However, it seems that this bill evinces a clear intention to describe and regulate Commonwealth maritime power so that any prerogative powers must be read down by the constraining provisions of the bill—including clauses 32, 54 and 69. It is very doubtful that the present power to turn back boats is preserved by these provisions. Indeed, that is why the coalition cannot support these bills. The principle bill clearly seeks to codify the Commonwealth’s maritime powers and it seems, therefore, that any prerogative powers must be read down.

Since the last federal election we have had many, many boat arrivals. As Senator Cash has correctly said, arrivals during the Howard years totalled just over 13,000—239 boats. Since the last election we have had 570 boats carrying 33,000 people, which is almost 20,000 more people and more than twice the number of boats that arrived during the entire Howard years.

Progress reported.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (18:50): On behalf of the chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Sterle, I present the report of the committee on the Australian Sports Anti-Doping Authority Amendment Bill 2013, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.
Wednesday, 12 March 2013

SENATE

CHAMBER

DOCUMENTS


Senator RHIANNON (New South Wales) (18:52): I move:

That the Senate take note of the document.

Each year Australia exports millions of live animals, but before the sheep, cattle and other exported animals reach their destinations tens of thousands will die from the trauma of the unacceptable conditions of the voyage. This latest report on livestock export mortalities is witness to another 681 cattle and 19,407 sheep that have died on voyages in the one year since 2011 alone. In 2012 there were 192 voyages exporting cattle and 39 exporting sheep. Animals are often required to remain in very poor conditions for longer than a month, and this is on the back of often arduous journeys by road from the stockyards to the ports. Think of the animal cruelty. It is something that we need to address.

We could actually have a win-win here: we could reduce the animals' suffering and we could create so many more jobs in Australia if the Australian government would get behind a clear transition plan and open up more processing of the meat in Australia. The market for processed meat is expanding enormously, and there is growing concern that, because of the lack of action and lack of leadership from the Australian government, we are losing out here. Again, we are losing out in terms of addressing the considerable animal cruelty issues as well as just not creating the tens of thousands of jobs that can be returned to rural and regional Australia.

Coming back to this report that sets out these worrying figures, these animals are uprooted from large grazing pastures. Then, obviously, they can end up exhausted, frightened and anxious just from the travel to the port. We know the compliance by the exporters with the loading and unloading procedures is often abused. Then, on the ships, thousands of animals endure loud noise and vibrations. The conditions are often very cramped. The animals may be left to wallow in their own urine and faeces. So it adds up to a very stressful journey. It is quite understandable why so many die and we end up with these reports. Considering the number of animals exported, discussing the mortality rate in percentage terms is disingenuous and belies the sheer magnitude of suffering and distress these creatures endure as they are transported to our export partners for slaughter. Australians are not cruel people. The vast majority do not support live exports. A 2012 survey commissioned by the World Society for the Protection of Animals showed widespread opposition to the live export trade, with almost seven out of 10 respondents believing that the live export trade should be ended.

Returning to the issue of the boxed meat, from 2000 to 2011 exported boxed meat earned $59 billion, while live sheep and cattle exports earned $8.4 billion. The average earnings over the 11-year period were $5.4 billion per annum for exported boxed sheep and cattle and $765 million per annum for sheep and cattle live exports. So it is again giving emphasis to the very important point that so many jobs could be created in Australia and business could really develop on a much more solid footing by having the meat processed in this country and developing markets for the boxed meat trade. The government is really doing the wrong thing by the industry, because we are
losing out to other markets at the present time.

This is an area that the Greens are giving a lot of attention to. We are working with animal welfare groups, with farmers and with the union that covers meatworkers, because clearly there is an opportunity here for there to be a transition away from a reliance on the live export trade and to bring great benefits to regional Australia as well as reducing the animal suffering.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (18:57): Mr Acting Deputy President, thank you for the opportunity to comment on the Australian Meat and Live-stock Industry Act report on livestock mortalities for export for the period from July to December 2012 and once again, despite very difficult circumstances faced by the industry, to congratulate the industry on the remarkably good figures that we have seen for survival, particularly of sheep and cattle, to our destined markets.

I was interested in Senator Rhiannon’s comments about loss of market, because that is exactly what has happened, regrettably, to our markets over the last six to 12 months, and the way things are going it probably will continue. Long-trusted markets—45 years in the case of Kuwait—such as Doha in Qatar and Oman are now being lost to Australia simply because of the unreliability of what had previously been an incredibly safe, high-quality market, which was that supplied by Australia.

If I may, as I often do in this place, I will debunk that theory that says that, if Australia ceased to export live animals, we would be able to replace the trade with the meat market. Let me give you a lesson in current affairs and history. When Australia lost the live export trade to Saudi Arabia some years ago, we had a very active sale of meat—boxed meat and frozen and/or chilled meat—to that country. History records that, when we lost the live export trade, we also lost the boxed meat trade. I come forward to 2012-13 and draw your attention to Indonesia, where, of course, as a result of a decision of Ms Gillard and Senator Ludwig in 2011, we all of a sudden terminated the sale of live cattle to the Indonesian market, thus denying some 69 million low-socioeconomic Indonesian people their right to beef protein.

If you listened to Senator Rhiannon, you would have thought that once the trade restarted under some limited conditions, including dropping the sale of live animals to that market, and there being a continuing demand for beef protein, logic would tell us that we would have seen an increase in the sale of chilled or frozen meat to Indonesia. But of course exactly the history that we saw in Saudi Arabia has been repeated in Indonesia—that is, while the number of live cattle going to those markets has halved, so indeed has the tonnage of beef going to those markets. At a time when the price of beef has increased tenfold, the average consumer, the low-socioeconomic Indonesian consumer who once so heavily relied on the Australian trade, has now been lost.

We now have a circumstance in my state of Western Australia at the moment where, as a result of the drop in the number of live animals that are leaving the state, prices for sheep have dropped dramatically. Those of us who know anything about markets and trade would always know that when a competitor leaves—in this case the live export competitor—it affects the market. So we now only have the one buyer—that is, the meat industry—and the meat industry will never sustain the prices.

In drawing attention again to these remarkably high survival figures for animals that are travelling from Australia to our
Middle East and Asian markets, I simply make the point that Australia is the only country in the world that invests heavily to ensure that animal welfare standards in all of our target markets remain very, very high. And should we be forced to leave the live export trade, one can only assume that standards of animal welfare in those countries, countries which we have serviced for many, many years, will only dissipate. I leave the chamber with the message that it is an absolute myth that if we were to remove the live export trade there would all of a sudden be an increase in opportunities and employment in the meat industry around Australia.

Question agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Stephens) (19:03): Order! I propose the question:

That the Senate do now adjourn.

The Senate today adopted a temporary order which provides:

On the question for the adjournment of the Senate on Tuesday, a senator shall speak to that question for not more than 5 minutes, except in accordance with the following paragraphs:

(a) if no other senator wishes to speak for up to 5 minutes, a senator who has not already spoken may speak for up to 10 minutes; and

(b) if no other senator wishes to speak under paragraph (a), a senator who has not already spoken may speak for up to 20 minutes.

In accordance with that order I shall first call on senators wishing to speak for up to five minutes, then senators wishing to speak for up to 10 minutes, and then finally senators wishing to speak for up to 20 minutes.

Centenary of Canberra

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (19:04): Back in late 2008, I gave the first of a series of speeches over recent years devoted entirely to Canberra's wonderful centenary history. The speech recognised the historic decision by federal politicians in December 1908 to endorse the Yass-Canberra region as the site where the new nation of Australia would construct its capital city. Like so many special moments in Canberra's foundation, a century ago that decision, and the intense lobbying and jockeying that surrounded it, are not as well-known as they should be.

But perhaps the roots of Canberra's foundation story did not reach a climax with the end of the exhausting battle of the sites back in 1908; it was but a step in the journey. In fact, it is today, 12 March 2013, that precisely 100 years ago Governor-General Thomas Denman, Prime Minister Andrew Fisher, and Minister for Home Affairs King O'Malley laid Canberra's foundation stones with golden trowels. Lady Gertrude Denman stepped forward on the podium to announce Canberra as the name of the new city, accompanied by a roar from the huge number of Monaro residents present, because it was the local name, their name, as reflected upon eloquently at today's commemorative ceremony by our Governor-General, Quentin Bryce, ably assisted by her husband, as tradition requires.

A city such as Canberra is known in the present tense famously as the home of federal parliament. It is often unfairly sledged, as we have unfortunately witnessed again lately, but its rich centenary history tells the story of both a nation and a community. Close inspection of this history reveals not one or two, but a cluster of key moments to ponder, appreciate, commemorate and celebrate.
The symbolic beginning of the main story was probably the congress of engineers, architects, surveyors and others interested in the building of the national capital of Australia. Normally, such a gathering of design professionals might struggle to get any outside community interest, but not this one. For this group had shrewdly decided to meet in Melbourne in May 1901, at the very same time that the Commonwealth's politicians were meeting for the first time further up the hill. The design professionals were only too aware that the politicians could no longer postpone what one colonial delegate had memorably referred to in the 1890s as 'the burning question': the question of where the capital would be sited. The planners insisted on making their presence felt, and they did.

