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SITTING DAYS—2012

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FORTY-THIRD PARLIAMENT
FIRST SESSION—FIFTH PERIOD

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

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

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

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

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy to be filled (vice H. Coonan, resigned 22.8.11), 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—A Thompson
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<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td><strong>Senator the Hon Stephen Conroy</strong></td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td><strong>The Hon Mark Butler MP</strong></td>
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<tr>
<td><strong>Minister for the Centenary of ANZAC</strong></td>
<td><strong>The Hon Warren Snowdon MP</strong></td>
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<tr>
<td><strong>Treasurer (Deputy Prime Minister)</strong></td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<td>Senator the Hon Chris Evans</td>
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<tr>
<td><strong>Minister for Industry and Innovation</strong></td>
<td>The Hon Greg Combet AM MP</td>
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<tr>
<td><strong>Minister for Manufacturing</strong></td>
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<td><strong>Minister for Small Business</strong></td>
<td>Senator the Hon Mark Arbib</td>
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<tr>
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<tr>
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<tr>
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<td>The Hon Justine Elliot MP</td>
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<tr>
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<td>The Hon Richard Marles MP</td>
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<td>(Vice-President of the Executive Council)</td>
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12:00, read prayers and made an acknowledgement of country.

BUSINESS

Days and Hours of Meeting

The PRESIDENT (12:01): I table a letter signed by and on behalf of all senators requesting that the meeting of the Senate be postponed until 12 noon today. I consider that this request is consistent with the basic principle that the Senate controls its own meetings.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:01): by leave—I thank the party leaders and the Independent senators for their cooperation on the deferral of the start of the Senate today. It is much appreciated and I thank them for it.

COMMITTEES

Education, Employment and Workplace Relations Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (12:02): by leave—on behalf of the Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall), I move:

That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.50 pm.

Question agreed to.

BILLS

National Radioactive Waste Management Bill 2010

In Committee

Debate resumed.

The TEMPORARY CHAIRMAN (Senator Furner) (12:02): The committee is considering the National Radioactive Waste Management Bill 2010. The question is that the bill stand as printed.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:03): by leave—I table some answers to questions asked of me during the committee stage of the debate on this bill the last time we were dealing with it, which was a couple of weeks ago. The questions were asked by Senator Rhiannon and Senator Ludlam. We have only just handed the answers to Senator Ludlam, but I will formally table them as answers to those questions that I took on notice during that debate. I seek leave to incorporate these answers.

Leave granted.

The document read as follows—

Questions asked during Committee stage of Senate Debate

National Radioactive Waste Management Bill 2010

Question: Transportation—Senator Rhiannon:

I ask the Minister to set out how [the transport route] has been handled and what the government's response is to the potential dangers of moving highly radioactive waste over such a long distance? Could you set out the form that the community consultation will take [on the transport route]? Or will the route be determined secretly? Will the consultation be on which route is to be used before it determined or is it to take place after the route has been determined?
Answer:

Community Consultation

As the regulator, ARPANSA is responsible for authorising the use of a site, for the construction and operation of a radioactive waste storage or disposal facility.

When applying for approval to use a site for a radioactive waste storage or disposal facility, the proponent will need to specify transport routes to the site.

In considering the siting approval, ARPANSA will undertake public consultation and may approve the application subject to various conditions.

The nature of ARPANSA's public consultations was outlined in previous Senate Inquiries. As stated by then ARPANSA CEO Dr Loy:

"[The regulations require] I seek public submissions…My practice has been to supplement that process with a form of public hearing, which I call a public forum, whereby people who have made submissions can come forward, present their submissions and their views and have them questioned and challenged by a panel. All of that takes place in the open, in public, with a transcript published …"

On potential dangers of moving radioactive waste

Safe transport of a large quantity of radioactive waste was demonstrated in an Australian context in 1993-94, when 120 shipments of waste were moved from Lucas Heights (New South Wales) to Woomera (South Australia).

ARPANSA has previously public stated: "The transport of the material is an issue that the radiation protection community at least would regard as pretty much solved" (Dr John Loy, former CEO of ARPANSA in evidence to the 2005 Senate Inquiry into the Commonwealth Radioactive Waste Management Bill).

Internationally, there has never been an accident involving the transport of radioactive materials where there has been serious harm to people or the environment arising from the radioactive nature of the cargo.

There are fewer hazards associated with transporting radioactive waste than there are with flammable and corrosives substances such as fuel and acid, which are routinely transported in and between our cities.

Question:


Are you familiar with [the NSW transport of radioactive waste inquiry] and what is your response to those findings?

Answer:

The 2004 NSW Inquiry was undertaken at time when the Lucas Heights HIFAR research reactor was being replaced and a site at Woomera was being considered as the location of a radioactive waste management facility.

The findings of the Inquiry were internally inconsistent and not an accurate reflection of transportation practices for radioactive materials around Australia or the world.

For example, while the report stated transporting radioactive waste from NSW to a national facility should be avoided, it contradicted this finding by inferring that wastes from "dispersed sites" from all of Australia could be "collected on a regular basis" and transported to Lucas Heights for final storage.

Nonetheless, the report did highlight the safety record of the transport of radioactive materials.

The report made the following findings:

- The transport proposals for low level waste can be safely managed, as evidenced by the Environmental Protection Agency and State Emergency Management Committee at the Inquiry;
- In the event of a transport accident, the risk of waste transforming into a form in which it presented risk to human health was unlikely;
- Every one of the 340 fire stations in NSW had a HAZMAT Plan, which is specifically designed to cater for emergencies which involve hazardous substances.

Question—Senator Rhiannon—Payne Report

The Payne Report highlights the lack of confidence when it comes to nuclear waste. What has been learnt from ANSTO's apparent failure to deal with security issues?
Answer:
The Payne Report was a 16-page report commissioned by the Sutherland Shire Council shortly after the events of September 11, 2001 as part of its campaign against the construction of the OPAL reactor in its municipality.

The report was solely reliant on information from public sources and Mr Payne's own observations. When writing the report, Mr Payne did not consult with ANSTO officers or national security authorities. Importantly, Mr Payne did not visit the site to ascertain the security arrangements. The Report was littered with factual errors.

At the time, the Australian Safeguards and Non-Proliferation Office (ASNO)—the regulator of security at ANSTO—dismissed the report and advised that security requirements at ANSTO were fully in line with International Atomic Energy Agency and national standards.

Security Requirements
Under the Nuclear Non-Proliferation (Safeguards) Act 1987 and the permits issued pursuant to that Act, ANSTO is required to ensure that adequate security measures are in place to protect their site at Lucas Heights.

ANSTO has comprehensive security protections in place, which are based on Australian and international best practice for the security of nuclear materials, radioactive sources and facilities.

ANSTO security is regularly reviewed by expert agencies to ensure security continues to meet the stringent national and international physical security protection standards. Those agencies include ASNO and ASIO.

A recent report from the Nuclear Threat Initiative, the Nuclear Materials Security Index, ranked Australia as number one of 32 countries including the United Kingdom, United States and Japan in terms of nuclear security. The Nuclear Threat Initiative is a United States NGO that works to improve global security and fulfilment of the goals of non-proliferation treaties.

Questions—Senator Ludlam—radioactive waste management facilities around Australia:

How many places are there around the country for storing radioactive waste of various categories that would notionally be carted across to a central facility?

Answer:
How many of these sites is estimated will we be able to decommission or stand down if we get a "remote dump out in the bush"?

Answer:
There are estimated to be over one hundred locations around Australia that store low-and intermediate-level radioactive waste.

These storage facilities include government stores, industrial facilities, universities and other research establishments.

Additionally, every significant hospital and university in Australia has some radioactive waste in storage. The total inventory of radioactive waste in all these holdings is relatively small.


States and Territories are currently responsible for managing their own inventories of radioactive waste. Closure of non-Commonwealth storage sites will be a matter for State and Territory jurisdictions.

Some States have acted to establish their own centralised waste management facilities. For example, since 1991, Western Australia has disposed of its low level radioactive waste at the Mt Walton East Intractable Waste Disposal Facility.

It would be premature to comment on the number of sites that will close once a national facility as this can only be finalised once the location of the facility is known and States and Territories settle their intentions to use the national facility.

However, it is likely that legacy waste inventories will be relocated, allowing for store closures. Facilities where waste is continually generated, such as hospitals, will require ongoing operational stores. However the volume of radioactive waste in storage will decrease in light of the availability of disposal and centralised storage capabilities at a national facility.

It is recognised internationally that the risk of inadvertent loss, damage or theft of radioactive
sources is minimised through waste management at centralised, purpose built facilities.

The Government's legislation is based on the principle of volunteerism and does not, of itself, assume that a site will be remotely located.

**Question: Nominations—Senator Ludlam**

"In broad as I can frame the question, are there any other sites under consideration and if so where are they?"

"Has anybody approached the Federal Government at any time—either the department or minister's office with an alternative proposal for a site?"

**Answer:**

The *Commonwealth Radioactive Waste Management Act 2005* currently allows the Chief Minister of the Northern Territory or a Land Council to volunteer sites for a facility.

The nomination of the site at Muckaty Station is the only nomination that has been made under that Act. No other nominations have been submitted to the Department or to the Minister.

The Department has not been involved in any desktop studies or further field work for potential sites since the site characterisation investigations undertaken by Parsons Brinkerhoff.

As acknowledged in the Senate debate on the Bill (8 February 2012), from time to time the Government has received suggestions on locations for a radioactive waste management facility. None of these have been pursued.

Once the National Radioactive Waste Management Bill 2010 is passed, the Minister will only consider sites, volunteered by landowners, under the protections and legal framework afforded by the legislation.

**Senator CHRIS EVANS:** by leave—I table a supplementary exploratory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 8 February 2012.

**Senator LUDLAM (Western Australia)**

(12:04): I thank the minister for the material he has tabled. The minister is quite correct in that I was given about two minutes' notice by an advisor, who brought this material up to my office right before the bells rang, so I have barely had time to skim these. Would the minister mind speaking to what is in these notes? There is a fair bit of material here.

**Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate)** (12:04): I am happy to, or we can move on and come back to that if it would give the senator a chance to read it. I did not think the questions were particularly germane to your amendment, Senator, but I am happy to do that. I am sorry, I did not get them until I returned to my office a little while ago. I am happy to take you through them, or we can move on and come back when you are ready.

**Senator LUDLAM (Western Australia)**

(12:05): Minister, we have not yet moved to specific amendments. I believe we are still on general questions, so I would appreciate it if the minister would talk us through these. I note Senator Rhiannon is not in the chamber at the moment, and about half of this material was in response to questions she put. If you are happy at this stage to address the material that I put to you I would appreciate it.

**Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate)** (12:05): I regard the responses to Senator Rhiannon's questions as just as important as the responses to yours, Senator Ludlam, but I am happy to focus on yours.

In the first question, you were seeking information about where radioactive waste was currently being stored, because of the government's argument that there are a number of depositories currently being used.
The answer is that it is estimated that there are over 100 locations around Australia that store low- and intermediate-level radioactive waste. They include government stores, industrial facilities, universities and research establishments. Of course, every significant hospital and university in Australia has some radioactive waste in storage.

I gather that the best point of reference for this is Australia's fourth national report to the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. As you know, states are currently responsible for managing their own inventories, and whether or not they choose to close sites when the national waste facility is established will be a decision for them. As you know, some have already established centralised waste management, like in Western Australia at the Mount Walton waste disposal facility. We think it is likely that many of those inventories will be relocated but, as I said, decisions about that will be up to those responsible for the facilities. I think that is the main question you were seeking an answer to. You also asked a question about alternative sites. The answer is that the Commonwealth Radioactive Waste Management Act 2005 currently allows the Chief Minister of the Northern Territory or a land council to volunteer sites. The nomination of the site at Muckaty Station is the only nomination that has been made under the act; no other nominations have been submitted to the department. None of the informal approaches have been pursued by the government. Once this bill is passed—if it is passed—the minister will only consider sites volunteered by landowners under the protections and legal framework afforded by the legislation. I think that covers the key questions you asked of us. Many of Senator Rhiannon's questions go to some of those issues to do with historical reports, I will also make sure that that is delivered to her office if she is going to join us later.

Senator LUDLAM (Western Australia) (12:08): I thank the minister. I will set aside your answer to the question about whether any other sites are under consideration as I think that has been addressed by some of your advisers at various estimates committee hearings as well. Your answer is consistent with what they have been telling us, which is that it appears that the process is on hold until such time as the issue of the Muckaty nomination has been resolved. Today of all days—when the entire country, from the most senior levels of government down, is consumed with other matters—I think it is cynical in the extreme to seek to pass a bill as contentious and controversial as this one. It is obviously a day when the press gallery have other issues in mind.

The first question that I put to you, minister, was around the number of sites that would close. I put that question to you for a reason. In some of your opening remarks, and certainly in the minister's remarks and in the debate in the other place, we frequently hear that there are hundreds of locations around the country at which materials are being stored. The implication is that they are being stored unsafely and that that is the reason we need a centralised remote radioactive waste dump. The question that I put to you is fairly simple: if we are doing that in aid of closing these sites, which number over 100—that is the response you have given—then how many of them will close?

The department, despite having a fortnight to provide us with an answer to that question, has not been able to give us a number at all. The minister you are representing in this place has handballed it back to the states and said, 'We don't know.' I put it to you,
minister, that it is inappropriate to be using that line of argument if, when pressed on how many sites will close, you are unable to tell us. My suspicion is that none of the sites will close because there is no proposal to reduce the production of this material in any sense. There is no proposal, as far as I can tell, as a result of opening up a dump at Muckaty or anywhere else, to close any of the sites. So I think it is disingenuous in the extreme to run an argument that the dump is needed because of all these sites around the place which are unsafe. I would like the minister to provide us with a list of which sites are unsafe. What are the sites of concern? Where are we storing this material where it is not safe at the moment? Why are we allowing it to be stored at hospitals, university engineering departments or wherever? Why are we allowing that to occur? Why should it take the establishment of a remote waste dump to provide for secure storage of these materials at these sites that are dispersed around the country?

In the brief time I have had to consider the minister's response—and I think this might have been mentioned in passing in some of the responses to Senator Rhiannon's questions—I think some of the opposition to a remote waste dump is inconsistent. On the one hand, you say you do not want this material transported to a remote or centralised site; on the other hand, you contradict that by suggesting that waste from dispersed sites all over Australia should be collected on a regular basis and transported to Lucas Heights. I do not think there is any inherent contradiction there. That was in an answer I have just scanned to Senator Rhiannon around the New South Wales parliamentary inquiry in 2004, which was a very good report. You will not find many people who oppose the idea of concentrating and potentially centralising these wastes together in a single place, which will require transport of low-level radioactive waste of various categories. The big argument I have, and which many people have, is about whether it should be at a cattle station outside Tennant Creek or in the active care and maintenance of people who are well qualified to look after it.

The minister will be well aware that the proposal here is to transfer several hundred cubic metres, or in the low thousands of cubic metres, of this material from active care and maintenance at Lucas Heights, where it is surrounded by a security perimeter fence with Federal Police and in-house security and actively monitored and looked after by technicians and people very well qualified to look after it. I think that is appropriate. For as long as we are producing these categories of waste, it is appropriate. We do not think we should be producing this waste, but we will canvass that later in the debate. It is looked after by people who are qualified to do so, people who are trained in the dispersal patterns of this material and who know how it behaves over long periods of time with exposure to water and so on.

That kind of centralisation and looking after this material at a central site is completely different from loading it onto trucks and taking it to a cattle station where it will be looked after by six of the loneliest security guards on the planet. That is the proposal—two security guards on an eight-hour rotation for the next 300 years! That, I think, is what has got people upset, and at no time has the Commonwealth government made a case for why that is appropriate—for why this material would be somehow safer under the care and maintenance of two security guards than it is under the care and maintenance of the technicians and people who have been looking after it at Lucas Heights for 60 years. That is the essential case that the government has failed to make. I do not think there is anything inconsistent
there. That is my very brief reading of the critique of the 2004 New South Wales parliamentary inquiry. I do not think there is any contradiction there at all. At the bottom of the minister's response to my answer on radioactive waste management facilities around Australia, there is a paragraph that reads, 'The government's legislation is based on the principle of volunteerism and does not of itself assume that a site will be remotely located.' My question to the minister goes to this principle of volunteerism. I do not have the quotations here in front of me on the Muckaty nomination but they are quite powerful. They are by the government's proponent, who put the proposal for a remote site to the Northern Land Council. They then forwarded it to the minister for his consideration. The proposal was that they need road upgrades and they are looking for some educational facilities. There has been this process in the NT and across remote Australia of withdrawing support for remote Aboriginal communities, for closing out stations and for concentrating people in particular sites. If I understand their submission correctly, these people are after basic upgrades to infrastructure that has been withdrawn and they are after educational opportunities.

Here is the problem with volunteerism. We can go to some of the most structurally disadvantaged communities in the country, people who are starving for resources and being forced off their land because we are not providing adequate resources, and say, 'Who's interested in a cheque for 12 million bucks?' in a school. That is what our principle of volunteerism amounts to. It takes politically vulnerable and extremely disadvantaged communities and says, 'In exchange for hosting this material that is perfectly safe—which is why we have to remove it from a metropolitan area. It is so safe that it cannot stay in Sydney any longer. We will provide you with basic infrastructure and services that the rest of the Australian population take for granted.'

Minister, I have a serious problem with what sounds innocently enough like the spirit or the principle of volunteerism, which I am presuming the government is setting in counterpoint to the spirit of coercion, whereby we simply roll into your community and tell you that you are going to get the dump. The principle of volunteerism means, in practice, that disadvantaged communities are being coerced into accepting this material. That is why this is not about Muckaty.

We have heard a huge amount of it about Muckaty because it is named and explicitly targeted in the legislation that we are debating today. But it is not about Muckaty. It is about the principle of why we always assume that it should be a remote Aboriginal community's job to host this toxic material until the end of time. That is the essential problem, here. There is every reason to believe that the Muckaty nomination will fall over. This is either because we will see sense in parliament and reject this bill or the Federal Court will find in favour of the applicants that the land was not properly nominated or that the community campaign that has sparked up around the country continues to do its work and rolls Minister Martin Ferguson right out of parliament in the next election, if not sooner.

If the Muckaty nomination falls over, we have every reason to believe that we will be visiting this disastrous and coercive project on some other community. Perhaps it will be in western Queensland. Perhaps it will be back in the north of New South Wales. Perhaps, Senator Evans, it will be in your state and mine, through you, Temporary Chairman Furner—Western Australia, that already hosts a low-level state radioactive
waste dump. That is the essential problem I have with this legislation. It has not been justified. The principle of remote storage has not been justified and it has been done to cover some pretty dodgy arguments.

The question that I put to you, Minister, is whether you disagree with my contention. What is noted here in the minister's answer to my question, as the principle of volunteerism, is simply economic and political coercion under another name.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:18):
There were a fair number of issues raised by Senator Ludlam in that contribution. The first thing to say is that the accusation of us being cynical in the timing of us bringing on this debate is a bit of a low blow. The senator is well aware that we started this debate in the last parliamentary week and we were not able to complete it. It was always listed to come on today. Unfortunately it started a couple of hours later than I would have liked as the result of us delaying the start of parliament.

I have made it clear to Senator Ludlam—and the Greens, more generally—that the government's priority was to try to get this bill carried; it has been hanging around for a long time. The fact that it came on today at the same time as a leadership ballot inside the Labor Party is just coincidence. We always intended to bring this bill on long before I was aware there was going to be a leadership ballot in the Labor Party today. So that is an unfair accusation.

The assertion that we accept or have argued that the current waste has been stored unsafely is not right. That is not a claim we make. We do make the claim that we will need a proper waste management facility because of the current inventory around the country and the waste that will be returned in a couple of years time from France and the UK. We think there is a case for a proper waste management facility and we are also confident that the current waste is being managed in accordance with the existing safety regulations.

It is also the case that the inventory is growing. We have the prospects of more being returned to Australia in a proper, dedicated facility and it makes a huge amount of sense. It is also the case that there is a lot of activity at Lucas Heights, as I understand it. I have not been able to get down there since being made minister for science. I understand there is quite a strong building program going on at Lucas Heights and quite a bit of development. All of this supports the proposition that we ought to move to a dedicated facility.

I understand that it is international best practice that waste should be stored in centralised facilities and that best practice is for it be in one location. The more remote locations are regarded as being consistent with best practice. In terms of volunteerism, Senator Ludlam answered his own question. He said that you can do it voluntarily or you can do it compulsorily. The point is, we are trying to do it in a way that provides for people to volunteer a site. One can be critical about that and see it as coercive or one can go for the coercive option, which says that we are just doing it compulsorily. That criticism also is not fair.

Senator Ludlam, you do not like the proposition. I accept that. But some of the criticisms, quite frankly, are not well based and some of the arguments you are seeking to use are not fair. You do not like the central proposition—I accept that—but you cannot argue against volunteerism and also argue against compulsory acquisition. It has to be one or the other. Then you find fault in
calling for people to volunteer. That proposition is not consistent.

We think the volunteerism approach is the better approach. It leaves us with more chance of success in getting this proposition up and running, given how long it has taken and how difficult the debate has been about establishing a proper radioactive waste management facility. As I said, there are a range of reasons we think establishing the facility is consistent with best practice for storage of radioactive waste. It allows us to deal with a growing problem. It is not a problem that currently sees us having unsafe practice but it is a growing inventory, with a prospect of more returning. We will have a better waste management regime in Australia by going down this path.

**Senator Di Natale** (Victoria) (12:23): I have an interest in this bill for several reasons. I was lucky enough to spend several years in Tennant Creek. I mentioned it in my first speech, in fact. I worked there as a doctor in an Aboriginal health service. It is a place that is very dear to my heart.

If you have ever been to Tennant Creek—it is probably because you have driven up the highway from Alice Springs to Darwin. You might have stopped at Tennant Creek to get some petrol on the way. At first instance it looks like a fairly bleak place. Often the temperatures there are up into the forties. A lot of the shopfronts are boarded up and there are bars on some of the windows. So people can sometimes get the wrong impression—that it is a community that is in decline.

But once you move beyond that you find a very rich, very complex and deep culture, with a community that has a profound connection to the land on which the people live. We have had some of our fondest experiences in the region. In fact, some of the old women sang a song to me and my wife. They told us that as a result of the song we would get married and have babies. Sure enough, my wife—who happens to be here today, by coincidence—and I have two young kids. I often think back about the song in the back of the Land Cruiser on the way out to get bush tucker. Every now and then when the kids drive me mad I think of what might have happened if that song had not been sung that day!

Tennant Creek is a place that has its problems. There is no question that, like many areas of Indigenous disadvantage, there are people there who are struggling. I am not going to go into all the causes of Indigenous disadvantage; it is a long and complex story and I know that successive governments have done at least a little to try and address the problems. But if there is any support for this proposal—I have to say the support is quite scant—it comes from a place of desperation. It comes because successive governments have not done enough. We have Indigenous communities who are desperate. They are desperate because they cannot get their toilets or their plumbing fixed. In any other public housing situation anywhere in the country we would expect it to be fixed but if you live in a remote Indigenous community or in one of the town camps and your loo stops working or your taps stop running it can take weeks before someone will come and fix that really important piece of infrastructure that makes a big difference to people's health.

So there is a question of Indigenous disadvantage and the desperation that comes from that, that may have led some people—very few—in the region to have expressed at least some basic level of support for the proposal. But my understanding is that the level of support for this proposal is next to non-existent. In fact, one of the recommendations from the Senate Legal and
Constitutional Affairs Committee was to hear from some of the traditional owners. In fact it said:
The committee recommends that as soon as possible the Minister for Resources Energy and Tourism undertake consultations with all parties with an interest in or who would be affected by a decision to select the Muckaty Station site as the location for the national radioactive waste facility.

My understanding is that the minister has ignored the recommendation from the Senate Legal and Constitutional Affairs Committee. I think that is disrespectful not just to this institution but to the many people of that community who have warmly invited the minister to visit them. I will quote from a letter sent to the minister as far back as 2009, from some of the traditional owners of the area. They said:

Try and make an effort to come down and talk to us. We want to invite you ... to come out here and come face to face with Traditional Owners.

We want to show you what we are talking about and why are we talking about it.

The old Warlmanpa people really want to see government people come out so we can talk face to face with them without writing letters, because we don't even know what Martin Ferguson looks like.

We want you to now that Traditional Owners are waiting to show you that the country means something to them.

In another letter to the minister, the traditional owners say:

We need our opposition to the nuclear waste dump to be understood and respected by Government and especially Minister Martin Ferguson.

All our tribes in Tennant Creek have been talking to each other and we will all get together to protest by doing traditional dance showing the design that represents the land Karakara in Muckaty Land Trust.

Our message is always: We don't want the nuclear waste dump anywhere in the Muckaty Land Trust.

These are our concerns:

* We told the government that Karakara is sacred land.
* Only Men talk about the land. No women talk for Karakara in the Muckaty Land Trust.
* The site for the proposed nuclear waste dump is in an earthquake tremor zone. What if an earthquake opens the nuclear waste storage and radioactive waste falls into our groundwater basin? We don't get our water from the city, town or from the coast. It comes from right below us. The Warlmanpa elders always said that the Karakara is not Milwayi country. Milwayi is a snake dreaming travelling through Karakara and Muckaty Land Trust to Helen Springs. Milwayi is the totem for the ancestors' ground. Is the government going to regret everything later when a disaster happens like what is happening in Japan right now?

The government should rethink about the whole nuclear cycle and leave our traditional cultural, spiritual homeland alone.

That is just one of the letters that has been received that the government, and the Minister for Resources and Energy in particular, needs to take heed of. The minister needs to have the courage to face these people and hear from them directly.

My question is: has the minister visited the
Senator CROSSIN (Northern Territory) (12:30): I know Senator Di Natale has a question before the minister, which I am sure he will answer in a moment. I appreciate the fact, Senator, that you have lived and worked in Tennant Creek and I certainly welcome the fact that you do come into this chamber with knowledge of that community and of the Northern Territory. That is a very welcome contribution here.

I want people in this chamber to understand clearly that we have two things happening. The National Radioactive Waste Management Bill before us is a vast improvement on the legislation that was put through this parliament under the coalition government. That is because it will take off the list the three defence sites that had been previously nominated. I urge, and have urged, this parliament to consider this legislation. One of those sites in Katherine borders Barry Utley's pastoral property—his wife Val unfortunately passed away during the 2007 election campaign—and he needs that list amended. He needs to be assured that this site will not be built anywhere near the defence site at Fishers Ridge in Katherine. We must give this man some ability to move on with his life. That defence site was posted on a list somewhere years ago. I am urging the Senate to start looking at that.

In the legislation there is the capacity for the minister to do just what you want, Senator Di Natale—that is, to consult with the communities concerned. This legislation will enable the minister, the department and ANSTO to get out into the community to start talking and educating people about what this facility is about. They need this legislation in order give them the ability to speak authoritatively. Plenty of people have spoken to people in that community about what the waste dump or the facility means—whatever we want to call it these days—but we need this legislation to provide the officials from ANSTO and ARPANSA with some authority to go into those communities to talk about what exactly is going to be stored and how it is going to be stored.

Alongside this, we have a group of Indigenous people in the Northern Territory who, through the Northern Land Council, have volunteered to have this facility built on their land. Am I happy about that? As a Territorian, probably not. This facility must be built somewhere and we have had Indigenous people put their hands up to say, 'Well, we'll host it on our land.' Senator Di Natale is trying to say that this chamber should decide whether or not that was the right decision. It is not for this chamber to do that. I understand that the position of the Greens is probably that they do not want this facility built anywhere in this country and they would like to delay this legislation as long as possible. But this chamber has to respect the fact that we do have Indigenous people who have volunteered their land—Senator Di Natale talked about Milwayi, the Karakara people and the people of Tennant Creek—the community of Tennant Creek is not happy about this—and that this is now being tested in a court of law and the minister has said he will respect the outcomes of that court case. This legislation can still go through this parliament while that court case is proceeding. The outcome of the court case will depend on which section of this legislation is triggered and put into action first.

I think you are suggesting that we do not want to respect the right of Indigenous people to offer their land up. That is exactly what has happened here. Indigenous people
volunteer their land all the time—to have railway tracks go through it, to have roads go through it, to have gas pipelines go through it, to have uranium or bauxite or iron ore mines on their land at each and every stage. Sometimes those decisions are not popular, but if it is a decision that those Indigenous people and those traditional owners have made, we have always in this country respected their right to do that. In fact, we have legislation in the Northern Territory—that is, the Northern Territory land rights act—whereby we fund and auspice the four Northern Territory land councils to facilitate that process. If that process is challenged, as it was in the case of the Kenbi land claim, it goes to court. There are winners and there are losers. The Greens have to accept that in this case there may well be an outcome for the Northern Land Council and the people who have volunteered their land in this court case.

It may well be the outcome that the challenge to their decision and their right to nominate this land is not successful. And then what do we do? Do we then consider legislation? The minister has set up this legislation so that at least three defence sites are taken off the list. There is a process here to determine how the site will be dealt with and managed. You talk about it being in an earthquake zone. I see no evidence of that. In fact, I see it is outside the sphere of tremor activity. Nevertheless, I am not an expert in that and I suspect that neither are you or anyone else in the Greens.

This site, if it proceeds, will be subject, I would imagine, to a very rigorous environmental protection assessment. I do not think for one minute that ANSTO or ARPANSA would agree to regulate a facility if they were not absolutely convinced that it would last for many hundreds of years. I have faith in those scientists and in those organisations.

I think what is happening here today is that people are frustrated that Indigenous people have actually nominated their land and their site, so those people are going to do everything they can to try and delay and frustrate the process. But at the same time we have legislation to move this debate forward. If the court case is not successful, this legislation at least provides this government with a range of other options and with a means of moving forward. It also provides this government and the officials concerned in ARPANSA, ANSTO and the department with legislative protection and the means to get into the community and consult.

I have been in the Territory as you have, and there are all sorts of stories about what may or may not happen as a result of this facility being built. Similarly, I heard all sorts of stories about what might or might not happen when bauxite was mined on the Gove Peninsula. We hear all those kinds of rumours. Sometimes they come to fruition; sometimes there is damage to the environment; and sometimes we have to wait and see and have faith in the processes that are in place.

I understand the frustration about what is happening, but there are two processes running side by side. Our job today is to make sure that we get through this parliament a good legislative base to move forward with where we are going to put the radioactive waste we have generated in this country. The preferred option is at Muckaty. Why is that? It is not because this government went into the Northern Territory and fingered the people at Muckaty. This government said that they would abide by the nomination of that land, which was given through the Northern Land Council many years ago—before we got into government. We have also now said on the public record that the nomination is being challenged and that as a government we will wait until the
outcome of the court case. I think that is a very fair and reasonable position to take.

In the meantime, we need to get this legislation through. There is a person in Katherine who is waiting to deal with his property, and he is hamstrung because it is beside a defence site that has been named as a possible place for this facility. Under this legislation, the list is gone; that is a good thing. We know that under this legislation there is a judicial review of the minister's decision. We know that under this legislation the minister can send a team in to consult with and educate people about what waste would be stored and how it would be stored. I think they are three very good reasons to move the debate in this country forward and to start to deal with this.

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:41): I want to put that on the record—it is a bit more than 120 kilometres. I think Senator Crossin has probably answered most of the other concerns you raised, Senator Di Natale, but I am happy to respond further.

**Senator DI NATALE** (Victoria) (12:42): I suppose that, in Territory terms, 120 kilometres is 'around the corner'. I appreciate Senator Crossin's comments and I appreciate the fact that she has acknowledged the widespread opposition to this site. My own view is that sometimes a small group of desperate people will do desperate things, but that in and of itself is not a justification to push ahead with this sort of proposal. The fact that one person is concerned about the prospect of a facility being built next to them is certainly not a justification for imposing this on the traditional owners.

I will correct one thing that Senator Crossin said. I do not think anyone mentioned volcanoes. I certainly did not put forward the proposition that the earthquake zone was a reason not to build at that site. That was the view of a traditional owner; it was not my view. I think it is incumbent on the minister to ensure that he is able to assuage the concerns of the traditional owners. It is important that he carry through with the recommendations from the Senate committee and that he talk to the traditional owners who have concerns.

The main thing I want to respond to in Senator Crossin's comments is the notion that this thing has to be built and that that is essentially the crux of the matter. Senator Crossin's words were, 'We have to build this thing.' One of the arguments put forward to ensure that we have this facility built is that somehow we need it because, without it,
Australia's nuclear medicine industry is in some trouble. We heard from the minister that 500,000 patients annually benefit from radioisotopes. In the typical divide-and-conquer approach, he says that anybody who opposes it is seeking to deny people diagnoses and treatment. As somebody who spent a number of years working in the health profession, I have to say it is pretty offensive to hear from the minister that by opposing the site of this facility you are in fact denying people access to important diagnostic medicine. Nothing could be further from the truth, and I am not the only health professional to reject this idea. It serves nobody's interests to try to advance the proposition that you either support this facility or you reject the use of radioisotopes in medicine. It is not a simple and straightforward proposition; the truth is much more complex than that, and I am not the only doctor who rejects that simple dichotomy. In fact, it is incredibly misleading to claim that a large-scale nuclear waste repository such as this one is necessary to handle the minuscule amount of nuclear medicine generated in Australia. It is a tiny amount. It makes up a very small proportion of the waste that will be located in this facility. Of the 500,000 nuclear medicine cases performed every year in this country, most of the isotopes that are used degrade very quickly—within a few days. In fact they are degraded by the time they would be taken to the Northern Territory, and the waste is disposed of pretty safely. There are secure sites in hospitals right around the country, and those storage areas are going to continue regardless of whether this facility goes ahead. So this idea that somehow we need this site in order to continue to have a nuclear medicine industry in this country is just misleading. The fact is that ANSTO would continue to store the waste at Lucas Heights, where Australia's nuclear expertise already exists.

This is a position that is shared by a number of other health professionals. The Public Health Association of Australia, for example, shares this view, as does the Medical Association for Prevention of War and a number of eminent specialist members of that association. The AMA, which is hardly a bastion of bleeding-heart activism, has called for an inquiry into how we source our radioisotopes in the future. There are widespread questions around this notion that we need this to enable our nuclear medicines industry to continue.

Internationally, we know the experience is heading down a very different route to the one proposed here. Canada has made a decision recently to shift towards particle accelerator generation, for example, for all major medical radioisotopes. Right around the world this is happening. Belgium, Germany and other countries are all heading down a very different path to the one that we are pursuing.