At the congress, architect George Sydney Jones demanded a city where the common sense 20th century spirit of Australia would assert itself. He wanted the future capital city's architecture to be essentially Australian, not a slavish copy of the art of past, dead centuries. This was an impressively liberated attitude at a time when England was still regarded as home, and other participants had the same attitude. They all wanted a city beautiful, but with a distinctive Australian character.

The first Labor government of Andrew Fisher instructed renowned surveyor Charles Scrivener to produce a capital site for a city occupying a commanding position, a design worthy of the object not only for the present but for all time. It was fortunate for the nation that the progressive Fisher government was again in power for the crucial years of 1910-13, because the new Minister for Home Affairs, King O'Malley, pursued the capital's development with passion and flair. He took quite a controversial hands-on approach to the international design competition, won by the superb design No. 29 submitted by the genius couple of Walter Burley Griffin and Marion Mahony Griffin, and, more relevantly tonight, he structured the foundation stone and naming ceremonies.

The speeches delivered by Andrew Fisher, Attorney-General Hughes and O'Malley himself a century ago are oriented to an expansive future for the new nation, but it is undoubtedly Lord Denman's speech that really resonates today. It was regarded as the finest speech he ever gave in Australia. He concluded his speech with these words:

Remember that the traditions of this city will be the traditions of Australia. Let us hope that they will be the traditions of freedom, of peace, of honour, and of prosperity. That here will be reflected all that is finest and noblest in the national life of the country …

Today there was a commemorative ceremony at the foundation stone on the mall in front of Parliament House where the Governor-General, Her Excellency Quentin Bryce, gave a speech of similar eloquence in reflecting upon a century of this city's history. I want to conclude by acknowledging and thanking the Chief Minister of the ACT government, Ms Katy Gallagher, and the Labor government for their absolutely incredibly marvellous celebrations in this our centenary year of the national capital, Canberra.

Apprenticeships

Senator THORP (Tasmania) (19:09): As we all very well know, apprentices are the lifeblood of so many vital sectors in Australia. Not only do apprenticeships offer important career paths to hundreds of thousands of people, but they contribute significantly to building a national skill base for the future. This government has done some great work to support apprenticeships. Recent announcements of extra incentives for employers to take on apprentices in skill
shortage areas as well as funding for hundreds of new industry based mentors will both make an incredible difference. But there are still some significant opportunities for doing better, particularly if we want to improve retention and completion rates of our apprentices.

I believe the greatest stumbling block to attracting and retaining apprentices at the moment is the low pay rates that are on offer across a range of jobs and industries. The reality for many apprentices is that they would be better off financially if they downed tools and took up a job making burgers at a burger chain or stacking shelves at a supermarket. In some industries, apprentices are working for little over $6 an hour before penalty rates. When they are offering pay that is so low, it is not surprising that employers can find it hard to attract quality candidates and even harder to retain the ones they do have through to completion. This is why I stand today in support of the joint union submission to Fair Work Australia for better wages for apprentices.

Last year a national survey of over 400 apprentices undertaken by the Australian Manufacturing Workers Union found many were paid less than the minimum wage of $589.30. This is barely above the poverty line and leaves little room to pay for essential daily living costs. It is not surprising then that so many make the difficult decision to drop out. If you cannot afford to pay rent and bills and maintain a car or pay for transport, an apprenticeship simply becomes unviable. In fact, figures from the National Centre for Vocational Educational Research show that up to 48 per cent of apprentices drop out before finishing, and that is an extraordinary waste. The AMWU survey finding reflected this reality, with a full two-thirds of surveyed apprentices saying they have considered dropping out because of low wages. In doing so, they are forced to give up potential career fulfilment, and the opportunities that a greater skill set will offer, just to get by.

Not only is this an unfortunate situation for the thousands of apprentices who may not have made this choice if wages were just a bit higher, but it also means wasted money for the employers who invested in the apprenticeship. Apprentice wages also need to reflect the reality that many are starting their apprenticeships later in life. The traditional model of a young person who still lives at home and takes up an apprenticeship when they leave school at 15 is no longer the norm. Instead, apprentices are increasingly older and they have all the expenses of adult life including cars, mortgages and kids to pay for. By paying apprentices a fair living wage, we can make these career paths more attractive and limit dropout rates. In doing so, we will also be helping to build a more effective apprenticeship system that supports national competitiveness by ensuring an ongoing supply of skilled workers. This is so important if we are to protect against the damaging impacts of skill shortages that can so easily stifle growth and productivity.

A fair pay system will make apprenticeships a more attractive option and reduce the likelihood that employers will need to look offshore to find the skilled workers they need. As you know, Madam Acting Deputy President Stephens, this is quite a topical issue at the moment. As a result, we are more likely to attract and retain quality candidates and ensure that more jobs are filled by Australian workers. I strongly support the call for better wages for apprentices.

**Environment: Dampier Peninsula**

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:13): I rise to talk about a very important decision that the
The federal government made recently listing the monsoon vine thickets on the Dampier Peninsula in the Kimberley as a threatened ecological community. These thickets occur along the coastal sand dunes of the Dampier Peninsula and are very important, as is indicated by their listing. Under the criteria for listing, the minister can list something as vulnerable or as endangered, which is criteria 4, and that says it can be listed as endangered because the reduction in integrity across most of its range is severe, as indicated by severe degradation of the community and disruption of community processes. This particular threatened ecological community has been listed as endangered—in other words, the integrity of most of its range has been affected and influenced by severe degradation and disruption to its processes.

Unfortunately this particular listing seems to have gone under the radar and it has not been noticed that much. However, the communities on the Dampier Peninsula and those in Broome have paid close attention because they have been working for years to try and get these thickets cleared. These thickets are going to be cleared by the James Price Point development, 130 hectares which apparently the EPA in Western Australia thinks is perfectly okay because its assessment ticked off the development application and said that this proposal could have environmental approval.

There is a section of these thickets at James Price Point, and they occur up the coastal sand dunes from Broome to the Dampier Peninsula. Each one is slightly different and each is very important, because species move seasonally through these vine thickets to feed on the fruits as they flower and fruit seasonally. Of course, Aboriginal people did exactly the same thing as they used these vine thickets for a significant amount of bush food and medicine. Again, because of the different flowering seasons of the vegetation, Aboriginal people used these vines to move up and down the coast. These thickets are very important, as can be taken from the fact that they have been listed. They have high levels of biodiversity and sustain a wide range of wildlife which are also unique and precious.

Unfortunately there is still much to learn about these areas, but when you talk to Aboriginal people that used to and still do use these areas you learn that these Aboriginals camped in these areas. They are very important ceremonial and law grounds. Each thicket is unique and within one kilometre or less you can encounter different flora and fauna. You cannot damage one area without damaging another area, because they have important interrelationships with the fauna using that area. These species that are listed as endangered, threatened ecological communities are about to lose another 130 hectares due to the James Price Point development.

The problem is that apparently this listing is not retrospective. Because developers have already put their hands up to say, ‘We want to clear this area,’ in theory they are going to be allowed to clear over 130 hectares of this endangered, threatened ecological community that plays a critical role in Aboriginal communities and is important for the fauna in these areas. In addition to the initial destruction, the long-term effects of the James Price Point project—such as pollution, increased human activity and other incremental loss—will cause permanent and irreparable damage to these thickets.

These thickets have now been listed as a threatened ecological community. The federal government has a responsibility to ensure the integrity of remaining thickets and ensure that the James Price Point development is thoroughly assessed, bearing
in mind that these thickets are part of a threatened ecological community.

National Day of Action Against Bullying and Violence

Senator BILYK (Tasmania) (19:18): I rise to speak about one of the Gillard Labor government's ways for working on preventing bullying and violence in Australian schools. I speak about this because 15 March, which is Friday, marks the third National Day of Action Against Bullying and Violence. Identifying bullying can sometimes be difficult. Bullying is often conducted out of sight from teachers, and children are often reluctant to report it. The national day of action allows all of us—parents, teachers, students and members of the wider school community—to say we will 'Take a Stand Together' against bullying in all shapes and forms, including cyberbullying, which is of particular interest to me, physical violence and intimidation. It allows us to stand up and say that there is no place for bullying or violence in or outside our schools.

There has been an overwhelming response from schools regarding this initiative, with some 530,000 students pledging to 'Take a Stand Together' in their own schools on 15 March 2013. This includes 12,945 students at 31 schools in my home state of Tasmania. The day provides schools with an opportunity to organise local events and raise awareness of their own policies and initiatives that encourage positive behaviour and counter bullying within their own community.

The national day of action recognises that schools, parents and students need to take a stand together to build supportive and safe school environments free from bullying, harassment and violence. The national day of action aims to create positive conversations in schools and an opportunity to reflect on and celebrate the success of the range of anti-bullying initiatives and programs in schools across the country.

This year, the new Stand Together 2013 curriculum materials have been developed for teachers to use in the classroom, helping students from early childhood through to senior schooling to explore the meaning of 'Take a Stand Together' and the importance of being active bystanders. The Stand Together 2013 lessons also provide an opportunity for students to create a photo about the theme 'Take a Stand Together', and why it matters to them. Schools are encouraged to send a photo of their students' displays, work, and performances to the Bullying. No Way! website so that that can be part of a photo gallery.

As someone with a background in early childhood education, I know it is extremely important to help young children learn positive social behaviours and that parents and educators have a critical role in teaching these social and emotional skills. A key focus for the 2013 national day of action is the development of new resources aimed at building positive social skills in children aged three to eight. A lot of this is through the use of technology—as we all know, technology to three- to eight-year-olds is second nature and they are often much more proficient at it than some of us more elderly members of the community. This includes the release of the Allen Adventure, a free iPad app for young children, and a new young children section on the Bullying. No Way! website.

The Allen Adventure is a fun and educational interactive story about a young alien who visits a school on earth. It is a fantastic resource for parents and educators and is now available in the App Store. The Allen Adventure teaches children how to get along with people and builds their social
skills to identify and deal with different behaviours in different settings.

The new young children section on the Bullying. No Way! website provides parents and educators with extensive information about children's social and emotional development. It offers advice and suggestions about dealing with bullying behaviours they experience or see with their children. Another helpful resource is the Cybersafety Help Button, which I have spoken about previously on numerous occasions in this place. That is a free desktop application that provides cybersafety advice and information to internet users, particularly children and young people.

The Easy Guide to Socialising Online is another handy resource that provides cybersafety information for a number of social networking sites, search engines and online games, including how to report cyberbullying and how to adjust privacy settings for young people. It provides a one-stop shop for parents to get information on security settings. There is more information on the Easy Guide to Socialising Online on the DBCDE website and I would encourage all those with young children in particular to take a look.

We all have a responsibility to ensure that the children in our lives understand the importance of taking a stand against bullying. The National Day of Action Against Bullying and Violence is just one way that the Gillard Labor government is working to prevent bullying and violence in Australian schools.

Adamson, Mr Bob

Senator CAMERON (New South Wales) (19:23): The Australian Manufacturing Workers Union has produced many great working class leaders over its history. Bob Adamson ranks with the best of them. Bob Adamson passed away on 19 February 2013 at the age of 89 after a battle with cancer. He will be sadly missed by his wife and lifelong partner Vi, his children Jennifer, Stephen and Margaret, and seven grandchildren and nine great-grandchildren.

His passing is also a sad time for his many friends who enjoyed his company and his unstinting commitment to working class values and principles. Australia is a better place as a result of the efforts of Bob Adamson. Bob fought for a good society and decent rights at work in his roles as shop steward, state and national organiser, community activist and founder and driving force of the Hunter Labour Cooperative.

Bob was known everywhere in the union movement as the 'Silver Fox' or the 'Grey Ghost' due to his silver hair and strategic capabilities. I spoke to Bob the week before his death and despite the ravages of cancer he engaged in a conversation about the big political issues facing Australia's working class.

Bob was born in Belfast in 1923 and along with his wife, Vi, and his first born, Jennifer, moved to Australia in 1950. After a short period in Melbourne, the family moved to Newcastle where Bob worked as a boilermaker at the state dockyard. After years of rank and file activism in the Boilermakers and Blacksmiths Society, Bob was elected at the age of 42 as an organiser in the Newcastle branch. Bob was a key player in the fight to maintain the AMWU as a progressive, militant, rank and file based union. The battles with the right wing 'groupers' for control of the union have become legendary and Bob was central to winning the support of Newcastle rank and file members for a strong membership controlled union.

He was the epitome of the mindful militant—smart, strategic, and tough. Bob could inspire workers during disputes and
provide skilled advocacy in the industrial tribunals. Bob was also a man of unquestionable integrity, respected by his members and employers. He led Newcastle district campaigns for shorter hours, industrial democracy and improved wages and conditions in a range of industries, including the manufacturing, steel and power industries. Bob's abilities were recognised by his election as a national organiser with responsibility for construction and a range of other areas.

Bob was my friend and mentor. I first met Bob when I was a shop steward at Liddell Power Station in 1976. Bob was not one for babysitting shop stewards. He was determined that AMWU shop stewards would be well trained, capable and not rely on union organisers to make a decision. I will never forget ringing Bob during one of the many industrial disputes at the power station and being told words to the effect: 'Why are you ringing me on this issue? Think it through and fix it yourself!' His comments were actually much more to the point and much more colourful. They are not for repetition in this august chamber. This was a good lesson in self-sufficiency for a budding shop steward.

Following his retirement from the union, Bob became a keen golfer and the driving force behind the Hunter Labour Cooperative. The cooperative was established to provide labour-hire workers with union wages and conditions equivalent to those enjoyed by permanent workers. The Hunter Labour Cooperative stands as a fantastic symbol of Bob's commitment to workers and his foresight and capabilities. Like many of Bob's comrades, I will miss his friendship and advice. He was a truly magnificent trade unionist and one of the best people I have ever had the honour to meet. My condolences go to Vi and the family, and I want to thank them for their support for Bob during a magnificent trade union career.

**World Glaucoma Week**

Senator FAULKNER (New South Wales) (19:28): The 10th of March this year marked the beginning of World Glaucoma Week. World Glaucoma Week is a joint initiative of the World Glaucoma Association and World Glaucoma Patient Association. Its aim is to promote glaucoma patient support and to bring the message of early detection and lifelong treatment of this disease to the community. Tonight, I want also to promote this message and bring attention to the ongoing work of Glaucoma Australia. The word 'glaucoma' comes from the ancient Greek word 'glaukoma' for clouded or opaque. Hippocrates first used the term 'glaucoma' to describe the onset of blindness in patients of advanced years. Today, glaucoma is the name given to a group of degenerative eye diseases caused by the gradual destruction of the optic nerve, the cable that transmits visual messages from the eye to the brain. In most instances, damage is caused by an abnormal build-up of pressure within the eye.

Glaucoma is known as the sneak thief of sight. It is an elusive and irreversible killer of sight. Initially, a sufferer's sight recedes from the margins of their field of vision, but in these early stages one eye often compensates for the other. Thus, the full impact of the condition remains hidden until a majority of nerve fibres have been damaged and a large part of vision has been destroyed. Unfortunately, for those afflicted with glaucoma, this means that the loss of sight is permanent, and from this point on all that can be done is to manage the vision that remains, and to try and ensure no more vision is lost. It is estimated that as many as half of those with glaucoma may not be aware that they actually have the condition.
According to the World Health Organisation, glaucoma is the second leading cause of blindness worldwide. It is estimated that 11.1 million people will be blind due to glaucoma by 2020, accounting for an estimated 12 per cent of all world blindness. In Australia, glaucoma is one of the leading causes of preventable blindness. Over 300,000 Australians have glaucoma. While it is more common as people age, it can occur at any age. A joint study prepared by the Centre for Eye Research Australia and Access Economics estimated that the total annual cost of glaucoma in 2005 was $1.9 billion. With an ageing population, this figure is expected to increase to $4.3 billion by 2025.

The damage caused by glaucoma is irreversible, so its detection and its lifelong treatment is a vitally important public health issue. As I mentioned earlier, the leading cause of blindness both in Australia and worldwide is not glaucoma but is cataracts. But, while the sophistication and effectiveness of cataract surgery have increased, there remain no measures able to restore the sight of those afflicted with glaucoma. This means that, although less prevalent than cataracts, the impact of glaucoma is arguably more severe. In the absence of preventive and corrective measures, the key is early detection and management, and this is why initiatives aimed at raising awareness such as World Glaucoma Week are so critical. This week Glaucoma Australia—this country's peak glaucoma support and awareness group—is promoting World Glaucoma Week. During this week Glaucoma Australia is asking all Australians to remind their friends and family to have regular and comprehensive eye checks. The focus of this year's campaign is on early detection and lifelong treatment of glaucoma.

Glaucoma is a disease where up to half of its sufferers remain unaware of their affliction until it is too late, and that is why initiatives such as World Glaucoma Week and the ongoing work of Glaucoma Australia are so vital to ensuring that we lessen the terrible impact of the sneak thief of sight.

**Western Australian Wheat Farmers**

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (19:35): I rise this evening to inform the chamber of the crisis which has unfolded in the Western Australian wheat belt during the last growing season and the summer subsequently. This is been caused, regrettably, by seasonal conditions. One of the great ironies is that rain did not fall during the growing season but fell at the end of the growing season, only interrupting harvesting. In most circumstances people will reflect on 2012 and they will say that it was an average rainfall year. Regrettably, the rain did not fall during the growing season but fell at the end of the growing season, only interrupting harvesting. In most circumstances people will reflect on 2012 and they will say that it was an average rainfall year. Regrettably, the rain did not fall during the growing season, it only fell at a time to interrupt the harvest and cause further grief for the producers in those areas.

I had the opportunity two weeks ago to travel through our eastern wheat belt, convening meetings in the towns of Southern Cross and Merredin and in the Avon Valley, and was enormously distressed to speak with old friends, farmers I have known for many years and their spouses and children, and learn that somewhere around 65 per cent or even more of Western Australian farming land in our eastern wheat belt areas is on the market, or indeed would be on the market if only there were buyers. In many instances the circumstances are so severe that the banks are considering whether they will even forward loan funds this year for these farmers to put a crop in.