I would be keen to know whether there has been any work done on quantifying the exact volume and nature of medical waste presently in storage—and of the expected volume in the future—as a justification for this proposed site.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:47): Again there is a lot in Senator Di Natale's contribution. Much of it goes to his arguments for why he opposes the bill. When I responded earlier I should have suggested that, in terms of protection for sustainable population, he should be careful in case his numbers are further affected. As I understand it, it is the waste from production of nuclear medicines that requires careful management.
We have asserted that production of medical isotopes produces radioactive waste which requires suitable long-term management arrangements. We continue to assert that and we consider that the changes we are making are to implement best practice and to allow us to store the increasing amount of waste, including in our considerations the prospect of the waste being returned from France and the UK, which is a Commonwealth responsibility.

In an answer to an earlier question from Senator Ludlam—the answer was one of the written answers I gave him—I said that we cannot be definitive about which of the current sites will transfer their waste to the new facility. Obviously the Commonwealth will be looking to do that, but the states have responsibilities for their own waste and who takes advantage of it. From where and how much will be decisions for those responsible, but we do think that legacy waste inventories will be relocated.

I know that the Greens are opposed to this bill and are continuing to argue their case. That is fine, but fundamentally we disagree. We think the waste management facility is needed. We do think there are strong arguments for it to be established. The issue has remained unresolved for many years. I know that you argue that it is safer and better to continue to store the waste in a range of more than 100 facilities around Australia. That is your position; I fundamentally disagree. We think that the increasing inventory of waste to be returned from France and the UK builds the case for having a dedicated radioactive waste management facility built in and supervised in accordance with world's best practice. That is a fundamental disagreement we have, and I am not sure I can address that any further in the sense that you have your view about that and we have our view about that, and it seems we are not changing your opinion. I do not know whether the Greens' tactics are to continually delay the bill or not, but I think it would be useful if we moved on to debating the Greens amendments. That would give some structure to the debate. I am happy to answer any questions you have in the best way I can, but fundamentally my answer does not change in terms of our view about the need for that waste management facility.

Senator LUDLAM (Western Australia) (12:51): I will shortly move to the first amendment we propose—an amendment to the objects clause of the bill. But first I note that before we rose the last time we were debating this bill, that I put a number of questions to you, Minister, and that you have provided answers to nearly all of them. I put a question to you, which the advisers might be able to help you out with now, around the absolute quantitative volumes of material in different categories. I also put the question to officers at an estimates hearing the week before last and you said, 'I'm not going to let the officer answer that because you have taken it on notice in the chamber.' That does not appear to have come back in the documents you provided this afternoon. Can I get a reading, please, on whether that material will be provided?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:52): I do accept what Senator Ludlam said. I think it was partly covered off in the response. I will double check whether the Fourth National Report for the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management—a sexy little title, I must admit—contains that information. I understand that report actually contains an inventory. I am advised that is correct. Apparently it is on the department's website. Senator Ludlam. I will see if I can get a copy for you. That would be the easiest
thing. I am advised that the inventory is described in that report.

Senator MADIGAN (Victoria) (12:53): Whilst I agree in principle with having a central location, my concerns with the bill relate to ARPANSA. I have had many people from Victoria come to me in my office and I have had many calls from across Australia regarding ARPANSA's accountability for and policing of mobile phone towers, EMR and other issues. I would be very keen to hear where the checks and balances are, that the accountability, policing and security of the facility will be handled properly and that we in the parliament can be assured that people's health et cetera will be covered. Some people have expressed to me a concern that when they express their concern to ARPANSA they are somewhat flippant. As I said, as much as I am concerned, in principle I am in support of the bill but want to be sure that the safeguards are in place to protect people. One of the Greens senators mentioned that there are facilities. I do not want to see a situation where we have short-term gain and long-term pain or question marks through the community. If something does go wrong or if there are concerns, I would like to see that they are addressed with the full weight of government behind them.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:56): In response to Senator Madigan, the simple answer is that ARPANSA has statutory responsibilities under its act for these regulations and safety matters. It is for this parliament to give ARPANSA its function and role in the regulation of these issues. We also seek to have world's best practice in our regulatory framework. I cannot do much more than answer by saying that those statutory obligations are set by us the parliament for ARPANSA to follow.

If Senator Madigan has serious concerns about ARPANSA's operation, then I am happy for him to put those to the government and to follow those up. Opportunities at estimates could be pursued as well. But they have a statutory responsibility to regulate the issues that you raise. I have confidence that they continue to take that responsibility very seriously. But, as I say, if there are issues that the senator has with the way they are operating or how they are dealing with complaints, I am sure we would be happy to take those on board.

Senator LUDLAM (Western Australia) (12:57): The Minister for Tertiary Education, Skills, Science and Research mentioned on a number of occasions the concept of 'world's best practice', and I am going to take the bait because it is always interesting when that phrase gets flung around. I would like to follow up on a question I am not sure the minister gave an answer to put to him by Senator Di Natale. Since the Minister for Resources and Energy became the minister, has he at any time visited Tennant Creek to talk these issues through not just with the traditional owners who brought the action in the Federal Court or the larger circle of families around them but also with the Cattlemen's Association, local government or the rest of the residents of the town? Has he been there at all?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:58): I will take that on notice. I am not sure that the Minister for Resources and Energy has, his advisers tell me. He has met with some of the traditional owners identified by the land council. The whole bill is about setting up those procedures for consultation and
engagement with those responsible for any volunteered site. I am sure he has been at Tennant Creek at some time in his career, but my advice at the moment is that he has not been in Tennant Creek engaging on this issue as part of this process. As I say, he has given the indication very strongly that once the bill is passed, if it is passed, those appropriate procedures that are contained in the act will be implemented.

Senator LUDLAM (Western Australia) (12:59): I suspect the minister will not need to rise to correct the record, because I believe he is quite correct—he has been advised correctly, despite the first recommendation of the Legal and Constitutional Affairs Committee's report which Senator Crossin, who made a contribution earlier, made, which was to go and talk to the people. It is good to know that he has met with the people in Darwin who agree with him. He has not met with anybody in Tennant Creek and he has never been there, to my knowledge, in his capacity as the minister and has not even had the spine to turn up and tell people what it is that he is proposing that they host. It is not much help to us or those people to say that once this bill is through he will then get up and consult.

What this bill does—and I will constrain my remarks now because we will go into this in a bit of detail when we are proposing amendments to fix these grievous flaws in the bill—is give him absolute, total, unfettered discretion to decide where the process will unfold. He is going to nail a pin in a map at Muckaty, once he has worked out exactly where on the map it is, and the bill that we are debating today gives him total and unfettered discretion to decide where the location. So much for consultation. People will be consulted—or insulted—once the decision on the location has been made. We will get into this in a bit of detail, but I did want to pull the minister up on his repeated use of the term 'world's best practice'.

I want to talk about recent experience in the United States, in particular the US blue ribbon panel. My question is whether or not the government has examined its findings. On 26 January, after working for two years, President Obama's Blue Ribbon Commission on America's Nuclear Future issued its report. Keep in mind that the United States government and Department of Energy are dealing with a vastly larger stockpile of high-level radioactive waste, categories of waste that we do not technically produce here in Australia. It is not just from research reactors, obviously, but from a fleet of nuclear power stations that are in the low hundreds. They have a very keen interest in resolving this issue and they have had the same disastrous experience but on a much larger scale as the Australian government has in attempting to coercively dump this material, in their instance on native American land.

The commission that I am referring to was established by President Obama to create safe and long-term solutions for managing and disposing of the United States' nuclear waste inventory. The panel was tasked with devising a new strategy for managing the growing inventory of nuclear waste and it made recommendations based on consulting with experts, stakeholders and visiting nuclear waste management facilities in the US and overseas. It was co-chaired by former congressman Lee Hamilton and a former national security adviser, Brent Scowcroft. The report noted that President Obama had halted the disastrous Yukka Mountain proposal, which was projected to cost US$90 billion—billion with a 'b'—and had already absorbed $12 billion just in studies and in engineering tests and so on by the time it was finally cancelled by President Obama.
Anybody watching that project would probably have seen that coming for a decade or so, because that project was plagued with problems and scandals from the very beginning. I think we can take that as something of an impasse about nuclear waste management in the United States. To break that impasse, the President proposed the blue ribbon commission. He said at the time that there was an urgent need for a new strategy, and he pointed out that ethical obligations do not burden future generations with a task—in other words, it is not good enough to just kick the can down the road, dump this material off on somebody's land and hope for the best.

The strategy that the commission outlined has three crucial elements. The first is vitally important and it is precisely the fatally flawed scheme that we are debating today and which Minister Martin Ferguson, the Prime Minister—I believe she still is—Julia Gillard and the Howard government cooked up, presumably with many of the same senior bureaucrats who still occupy these positions today. Firstly, the commission recommends a consent based approach to siting future nuclear waste storage and disposal facilities, noting that trying to force such facilities on unwilling states, tribes and communities has not worked. In the instance of the US, it was in Nevada. I will quote from the report briefly:

This Subcommittee recommendation flows directly from an examination of the history of waste-management efforts in the United States and other countries. We drew several lessons from the decades-long effort to site a repository at Yucca Mountain in Nevada and from the ultimately successful completion of the Waste Isolation Pilot Plant (WIPP) facility in New Mexico. One lesson is that support for a facility (or at least acceptance)—both in directly affected communities and on the part of the host state—is a critical element of success. A second is that transparency and accountability, along with the flexibility to adapt to new information and to the concerns of key constituencies, are essential to sustain public trust in decision-making processes and institutions. We believe that a good gauge of consent would be the willingness of the host state (and other affected units of government, as appropriate) to enter into legally binding agreements with the facility operator, where these agreements enable states, tribes, or communities to have confidence that they can protect the interests of their citizens.

The panel went on to say:

The approach to repository development laid out under the Nuclear Waste Policy Act Amendments of 1987 was highly prescriptive, subject to inflexible deadlines, and—as actually implemented—widely viewed as being driven too heavily by political considerations—this all sounds terribly familiar, doesn't it?—(as compared to independent technical and scientific judgments). By contrast, other countries—notably Canada, Finland, France, and Sweden—Australia is missing from that list, Minister; that is interesting, isn't it?—have adopted a phased, adaptive, and consent-based approach to facility siting and development. Finland and Sweden, in particular, have each successfully sited a deep geologic repository with the support of the host community.

Neither of those two facilities is currently operating on a large scale. All of this around the world is still operating on a trial scale, but at least what they attempted in those jurisdictions was an adaptive and consent based approach.

The panel went on to say:

The roles, responsibilities, and authorities of local, state, and tribal governments (with respect to facility siting and other aspects of nuclear waste disposal) must be an element of the negotiation between the federal government and the other affected units of government in establishing a disposal facility.
There is another question for us: we, for obvious reasons, have focused our efforts and energies on supporting the Aboriginal communities in the area who do not really have the resources to make their voices heard—although they have done an exceptional job of doing so—perhaps to the neglect of the local government authority in that area, which is implacably opposed, and, of course, the Territory government, which opposes this as well.

The panel went on to say:

... all affected levels of government (local, state, tribal, etc.) must have, at a minimum, a meaningful consultative role in all other important decisions.

That is totally absent here in Australia.

... additionally, states and tribes should retain—or where appropriate, be delegated—direct authority over aspects of regulation, permitting, and operations where oversight below the federal level can be exercised effectively and in a way that is helpful in protecting the interests and gaining the confidence of affected communities and citizens.

Senator Scullion has joined us this afternoon in the chamber, and he has been involved in this debate for at least as long as I have—probably longer. Senator Scullion, that was your job: to do what they are trying to do in the United States and to make sure that the Territory government and the local government authority has a voice. That has not been done, and so it has turned out to be up to people from Western Australia and all over the rest of the country to stand up and make the obvious point that the Territory government opposes this thing. The Territory Chief Minister, I think, has done a very effective job in advocating for the rights of Territorians where their advocates in here on both sides from the old parties have gone missing in action.

The blue ribbon panel in the United States goes on to say:

... to engage in meaningful consultation on matters related to nuclear waste storage, transport, and disposal, and to exercise their proper regulatory roles and responsibilities in this context, local, state, and tribal governments need access to sound, independent scientific and technical expertise.

We certainly have not seen anything remotely approaching that here in Australia. Perhaps the minister will stand up in a moment and tell us that, once this bill has been rammed through and the minister has total and unfettered power to put this thing wherever he likes, maybe the consultation will happen then. We recognise that once the minister has nailed a particular spot into the map—we know that at the moment it is Muckaty—a whole heap of processes unfold.

I have spent a great deal of time quizzing ARPANSA in budget estimates hearings, and also the department of the environment, on exactly what their processes will look like under EPBC and under the ARPANS Act. So I am not suggesting that all due process has been blown away by this bill in terms of assessment, because that is not the case; this is the beginning of a very long road, not the end of it. But in terms of site location—the key decision about where this thing is going to go, where all this process will unfold, who will be consulted with and so on—that decision is made by the minister, if he chooses, alone in a room by himself, to just stick an X on a map. That is what is completely inappropriate, and that degree of discretion, in my view, is inordinately dangerous. You would not site a shopping centre car park using processes like this, yet we are proposing to site the nation's first high-level and intermediate-level radioactive waste dump using precisely that process. It is a disgrace.

The panel goes on to say:
The UK government reinitiated its waste management program relatively recently—in 2001.

Again, in the UK there is a large inventory of high-level radioactive waste from a nuclear program designed in the 1950s and 1960s with no clue about how to deal with the waste products generated. It sounds familiar because that is exactly what happened here in Australia. Isn't it extraordinary? In 2012 we are debating what on earth to do and where to put the waste materials from a reactor that was started up in the fifties under the Menzies government. They did not come up with a plan for the waste, just as they did not in the United States or the UK. The panel say:

Engagement and consultation with the public as well as commitment to an open and transparent approach since the very beginning of the process played a significant role and to date three communities in northwestern England (Cumbria CC, Copeland BC and Allerdale BC) have expressed their interest in being involved in the site selection process.

So they have expressed interest in being involved, not put their hands up and then had this predatory government adopt the same processes that had been adopted by the Howard government to nail them to the wall in exchange for a cheque for 12 million bucks and improvements to a road.

This is the blue ribbon panel again:

Perhaps even more important, states and affected communities—in order to gain trust and confidence in the decisions taken by the waste management organization—must be empowered to meaningfully participate in the decision-making process.

No sign of that here. The minister just told us the affected community has not even had the grace of a visit from the minister in the three or four years that he has had carriage of this bill.

This means being in a position to evaluate options and provide substantive input on technical and operational matters of direct relevance to their concerns and interests.

In sum, the Subcommittee believes that a new U.S. waste management organization should adopt the Swedish practice and set aside funding for participation by citizens, citizen groups, and other NGOs.

I will go into a little bit more detail about how we see that this could be applied in an Australian context when we get to those amendments a little way down the track, because we have had a go at it. I am very happy to hear from Senator Scullion, from the minister and from other crossbenchers about how to improve those amendments. We have at least made an attempt to come up with an alternative framework for dealing with waste of this kind, rather than the bipartisan ram-raid that we are witnessing this afternoon. The blue ribbon committee say:

The availability of funding should be widely announced and reasonable criteria should be established against which to evaluate applications for financial support.

So it is not a free-for-all.

Trust, in fact, is often the core issue whenever different parties are involved in a complex adjudicatory process—and it can be especially difficult to sustain when much of the power or control is viewed as being concentrated on one side.

Doesn't this sound familiar? They are grappling with exactly the same issues of administration, politics, power and dealing with a waste product that nobody wants.

I would call Senator Scullion on this one to join the crossbenchers and not simply suck it up. We can do a lot better than what we are getting. The Territory can do a lot better and it deserves better. It is interesting to speculate on whether this would be going on
if the Territory were a state, because the constitutional vulnerability of the Northern Territory is one factor—I recognise that it is obviously not the only thing, because there are many, but that is one factor—guiding the government's hand in this. They got kicked out of South Australia and they saw how strongly Western Australians arced up when the Pangaea Consortium from Switzerland turned up in 1999, and so they have attacked a constitutionally vulnerable Territory. Bring on statehood.

The blue ribbon commission goes on:
Second, the commission recommends that the responsibility for the nation’s nuclear waste management program be transferred to a new organization—one that is independent of the Department of Energy and dedicated solely to ensuring the safe storage and ultimate disposal of spent nuclear waste fuel and high-level radioactive waste.

This is not about the gloves. This is not about the medical waste. This is not about the short-lived isotopes that will only be killing you in 200 years or so. This is about material that will still kill you after the next ice age.

Third, the commission recommends changing the manner in which fees being paid into the Nuclear Waste Fund—about $750 million a year—are treated in the federal budget to ensure they are being set aside and available for use as Congress initially intended.

My question to the minister is: has the government reviewed this material? Are you aware of this subcommittee of this blue ribbon commission and this in-depth advice from our closest ally and special partner, which I think, as I have pointed out in some detail, has striking and quite creepy parallels to the process that we are engaged in here in Australia? My question to the minister is: has any of this information any resonance at all within the Australian government?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:14):
Thank you, Senator Ludlam; I will not have to spend my time reading the report now, given that you have read large chunks of it to me. But I am advised that, yes, we are very much aware of the blue ribbon commission process, and we understand that the United States is grappling with some similar issues to us. Equally, it is true to say that they are addressing the question of disposing of high-level waste in the United States and, of course, we are dealing with the management of low- and intermediate-level waste, so there are obvious differences in addition to the different legal and societal contexts. But I think it is fair to say that much of what you refer to reflects the same sort of approach we are taking here, which is a voluntarism approach. The report talked about encouraging communities to volunteer to be considered as part of its recommendations as well and, as I say, that is consistent with the sort of view we are taking here. I do not necessarily agree with the way you seek to use the commission report as though it somehow undermines the appropriateness of what we are seeking to do here. I think it is broadly consistent. As I say, that is to try to get communities to volunteer and to work with them to bring all that to a successful conclusion.