In our industry, over time, if a farmer did not have somewhere between 80 to even 85
per cent equity in his farming operation, he was regarded as being at risk. To a city or town based businessman, having that high a level of equity in a business would be regarded as lazy money, but so risky and so variable is the operation of broadacre farming particularly that, to be able to overcome seasonal conditions, a prudent farmer would have those levels of equity. I have been informed in recent times by farm advisers and others that those equity levels are now down at around 60 to 65 per cent of their farming operations. These are dangerously low figures of equity, particularly when that farmer goes to the banks to try to borrow for this season’s cropping year.

To give the chamber some understanding, such is the size and scale now of farming properties in our eastern wheat belt that it is not uncommon for a farmer to spend up to $1 million to put a crop in by the time they use seeds and weed sprays, pay for fuel, pay the cost of money, pay for their seeding operations and, of course, defray the capital costs of the very expensive equipment that they use in the farming operation. A bank manager spoke to us in a forum in Merredin last week. Somebody asked him, 'Isn't it similar that the mining operations also inject huge amounts of capital?' The bank manager by way of answering said, 'Yes, but it's the case that, by the time a farmer puts the crop in and takes the tractor out of the paddock, the net value of that whole investment is zero'—because, of course, if it does not rain, if the plant does not sprout, if he has not got a harvestable product, he has actually wasted the entire amount. By contrast, in a mining operation the miner who might invest $1 million will obviously have something. The ore is under the ground; the opportunity is there. Prices may drop or prices may increase, but the actual ore itself is there and that person will recover at least some of that particular investment.

My biggest concern as I go around the farming areas is seeing the despair of younger farmers and their spouses. They are saying to me: 'Chris, why should we stay in farming? What's in it?' The returns per dollar invested are very, very low. One older farmer said to me the other day, after a particularly severe dust storm in the town of Southern Cross, 'I just watched my superannuation blow away from my paddock to my next-door neighbour.' So I am particularly concerned. I know many others are too. What are we going to do? How do we create a climate to attract and keep younger farmers in the business?

One of the areas that I am particularly attracted to is the concept of what is known as risk managed crop insurance. It is not something that has been a feature in Australian agriculture over many years. By contrast, in the United States, in Canada, in the grain-growing areas of Europe and South America and in South Africa it is quite common for a farmer to invest in insurance against matters such as hail, which is something that has been insured in the past. But the two big ones are frost and drought. To date, the prices have been such that it has not been an attractive option. We have not had the size of insurers willing to insure the crops. For the first time ever, it now seems as though we have got one or two overseas insurance companies well experienced in the field of agricultural insurance who are indeed looking positively at offering this form of insurance. They are companies that know the Australian agricultural system well.

For those of you not familiar with technology, it is an interesting lesson. When a crop is put in these days, the whole operation is controlled by computer analysis.
with GPS. The paddock has already been scanned from the last time a crop went in, so the amount of grain and fertiliser going into the ground varies almost per metre depending on the fertility of that soil. Indeed, when the crop is harvested, the same information is captured. So these insurance companies now, with their satellite technologies and all of the information available to them from cropping history, are actually able to predict quite accurately what a farmer is likely to yield from his paddocks.

I for one am very hopeful that we will see risk managed crop insurance become a feature in Australian farming. In fact, one of the insurance companies was telling us recently that they insure more than 109 crops in their overseas operations: wineries, vines, horticultural operations, broadacre farming et cetera. It is something that I certainly will be strongly encouraging.

In addition to the farmers themselves it is, as you would know, the demise of our rural communities that causes me an enormous amount of angst simply because, as the farming community does not have the capacity to be able to pay their debts, so the circumstance flows through to the town, where the businesspeople in the town themselves do not have it. The farmers leave the community, businesspeople leave the community, the number of children available in the school decreases and the justification for having a police station or other services such as bank branches et cetera obviously collapses. So, therefore, we see yet again the fundamentals, the pillars of our smaller communities, being lost to us. Over time many of our farmers have gone from being those who have produced both crops and animals—livestock, sheep and cattle—to being crop only. They then are terribly at risk in the circumstance that their crops fail.

Naturally enough, as I have said before in this place—in fact, as I spoke of earlier this evening—with the demise of the live export trade now and the fact that there are no prices left in the competitive market for sheep, particularly in the southern part of my state with cattle across the north of the Northern Territory, Queensland and Western Australia, we are now faced with a circumstance that animals that should have been sold, that should have been on ships, that should have been in the eastern markets or overseas, are now on farms. There is no feed left on these paddocks. They are dust bowls. We travelled through Merredin the other day in the middle of a dust bowl caused by sheep that should not even be on the farms. They should have long been sold. And so we have a circumstance that is absolutely dire. I for one am hopeful, as everyone else is, that we do have a season in 2013. Otherwise, we are going to have a very significant walking off of farms here in Western Australia.

Finally, with some pride I want to acknowledge in the public gallery this evening my daughter, Elizabeth, and her partner, Mr Peter Hoie, who are visiting from Houston in Texas with my one-year-old grandson, who must not have thought much of my presentation, because my wife has already removed him from the chamber!

**Environment**

Senator WHISH-WILSON (Tasmania) (19:44): I rise tonight to talk about an article in The Conversation this week by Tasmanian scientist Dr Jennifer Lavers, with whom I have been lucky enough to work in past years as part of the Surfrider Foundation. Her article is titled ‘Plastic and politics: how bureaucracy is failing our forgotten wildlife’. Dr Lavers has spent most of her scientific life studying seabirds, particularly the flesh-footed shearwater, which most Tasmanians
are very familiar with. The reason seabirds are important is that they are often seen as a barometer or a poster child for our healthy ocean. Key factors for that include that they tend to help fishermen identify fishing hotspots which are biodiversity hotspots, and their population numbers are highly linked to the richness of the ocean in those areas. They also cover very large geographical areas.

Unfortunately, all the data to date shows that the flesh-footed shearwater species is in severe decline. It is a large, conspicuous seabird, it is very obvious from its raucous call and it covers wide expanses of the Pacific and Indian oceans, but the main breeding grounds are on our doorstep here in Australia. The largest population is on Lord Howe Island, where Dr Lavers spends a lot of her time studying the resident populations of shearwaters, with remaining populations spread across south and western Australia and New Zealand. Dr Lavers believes from her research work, which has been backed up by other marine scientists, that their breeding grounds are in trouble.

The Lord Howe Island population has declined by around 50 per cent since studies started in 1978. New Zealand's population was revised from 25,000 breeding pairs of shearwaters in 2000 to around 11,600 pairs in 2010, with breeding abandoned on 10 islands. In Western Australia, a survey that Dr Lavers conducted herself—the first in almost 35 years studying the shearwater—found the population hovering at less than 50,000 pairs. Dr Lavers acknowledges multiple factors that are causing the decline of the shearwater: encroaching urbanisation, by-catch mortality in fisheries and introduced predators. The key focus of her study and her key point of concern is the serious threat to populations from plastic pollution in the marine environment.

Accumulations of rubbish in the North Pacific Gyre were first noticed 20 years ago. I have talked several times about the gyre and the garbage patch in the ocean. Each day our oceans are fed with more than 20 million new plastic items, or around 6.4 million tonnes per year of plastics. Winds and wave motions send this right around the globe. Lots of Australia's garbage often washes up in other countries, and other countries' garbage—particularly plastic—washes up on Australian beaches. This brings us back to the flesh-footed shearwater. More than 75 per cent of shearwater chicks on Lord Howe Island that have been studied contain large quantities of plastic fed to them by their parents, who mistake it for food. In 2011 one dead chick that Dr Lavers examined had more than 275 pieces of plastic in its stomach—the equivalent of a human eating around eight kilograms of plastic.

Clearly, eating plastic is never going to be a good idea, but new evidence suggests that it might be worse than we previously thought. It is not just the injection of this plastic that causes starvation in these birds by taking up most of their stomach space: we also know that those plastics are toxic to marine life. The three toxic substances known to accumulate on plastic, particularly plastic floating in the ocean, include phthalates, PCBs and heavy metals. They attach themselves to floating bits of debris. These accumulations have not only been noticed in seabirds but they have also been detected at worryingly high levels in the tissues of other sea creatures. More than 265 marine species are at risk from marine plastics, with new studies published every week showing fish, invertebrates such as mussels and sea cucumbers, and even algae are ingesting sea plastic. In fact, in the South Pacific Gyre garbage patch the disturbing statistic is that this area now contains up to 40 times more plastic than plankton, which is
the basis of the food chain in the ocean. I am also informed that studies in the Southern Ocean in the Antarctic have found plastic in plankton. It is all the way through our food chain and all the way through our ocean, and massive amounts of plastic enter the ocean every year, mostly from our lifestyle and from packaging.

What can we do about it? Dr Lavers has applied under EPBC to have the shearwater listed as an endangered species. The paperwork has been sent in. Incidentally, in 2012 New Zealand listed their shearwaters as an endangered species, but after four years of applications we still do not have the species listed as vulnerable under EPBC law. Another thing we can do is look at our threat abatement plan under EPBC law for marine plastics. Injury and fatality to vertebrate marine life caused by ingestion of or entanglements in harmful marine debris was listed in August 2003 as a key threatening process under the Environment Protection and Biodiversity Conservation Act 1999. I received some information recently from the Department of Sustainability, Environment, Water, Population and Communities as to how much of our TAP—our threat abatement plan—is being spent on marine debris. The number given to me was approximately $1.2 million over four years. That relates to 2008-12; however, no data has been compiled yet, and it may be 2014 before we see any research that has been done on marine plastics, the mitigation of marine plastics and what can be done to reduce plastics in our ocean.

Having been part of a group that has cleaned beaches for the last 10 years, I have travelled around from the south west of Tasmania on fishing boats and spent weeks picking up rubbish from Flinders Island and other parts of my state, as well as on the Great Barrier Reef and other parts of the country—even in Indonesia. And I know thousands of other people who do this on a regular basis. Clearly, collecting plastics from the beach is helpful, but you are never going to get it all. A lot of it is deposited under the sand or even at the dune line, and the first time there is a big surge, or a big storm, most of it gets washed back into the ocean.

We also know, particularly with beverage containers and plastic bottles, that a large number go to the bottom of the sea, where they get broken up by wave action and splinter into thousands of different pieces. They also photo degrade and continue to break up into pieces small enough to be ingested by plankton. We have a lot of evidence on this, and so the big question is: how do you go about addressing this issue? Every time I walk on the beach with my kids, I think about this. It is such an overwhelmingly large problem, you do not even know where to begin; it can get you down when you think about it. But one thing we do know is that product stewardship on packaging, particularly plastic packaging, does offer a solution.

It is not going to be a silver bullet by any means, but studies recently conducted by the CSIRO around Australian beaches—and these will be updated shortly—are part of the threat abatement plan and the money that is going to that. They have shown that plastic packaging—bottles consumed outside the home—are not just from Australia. Some of the stuff I have collected on the west coast of Tasmania has come from Africa, Europe and Taiwan, and so these plastic containers are from everywhere and make up about two-thirds of all items found on marine debris clean-ups.

So it is not just Australia that needs to clean up its act; clearly, this is something that has to be looked at globally. We do believe that container deposit schemes that at
least start to address this issue at point of origin in places like Australia, the USA, China and right across the world will be necessary to start reining in the amount of packaging that is going into the oceans.

As I said, it is a vastly overwhelming problem. But, when you look at the shearwater, and the studies that are coming in on the damage that this plastic is doing to our ocean, we do need to start somewhere. We do have a responsibility, not only at a bureaucratic level and as Joe Citizen cleaning beaches and getting out for Clean Up Australia Day but also as parliamentarians who can put in place product stewardship schemes that address this issue and go directly to the source of taking plastics out of our ocean, allowing the shearwater and their chicks— (Time expired)

Child, Hon. Joan, AO

Senator MOORE (Queensland) (19:54): Tonight I want to make some comments, and add to the very many comments that have been made over the last few weeks, about Joan Child. She was a special, inspirational woman who served her community well and inspired so many women that they could and would have an opportunity to serve in this parliament.

I only met Joan Child many years after she had retired from this place. She had such warm words of encouragement and also a daunting sense of humour. She did not want to talk about what she had achieved; she wanted to talk about what could go on in the future. I did not tell her then exactly how much she had inspired me, and I regret that. Naturally, I said thank you for the work that she had done and for the wonderful quotes that she had left us, and also for the inspiration that she had given to us. But I wish I had had the opportunity to say to her just how much she gave encouragement to people, to give them the strength to say that not only could they be but that they can be a member of parliament in this place.

Amidst these walls, when people go wandering through this parliament, you see lots of portraits. You acknowledge them and you are caught up by the people in those portraits and want to find out what they did and when they were here. There are not many portraits of women in this place. There is one of Joan Child; it is up in a corridor amongst Australia's 'firsts'. Not only was Joan Child Australia's first Labor women parliamentarian in the House of Reps but she was also our first woman speaker.

She did not make a big deal about this. She is on record as saying that all politicians are parliamentarians; it is not their gender. She felt that she had a role to play to represent her community. This was not as a woman—not as an astoundingly successful woman who was left as a sole parent when her husband died tragically quite young, with five boys to raise and not a lot of social welfare. We know how poor the pension was in those days, but she did not sit around and mope—and she actually used those terms, 'There is no room for moping.' She went out to work to get the money to raise her sons effectively. I understand at her state funeral—which she earned—those sons talked about the inspiration and the love that they had for their mother, and the way that she had kept their family together.

The range of work that the Honourable Joan Child did before she was elected to this place in her 40s after living for many years on a very tight income is on record. As she said, she was always devoted to and loved the Labor Party. Joan Child worked as a cleaner and in factories—they talked about her working in factories and they talked about her working in shops. She worked for a wage and she understood the struggle of working for a wage—a very limited wage—
to earn money for her family. She then went on to work for Jim Cairns as an electorate officer. I am not quite sure whether that is where she got her taste for the Labor Party, but it is certainly where she honed her skills.

In terms of the encouragement that she gave to other people standing for parliament, it was something that she believed you did by working hard. This was said consistently in the media that surrounded her election. It was novel at the time to have a woman coming into the House of Reps. It was way too late, and it is something of which the Labor Party should not be proud. Certainly, we are proud of Joan Child, but the fact that it took so long for our party to elect a woman to this place is to our shame. I think we have made up for it since that time.

In 1974 Joan was elected for Henty—the seat that she worked hard to hold over many elections. She lost it at times, but she came back because she had the dedication. She said of herself, 'I am stubborn. I probably am still very stubborn and I had another go, and I won.' She actually got to her position by working hard and she told people that is how to do it. She drew people around her, people from her community, people from organisations in her area and people from the Labor Party, who saw that the work to which she was committed was something we could share. There was concentrated support for her at a local level from that time on.

She was always interested—and you can read her speeches, Mr Acting Deputy President—in people being given a fair go. She was genuinely interested in our social welfare system and worked hard as a backbencher. Then in 1986 she was actually appointed by the parliament to be the first woman Speaker of the parliament. That of course was media worthy. I do want to compliment the Parliamentary Library not only for the extraordinary work they do all the time but also for their biographical information packs on people, and they have been able to show us the media that surrounded Joan Child's appointment as the first woman Speaker and the concern that was raised about whether this was a position that a woman could hold, whether it would be successful and whether it would change parliament by having this process.

Parliament continued and Joan Child was described as a woman with a 'crisp and matter-of-fact style' in the chair. She had great respect for this place and for the role of parliament. She described her first time in the chair as a deputy speaker—and we can both understand, Mr Acting Deputy President, what it is like the first time in the chair. Joan said, 'It was probably my second time in the chair and it was pretty disastrous—it just didn't gel.' But then she said—and this shows the inspiration of the woman—'I learnt a lot from that and I just kept going.' I think that is indicative of her style. She learnt from her experience and she just kept going. She has provided inspiration to many men and women in our party and in our community. The way the community responded when she was actually given the Order of Australia and later a number of awards within the community for her tireless work was indicative of her strength.

The state funeral was televised last week when the state, justifiably, farewelled a woman who had brought great honour to this place. Moving tributes were made by a range of people about the warmth of the woman, the strength, the hard work and also the impish humour. I think that is something that will always be remembered about Joan Child.

Tonight I just want to quote a little bit from one of her speeches because, as you know, Mr Acting Deputy President, we are currently working through the issues around
the National Disability Insurance Scheme and how we can provide a better scheme for people with disabilities in our country. In 1974, on 16 July, in her first speech, Joan Child told parliament:

Handicapped adults—in fact, handicapped people—are usually a political nonissue. They do not have political strength; they do not march down the streets; they do not congregate; they do not have any muscle.

While they represent an energetic breakthrough, welfare services have been neglected for far too long for us to rest on our laurels. We have taken the first steps along a path for a new deal for handicapped people where self-respect, personal dignity and independence will be the touchstones for what we do.

It is fine to have strong words in this place and it is important that we acknowledge the work that Joan Child did, but I think the message she has left us about the steps towards ensuring that people have self-respect, personal dignity and independence will be a lasting legacy for this inspirational woman.

When you walk through the corridors of this place and you pass that portrait of Joan, I think one thing we can do is to say thank you, that we have heard her message, that we who have come after her know that we have a strong legacy and that we must continue the work that she has done. I respected Joan Child and I think that her work will live long in our memory. I want to thank her family for sharing her with us. I think the people of Australia can look back at a wonderful woman who has left us a job of work to do in this place.

**Australian Islamic Peace Conference**

Senator BERNARDI (South Australia) (20:04): I rise tonight to speak about an event that is happening in Melbourne this weekend, an event that some Australians may not be aware of yet it is something that all Australians should be informed about. I am talking about the Australian Islamic Peace Conference, which will be held at the Melbourne Showgrounds and which is presented by the Islamic Research and Educational Academy.

The conference website states that it is 'The biggest and best ever Islamic event in the history of Australia.' Various posters for the conference state: 'It is proudly supported by over 30 organisations Australia wide' and also 'supported by all the mosques and Islamic organisations of Melbourne'. A focus of the conference is purported to be interfaith dialogue, with IREA stating that it has been: working hard to narrow the gap and fill the vacuum which has been created between different religions …

Yet how can this be a realistic goal of the conference when the announced range of speakers at the conference include a number of extremists and purveyors of hate?