If this is a ram raid, it is the slowest ram raid in the history of the nation; the bill has been with us since February 2010. I know you are used to the deliberative processes of the Senate, but I would not describe this as a ram raid. If this were a ram raid, certainly the culprits would have been caught long before they left the scene of the crime. One might suggest that the Greens might be pursuing a policy of trying to prevent the bill coming to a head and that they might be contributing to
this, given the leisurely way we are approaching this legislation today and the way we approached it earlier. It is very clear what the position of the Greens is, and that is a perfectly appropriate decision for them to take. I think there is support around the Senate for the approach contained in this bill, and we would do well to get on and use our time wisely to debate it.

I have obtained a copy of the UN Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, dated 14 October 2011, which contains an inventory of the waste currently held in Australia.

Senator LUDLAM (Western Australia) (13:17): I appreciate the fact that the minister has sorted that out and I look forward to getting a copy of it. I ask you to take on notice and put to your advisers, since they are here, the question that I was seeking specifically, given that the figures are up to date as of last October: what is the proportion of long-lived, intermediate-level waste, the spent fuel that is residing at the moment at Lucas Heights, compared with the amount that is due to come back from Europe, from reprocessing? My understanding is that the proportion is approximately 15 or 16 to one. I am seeking advice on that, because it is going to be difficult for me to establish that while we are in the middle of the debate, unless the minister would care to adjourn the debate. If the advisers can just tell us whether that apprehension is correct or not and, if not, give us the appropriate numbers, that would be useful. I am not interested in the low-level material in this context; I am interested in information relative to what is being brought back from Europe—how much we have had sitting out the back of Lucas Heights for the last however long, decades or so.

Before I move to the Greens first amendment, I will take the minister up on one last thing he said in his response to my comments before—that in the United States they are dealing with high-level waste, whereas here in Australia we do not produce such material. That is something of a trick of definition. Australia is the only jurisdiction that actually adopted a classification of long-lived, intermediate-level waste. That is a classification that exists only in Australia. The Australian government did not want to say that we produced high-level waste; we produced other stuff called long-lived, intermediate-level waste. We obviously do not have commercial power reactors 10 or 100 times the size of the research reactor pumping out spent fuel, so it is not a question of quantity; it is a question about what the stuff is. It is spent fuel. It is fuel that has been burned in a fission reactor and then set aside because it is full of contaminants and is too hot to continue to be fissioned. It is spent fuel, so let us not pretend that we are producing some kind of benign material whereas in other jurisdictions they are producing other stuff. I will leave it there. My understanding is that the difference between the two categorisations that were invented for the purpose of diplomacy or convenience here in Australia is that long-lived, intermediate level waste, after it has been set aside for a while, does not require thermal shielding. It is not necessarily going to boil its way out of whatever you put it in as a high-level spent fuel will, but nonetheless it still requires active shielding from the environment and from all living beings until effectively the end of time. That is the material we are dealing with. Obviously, they are vastly smaller quantities than that of countries which, to their profound and internal regret, have a nuclear power industry, and I do commend the government for maintaining its position that...
there is no point whatsoever in entertaining such an industry here. I will probably come back and ask a couple of general questions about the bill, but I acknowledge the minister's point that it might provide more structure to the debate if we begin moving through the amendments. I move Greens amendment (1) on sheet 7037:

(1) Clause 3, page 2 (lines 4 to 12), omit the clause, substitute:

3 Objects of Act

The objects of this Act are:

(a) to provide for the selection of a site for a radioactive waste management facility on voluntarily nominated land in Australia; and

(b) to ensure that the site selected is the most suitable site on the Australian continent for radioactive waste storage and management taking into account environmental considerations, geology, geography, hydrology, seismology, infrastructure and cultural heritage values; and

(c) to provide for the establishment and operation of such a facility on the selected site; and

(d) to ensure that parties with waste management responsibility take appropriate steps to ensure that, at all stages of radioactive waste management, individuals, society and the environment are adequately protected against radiological and other hazards;

so that radioactive waste generated, possessed or controlled by the Commonwealth or a Commonwealth entity is safely and securely managed.

[objects clause]

This amendment goes to the objects clause of the bill. From the objects clause flow the intent and purposes of the bill. An objects clause is commonly included in legislation to guide decision makers in the event of statutory ambiguity and to assist courts and tribunals in the same situation if there is a problem of statutory ambiguity. That evidence was provided by ANU lecturer Dr James Prest.

The Greens welcome the report of the Senate Legal and Constitutional Affairs on this bill calling for an objects clause to be inserted. So we have created the first objects clauses to emphasise the need for responsibility and for action to be taken to ensure that individuals, society and the environment are adequately protected against radiological and other hazards. This would apply whether the dump turns out to be a shed out the back of Tennant Creek with two security guards looking after it or if it ends up remaining, at least for a period of time, where it is. So when the material returns from overseas it is my understanding—and this was confirmed for us the week before last in estimates—that that material will at least be temporarily stored at a location in Sydney. Nonetheless, wherever it is, whether it is the people of Tennant Creek or the Barkly region or residents in Sutherland Shire that we are protecting, this should apply, and I will explain why we believe that is important.

Radiological hazards are real. Ionising radiation damages our DNA. It is not good for living creatures. It damages the genetic material in all living cells. The nuclear age has introduced materials that emit radiation in forms that become airborne and are breathed in or find their way into the water table and the gene pool, entirely unlike naturally occurring background radiation.

Nuclear reactors routinely release radiation as part of their normal operations. The facility in Sutherland Shire is no exception to that. For a long while—and perhaps the minister can tell us whether it is still in force—there was an exclusion zone around the reactor in which people were not permitted to produce food. I believe that was listed a while ago. I have had people ask me whether breastmilk qualifies as food. The reason for that is that all reactor facilities, no matter how large or small, as part of their
normal operations emit very small but detectable trace amounts of various kinds of radioisotopes—iodine and tritium in particular.

Nuclear waste stockpiles, obviously, are growing daily, and the minister has given us some detail this afternoon about that in an Australian context. Elsewhere they include tonnes of plutonium which remain toxic for 250,000 years.

The International Physicians for the Prevention of Nuclear War know about radiation and the health effects of radiation. IPPNW won the Nobel Peace Prize in 1985 for their efforts to galvanise medical professions to cross the Cold War divide against the nuclear madness of that time. It is the legacy that we are still attempting to clean up today.

The 200,000 IPPNW medical professions in 60 countries have a clear position on both nuclear weapons and nuclear energy: they oppose both because there is no safe level of radiation. This thoroughly considered position arises from medical expertise, scientific facts, concern for future generations and simple common sense. Radiation is uniquely hazardous, persistent and indiscriminate, damaging our most precious legacy: the core human blueprint stored in our DNA and passed down through our children to future generations.

The scientific community today understands in 2012 what it did not fully comprehend in 1945: that there is no level of radiation exposure below which we are at zero risk. Widely accepted scientific evidence tells us that not only is the health risk from radiation proportional to the dose—that is, the bigger the dose, the greater the risk—but also there is no level without risk. Even very low-level medical exposure such as chest X-rays—0.4 microsieverts per test—carry a quantifiable risk of harm such as cancer. The International Commission on Radiological Protection recommends that all radiation exposure be kept as low as achievable in deference to this evidence. For the public, on top of background radiation and any additional medical procedures, exposure should not exceed one millisievert per year.

A US National Academy of Science Biological Effects of Ionising Radiation report, the so-called BEIR or BEIR VII report, estimates that one millisievert of additional radiation is associated with an increased risk of solid cancers—that is, cancers other than leukaemia—of about one in 10,000; an increased risk of leukaemia of about one in every 100,000; and a one in 17,500 increased risk overall of dying from cancer.

But a crucial factor is that not everyone faces the same level of risk: for infants under one year of age, the radiation related cancer risk is three to four times higher than for adults, and female infants are twice as susceptible as male infants; females' overall risk of cancer related to radiation exposure is 40 per cent greater than for males; and foetuses in the womb are the most radiation sensitive of all. It is relatively easy to understand why that is, because cell division proceeding rapidly in children or in the womb is enormously vulnerable to showers of radiation whether that be from any of the sources that the nuclear industry is producing or even from medical X-rays during pregnancy.

The pioneering Oxford survey of childhood cancer found that X-rays of mothers involving doses to the foetus of 10 to 20 millisieverts resulted in a 40 per cent increase in the cancer rate amongst children up to age 15. In Germany a recent study of 25 years of the national childhood cancer register showed that even the normal
operation of nuclear power plants is associated with more than doubling of the risk of leukaemia for children under five years old living within five kilometres of a nuclear plant. Isn't that extraordinary—the normal operation? We are not talking a Fukushima-scale meltdown which requires the evacuation of hundreds or thousands of square kilometres of area. The normal operation of nuclear power plants in a country with the technical and engineering expertise of Germany has a doubling of the risk of childhood leukaemia of kids under five who will get cancer because they live close to a nuclear power plant operating as normal and spewing trace quantities of tritium, iodine and various other fission products into the environment.

Increased risk in those studies in Germany were seen up to 50 kilometres away from the plant, depending on wind direction, localised weather factors and so on. This was much higher than expected. It was certainly much higher than the nuclear industry was happy to acknowledge. It highlights the particular vulnerability to radiation of children in and outside the womb for reasons that I have spoken about. Nuclear research reactors such as the one in Sydney do not escape this. It is simply the engineering reality.

Uranium mining of course emits radon gas, so radiation workers in the uranium mines in Australia are among the highest exposed radiation workers in any sector of the nuclear industry around the world. Radioactive waste, the kind of material we are discussing today, emits radiation. Our amendment seeks acknowledgment of that and an object to protect health and the environment from that harm.

Radiation health authorities use scientific modelling to calculate and set so-called permissible limits for ionising radiation exposure and, as our understanding has increased, these levels have been reduced. These are permissible limits not for the prevention of disease but for allowing and enabling the industry to operate. Levels once regarded as safe are now known to be associated with those risks. It is now acknowledged in the medical literature that there is no safe level of radiation at all. No additional dose can be absorbed by a human being, or another living creature, without a measurable increase in risk of a cancer of some form.

The releases of radiation from the nuclear age have contributed to cancer plague of the 20th century. I do not ask the minister to stand up and tell us what that death toll is because it is simply not known; the studies have not been done, and it is formidably difficult to separate what causes are leading to what responses. But we know that genetic impacts are also discussed less frequently than cancer. Altering the collective gene pool of the biosphere of not just our species but also the species with whom we share the planet is not an experiment that is reversible. Once this damage is done you cannot take it back. We know that radio nuclides with long
half-lives are cumulatively being loaded into the environment and may result in ongoing impacts on health, as well as long-term damage to the gene pool.

I have a number of other comments to make, but first I seek the support of the chamber for the Australian Greens' amendment to simply embed the principle that there is no safe dose of radiation. I thought this facility would be controversial, because I do not think anybody in this chamber comes in here thinking that radiation is good for us, despite what some of the lunatic fringe elements of the nuclear industry might like us to believe. I would imagine that all participants in this debate would support at least the basic principles behind the objects clause that we are proposing, which says that, though we might disagree on the means, the purpose of legislation like this is to prevent these exposures to surrounding communities, whether they be in Barkly, Sutherland or on the transport corridor—wherever it is that the government eventually decides to put this material onto trucks and take out to Tennant Creek, or wherever. I would expect that all of us in here should at least be united in seeking to reduce the risk and the exposure to the host communities.

I have a number of other comments, but I will let them go if there is support for the amendment. I commend this amendment to the chamber.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:32): I indicate on behalf of the government that there is not support from the government for the amendment. I am not sure that our attempt to deal with the amendments has led to that confining of debate, given Senator Ludlam's contribution, which was broad, but then I suppose his proposed amendments to the act are broad.

The Greens effectively claim that an object of this bill should be to select 'the most suitable site on the Australian continent'. My response to that is that this is not a best site argument; it is about a site based on volunteerism. Therefore, this amendment is opposite to the whole approach of the bill. The best site for a facility, if it exists, cannot be considered if it has not been volunteered. The establishment of a facility will take into account environmental considerations, geology, geography, hydrology, seismology, infrastructure and cultural heritage values, and these factors will be assessed under the Environmental Protection and Biodiversity Conservation Act and the Australian Radiation Protection and Nuclear Safety Act. All those safeguards are in place, but the whole structure of the act is to provide for a site being volunteered. The approach taken in the amendments proposed by Senator Ludlam on behalf of the Greens is contrary to the way the bill is structured.

It also implies that, currently, waste minimisation practices are not occurring. That is obviously not correct. Waste minimisation continues to be the objective of the Commonwealth regulator, ARPANSA, Commonwealth agencies such as ANSTO, and states and territories that produce radioactive waste as a result of their use of radioactive material. We think these amendments to the objects of the act ought not to be supported. We think the current objects of the bill makes it very clear what the act is about, that is: the selection of a site for a radioactive waste management facility on voluntarily nominated land … and—
the establishment and operation of such a facility on the selected site …

That is what the bill is about. That is what the act will be about. The current objects of the act are very clear, and this seems to be an attempt by the Greens to add in a range of things either that are already occurring or which would lead to a totally different approach to the selection of a site and, might I say, probably to ensure that no site was ever selected if the amendments were accepted.

Senator LUDLAM (Western Australia) (13:35): I was hoping that Senator Scullion might leap to his feet and offer last-minute, unexpected support of what, to me, reads like a plain English and very sensible amendment. For the Hansard record, Senator Scullion is shaking his head, which I think is an enormous shame.

Nothing that the minister has said has gone to the basic premise of why we think this amendment is a good idea. To contend with the concept that we should not be talking about waste minimisation because it is already happening, Minister, with the greatest respect, if that really were the approach of the Australian government we would not have built the second reactor; we would have phased out reactor based forms of producing medical radioisotopes and we would not be producing this material at all. That was the argument that many ran with in the debate at the time you were in opposition. In fact, the reactor that we have at the moment is a patched, leaking, poorly fabricated $600 million white elephant that we did not need. It has nothing to do with waste minimisation, because we are still producing more of it.

Ionising radiation causes damage to DNA. It causes damage to the genetic material in living cells. The amendments that we are proposing to this bill go directly to the idea that we should not be producing this material any more than we absolutely have to. It does not dodge the argument that we have 60 years worth of this material's legacy to deal with. Before I proceed, I thank the minister for the material he tabled a short while ago on the basis of the joint convention on the quantities of material. I will just test the minister to see whether the advisers who are with him today are able to provide me with a breakdown or tell me where I can find in this report the proportions of the material that we already host here, that is already banked at Lucas Heights, relative to the amount of long-lived intermediate material, or reprocessed material, that has been returned from Europe.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:37): I will not revisit the arguments that I put in opposing the amendment moved by Senator Ludlam in relation to the objectives of the act. I can take on notice the question he has asked regarding the proportion of waste being returned compared to that which is already stored at Lucas Heights. I am told that the answer may not be as simple as it sounds because there is an argument about the form in which the waste will be returned and the measurement of that. I am advised that the volume of long-lived intermediate level waste held at ANSTO is 427 cubic metres and that the volume of reprocessed waste to return from the UK and France in 2015-16 is 32 cubic metres. If that is not absolutely correct, I will correct the record. But that is the officers' best endeavours at the moment, on the run. I think we are reasonably confident in the advice but, if it is not correct, I will correct the record as soon as I can.

Senator LUDLAM (Western Australia) (13:39): I thank the advisers, who have
obviously just been flicking through the report. That bears out the point I was making. The sense of urgency that the government has been proclaiming—not just this government, but also the previous one—the justification for needing to dump this stuff in a shed on a cattle station, is that we have got this vast amount of material coming back from overseas and we have nowhere to put it, that there is nowhere for it to go, and that that is the deadline. Successive ministers have been using the urgency of this material being returned from overseas as a pretext for the claim that we need to set up a shed in the outback at Muckaty or whatever given site has been targeted. I have not worked out exactly what the proportion is, but I will take the minister's advice that there is 427 cubic metres of this material already banked at Lucas Heights, already sitting there, and an additional 32 cubic metres of this very long-lived lethal material due to come back in reprocessed form from Europe. We already have well over 10 times that amount of stuff parked at Lucas Heights. So what is the urgency? Where on earth does that come from? Could ministers stop using that as a pretext.

We heard again from the advisers, and from the officers who appeared at budget estimates the week before last, that this material, when it does come back, will be parked at Lucas Heights. It has been in the budget for at least two budget cycles that I am aware of. Preliminary studies have been done. ARPANSA consider their guidelines to be appropriate whether it is a remote site or a site at Lucas Heights. So that justification has evaporated. And it was actually never there in the first place because the same people spinning us that line knew very well that the material that was coming back from Europe was not going to be an enormous burden that was going to overwhelm our abilities, our management structures or our capacity at Lucas Heights to look after it. That was simply not true. I thank the minister for providing that information and for the fact that it is reasonably up to date. I trust that, if there are any amendments or significant changes to that, you will let the chamber know. I was not after a specific quantity down to the last kilogram, but you have given us the order of magnitude and that is appreciated.

We live in a naturally radioactive environment. The sun, and uranium locked up in granites, produces background radiation. But human activities from 1945 onwards have increased our exposure to ionising radiation, and entirely different isotopes and transuranic materials have been created that are vastly different from background radiation. So you cannot say that people who have been exposed to plutonium downwind of weapons tests are suffering from something that is just like background radiation only more of it. Plutonium did not exist on planet Earth, apart from in absolutely trace quantities, until we began producing it in uranium reactors for weapons. These isotopes are different from background radiation. They come in various forms that can become airborne and be breathed in, or find their way into the water table and gene pool, which is entirely unlike background radiation.

For example, miners are exposed to radon in Australian uranium mines. They say that radon can come from very slow uranium decay in granites, which will sometimes build up in basements and so on, and therefore it is okay for workers to be exposed to elevated levels of radon because it is somehow natural. But if you grind up a uranium deposit, turn it into something as fine as talcum powder, disperse it across a mine site into a uranium mill, and the workforce breathe it in, they are getting quantitatively and qualitatively different
levels of exposure. Because radon is an alpha emitter, it is going to be repelled or will not actually expose the worker to dangerous levels if it is coming from outside. Alpha radiation dissipates across a very short distance and can be stopped by skin or by the paper suits that people wear and so on. If you get that material inside you, if you pulverise that uranium deposit and convert it into a very fine powder, you have got a very serious problem because the material is resident in your lungs. Each link in the nuclear fuel chain releases radiation, beginning with drilling for uranium. To protect future generations from being damaged by it, we must stop creating more radiation and phase out the sources. We must also responsibly contain radiation from the environment.

Instead of truthful data about radiation, over the decades we have received government denial, self-serving control of information and refusal to redress the shameful wrongs. Governments have not made archives of information available about Hiroshima and Nagasaki, for example. The French government has been equally shameless in the instance of the health databases from France's weapons testing in the Pacific. And, even in the instance of Maralinga, we are still fighting to provide a gold card for veterans who were exposed to radiation from weapons tests conducted by our ally Great Britain during the Cold War. So resolving the effects of nuclear activity and the nuclear threat is now a matter of our survival. We cannot contain nuclear threats or environmental damage or support the sick and dying without truthful information. We have other suitable objects clauses for this bill to ensure that the most suitable site on the continent is based on environmental considerations, geography, hydrology and so on. But the object embeds in the legislation that we need to find the right place. It would not necessarily be an earthquake zone—and Muckaty is in a seismically active area—and the locals would have told the minister that if he had had the courtesy to go and meet them and look them in the eye.

You would not necessarily select a flood plain. I have obviously spent more time in Tennant Creek and the surrounds than the minister. I had the invitation from traditional owners, but when I tried to visit the site we could not get in because the area was flooded out. It does not sound like a particularly good idea for a shed.

It would not be adjacent to or on top of a sacred site, as Muckaty is. Muckaty is a men's site and the men have been telling the government that through the kinds of letters that Senator Di Natale read in before and that I have tabled as correspondence from these people. They have been saying, 'Don't put that stuff there. It is not appropriate that it goes there.'

When the government promised to establish a process for identifying suitable sites—that is: scientific, transparent, accountable, fair, allowing access for appeal mechanisms, ensuring full community consultation in radioactive waste decision-making processes, committing to international best-practice scientific processes and so on—that was what the government committed to. Instead, we are seeing quite the opposite. Best practice involves putting this material where it is most appropriate, where there are the right characteristics. While it might be a politically convenient characteristic for the minister to be able to say that some people have nominated it, it does not make it the best place. A process that involves landowners, whether Aboriginal or non-Aboriginal, nominating lands or parcels of land as possible sites for a dump is not a scientifically rigorous process. This gets
back to the debate that we were having before about the principle of volunteerism. I happen to believe that calling for volunteers from some of the most disadvantaged and marginalised communities on the planet is not the only alternative to simply walking in and coercively dumping it on somebody. What we have here today is the worst of both worlds.

What we need in order to achieve 'international best practice'—since the minister has used that phrase a number of times—is a regulatory framework that strategically locates a site based on best science and risk management but also takes into account the impacts on economic and social issues. It should be one that applies strict criteria, standards and policies designed to deal with all environmental risks to the facility—very long-term environmental risks—and one which has input from and is acceptable to the community, not just something determined by Minister Martin Ferguson sitting in his electorate office in Batman while the clock on his turfing-out ticks down. The framework should provide constant vigilance, community oversight, risk removal, and prevention of pollution or contamination, rather than just project assessment, approval and condition, and it should provide a framework which deals with the residual risks, emergencies and contaminated lands if things go wrong. The objects clause would ensure that an overall object of the bill is to ensure that this material is not put where it is convenient but where it is appropriate, and that means for the stuff that is here and the material that is due to come back from overseas.

Unless Senator Scullion feels like making a contribution to explain why he does not think these very sound and sensible principles, which I am sure that he and his party agree with, should be embedded into the objects clause—principles that will guide the way that this bill is interpreted for the next several centuries—I will not detain this chamber any further. I hope we might at least hear something from Senator Scullion, or perhaps I have managed to change the minister’s mind in the course of this short debate. Otherwise I commend this amendment to the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:48): Just briefly—and I will not rise to the bait of constantly referring to the nuclear waste repository as 'the shed'—I just make the overall point that we have been dealing with this since, I think, the 1980s to try to find a long-term storage facility. It is not Lucas Heights, which I think is actually proscribed from being a nuclear repository in the ANSTO Act, but we have made it very clear that there are a range of reasons why we think we need to have a repository that deals with both the waste coming back and the accumulated waste that has been generated in Australia.

I think that those arguments are fairly clear. We do not think that the amendment moved by Senator Ludlam should be supported. We do not think that it improves the situation; in fact we think that it fundamentally undermines the key purpose of the bill, which is the selection of a site for a facility on voluntarily nominated land.

Senator LUDLAM (Western Australia) (13:49): Minister, I was not going to rise to the bait, but could you just characterise for us in what way the facility or the dump or the repository that we are discussing today is not a shed? In what way could it be considered to be not a shed—since you started it?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education,
Skills, Science and Research and Leader of the Government in the Senate) (13:50): I am not going to play games about who started it, Senator, but you constantly refer to it as a shed. What it will be is a facility that complies with the EPBC Act, four ARPANSA licences, best practice for management of radioactive waste, and a great deal of regulation and oversight. If for political purposes you want to refer to it as a 'shed', that is fine. I am just making it clear that I do not accept the description. This is something that will be managed to the highest international best practice with the regulation and approvals that are required before the site can be used, and I think that the senator is well aware of that. All those approval processes through the Environmental Protection and Biodiversity Conservation Act, or through ARPANSA's licensing arrangements and through the transport arrangements, will ensure that we have something far more satisfactory than perhaps the description of a 'shed' might imply.

Senator LUDLAM (Western Australia) (13:51): Minister, from here on I will refer to it as a fully compliant shed-like facility. I commend these amendments to the Senate.

The TEMPORARY CHAIRMAN (Senator Moore): The question is that Australian Greens amendment (1) on sheet 7037 moved by Senator Ludlam be agreed to.

The Senate divided. [13:56]

(The Deputy President—Senator Parry)

Ayes....................10
Noes.....................46
Majority................36

AYES

Brown, RJ                      Di Natale, R
Hanson-Young, SC               Ludlam, S
Madigan, JJ                    Rhiannon, L
Siewert, R (teller)            Waters, LJ

AYES

Wright, PL                      Xenophon, N

NOES

Abetz, E                        Arbib, MV
Back, CJ                        Bilyk, CL
Birmingham, SJ                  Bishop, TM
Brown, CL (teller)              Bushby, DC
Carr, KJ                        Cash, MC
Collins, JMA                    Cormann, M
Crossin, P                      Edwards, S
Evans, C                        Farrell, D
Fawcett, DJ                     Feeney, D
Fierravanti-Wells, C            Fifield, MP
Fisher, M                       Furner, ML
Gallacher, AM                   Hogg, JJ
Johnston, D                     Ludwig, JW
Lundy, KA                       Marshall, GM
Mason, B                        McEwen, A
McKenzie, B                     McLucas, J
Moore, CM                       Parry, S
Payne, MA                       Pratt, LC
Ronaldson, M                    Ryan, SM
Scullion, NG                    Singh, LM
Sinodinos, A                    Stephens, U
Thistlethwaite, M               Urquhart, AE
Williams, JR

Question negatived
Progress reported.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:00): I advise the Senate that the Prime Minister has asked the Minister for Trade, Dr Craig Emerson MP, to act as Minister for Foreign Affairs. Senator Conroy will continue to be the minister representing that portfolio in the Senate.

QUESTIONS WITHOUT NOTICE

Gillard Government

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:01): My question is to the Leader of the Government
in the Senate, Senator Evans. What benefits have there been for the Australian people, battling with cost-of-living pressures, in the unseemly and indulgent soap opera of the Labor government tearing itself apart in the last week?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:01): This government has been getting on with governing Australia in the best interests of the Australian people. While the leadership issue went to a vote in the caucus today, there was a very clear endorsement of Prime Minister Gillard. But it is the case that those of us who are ministers are getting on with the agenda of the government, which is about creating jobs, providing a stable, growing economy, seeking social policies that improve the education and health of our people, and—another major agenda we have—increasing support for people with disabilities.

The senior economic ministers last week continued their meetings on planning for the budget. I travelled internationally in support of Australia's bid for the Square Kilometre Array project. I continue to argue Australia's case for that important scientific initiative. The government is getting on with the important agenda it has for the nation. We are focused on the very important issues that are important to Australian families. Those are things like jobs and the education of their children. Those remain our focus. I am pleased to say of my own portfolio that next week we will see record numbers of young people attending university. There is a massive increase in the number of young people getting the chance to go to university to develop their potential, get opportunities for high-skilled and high-paid jobs and allow us to continue to grow the Australian economy because we are producing more people with a greater skill level, be that in the trades area or in higher education. Those are the things that I am focused on and those are the things that the government is focused on. We are getting on with the job of governing for all Australians.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:03): Mr President, I ask a supplementary question. Given the undignified spectacle of the free character assessments by Labor ministers of each other in recent days, can the Leader of the Government in the Senate confirm that those assessments were sincere, heartfelt and honest, including that by Mr Rudd of the Prime Minister that she had lost the trust of the Australian people?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:04): Senator Abetz may try and make himself relevant today, but I think the Australian people watching this broadcast would wonder why the opposition still has nothing to say about the great policy issues confronting Australia: nothing to say about education; nothing to say about health; nothing at all to say that adds to the political debate in this country or adds to the prospects for this country.

As I referred to in my earlier answer, this government is focused on creating jobs, creating opportunities for people. Senator Abetz's only contribution is to try and rehash some of the issues that have been canvassed in the media in the last few weeks. He is not elected to do that. He does not serve the people of Australia by seeking to do that. This is his opportunity to ask the government questions about its programs and its policies. But all we have is the Liberal Party in the gutter again, with nothing to say about the great issues of our time. (Time expired)
Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:05): Mr President, I ask a further supplementary question. I refer to the totally contradictory views from those which they previously professed of Mr Rudd and Ms Gillard and their respective policy records and leadership style given by other government ministers. Were they telling the truth then? Have they been telling the truth now, or do they simply never tell the truth? Which one is it?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:05): Clearly the tactics committee today had a very long and difficult meeting working through their—

Senator Cormann: No, you did.

Senator CHRIS EVANS: We had a very short meeting. We said: ‘What will the Liberals ask us? Low road—they will go the low road.’ Were we right? Yes. I did not bother preparing too much for question time, because I knew you could not help yourselves. You are not interested in the big issues. In you come again, trawling through what you have read in the papers, trying to make accusations about personalities. The opposition ought to ask us questions about education, about health, about jobs, about the strength of the economy. But you have nothing to say on these issues.

Senator Abetz: On a point of order, Mr President, not only should the Leader of the Government in the Senate know better than not to address his comments so directly across the chamber, but to make it easier for him I am referring to the sorts of comments of Senators Conroy, Carr and Cameron—just the three Cs—in relation to this question.

The PRESIDENT: That is not a point of order. Senator Evans, you have 15 seconds remaining to address the question.

Senator CHRISt EVANS: We are focused on the issues of importance to Australia: strong leadership, creating jobs and making sure that Australians have the opportunities provided by that strong economy. We will continue to do that.

Water

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:07): My question without notice goes to the Minister representing the Minister for the Sustainability, Environment, Water, Population and Communities. I ask regarding the wild rivers protection in Queensland of Cooper Creek and Diamantina River, which provide, with the Georgina River, 90 per cent of the inflow to Lake Eyre in South Australia. The traditional owners have 100 per cent support for wild rivers protection. I ask the minister: in view of the clear intention of Campbell Newman, the Leader of the Opposition in Queensland, to throw over that protection, allowing the onrush of coal seam gas exploitation, what is the federal government doing to protect these extremely important catchments in line with the wishes of the traditional owners?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:08): I thank Senator Brown for his ongoing interest. The Australian government is supportive of measures aimed at protecting our nation's important biodiversity, heritage and environmental assets. The Australian government pursues these objectives through a range of measures including funding under programs such as Caring for our Country and administration of our national environmental law, the Environment Protection and Biodiversity Conservation Act 1999.
Conservation of biodiversity and environmental protection through state and territory legislation is a matter for those governments. I am encouraged to see that the Queensland government is delivering on its commitment to establish Indigenous reference groups to consult with Indigenous people about potential wild rivers areas. In 2011, the Queensland government amended the Wild Rivers Act 2005 to provide a formal role for traditional owners in the wild rivers consultation process through the establishment of Indigenous reference groups. I understand that Indigenous reference groups will be established for the five new potential wild rivers areas that the Bligh government will progress if they are re-elected: the Jeannie, Jacky Jacky, Dulcie, Jardine and Holroyd rivers. This follows the establishment in late 2011 of Indigenous reference groups for the Queensland government's consideration of wild rivers declaration in the Coleman, Olive-Pascoe and Watson river areas. While I know there are a range of views about the Queensland wild rivers scheme among Indigenous communities in Cape York, I understand that there are many traditional owners who support wild rivers and who have welcomed Premier Bligh's announcement of 50 new wild river ranger positions.

There are, as I said, a range of views, and I understand that many communities are supportive of wild rivers, particularly in the Channel Country and the Lake Eyre Basin in the west of Queensland. Unfortunately, Tony Abbott—

Senator Abetz: Mr Abbott.

Senator CONROY: Sorry, Mr Abbott—thank you, Senator Abetz—does not respect the views of these communities. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:10): Mr President, I ask a supplementary question. My question was about the rivers that the minister got to at the end of his answer. I ask him if he would continue to give that answer and whether he will use the EPBC Act to protect those rivers in the event that the opposition gains power and throws them open to coal seam gas exploration and degradation.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:10): As I was saying, Mr Abbott does not respect the views of these communities and wants to overturn wild rivers. Having said that, I did particularly enjoy the Queensland election this week, with Alan Jones alongside Bob Katter. That was my photo for the weekend.

The Australian government has no direct role in Queensland's wild rivers legislation, which is a matter for the Queensland government. The Queensland Wild Rivers Act 2005 aims to preserve the natural values of wild rivers by providing for declarations of rivers as wild and then regulating future development activities within the declared wild river and its catchment area. In wild river areas projects such as in-stream dams and weirs, surface mining and intensive agriculture are subject to restrictions. Low-impact activities such as small-scale commercial fishing, ecotourism and sustainable industries are permitted with government approval. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:12): Mr President, I ask a further supplementary question. In view of the fact that Campbell Newman, if he becomes Premier, will destroy this protection for these wild rivers in South-West Queensland, will the minister...
come back with an assessment of how the EPBC Act may be used to give Commonwealth protection to the very same areas now protected under Queensland law?

Honourable senators interjecting—

The PRESIDENT: Order on both sides! The time to debate this is after question time. Senator Conroy.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:12): The Cape York Land Council opposes wild river declarations on the grounds that they infringe on land rights and constrain Indigenous economic opportunity. In November 2010—

Senator Bob Brown: Mr President, I rise on a point of order. It is very clear my question was never about Cape York. It is about the Cooper Basin, thousands of kilometres away. I ask the minister if he will address that question.

Senator CONROY: In November 2010, the Leader of the Opposition, Mr Abbott, introduced the Wild Rivers (Environmental Management) Bill 2011 to override the effect of declarations made under the Queensland Wild Rivers Act 2005 unless Indigenous consent is provided as prescribed in the bill. The Senate Legal and Constitutional Affairs Legislation Committee reported on the Wild Rivers (Environmental Management) Bill on 10 May. The House Standing Committee on Economics reported its inquiry into Indigenous economic development in Queensland and the review of the Wild Rivers (Environmental Management) Bill on 11 May.

Senator Bob Brown: My question is: would the minister take my question on notice and report back to the Senate?

The PRESIDENT: That is not a point of order, but the minister has 13 seconds remaining to address the question.

Senator CONROY: I am happy to take any other matters I have not covered on notice to see if the minister would like to add to that answer.

Employment

Senator STEPHENS (New South Wales) (14:14): My question is to the Minister representing the Treasurer, Senator Wong. Can the minister update the Senate on the outlook for the Australian economy and, specifically, can she outline the approach the government is taking to supporting jobs?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:14): I thank Senator Stephens for the question and her interest in Australian jobs, something those opposite seem not to be focused on. Australia has a growing economy, our net debt is less than a 10th of that of major advanced economies and our unemployment rate around half that of Europe. And this is a Labor government dedicated to ensuring that we support jobs and create jobs and that Australians have access to gainful employment.