The organiser of the conference is Wazeem Razvi, who, only last December was advocating for Sharia law in Australia and who has said that violence in defence of his faith is okay. Another supposed and reported speaker is Sheikh Abdul Rahman Al-Sudais, the imam of the Grand Mosque of Mecca. The BBC News organisation has confirmed that he has said that Jews are 'monkeys and pigs,' 'rats of the world,' and the 'offspring of apes and pigs.' He called Hindus 'idol worshippers' and labelled Christians 'cross-worshippers' who are 'influenced by the rottenness of their ideas and the poison of their cultures'. Some media articles have even reported him saying that the Jews are the 'scum of humanity' and calling for their annihilation. And this is a man who was advertised as a main speaker at this peace conference.

The Australian newspaper reports today that Al-Sudais's face does not appear
on the conference leaflet that was posted on Facebook on the weekend, an earlier version of the conference poster does, indeed, depict his face and his name, labelling him the 'Imam of Kaaba.' So at least early on, before there was any scrutiny, the organisers were happy to clearly state that he was going to be a guest speaker. The latest reports now seem to indicate that Al-Sudais is no longer attending the conference, but the fact that the organisers invited him to speak says a great deal about the Islamic Peace Conference.

And he is not the only controversial speaker linked with this event. Another person listed as a speaker on the conference's website is Abu Hamza. In 2009 he caused an uproar when it was reported that he had lectured men on how to beat their wives. He has also ridiculed our laws against rape, when it concerned a husband and wife. His comments were so extreme that they caused the Prime Minister at the time, Kevin Rudd, to publicly denounce him. Kevin Rudd said:

Australia will not tolerate these sorts of remarks. They don't belong in modern Australia … But such condemnation will not stop him, though, from being asked to speak at this Islamic Peace Conference.

Another invited speaker is Sheik Yee, who claims that the September 11 attacks were not the work of Muslims and that the Jews are the real extremists. But he is not the only speaker to share similar views. Melbourne's Sheikh Abu Ayman, aka Sheikh Omran, who I was unfortunate enough to sit next to on an SBS *Insight* program, has actually defended Osama bin Laden, saying, 'I dispute any evil action linked to bin Laden.' This seems to be a common thread amongst a number of the speakers, because another one, Sheikh Zakir Naik, said he too was a supporter of Osama bin Laden, and went on to say that, and I quote, 'Every Muslim should be a terrorist'. Another invitee is from the Islamic Online University, Mr Bilal Philips. He has been linked to terror groups and the United States even listed him as an unindicted co-conspirator over the 1993 bombing of New York's World Trade Center.

It is hard for even the stoutest defender of freedom of speech to defend the poison that is peddled by this lot. But then, there is always Keysar Trad. Mr Trad is a Moslem community leader and is often sought for his media comments and he seems to make a habit of defending Islamic speakers who preach terribly offensive messages. With regard to Al-Sudais, Mr Trad is quoted as saying, 'People can change and sometimes they say comments out of anger that they would retract when they calm down.' Well, I suggest Mr Al-Sudais is sure taking his time getting a grip on his anger considering his comments were reported in media articles over 10 years ago.

Let us not forget that Mr Trad was a spokesman for Sheikh Hilaly and defended him over his comments about women being 'uncovered meat' in this country. He has also publicly defended polygamy and said sharia can coexist in Australia alongside our existing legal system—an idea that is thankfully not supported by either major party in this country. So I would say that Mr Trad is no stranger to controversy, but he does seem pretty keen to defend what I consider to be the indefensible when it comes to Islamic extremists.

Weeks ago I wrote in my weekly blog about my concerns regarding Al-Sudais' impending visit. I mentioned his terrible comments and his track record then and I marvelled at how his proposed visit to Australia had gone relatively unnoticed by many sections of the media, the government and wider society. All I could uncover a few weeks ago in the mainstream media was one
article from, of all places, the Melbourne Age. Where were the numerous scathing opinion pieces from social commentators and outraged citizens about Al-Sudais’ visit? Where were the exposes on Lateline and the stories on the morning and evening TV news bulletins? The silence from the commentariat when it comes to calling out this type of extremism is deafening. And, just as important, where were the words of condemnation from Labor ministers like Chris Bowen, Kate Lundy and Mark Dreyfus? These ministers had no problem being forthright and scornful when at least one other recent visitor was on our shores, but why not for Al-Sudais and his companions?

Within the last week or so, I am pleased to say, more media coverage of the Islamic Peace Conference has started to appear. It is good to know that more information has come to light, so that Australians are becoming better informed about the type of events that are being promoted by some within our community. Slowly, very slowly, sections of our media are catching on, and I would say not a moment too soon. It is absolutely vital and important that our freedom of speech and our freedom of the press is used to question these views—views that would be abhorrent to a vast majority of Australians. But the commentary seems to be one sided on matters such as this, thanks to what I would call the apologists who succumb to political correctness, or fear. The question is: what is it that they are afraid of?

I find it unbelievable that a peace conference, supposedly supported by a wide selection of Islamic organisations, as claimed by the event organisers IREA, would intend to encourage such people like Al-Sudais and Abu Hamza to attend their conference. It is reasonable, and it is the responsible thing to do, to question why such speakers were invited to appear and how anyone can legitimise their views. It is part of a discussion that our society needs to have. We should not be afraid to dig deeper into this issue and become more informed about the things that are actually happening here in Australia, rather than dismissing them as an overseas problem that has no place here. Informed debate is something that is absolutely vital for our democracy and our continuing way of life.

**Asthma**

Senator CROSSIN (Northern Territory) (20:12): Next week in Canberra, this city will be hosting the 2013 National Asthma Conference, Tackling Asthma in Australia—the next 5 years. I wanted to rise this evening to provide a contribution about asthma and what is happening in this country with this disease and the role it has played in my life. Asthma is a disease that affects the airways of the lungs. It is a long-lasting, inflammatory condition of the airways and symptoms include wheezing, coughing, breathlessness and tightness in the chest. It makes the small tubes that carry air in and out of your lungs narrow so that there is less space for the air to flow into and out of the lungs. This narrowing of the airways can last for a few hours or sometimes days.

I am somebody in this country who has had asthma all of my life; so let me explain what it is like in a practical way. People who recognise asthma will recognise it as I continue in my contribution. Imagine if you held your nose closed and then you were forced to breathe in and out through your mouth. Then, remembering that you can breathe only through your mouth; because your nose is blocked, you do so through a regular drinking straw. Try that for not only one minute, but for an hour. It is extremely difficult to get enough air not only into your lungs but also out of your lungs because of these restrictions.
Asthma is a long-term condition that affects people’s breathing. It is a significant cause of ill health and can result in a person having a poor quality of life. Asthma is a real issue in Australia. It is a significant health problem with prevalence rates that are high by international comparison.

The rate of asthma in children has declined over the past decade; however, it remains very stable in the adult population. In the zero to 14 age group, more boys than girls have asthma. In the adult population, it is the reverse, with statistics showing that more women than men have asthma. Asthma is far more prevalent and common in our Indigenous population. According to the report *Asthma in Australia 2011*, approximately two million Australians have asthma. That is about one person in 10. In 2010, believe it or not, 416 Australians died as a result of asthma—with the risk highest amongst the elderly. That is more than one person per day. It is worth noting that between 1997 and 2009 the mortality rate where asthma was the underlying cause actually decreased by 45 per cent, but in 2013 we know that one Australian will die each day with asthma as the cause.

Clearly, asthma is an issue for all Australians. In 2009 it became a National Health Priority Area because of its impact on the Australian community. Health researchers continue to explore the causes of asthma but, at this point in time, what causes asthma is not known. There is reliable evidence that several factors may play a role in causing or triggering an asthma attack: genetics, diet, exercise, dust mites, pollens, pets, moulds and cigarette smoke—as an asthmatic, I would have to say particularly cigarette smoke. By funding research and regularly informing health professionals, more can and will be done to assist people with asthma. Although there is no cure for asthma, it is a treatable health condition and it can be successfully managed. With good management and support, people with asthma can lead normal active lives.

Tonight I want to talk about the two organisations in this country that exist to support people with asthma and their carers. The first, Asthma Australia, is made up of the eight state and territory asthma foundations and it focuses on consumers. I am on the committee of the Northern Territory asthma foundation and Asthma Australia. The second, the National Asthma Council Australia, focuses on primary healthcare professionals. Both of these organisations currently receive funding from the Australian government by way of the Asthma Management Program, but that will finish in June of this year. Asthma Australia and the National Asthma Council Australia, are both successful and far-reaching programs. They inform and alert people with asthma, and they keep the professionals up to date with information about evidence-based treatments for asthma. The work of these two national organisations has resulted in improved outcomes for people with asthma, and this has been achieved by supporting and promoting safe self-management.

Asthma became a National Health Priority in August 1999. That meant that the two organisations received some very serious funding for the first time, in 2001, and they are currently funded under the Asthma Management Program. The Asthma Management Program benefits the two asthma organisations through community support programs such as the Asthma Child and Adolescent Program. The National Asthma Council Australia is funded for the GP and Allied Health Asthma and Respiratory Education Program—and let me tell you, there are still some GPs out there who need to know what an asthma management plan is and why it is relevant—and for the production and dissemination of
health information resources for health professionals. We know that both of these programs are performing well, as they have indicated in their respective evaluation processes.