Those opposite might like to know that last month's employment figures, the labour force figures, showed the Australian economy created some 46,300 jobs in January and the unemployment rate fell slightly to 5.1 per cent. It was largest monthly increase in over 12 months, and this new jobs figure means that there are now more Australians in work, under this government, than at any time at the nation's history—something all of us can be proud of. It is an encouraging start to the year and a reminder that the Australian economy stands tall in the world, notwithstanding the efforts of those opposite to talk down the Australian economy and add to fear and anxiety because
they always put their self-interest ahead of the national interest.

On this side of the chamber we are Labor people and jobs is our priority. We acted in the face of the worst global financial crisis in 80 years. We ensured we avoided recession. We saved hundreds of thousands of Australians from being on the unemployment scrapheap. Let us remember: had we taken the advice of those opposite, some 200,000 Australian families, some 200,000 people would be out of work. That would have been the position—(Time expired)

Senator STEPHENS (New South Wales) (14:16): Mr President, I have a supplementary question. Can the minister also outline to the Senate how the government's economic agenda is supporting jobs and working families?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:17): We on this side understand that there are changes occurring in the global economy and therefore changes also occurring in the Australian economy and significant challenges facing some industries. That is why last year's budget invested some $3 billion in skills and training efforts to improve Australia's labour force participation and give more Australians the tools to participate in jobs today but, as importantly, in jobs tomorrow. It is why this government is investing in critical infrastructure including the NBN to drive productivity in our economy—something those opposite are committed to tearing down. It is why this government is spreading the benefits of the mining boom by introducing tax breaks for businesses which are not in the mining boom fast lane—tax breaks opposed by those opposite. The party of small business, the Liberal Party, is opposing tax breaks for small business, putting wealthy miners ahead of small business—that is the Liberal Party priority. (Time expired)

Senator STEPHENS (New South Wales) (14:18): Mr President, I have a further supplementary question. Can the minister outline to the Senate any changes the government has made to the tax system to keep the economy strong and support working families?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:18): Thank you to Senator Stephens for giving me the opportunity to speak about tax reform, because this is a very important part of this government's priorities. We have made changes to the tax system to better reward effort and to encourage people to participate: three rounds of personal tax cuts worth some $47 billion. Someone earning $50,000 now pays $1,750 less tax than they did under the Howard government. And we on this side are building on this reform through our plans to triple the tax-free threshold in the coming years. Tripling of the tax-free threshold means a tax cut for every Australian earning under $80,000 a year—a tax cut opposed by those opposite.

The Liberal Party's priorities are clear. They want to preserve the profits of wealthy miners. They want to argue against any taxation on wealthy miners but they want to oppose tax cuts for working Australians, families and small business. (Time expired)

Labor Party Leadership

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:19): My question is to the Minister representing the Prime Minister, Senator Evans. Is the minister familiar with the fundamental constitutional principle that the legitimacy of a Prime Minister depends upon having the support of a majority of the House of Representatives? Given that the Prime Minister does not have the support of
31 of the government's own members, including that of at least a quarter of her cabinet, and only has the support of, at best, a third of the members of the House of Representatives, when will she do the right thing, call upon the Governor-General, request a dissolution and allow the people to sort out the political debacle which the Australian Labor Party has created?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:20): It does not matter how much Senator Brandis puffs himself up and tries to pretend he is a constitutional lawyer, the reality is he is saying, 'It's not fair we lost the last election and can we please be given government?' Well, Senator Brandis, I have got some bad news for you. This government has been successful, despite being in a minority in the House of Representatives, at passing legislation and governing. What today's leadership ballot showed is the Prime Minister had very, very strong support inside the Labor Party caucus room. It was a very strong result that the Prime Minister received in the caucus meeting.

What we do know is that this government has been able to govern successfully and pass major legislation through the parliament despite not having a majority in its own right on the floor of the House of Representatives. The Prime Minister continues to have the complete confidence not only of the Labor Party caucus but also of the Independents and the Greens on the floor of the House of Representatives. Senator Brandis well knows that that situation continues—that the government is able to command a majority on the floor of the parliament and is a legitimate government.

We will continue to run our reform agenda, continue to govern in the interests of all Australians and continue to take on the tough issues that the Liberal-National Party coalition wants to duck—tough issues like putting a price on carbon; tough issues like ensuring the mining boom's proceeds are distributed across the Australian public and that we all benefit from that boom. We will continue to focus on those issues and we will continue to deliver strong and effective government for the Australian people. Quite frankly, Senator Brandis's question reflects the Liberal Party desperation. (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:22): Mr President, I ask a supplementary question. Following the tirade of accusations and counteraccusations by Ms Gillard, Mr Rudd, Mr Swan, Mr Crean, Mr Burke, Ms Roxon, Dr Emerson, Mr Bowen, Mr McClelland, Senator Conroy, Senator Carr, Senator Bishop, Senator Cameron and many others in the course of the past week, how can the Australian people trust a government whose own members make no secret of the fact that they do not and cannot trust one another?

Senator Cameron: What did you call John Howard?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:23): Mr President, Senator Cameron's interjection is a most appropriate one.

Honourable senators interjecting—

The PRESIDENT: Order! On both sides. I need to be able to hear the answer.

Senator CHRIS EVANS: Mr President, on this occasion Senator Cameron's interjection is appropriate, if not orderly. He rightly reminds us that Senator Brandis is the last one to be asking this sort of question. As I understand it, he described the former Prime Minister as a 'lying rodent'. And I
understand he voted for Mr Turnbull over Mr Abbott, and we might recall that that was a ballot which was won by one vote. So one does have to question the legitimacy and confidence in Mr Abbott when he can only win a ballot inside his party room by one vote.

I think that before Senator Brandis raises these sorts of issues he had better examine his own record in this respect. Again, this highlights the fact that the Liberal opposition are not focused on the issues of importance to the Australian people and that they are not focused on the issues of jobs and the strength of the economy. Really, they do those who voted for them a great disservice. (Time expired)

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (14:24): Mr President, I ask a further supplementary question. Given that the dysfunction, paralysis and hatred at the heart of the Rudd and Gillard governments have been publicly exposed by several of the most senior members of those governments, how could the Australian people have any confidence that the affairs of the nation can ever be conducted competently by these ministers or by any Labor government?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:24): The Australian people can be absolutely confident that this government is focused on the things that are important to them. We are focused on the economy, we are focused on creating jobs, we are focused on improving the education system and we are focused on health reform and making sure that our hospitals deliver for the Australian people.

We are focused on the things that are important to Australian families, and it is a shame that the Liberal opposition have, again, nothing to say about those important issues. Their plans for Australia are to rip money out of education and to rip money out of health so they can give it back to Rio and to BHP. That is their plan! They are going to slash and burn $70 billion out of the budget in order to repay the mining tax to Rio and BHP, who are recording record profits. That is what the Liberal Party have to offer the Australian people. We will continue to focus on the issues that are important to the Australian people.

**Iran**

**Senator LUDLAM** (Western Australia) (14:26): My question is to the minister representing the minister for Foreign affairs and trade—whoever that currently is. I refer to rising tensions over the threat of a military attack by the United States or Israel on Iran's nuclear facilities, originally built with the assistance of the United States and European nations, including France and Germany, and more recently through assistance by the Russian government. What is the Australian government's position on a military strike by the United States or Israel on Iranian nuclear facilities?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:27): Australia is—

**Senator Brandis:** You're not representing foreign affairs? You've got to be kidding!

**Senator CONROY:** I have been all along. I have been since whenever the last reshuffle was.

**Senator Brandis:** You're kidding!

**Senator CONROY:** It's true!

Honourable senators interjecting—
The PRESIDENT: Senator Conroy, ignore the interjections. Those interjections are disorderly. Senator Conroy, address the chair, and the chair only.

Senator CONROY: Australia is deeply concerned about the nature of Iran's nuclear program. Iran continues to defy the international community on its obligations. Iran must take urgent steps to restore international confidence by complying with UN Security Council resolutions and by cooperating with the International Atomic Energy Agency.

Australia is deeply concerned that the November IAEA report reinforces indications that Iran may still be undertaking nuclear weapons related activities. Australia cosponsored the 18 November 2011 Board of Governors resolution expressing deep and increasing concern at these developments and calling on Iran—

Senator Ludlam: Mr President, I rise on a point of order which goes directly to relevance. I recognise that the minister is just reading by rote from a brief. Could he fast forward to where it addresses my question—if it does—which went to the Australian government's position on a military strike, not our position on the Iranian nuclear program. What is the Australian government's position on a military strike by the US government or Israel on Iranian nuclear facilities?

Senator Arbib: The minister is directly relevant and is outlining Australia's position on this issue. He should be allowed to continue the answer.

The PRESIDENT: The minister has one minute and two seconds remaining. There is no point of order.

Senator CONROY: As I was saying, for those parts that are relevant: we fully support the EU embargo on Iranian oil and the other new measures, and are considering how to implement comparable measures in Australia. Australia does not currently import any Iranian oil. Australia's trade with Iran has declined steeply and Australia remains committed to seeking a resolution of the Iran nuclear issues through negotiation. We urge Iran to follow through on its readiness to restart talks with the P5 plus 1. As others in the chamber have noted, I am not sure that the rest of the question was not drawn around the hypothetical suggestion, but, if there is any other information I can get from the minister's office, I will provide that on notice.

Senator LUDLAM (Western Australia) (14:30): Mr President, I ask a supplementary question that is not hypothetical at all. What, if any, representations has the Australian government made either through bilateral contact with the US, or Israel, or through multilateral channels on the potential for a military strike on these facilities? That is what my question is about.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:30): That is a fairly detailed question. As I am sure you would understand, I do not have all the information on it. I am happy to seek whatever information is available for that question, Senator Ludlam, and provide it on notice.

Senator LUDLAM (Western Australia) (14:30): It was a fairly simple question. There was not a great deal of detail to the question. Mr President, I ask a further supplementary question. I note that Australia, as the minister mentioned, has joined in sanctions banning Iranian oil imports from January. The foreign minister at that time indicated that Australia's exports to Iran have been reduced. Given that
Australia sells uranium to Russia, which is the key strategic enabler of the Iranian government's nuclear program, whether it be civil or military, what is Australia doing to ensure that Australian uranium does not end up in Iran?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:31): Australia is considering how it can support the measures that were introduced, as you mentioned in your question and I mentioned earlier. We do not currently import any Iranian oil and our trade with Iran has declined steeply from about $1 billion in the late 1990s to under $300 million now. As to any plans that we have on the matter you raised, I am happy to seek some further information from the minister's office and see if there is anything to be added.

Small Business

Senator STERLE (Western Australia) (14:32): My question is to the Minister for Small Business, Senator Arbib. Could the minister please outline to the Senate what the Labor government is doing to support people in small business? In particular, what does a strong economy mean for small businesses?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:32): I thank Senator Sterle for his ongoing interest in supporting the small business people of Australia. The best way to support small business in this country is to have a strong economy and that is exactly what Labor is delivering. When you look at the international ratings across the board, all three ratings agencies, for the first time in this country’s history, have given this country a AAA credit rating—something never achieved under the coalition in all their years under Prime Minister Howard.

Look at inflation: contained. Look at economic growth rate, with a three in front of it. It is something that economies across the globe are envious of. We are moving forward. We are growing. Other economies are going backwards. Some in Europe are on the verge of default. At the same time, look at the unemployment rate in this country: 5.1 per cent in January. Forty six thousand jobs were created. Since we came to office: 700,000 jobs have been created. This is the Australian economy that Labor provides and this is the greatest benefit to small business.

Everything this government has done has been about supporting small business. During the global recession we acted to support small business, protecting 200,000 jobs. The stimulus package was about small business and about infrastructure to allow small businesses—tradespeople, electricians, plumbers and apprentices—to keep in work. It worked. On the other side of the chamber the Liberal Party and National Party senators walked into this chamber and voted against small business. They voted against the stimulus package that kept people employed and the multiplier effects that kept small businesses operating during that period. That is the record of the Liberal Party of this country. (Time expired)

Senator STERLE (Western Australia) (14:34): Mr President, I ask a supplementary question. Can the minister please outline to the Senate the government's small business agenda; in particular, can he outline what measures the government is introducing this year to support the growth of small businesses?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of
Government Business in the Senate) (14:34): As I have said, we have a strong economy, but at the same time as that we need to support businesses with their cash flow. That is what the minerals resource rent tax is about: assisting small business.

Those on the other side—those Liberal Party and National Party senators—have said already they will vote against the tax of the biggest miners, billionaires. The people who will pay are Australia's small businesses because the major beneficiaries of this tax are our small businesses. They will benefit from greater infrastructure and greater productivity through increased road and rail funding. They will also benefit from direct tax cuts that start on 1 July. But there will not just be a cut to the company tax rate; they will also benefit by an accelerated depreciation schedule, which will mean that they will be able to write off assets up to $6,500. The instant asset write-off is going to help the cash flow of small businesses. (Time expired)

Senator STERLE (Western Australia) (14:35): Mr President, I ask a further supplementary question. Can the minister please outline to the Senate what the government is doing to cut red tape for small businesses?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:36): We have been working with the states, unlike the coalition, who in their period played the blame game and did not work with the states. We have worked with states to try and develop a seamless national economy, with 36 reforms to reduce the regulatory burden on business. I am happy to say that one of these reforms is to implement the new national business names registration system later this year. It is on track to deliver major benefits to small business. At present, the average small business will be up for around $1,000 for three years. This will come down from $1,000 to $70—massive benefits for small business.

On superannuation, we have put in place a superannuation clearing house to make it easier for small business to pay their employees superannuation. Since launching on 1 July 2010—

Honourable senators interjecting—

The PRESIDENT: Order!

Senator ARBIB: Fifty thousand payments have been made already, and small businesses are benefiting. That is the record of this Labor government. (Time expired)

Broadband

Senator BIRMINGHAM (South Australia) (14:37): My question is to the diplomatic Minister for Broadband, Communications and the Digital Economy, Senator Conroy! Was the decision to embark on a $43 billion fibre-to-the-home national broadband network an example of the 'contempt for the cabinet process' the minister recently said was endemic in the Rudd Labor government and the 'dysfunctional decision-making' that the Treasurer recently said marked the Rudd era?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:38): I thank Senator Birmingham for his ongoing interest, albeit extremely superficial. Let me be very clear about this. I have answered questions like this before at some considerable length so I am happy to repeat them. The popularisation, by those opposite, that this was done on the
back of an envelope on a plane could not be more wrong. It could not be more wrong.

Opposition senators interjecting—

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

Senator CONROY: Yes, the early discussions took place with Mr Rudd on a plane, as has been reported. But what is ignored by every one of those opposite is that there was then three months of extensive cabinet committee process.

Senator Brandis: Three months!

Senator CONROY: Three months. I lost count—

I could not even tell you off the top of my head—

how many committee meetings we went to and how many times we discussed it. I lost count of the number of meetings. For those opposite to continue to perpetuate this myth just shows you how lazy they are and how they have no alternative policy.

We then commissioned the McKinsey report—$25 million—to demonstrate that the NBN could be a viable proposition. We then considered the McKinsey report at length and released it. This was a program that went through extensive consultation, extensive research and extensive reports to ensure that we got it right. Those opposite continue to cry crocodile tears for process when they do not have a policy. Mr Turnbull spoke six months ago—

Senator Brandis: I think Mr Turnbull knows a lot more about this than you do.

Senator CONROY: In your dreams! (Time expired)

Senator BIRMINGHAM (South Australia) (14:43): Mr President, I ask a further supplementary question. Will the minister tell the Senate on which instance he is telling the truth. Is he telling the truth that cabinet decision making was dysfunctional and contemptuous under the Rudd government and that the NBN was dreamt up on the back of, or on both sides of, an envelope on a VIP plane? Or is he now telling us the truth—that he lost count of the number of meetings of the cabinet to decide on the NBN? Which one is it, Minister—

Those opposite continue to have a $70 billion black hole, which does not even include their NBN commitments. You have a $16 billion NBN commitment before you have to compensate Telstra for taking over their copper under the fibre-to-the-node proposal that you currently have. You have $30 billion to add to your $70 billion before you can even stand up here with any credibility. (Time expired)

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contempt and dysfunction or meeting after meeting and that you and Mr Rudd are at one on this?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:43): One of the problems you get when you let Senator Birmingham write his own questions on the run is that he actually then begins to verbal the minister across the chamber. He completely misrepresented my answer. He has completely tried to conflate two different statements and claim they are contradictory. Senator Birmingham should stick to doing what he is good at—detailed policy work.

You should not be trying to make up questions on the run, because you are just not any good at it. Stick to the detailed policy work in estimates, which you are pretty good at. You are much better than some of these clowns here. Some day you will get on the front bench and you will get a chance to have your own policy area.

The PRESIDENT: Senator Conroy, address your comments through the chair.

Senator CONROY: Sorry, Mr President. Senator Birmingham deserves to be on the front bench, over there. When Mr Abbott does the next reshuffle—

The PRESIDENT: Senator Conroy, resume your seat. When there is silence on both sides we will resume.

Senator CONROY: As I was saying, when the next reshuffle comes on that side, Senator Birmingham, you deserve a better chance than you are currently getting. Just because you supported Malcolm Turnbull is no reason for you to languish over there. (Time expired)

Broadband

Senator URQUHART (Tasmania) (14:44): My question is to the Minister for Broadband, Communications and the Digital Economy. Can the minister please inform the Senate of any recently announced business retail-pricing plans for National Broadband Network services, what they mean for businesses and how they compare with existing ADSL products?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:44): I thank the senator for her question. The small business sector got some very exciting news last week when it comes to the National Broadband Network. I am happy to advise the Senate that on Tuesday, 7 February Optus released its NBN business plans for the small to medium enterprise sector. Optus's small business plans are going to provide SMEs with a vastly superior product offering because they will be delivered over the NBN. Optus are also offering additional web based programs to assist SMEs get on line that are not included in their current ADSL plans. In Optus's business entry level plan, they are even providing double the download data from 50 gigabits to 100 gigabits when compared to their equivalent ADSL product—all delivered over a fibre network, significantly increasing the experience of business in speed and quality of service.

Despite the ongoing scare campaigns waged by the opposition—specifically the members for Bradfield and Wentworth—that the NBN would increase the cost of broadband for families and businesses, Optus's business plans are priced the same as their existing broadband prices over copper. That is right, Mr President—the same. They
first claimed residential prices would be unaffordable, and that has been proven to be false, and now the business plans released by Optus confirm the opposition has no credibility whatsoever—none when it comes to NBN pricing. You at least understood that, Senator Birmingham, and you did not make a goose of yourself. This is a very exciting time to be a small business broadband customer in Australia.

Senator URQUHART (Tasmania) (14:46): Mr President, I ask a supplementary question. Can the minister advise the Senate whether any other NBN retail-pricing packages have been announced?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:47): Again, I thank the senator for her question. Earlier today, Telstra launched their pricing and product services over the NBN. Telstra will offer a range of plans on the NBN's 25- and 100-megabit speed tiers with prices that, once again, are comparable to those Telstra offers today on their copper and HFC networks but with significant increases in speeds and quality of service. It is clear from Telstra's plans that they have confidence in the growing Australian demand for higher speeds and capacity. This demonstrates that the Australian telecommunications market recognises the reality that the coalition still refuses to acknowledge—that Australians require and deserve better quality broadband to help them engage with the digital economy. (Time expired)

Senator URQUHART (Tasmania) (14:48): Mr President, I ask a further supplementary question. Can the minister advise the Senate what the new NBN retail products will mean for families and small businesses living in rural and regional Australia?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:48): This means that for the first time businesses in rural and regional Australia will no longer be at a competitive disadvantage with their counterparts in metropolitan areas. The tyranny of distance will no longer be a barrier to running a successful business in regional and rural Australia. The NBN will allow families to access infrastructure at an equivalency of price and an equivalency of service.

But what do those opposite think we ought to do? They want to demolish the NBN, dig it up and abolish the uniform wholesale pricing that underpins price parity. Under the Liberals' plans, businesses and families across regional and rural Australia will end up paying more and getting less—paying more and getting less under your plans. There has been a lot of talk about leadership recently. It is about time the National Party started showing some on behalf of regional Australians. (Time expired)

Gillard Government

Senator RYAN (Victoria) (14:49): My question is to the Minister representing the Prime Minister, Senator Evans. I refer the minister to comments made by fund manager Pengana Emerging Companies, who said last week:

A strongly led government regardless of who is actually in power must be preferable to the current state of flux.

Given the events of the past week, is it not the case that the only way Australia can again be led by a strong, stable and competent government is if we give the
Australian people what they want—a fresh election to remove this weak, incompetent, divided and dysfunctional Labor Party?

Honourable senators interjecting—

The PRESIDENT: Order on both sides! I remind you that the time to debate this is after 3 o'clock. When you are ready, Senator Cormann and Senator Wong. If you wish to debate the issue, Senator Ludwig, the time is post question time.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:50): I am sure whoever that fund manager was is a really important person but, quite frankly, trying to find somebody who is a fund manager and quote them as if that has some sort of authority is pretty pathetic. The reality is that the government is getting on with the job. This government has successfully managed the economy. We have created more than 700,000 new jobs. We have an economy that is the envy of the world. Whenever you travel internationally, people want to know how we did it. How was it that our response to the GFC allowed us to come through in such strong condition? They want to know how our stimulus plan was so successful in ensuring that Australians kept their jobs and kept working. They want to know why we were so successful at achieving growth in employment while the rest of the world was experiencing unemployment rates of 10, 12 and 14 per cent. This government has been successful at managing the economy, allowing the economy to grow and providing jobs and opportunities for Australians. What we know is that this is in stark contrast to the opposition, who have no policies. They can only criticise. They can only oppose everything that is done. But we are getting on with the job. We have actually put a price on carbon. It comes in on 1 July. It is a major economic and environmental reform that will see this country set up to take advantage of a clean energy future. It will transform our economy for the long-term benefit of Australians. We are getting on with those things. The Senate will get the chance to debate the mining tax in the next few weeks. This will allow the Liberal Party to make a decision about whether they are going to give the revenue from the mining tax not to the Australian people but to the miners. They will have to slash the education and health budgets to give the money back. I will have a quiet bet with you, Senator Ryan, that you change that policy before the election.

Senator RYAN (Victoria) (14:53): Mr President, I ask a supplementary question. I refer the minister to comments made by Origin Energy boss Grant King last week, who said the government's leadership fiasco was 'not good for the nation'. I also refer the minister to comments by Graham Bradley, the Chairman of Stockland and HSBC Australia, who said that this 'is not what the government needs while we face major structural challenges in the economy'. For how much longer will the government put its self-interest and its infighting ahead of the economic interests of Australia?

Opposition senators interjecting—

The PRESIDENT: I remind honourable senators that shouting across the chamber is disorderly. Debating of this issue should be after question time. When there is silence, we will proceed.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:54): What I do know is that this government is getting on with continuing to support growth in the Australian economy and supporting jobs. This question is from the Liberal Party,
who actually opposed us funding the reconstruction of Queensland following the natural disasters. They came into the parliament and opposed the reconstruction effort, because they oppose everything. They did not think we should rebuild Queensland bridges and roads. They did not think that was a good idea. The National Party sat silent again when these important debates were on.

This government is delivering jobs and supporting Queensland reconstruction. It is ensuring we have a price on carbon and that we get the benefits of the mining boom spread throughout our economy. All the opposition do is oppose and have negative attitudes to every proposition that is put before this parliament. They have nothing to offer the Australian people. This government is getting on with the task at hand.

Senator RYAN (Victoria) (14:55): Mr President, I ask a further supplementary question. I could refer the minister to the wealth of material from last week but I will refer him now to comments made by Tribeca Investment Partners, who said, 'It is probably hard to find an organisation in Australia that is more poorly run than the Australian government.' Given this, and given the comments that have come from his own side of the chamber over the past week, why should the Australian people have to tolerate their government being the worst run organisation in Australia and why don't you let them elect a better one?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:56): What I do know is that fund managers and investment firms understand that there is only one side of politics committed to producing a surplus. There is only one side that has a responsible economic program, and that is the Labor government. We do not have a $70 billion black hole. We are not going to have to slash health or education so we can give back money to the mining companies who have record profits. That is your economics. That is the voodoo economics that Joe Hockey and others are now dealing with.

Honourable senators interjecting—

The PRESIDENT: If senators wish to debate, they will have their opportunity soon. Senator Evans, you have 27 seconds remaining. Please refer to people in the other place by their correct title.

Senator CHRIS EVANS: Apparently Senator Cormann, as part of the economic team of the Liberal Party is 'growing a cake'. All I know is that he has to find $70 billion in cuts to education and health and he has to give money back to the mining companies. And they are going to take away the savings from the private health insurance rebate change as well. None of their economics adds up. They have no plans and they have no-one who is literate in economics. (Time expired)

Hospitals

Senator FURNER (Queensland) (14:57): My question is to Senator Ludwig, the minister representing the Minister for Health. Can the minister outline for the Senate the investments that the Gillard government has made to regional health and hospitals?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:59): I thank Senator Furner for his question and for his interest in rural health. When it comes to health and hospitals the Gillard Labor government delivers to all Australians, including those living in rural and regional areas. That means better access to health services and infrastructure and more health
professionals on the ground. Through the regional priorities round of the Health and Hospitals Fund the Gillard government is bringing modern practice and better facilities to remote and regional Australia. Through the regional fund, 63 projects are sharing in $1.3 billion in funding. This means that facilities in Tennant Creek, Townsville, Port Lincoln, Sheffield, Kerang, Geraldton, Bega and many more will receive invaluable funding for better services, increased infrastructure and economic development. The priority round builds on the $3.2 billion already allocated through the Health and Hospitals Fund right across Australia, where one-third was given to regional Australia. The Gillard government is delivering 24 regional cancer centre projects, including two additional centres announced in the 2011 budget, for Geelong and Albury-Wodonga. While the government is delivering spending for infrastructure and getting the best facilities for our region, we are also ensuring that our regions have health professionals on the front line delivering in those facilities. To attract health professionals to our regional areas we are delivering training and incentive packages. The government’s $134.4 million Rural Health Workforce Strategy is designed to encourage doctors to work in isolated rural and remote communities and to keep them there. As a result of this strategy in 2011, almost 8,000 doctors were assessed as eligible to receive an incentive payment for the first time.

Senator FURNER (Queensland) (15:00): Mr President, I ask a supplementary question. Can the minister advise what the impacts and benefits of the health and hospital reform will be for rural and regional health care?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:00): I thank Senator Furner for his first supplementary question. The Senate would be aware that when it comes to health and hospital reform the Gillard government has made reform happen—unlike those on the other side when they were in government. We made these reforms in a Labor way, which means not leaving rural hospitals behind. We will deliver a more efficient health system through activity based funding, but we also make specific allowances for rural hospitals to ensure services continue to be provided and improved. That is why some small rural hospitals will continue to be funded by block grants where activity based funding would not maintain community service obligations. A significant proportion of our health reform funding is being directed into specific rural health programs; for instance, $12 million over four years for additional rural allied health scholarships—

Senator FURNER (Queensland) (15:01): Mr President, I ask a further supplementary question. Given the government’s achievements in rural and regional health care that the minister has outlined, what risks to the ongoing delivery of health care for rural and regional Australia can he identify?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:02): I thank Senator Furner for his second supplementary question, because he has identified that there are risks. Of course, there is no doubt that the biggest risk posed to longstanding health and hospital reform is those on the other side: the opposition—the Liberals and the Nationals. I have outlined the tremendous amount of investment that the Gillard Labor government is bringing to regional and rural Australia. This is in contrast to the record of Mr Tony Abbott, whose team only cut, cut, cut health and
hospital funding. Mr Abbott as health minister cut $1 billion from the health budget and now Mr Sloppy Joe Hockey has got to find another $70 billion in cuts, and guess where they are going to come from?

Senator Ian Macdonald: Liar!

The PRESIDENT: Senator Macdonald, you will need to withdraw that.

Senator Ian Macdonald: Mr President, because you say so, I will. But tell him to tell the truth. He is being untruthful in those comments.

The PRESIDENT: I do not want a qualified withdrawal, Senator Macdonald. I am asking you to withdraw—

Senator Ian Macdonald: Mr President, because you asked me to withdraw, I will and I do.

Senator LUDWIG: Those on the other side have just demonstrated how weak they are when it comes to health and hospital services in rural and regional Australia, because all they do is mouth but they do not deliver. (Time expired)

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Gillard Government
National Broadband Network

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:04): I move:

That the Senate take note of the answers given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) and the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) and Senators Brandis and Birmingham today relating to the Labor Government and the National Broadband Network.

I noted three truths as I was going around the streets last night to grab a meal. One was that Prime Minister Gillard would win the vote today quite convincingly, and she did. The second was that Mr Rudd would get around 30 votes, and he did. The third was that Mr Shorten is currently planning to have another pitch at the leadership within six months, which he will. These things are absolutely obvious.

Whilst I was away during the floods, people were asking me who was pairing me. Apparently it was Dougie Cameron. He was doing a great job bringing down the government. He was hard at work with some other people. Obviously a whole range of them are out there basically tearing themselves apart. The problem with that, of course, is that our government has been cut loose. Our government is on autopilot. The metaphor that kept going through my head whilst I watched this fiasco, this disgrace—which in former times was supposed to be called a government—was what it would be like to go into an accountancy practice to find one partner screaming at the other partner, kicking over the photocopier, throwing cups of coffee and hurling the staplers around the office. And the other partner would be decrying them and absolutely pulling the rug out from under them—saying quite clearly that the partner was incompetent, that they obviously struggled, that they had no method, purpose or discipline and that they were chaotic. And then both of them would look at me and say: 'But we want your business.'

It is a remarkable thing to look back and find that Mr Swan has said that Mr Rudd was 'dysfunctional in his decision making' and that he was 'deeply demeaning in his attitudes towards other people'—obviously the perfect candidate for the Minister for
Foreign Affairs. That is what we want: we want to take that chaos to a global scale. That is the decision that an obviously competent government makes. And then I ask the question: wasn't this the government that saw us through the GFC? Wasn't it the steady hand of Rudd at the tiller that got us through the GFC? Surely it cannot have been just the Chinese demand for our resources that got us through the GFC. No, it was Mr Rudd and ceiling insulation; it is so obvious, it is so clear. That is what got us through. The trouble is, of course: they are still there. I look at them today and there is Senator Cameron and Senator Conroy. I could not have done a better job myself than Senator Cameron did on live television this morning. It is beyond belief that this totally dysfunctional outfit is running our country. It is a disgrace—and that is the word I picked up on the street—what they are doing to our country. They are hopeless.

Whilst they have been using Australia as a plaything like a ball of string, our gross debt has gone beyond $229 billion. We borrowed an extra $2.3 billion just last week. The week before we borrowed $3.3 billion. The week before that we borrowed in excess of $2 billion. Our limit is $250 billion. You promised you would never get near it and you are racing towards it. Whilst this fiasco is happening in the foreground, something very serious is happening in the background. Who do we believe these days? Who do we honestly believe? The question has to be asked whether there was a lack of truth about the position of the government and the key officeholders in the past. Was that not the truth or is it not the truth now? The two stories are completely and utterly incongruous.

For Kevin to say that the bickering and destabilisation must stop, there is a good idea; that is a great idea. It started way back in the last election and has been going on ever since. Were they not the people who got rid of him? Was he not the elected Prime Minister, Mr Emerson? What was that, Mr Emerson? Was that just helping him out a bit? This destabilisation is endemic. Once the ingredients are in the Mixmaster, once the political intrigue is afoot, you can never get the ingredients back into the packet. (Time expired)

Senator STEPHENS (New South Wales) (15:09): I am very pleased to be taking note of the answers given to questions asked about the Gillard government because it gives me a great opportunity to put to bed this nonsense that we have been hearing from the opposition. Regardless of all the confection and outrage that we have been hearing over the last few days, we happen to be one of the strongest economies in the world, which is a credit to the work of the Labor government since being elected in 2007. All of the nonsense that goes on about whether it is a Rudd government or a Whitlam government—a Freudian slip—or a Gillard government plays out in the media very effectively, while the people who are depending on us to run a good government, a strong government and a strong economy are working men and women, the decent people of Australia, sitting there waiting to be reassured they are going to be looked after. We are the government that has done that so effectively.

The Australian economy has been the clear standout in the world since the GFC. We still have the lowest unemployment rate: 5.1 per cent, compared to 8.3 per cent in the US and more than 10 per cent in Europe. The tragedy of those stories we saw roll out across Europe in Spain, Germany, Portugal and Italy, particularly about youth unemployment, was the challenge that we recognised here in Australia during the GFC. We had the challenge of keeping young people at school or earning. We made the
investment to ensure that we did not have a lost generation of young people, as that was the fundamental challenge that confronted us in the global financial crisis. Since the GFC, our economy in Australia has grown by more than seven per cent. Minister Arbib said today that we have a rating of AAA from all the rating agencies, something the Liberal government was never able to achieve and cannot admit is the successful hallmark of the government.

As we heard today in question time, more than 46,000 jobs were created in January alone. We increased our employment rate and maintained our unemployment rate of 5.1 per cent, thereby showing that the investment pipeline is strong for Australia. Our economy is intact. We had a $913 billion investment pipeline in the December quarter. Business confidence is strong and growing. Consumer confidence is growing. All we hear from this opposition is naysaying. All they do is take every opportunity to talk down the economy in ways that give people a great sense of fear and anxiety about their future.

What have we heard from the Governor of the Reserve Bank, Mr Stevens, and the people who make decisions for all of us in our economy recently? They say our rate of employment is sound, we have strong economic fundamentals and we need to invest in the infrastructure that is going to underpin our future. What is that infrastructure? We need critical investment in our transport infrastructure, in our ports and mining infrastructure and in our NBN infrastructure, which are going to make sure that we have a vibrant, strong economy.

The idea that we have to sit day after day and listen to Tony Abbott and the opposition with no policies, no vision for Australia, and no strategy for the future is what is driving people demented. The leadership discussion is over and done with. The leadership issue is finished today. Let us not forget that Mr Abbott won his leadership challenge by one vote, so 49 per cent of his colleagues did not support him in his leadership battle. Let us not worry now—

Senator Abetz: Nobody is challenging now.

Senator STEPHENS: Nobody is challenging now,' says Senator Abetz. Let us just see what is happening with Mr Turnbull and his team. A minority government requires hard work. Mr Abbott could not deliver minority government for the opposition and they are living with the consequences. He said he will not do deals. He cannot.

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (15:14): I also rise to take note of ministers' answers as mentioned by Senator Joyce. It was great to hear Senator Stephens today trying to defend the Australian government's record, particularly as it relates to the economy. I did not hear anywhere amongst that contribution references to the great job that Peter Costello and the previous Howard government did in handing over a government that had over $70 billion in the bank and which has now been turned into a situation where we are looking at a gross position of over $200 billion in the red and getting worse every day by about $100 million.