In May 2011 the government, under its health reform agenda, announced that the Asthma Management Program would be consolidated into the Chronic Disease Prevention and Service Improvement Fund. It became part of the flexible funding pool and, as a result, the National Asthma Council and Asthma Australia were given contracts until June 2013. But late last year the flexible funding program was announced, and both of the asthma organisations were unsuccessful. I find that incredibly hard to believe, quite frankly, considering that there have been some major successes in this area. I know that DoHA received many submissions for funding. Perhaps it has not yet publicly announced the successful applicants for the coming years nor made any announcement about the next round of flexible funding. I know that both organisations are very concerned about the future of their successful and far-reaching programs when the AA and NAC contracts end in June. They have made tremendous progress with asthma but, as with other chronic diseases, there is an ongoing need to support self-management in the community—and, in the case of asthma, to support not only the people who need to take their medication but also the doctors and health professionals who manage the taking of that medication to make sure that even mild asthma does not become life threatening and lead to death.

Without ongoing funding for our important consumer and primary care health professional programs, things will slip backwards again. We must be able to continue to offer this support; otherwise more people will find themselves again in hospital emergency departments. Well-managed asthma means a better quality of life for people with asthma, fewer days lost from school and work, fewer admissions to hospitals and unnecessary GP visits, and fewer deaths. The investment in asthma is not large in total but it does provide a huge quality of life and productivity benefit to 10 per cent of Australians and a very significant cost benefit to the health system.

In closing, I want to mention a few other issues. As part of my role here in the Senate, along with former Senator Guy Barnett I have managed to establish the Parliamentary Friendship Group for Asthma to raise awareness amongst our colleagues about what asthma is. As a result of that we initiated Parliament House becoming an Asthma Friendly Workplace, which means that everybody in this place is trained in how to recognise an asthma attack and how to manage it. All of the first-aid stations have Ventolin and spacers in them so that when people do have an asthma attack they can be treated instantly.

This leads me to the next issue I want to raise. That is, I would like to call on GlaxoSmithKline, the producer of the majority of asthma medicines to take a long, hard look at Ventolin. Ventolin is a drug that you take when you get an attack. Alongside that, you take a drug called Seretide which prevents you getting asthma. Seretide has a counter on it, and each time you spray that it counts backwards. So if I cannot hear how much medicine I have left in my pump, or if I am not aware by simply holding because of its weight, at least I can rely successfully on the counter that is at the back of Seretide. Health professionals and GlaxoSmithKline will know exactly what I am talking about. It is now time to modify the Ventolin inhaler. It is now time to put a counter on the back of that blue machine as well.
Immigrant Women’s Speakout Association of New South Wales

Senator RHIANNON (New South Wales) (20:22): Last year the Speakout association for immigrant women turned 30, and tonight I would like to honour the achievements of this community-based organisation, run by the most remarkable and dedicated group of women, all from a non-English-speaking background and all deeply committed to the rights of the most downtrodden and vulnerable among us. The association, as I said, was set up 30 years ago, and the philosophy that they set out on their website and their management structure show how they have been able to stay true to their aims over that period. They have set out that they:

… will provide services to members and clients in a manner that is ethical and without discrimination on the basis of race, religion, age, physical ability or sexuality.

The work and practice of the Association is based on a belief in the equality, creativity and strength of the diversity of women.

The management structure is very interesting, because it certainly has helped ensure that these objectives have remained central to the organisation. The management committee comprises 10 positions, of which women from non-English-speaking backgrounds or refugee women must fill at least 75 per cent, and one position is to be dedicated for a rural or regional representative. I would particularly like to congratulate the Executive Officer, Jane Corpuz-Brock, for her fine work over many years in assisting this organisation to grow and to assist so many women, particularly in the western suburbs of Sydney.

Speakout came into being in 1982 as a result of 300 women choosing to speak out openly about the many problems faced by women of non-English-speaking background, often refugees fleeing from deplorable situations. For the last three decades, this volunteer organisation has brought help and assistance to so many. This generous and caring group of women perform their remarkable role by assisting women to access basic services, and they are so good at identifying exactly where these services are needed. They help with education, employment and training, immigration and industrial issues; they respond to domestic violence and discrimination; and they are active on health and housing, child care and legal issues, working out how access and equity can be assured when women identify that they need these services. They are particularly strong when it comes to undertaking community development projects. Their goals have an elegant simplicity: to educate, to empower and to advocate for migrant and refugee women. They bring this about through antidiscrimination protection in the workplace, for example, or by handling culturally sensitive information concerning referral to health or legal services. They also often offer conciliation. They run educational programs for employers, community-based workers and women from non-English-speaking backgrounds. They highlight flaws in existing laws and identify changes needed to federal and state legislation. They have put in many submissions over the years to various government inquiries. They organise workshops to help participants regain confidence. Seminars and forums are organised on issues of physical health such as hearing, and on mental health they have also taken up people’s needs. They tackle intercultural problems such as medication needs and religious, marital or cultural requirements.

It is especially pertinent at the moment, after yet another damning assessment by the
UNHCR of Australian immigration detention centres, and it is a timely reminder to all of us in this chamber that ongoing conflicts in many countries are such a threat to survival that many are obliged to seek asylum in countries like our own. Many of these women are forced to undertake a perilous journey by boat, often with young children. So many of these women arrive here with an extraordinary array of interconnected issues. Speakout has found that homelessness is inextricably linked to education, family, self-esteem and residency status. If children are involved, there are other complications: finding the local school, understanding what the requirements are when their children are sent there, proper and stable housing and children's protection agencies. If they are on bridging or temporary visas, they have even further restrictions in accessing community resources.

This is what Speakout is managing: all that array of issues for people recently arrived in this country or who may have been here for a while but for whom, because English is not their first language, how to manage this can be very confusing. A key problem for women who access Speakout is so often the language barrier. Lack of English is often coupled with little education and poor literacy skills, which make these women easily bullied because they have neither voice nor access to assistance.

There are so many deeply moving stories and, when I joined the women at Parramatta to celebrate the 30 years of this organisation, one of the highlights of the evening was hearing from the women themselves about their particular stories. Irene immigrated from Greece following the Second World War with her three children. She faced the daily struggle of so many single mothers in this country, but for her there were the problems of language and she had to survive on a factory worker's poor pay and conditions. Aarya came to Australia from Pakistan. She was brought here by an abusive husband and was trapped on a temporary visa and subject to his cruel violence. Like many others before her, Aarya would have fallen through the cracks in a system which often fails to recognise the needs of women in such a situation. But fortunately she was put in touch with the Speakout association and her life turned around.

I would like to congratulate the dedication of these astounding Speakout women and to celebrate their resilience and courage. These volunteers have seen and been subjected to many horrors. Many of the people active in the organisation have their own quite traumatic story.

They have come to Australia, they have come together, they have been able to make a new life, and they are ensuring that, through their collective spirit, it can be passed on to others. They provide not just assistance to others, but also inspiration, strength, and the means to achieve a new life. In honouring them, I do hope that they will become just a little more visible to us all. Everybody in this parliament should learn about the Speakout association. It is an excellent model of an organisation that has continued, over three decades, to stay true to its principles and objectives of access and equity. I applaud the remarkable work they perform, the tireless and selfless assistance they give, and the enormous improvements they bring not just to the lives of the women that they deal with but also to the communities that those women live in.

Senate adjourned at 20:30

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:
Australian Bureau of Statistics Act—Proposals Nos—

4 of 2013—Topics to be included as a supplement to the Monthly Population Survey: Work-Related Training and Adult Learning.


8 of 2013—Industrial Disputes Collection.

9 of 2013—Survey of Income and Housing.

10 of 2013—Survey of Foreign Currency Exposure.

Australian Charities and Not-for-profits Commission Act—Select Legislative Instruments 2013 Nos—

22—Australian Charities and Not-for-profits Commission Regulation 2013 [F2013L00401].

23—Australian Charities and Not-for-profits Commission Amendment Regulation 2013 (No. 1) [F2013L00402].

Australian Passports Act—Australian Passports Amendment Determination 2013 (No. 1) [F2013L00440].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 4 of 2013—Information provided by Authorised Deposit-taking Institutions under Reporting Standard ARS 231.1a, ARS 231.1b, ARS 231.2, ARS 231.3a and ARS 231.3b [F2013L00429].


Broadcasting Services Act—Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 1 of 2013) [F2013L00400].


Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA 39/13—Directions under subregulation 235(2) relating to landing weight and landing distance required [F2013L00420].

Civil Aviation Safety Regulations—

Civil Aviation Order 95.4.1 Amendment Instrument 2013 (No. 1) [F2013L00410].

Instruments Nos CASA—

EX22/13—Exemption – recency requirements for night flying (National Jet Systems Pty Ltd) [F2013L00383].

EX25/13—Exemption – drug and alcohol management plan information; Exemption – use of pre-hiring drug and alcohol tests [F2013L00382].

Revocation of Airworthiness Directives—Instrument No. CASA ADCX 004/13 [F2013L00427].

Civil Aviation Safety Regulations and Civil Aviation Order 29.5—Instrument No. CASA EX24/13—Exemption, permission and approval – dropping of articles [F2013L00384].

Clean Energy Act—Select Legislative Instrument 2013 No. 17—Clean Energy Amendment Regulation 2013 (No. 1) [F2013L00393].

Commissioner of Taxation—Public Rulings—

Class Rulings—

Addendum—CR 2012/76.

CR 2013/15 and CR 2013/16.


Goods and Services Tax Determination GSTD 2013/1.

Product Rulings—

Addendum—PR 2010/17.

PR 2013/3.
Taxation Determination TD 2013/4.
Corporations Act—
Corporations Act, Superannuation Guarantee (Administration) Act and Superannuation Industry (Supervision) Act—Select Legislative Instrument 2013 No. 26—Superannuation Legislation Amendment Regulation 2013 (No. 1) [F2013L00395].
Currency Act—Currency Legislation (Royal Australian Mint) Amendment Determination 2013 (No. 2) [F2013L00399].
Customs Act—
Customs By-Law No. 1305752 [F2013L00351].
Defence Act—Select Legislative Instrument 2013 No. 19—Defence (Personnel) Amendment Regulation 2013 (No. 1) [F2013L00389].
Environment Protection and Biodiversity Conservation Act—
Amendments of lists of threatened species, dated—
30 January 2013 [F2013L00403].
5 March 2013 [F2013L00432].
Notice of approval, dated 5 March 2013, and Management Plan [F2013L00425].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
Notice of approval, dated 5 March 2013, and Management Plan [F2013L00428].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
Notice of approval, dated 5 March 2013, and Management Plan [F2013L00423].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
South-East Commonwealth Marine Reserves Network Management Plan 2014-2024—
Notice of approval, dated 5 March 2013, and Management Plan [F2013L00422].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
South-West Commonwealth Marine Reserves Network Management Plan 2014-2024—
Notice of approval, dated 5 March 2013, and Management Plan [F2013L00424].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
Notice of Approval, dated 5 March 2013, and Management Plan [F2013L00421].
Report of the Director of National Parks concerning the responses to public comments on the draft management plan, dated March 2013.
Family Law Act—Select Legislative Instrument 2013 No. 16—Family Law (Superannuation) Amendment Regulation 2013 (No. 1) [F2013L00396].
Financial Management and Accountability Act—
Financial Management and Accountability Regulations—
Commonwealth Cleaning Services Guidelines [F2013L00435].
Commonwealth Grant Guidelines [F2013L00433].
Select Legislative Instrument 2013 No. 27—
Financial Management and Accountability Amendment Regulation 2013 (No. 1) [F2013L00391].

Financial Sector (Collection of Data) Act—
Financial Sector (Collection of Data) (Reporting Standard) Determinations Nos—
  4 of 2013—Reporting Standard GRS 112.3 Related Party Exposures [F2013L00352].
  5 of 2013—Reporting Standard GRS 114.0 Asset Risk Charge [F2013L00386].
  6 of 2013—Reporting Standard GRS 114.1 Assets by Counterparty Grade [F2013L00355].
  8 of 2013—Reporting Standard GRS 114.3 Off-balance Sheet Business [F2013L00360].
  12 of 2013—Reporting Standard GRS 116.0 Insurance Concentration Risk Charge [F2013L00376].
  15 of 2013—Reporting Standard GRS 118.0 Operational Risk Charge [F2013L00372].
  18 of 2013—Reporting Standard GRS 310.1 Premium Revenue and Reinsurance Expense [F2013L00368].
  19 of 2013—Reporting Standard GRS 310.2 Claims Expense and Reinsurance Recoveries [F2013L00379].
  20 of 2013—Reporting Standard GRS 310.3 Details of Income and Expenses [F2013L00370].
  22 of 2013—Reporting Standard GRS 410.0 Movement in Outstanding Claims Liabilities [F2013L00361].
  23 of 2013—Reporting Standard GRS 420.0 Premium Revenue by State and Territory of Australia [F2013L00362].
  24 of 2013—Reporting Standard GRS 430.0 Claims Expense by State and Territory of Australia [F2013L00364].
  25 of 2013—Reporting Standard GRS 440.0 Claims Development Table [F2013L00353].
  30 of 2013—Reporting Standard GRS 114.0 G Asset Risk Charge (Level 2 Insurance Group) [F2013L00354].
  31 of 2013—Reporting Standard GRS 114.1 G Assets by Counterparty Grade (Level 2 Insurance Group) [F2013L00356].
  35 of 2013—Reporting Standard GRS 116.0 G Insurance Concentration Risk Charge (Level 2 Insurance Group) [F2013L00358].
  37 of 2013—Reporting Standard GRS 118.0 G Operational Risk Charge (Level 2 Insurance Group) [F2013L00380].
  38 of 2013—Reporting Standard GRS 300.0 G Statement of Financial Position (Level 2 Insurance Group) [F2013L00359].
  44 of 2013—Reporting Standard LRS 112.0 Determination of Capital Base [F2013L00366].
  45 of 2013—Reporting Standard LRS 112.3 Related Party Exposures [F2013L00363].
  46 of 2013—Reporting Standard LRS 114.0 Asset Risk Charge [F2013L00365].
  47 of 2013—Reporting Standard LRS 114.2 Derivatives Activity [F2013L00369].
  49 of 2013—Reporting Standard LRS 115.0 Insurance Risk Charge [F2013L00373].
  50 of 2013—Reporting Standard LRS 117.0 Asset Concentration Risk Charge [F2013L00375].
  51 of 2013—Reporting Standard LRS 118.0 Operational Risk Charge [F2013L00377].
  52 of 2013—Reporting Standard LRS 200.0 Capital Adequacy Supplementary Information [F2013L00378].

Fisheries Management Act—
Eastern Tuna and Billfish Fishery Management Plan 2010—2013 Eastern Tuna and Billfish Fishery Overcatch and Undercatch Determination [F2013L00357].
Northern Prawn Fishery (Closures) Direction No. 161 [F2013L00431].
Northern Prawn Fishery (Closures) Direction No. 162 [F2013L00430].
Western Tuna and Billfish Fishery Management Plan 2005—Western Tuna and Billfish Fishery Overcatch and Undercatch Determination 2013 [F2013L00424].

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code—Standard 1.4.2—Maximum Residue Limits Amendment Instrument No. APVMA 2, 2013 [F2013L00419].

Health Insurance Act—Health Insurance (B-Scan Ultrasonography and Holmium: YAG Laser Enucleation of the Prostate) Determination 2013 [F2013L00350].

Health Insurance (Extended Medicare Safety Net) Amendment Determination 2013 (No. 1) [F2013L00418].

Higher Education Support Act—Revocation of Approval as a Higher Education Provider—Gordon Institute of TAFE [F2013L00439].

VET Provider Approvals Nos—

8 of 2013—Australia Moreton Education Group Pty Ltd [F2013L00417].

9 of 2013—Australian College of Event Management Pty Ltd [F2013L00437].


Migration Act—Migration Regulations—Instrument IMMI 13/027—Eligible education providers and educational business partners [F2013L00436].

Radiocommunications Act—Radiocommunications (Short Range Devices) Amendment Standard 2013 (No. 1) [F2013L00415].

Renewable Energy (Electricity) Act—Select Legislative Instrument 2013 No. 18—Renewable Energy (Electricity) Amendment Regulation 2013 (No. 1) [F2013L00387].

Sydney Airport Curfew Act—Dispensation Report 02/13.


Tertiary Education Quality and Standards Agency Act—Determination of Fees No. 1 of 2013 [F2013L00438].

Veterans' Entitlements Act—Amendment Statements of Principles concerning—

Hypopituitarism No. 19 of 2013 [F2013L00413].

Hypopituitarism No. 20 of 2013 [F2013L00414].

Select Legislative Instrument 2013 No. 20—Veterans' Entitlements (Special Assistance) Amendment Regulation 2013 (No. 1) [F2013L00441].

Statements of Principles concerning—

Essential Thrombocythaemia No. 15 of 2013 [F2013L00409].

Essential Thrombocythaemia No. 16 of 2013 [F2013L00411].

Polycythaemia Vera No. 11 of 2013 [F2013L00404].

Polycythaemia Vera No. 12 of 2013 [F2013L00406].

Primary Myelofibrosis No. 17 of 2013 [F2013L00416].

Primary Myelofibrosis No. 18 of 2013 [F2013L00412].

Seborrhoeic Dermatitis No. 13 of 2013 [F2013L00405].

Seborrhoeic Dermatitis No. 14 of 2013 [F2013L00407].

Water Efficiency Labelling and Standards Act—Select Legislative Instrument 2013 No. 21—Water Efficiency Labelling and Standards Amendment Regulation 2013 (No. 1) [F2013L00398].

Workplace Gender Equality Act—Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) [F2013L00434].

Governor-General's Proclamation—Commencement of provisions of an Act—

Tabling
The following government documents were tabled:


Treaties—

Bilateral—


Text, together with national interest analysis and annexures—


Agreement between the Government of Australia and the Government of the Kingdom of Belgium relating to Air Services (Canberra, 23 November 2012).


Multilateral—Text, together with national interest analysis—


Indexed List of Files
Tabling
The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2012—Statements of compliance—

Broadband, Communications and the Digital Economy portfolio.

Department of Families, Housing, Community Services and Indigenous Affairs.

Health and Ageing portfolio.

Departmental and Agency Contracts
Tabling
The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:


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