I also did not hear her explain why she voted for Mr Rudd this morning. Does she agree with her colleagues who have made a number of statements about the government? I would like to look at a couple of them. The Minister for Resources and Energy, Martin Ferguson, said that Mr Rudd can win an election against opposition leader Tony Abbott and that Ms Gillard cannot. He said that he was:
… supporting him to try and save the Labor Party from itself. It's about trying to work out how we can best position our party to remain in government.

Similarly, Mr Rudd himself said:
If Julia is returned or if I'm elected, then I think it's time for various of the faceless men to lay down the cudgels.

Does Senator Stephens, who was supporting Mr Rudd, agree with these statements? Does she still agree with those perspectives? Does she think it is time for the faceless men to lay down the cudgels? I would have been very interested in hearing that. Has she maybe changed her mind the last couple of hours?

Senator Stephens also talked about the coalition nay-saying. Can I say that over the last week I have never heard so much negativity and nay-saying in politics. Today we had confirmation that almost one-third of the Labor caucus—and that includes Senator Stephens—does not have confidence in the Prime Minister. If you went out and polled Labor supporters around the country, you would probably find that even more than one-third of those Labor supporters would not have confidence in the Prime Minister. Today is the end of the most extraordinary five days in Australian politics, certainly in recent years. It was the peak so far of tensions and divisions that have been building in the Labor Party for months and have at their core the ruthless and efficient removal of then Prime Minister Kevin Rudd and his replacement with the current Prime Minister in June 2010.

As interesting as of all of this theatre is, the great tragedy is that the current government—a government that was put in place with the complicity of rural Independents, particularly and specifically because they thought it would be more stable and more long lived than the coalition alternative—finds its own issues, its own problems, its own internal divisions and its own electoral standing to be more engaging and important to it than the challenges that the nation currently faces. There are real challenges out there, including challenges for small businesses that are trying to make a dollar, trying to employ people and trying to pay them so that they can pay their mortgages. It comes back to the cost of living pressures that Australians are currently facing. But is the government interested in this? No, it is far more interested in spending all its time worrying about its own internal problems—worrying about personality issues and egos within the Labor Party and worrying about who is going to run the party—than worrying about what impact that will have on the needs and the challenges being faced by the Australian people.

Labor say that all of this internal division and infighting has not impacted on the government.

Senator Polley interjecting—

Senator BUSHBY: I hear Senator Polley making interjections along those lines. They say, 'Look at all the legislation that we have passed since we came in,' and they point to all these new acts that have passed. Most of that legislation was non-controversial. It was passed with the full support of the coalition and it is legislation that we would have put up if we had been in government and which would have been supported by Labor. The vast majority of it passed without any issue. There were bits and pieces here and there, but on the whole it would have been very similar if we had been in government. Those that have not been non-controversial or have not gone through with bipartisan support are largely bills that were passed as a result of dirty deals that were done with the Independents and the Greens to get government.

Two of those in particular were bills which were passed despite specific promises
before the 2007 and 2010 elections that they would not be. Of course, I am talking about the carbon tax, about which the current Prime Minister—even after this morning—went to the last election, hand on heart, saying, 'There will be no carbon tax under a government I lead.' Yet she introduced one. Now they are going around saying it is one of their main achievements. Similarly, there was the slashing of the private health rebate. Before the 2007 election they said, 'We will not touch it; we won't do a thing'. Now they have. They have broken another promise, and they say that is another one of their great achievements. *(Time expired)*

Senator PRATT (Western Australia) *(15:19):* I am very proud of this government's record, both under Kevin Rudd and under Prime Minister Julia Gillard. We have much to be proud of, and Senator Joyce should not be lecturing us on stability, given his track record. A government is not a popularity contest. It is about making the right decisions in government for the national interest and for the Australian people, and that is something that this Labor government consistently does. We are a government that have been able to make the hard decisions—decisions in the national interest, in the interests of Australian families and in the interests of Australian jobs. We have a strong and functioning government. We have the many hundreds of bills that have been passed—major reforms that have passed the House of Representatives and indeed this chamber. We have a strong and effective government, a government that is getting on with governing and that has wheels that have kept turning.

We also have plans for the future. We have a strong Prime Minister. We have a committed and tough PM, and we have a big agenda. No. 1 at the top of our agenda, our top priority, is managing our economy. It is about giving working people a fair share of our nation's mineral resources. It is about getting our nation ready for the future—for the new economy that we know is emerging. They are difficult decisions because they are difficult things to balance, but we are managing the economy for working people and for jobs—just as we did during the global financial crisis under Kevin Rudd. Now, as you can also clearly see, we are doing it in the manufacturing and auto industries, unlike those opposite. We as a government will maintain our disciplined fiscal strategy. It is about delivering a budget surplus in 2012-13, and those opposite have no plan for the future in this regard. They have a $70 billion black hole, and they cannot deliver a budget surplus for this nation. Labor, on the other hand, is able to build on the fact that, for the first time in Australia's history, we have joined an elite group of countries which hold a AAA credit rating from all three global rating agencies. These are important things for our national interest.

The cost of living for Australian families is something that I and others on this side of this chamber are resolutely focused on. It is a key issue for Australian families, and we are delivering the policies that underpin—

Senator Abetz: Giving them a carbon tax—that'll help!

Senator PRATT: A carbon tax? What would those opposite have us do?

Senator Abetz: Remove it.

Senator PRATT: They might have us remove a carbon tax, but at what cost?

Opposition senators interjecting—

The DEPUTY PRESIDENT: Order on my left!

Senator PRATT: At the cost of the tax cuts that Australians deserve, at the cost of the fairness that we want to deliver in the tax
system to Australian families, at the cost of Australians with a disability, who deserve that disability insurance scheme, at the cost of our health and hospital system, at the cost of acting on climate change and at the cost of our education system—all things that we have done in the national interest.

What would those opposite have done during the global financial crisis? Would they have just cut spending? There are terribly contradictory things out there in relation to their agenda. Would they have supported schools around the nation to create jobs? I think that was an incredibly smart thing to do. What we saw during Building the Education Revolution was projects of a scale that meant we could roll them out and create jobs quickly. Had we invested it in large infrastructure, we would not have been able to roll out and create those jobs as quickly. But what we have seen is 9,000 schools around the country benefiting from what was an economic calamity, and we created hundreds of thousands of jobs around the country. This government is committed to infrastructure in public transport, unlike those opposite. (Time expired)

Senator Back (Western Australia) (15:24): If anybody did not believe the dysfunctionality of this Labor government, they need only have listened to the answers to questions this afternoon by Senators Evans and Conroy and the interjections of Senator Wong. We have seen an admission of the dysfunctionality of this government, and you can just start with Senator Evans himself and others in the field of employment. They omit to mention that in the year 2011 employment flattened in this country; there was not any increase. They very proudly talk about a minuscule increase in employment in the first month of 2012. That is January; that is the month when everybody leaving school is seeking work. Of course, they also omit to mention—although both Senator Evans and Senator Pratt are Western Australian senators—that all of that increase came from the state of Western Australia. They conveniently overlook what was happening in south-east Australia in manufacturing and in the car industry. Unemployment figures in this country are a disgrace to this government. If you look at underemployment and at those who are not participating, those who are not seeking work and those who have been reduced to part-time employment, you get the actual figures in employment participation.

We look at the question of debt. The Labor government, only four years ago, inherited a surplus of some $70 billion, no net debt and no deficit. In that space of time they have increased the indebtedness of this country to $230 billion. The taxpayers of this country need to understand that, even if that figure stops now, we will be paying back $15.4 billion a month in principal and interest for the next 20 years—$15.4 billion a month. This crowd on the other side have some gall to talk to us about fiscal responsibility. Surplus? They would not know what a surplus was. In 2007 they inherited a very sound economic situation. They ask us to compare America and Europe now to how Australia is now. Ask them how America, Europe and other parts of the world were in 2007.

Now we see the imposition of both carbon and mining taxes. Senator Pratt spoke of the car industry. Did she mention that last year, 2011—a record year for sales of cars in this nation—we actually manufactured less than 20 per cent of all cars sold, 200,000 out of one million? We manufactured fewer cars last year than we did in 1957. And what is the carbon tax going to do? It is going to add a cost $400 per car. So, if we manufacture 200,000 cars, there will be an $80 million increase in cost. But what about the 800,000
cars that will come in from overseas that will not be the subject of a $400 carbon tax impost? And we see that it goes on. There is a lack of business confidence in this country. If people want to start talking about confidence in manufacturing, in retailing and in the tourism sector, they need only pick up the newspapers once we can get this terrible government off the front page.

In the long, sad and lamentable litany of lies that we have seen out of the Labor mouths in the last week, the one that absolutely got to me was the comment of the past Prime Minister—the deposed Prime Minister, now a backbencher—Mr Rudd in which he said that Mr Abbott doesn't have 'my temperament or my experience to govern'. When I heard that I said, 'Thank God!' Imagine the temperament of Mr Rudd, with language that I have not heard in shearing sheds or stockyards coming out of Mr Rudd's mouth. When it comes to experience, it is an interesting point to note that when Mr Abbott becomes the Prime Minister of this country he will have had more ministerial experience than any other Prime Minister coming into that position in recent Australian history. That is what we in the electorate have had to put up with over the last few days.

We once again have imposed on us a Prime Minister who went to the last election saying, 'There will be no carbon tax under the government I lead,' the same person who said, 'I will not interfere in the private health rebate.' Of course, we have seen her doing exactly that. We see a circumstance in my own state—and how disappointing that the last speaker herself did not draw attention to the damage being wreaked upon the state of Western Australia by this federal Labor government. Why? Because they will have no seats. (Time expired)

Question agreed to.

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**Iran**

**Senator LUDLAM** (Western Australia) (15:30): I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Ludlam today relating to Iran and nuclear weapons.

My first question to Senator Conroy, the minister representing the Minister for Foreign Affairs, was not answered. I asked whether or not our government has a position on military strikes on Iran. My second question was not answered. It was: what have we done to express such a position to the United States government or the Israeli government or through multilateral forums? This question was also not answered: what are we doing to ensure that uranium sales to Russia from Australia do not end up in Iran's nuclear facilities? While it is an open question as to whether or not Iran has an active nuclear weapons program, why we would be selling uranium to their key strategic enabling supplier of technology is absolutely beyond me. We do not know if Iran is developing a nuclear weapons program. The regime has consistently denied that it is doing so. In fact, it has even said that nuclear weapons are un-Islamic. I would add to that that they are un-Christian, they are un-Hindu and they are un-Buddhist. They are, in fact, anti-human weapons.

The International Atomic Energy Agency, after years of inspections, has not concluded whether Iran is developing such technology or not, but it did say last week that Iran has not been fully cooperating. The IAEA has been saying for many, many years that it is not getting the cooperation that it needs from the Iranian regime. What is clear, of course, is that Iran could pursue nuclear weapons technology if it wanted to, because the technology for producing nuclear fuel for enriching uranium up to fuel grade is the
same technology used to enrich uranium up to weapons grade. I have probably lost track of how many times I have had to make that point in the chamber. The technology for producing fuel is the same as the technology that produces weapons. The only difference is political intent and political will.

The problem, of course, is that once a country has been supplied a nuclear energy program or develops one indigenously it is quite capable of developing a weapons program. The expertise is there, the training is there and the materials and so on are there. That is one of the reasons that the Australian Greens oppose not only the rampant proliferation of weapons but also the proliferation into all parts of the world of civil nuclear energy. Military strikes have never been a successful way to rid the world of weapons of mass destruction. The 1981 bombing of the Osirak facility in Iraq is a good example. The program was delayed by the bombing, but, of course, it then went underground. The Iraqi government took it underground with the result that, whilst Osirak had been monitored by the IAEA, subsequent Iraqi activities in pursuit of nuclear weapons was not monitored. Through Israel bombing this facility, the Iraqi regime simply became more determined following those air strikes and committed more human and economic resources to an underground nuclear weapons program. So we have an example of what happened before. The Greens are opposed to all nuclear programs whether they be weapons or energy programs, and we have been publicly critical of Israel's clandestine nuclear weapons program, just as we are in the instance of allegations of a uranium weapons program. It is clear, however, that this lack of even-handedness from other policymakers here in Australia and around the world is absolutely exacerbating the situation. There is a clear lack of effort and a clear lack of action on behalf of the existing nuclear weapons states, declared and undeclared, on their disarmament commitment and obligations under the nuclear non-proliferation treaty. It is obvious that some countries in the standard discourse are to be trusted with nuclear energy and others are not, and it is very easy for a country like Iran to hide behind the kind of nationalistic rhetoric that we are seeing and assert that it is doing nothing different from any number of other countries, and that part of the story is true.

The only way that we are going to solve the problem is for there to be serious further debate on how to create a nuclear-free Middle East, and this includes Israel. Of course, this is a conversation that is already decades old. It is incumbent on the other nuclear weapons states and the five permanent members of the Security Council, in particular, to lead the way by diminishing and eliminating the role of nuclear weapons in security doctrine and taking concrete steps to eliminate the nuclear weapons arsenal. There are 22,000 or thereabouts of these weapons, many of them vastly more powerful than the devices that were exploded in 1945. Iran is obviously currently a signatory to the NPT, so our challenge there is to stop it violating an agreement that it is a party to. Israel, of course, is a different situation.

The Australian government must end uranium sales to Russia if it is serious about stopping Iran from acquiring nuclear weapons. The Russian nuclear industry built Iran's Bushehr plant and continues to work with the Iranian regime closely. Many other countries, starting with the United States government but including Germany, Argentina and Spain, led the way and helped the Iranians develop the technology that we now ask them to phase out.

Question agreed to.
BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (15:35): by leave—I move:
That leave of absence be granted to Senator Sherry from 27 February to 1 March 2012, on account of parliamentary business.

Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:36): by leave—I move:
That leave of absence be granted to Senator Nash from 27 February to 1 March 2012, for personal reasons.

Question agreed to.

Consideration of Legislation

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (15:36): At the request of Senator Arbib, I move:
That the following general business orders of the day be considered on Thursday, 1 March 2012 under the temporary order relating to the consideration of private senators' bills:

No. 3 Commonwealth Commissioner for Children and Young People Bill 2010
No. 20 Environment Protection (Beverage Container Deposit and Recovery Scheme) Bill 2010

Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade Joint Committee Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:36): by leave—at the request of Senator Furner, I move:
That the order of the Senate of 9 February 2012 authorising the Joint Standing Committee on Foreign Affairs, Defence and Trade to hold public meetings be varied by omitting paragraph (a)(ii), and substituting: (a)(ii) from 5 pm to 6.30 pm, to take evidence for the committee's inquiry into Australia's overseas representation.

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 Senator Waters for today, proposing a reference to the Rural and Regional Affairs and Transport References Committee, postponed till 14 March 2012.

General business notice of motion no. 438 standing in the name of Senator Siewert for 28 February 2012, relating to the North West Slope Trawl Fishery, postponed till 20 March 2012.

General business notice of motion no. 442 standing in the name of Senator Siewert for 28 February 2012, proposing the introduction of the Fisheries Management Amendment (North West Slope Fishery Partial Closure) Bill 2011, postponed till 20 March 2012.

General business notice of motion no. 608 standing in the name of Senator Rhiannon for today, relating to the Bsafe program, postponed till 1 March 2012.

Withdrawal

Senator DI NATALE (Victoria) (15:38): I withdraw business of the Senate notice of motion no. 1 standing in my name for tomorrow.

BILLS

Special Broadcasting Service Amendment (Natural Program Breaks and Disruptive Advertising) Bill 2012

First Reading

Senator LUDLAM (Western Australia) (15:38): I move:
That the following bill be introduced: A Bill for an Act to Special Broadcasting Service Act 1991, and for related purposes.
Question agreed to.

Senator LUDLAM: 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 LUDLAM (Western Australia) (15:39): I present the explanatory memorandum and 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—
I am pleased to introduce this bill which seeks to reverse the commercialisation of SBS.

Established in the 1970s, our second national broadcaster was the first multicultural broadcaster in the world. Australia's relative success as a multicultural society is owed in part to institutions such as SBS which tell the stories of our cultural diversity and reflect a uniquely Australian experience back to those who have made a home here.

From the outset, SBS was a publicly funded broadcaster and advertising was not permitted. It wasn't until the Special Broadcasting Service Act of 1991 that advertising was permitted during periods before programs commence, after programs end or during natural program breaks for a maximum of five minutes.

Over 7 million viewers and listeners who enjoy SBS in 60 languages per week have consistently lamented that their news, drama, sport and content that portrays and appreciates our multicultural society is interrupted by advertising.

In 2007, due to financial pressures the station moved – arguable in contradiction of its Act, in spirit if not in letter – to full in-program advertising. This has degraded the SBS viewing experience. As long as advertising revenues continue to rise, the danger is that successive Governments could get away with the structural under-funding of the station.

This Bill seeks to wind back this trend so that SBS enjoys adequate funding to take full advantage of the education, employment and creative opportunities provided by digital multi-channeling and the NBN.

Considering it operates on less than a quarter of the budget of the ABC, SBS provides an extraordinary service of which we can all be proud. However, the troubled history of its hybrid funding model has reached a dangerous new stage.

Senators will be aware that this is the second iteration of a bill to remove advertising during programs from SBS. In the first iteration, I did not deprive SBS from revenues from advertising per se, rather I simply proposed the abolition of advertising on SBS during 'natural program breaks', in other words, restricting advertising to before and after programs.

Schedule 1 of this new bill clarifies the definition of 'natural program break' to bring advertising practices at the station back into line with the Parliament's original intention when debating the Special Broadcasting Service Act (1991).

Schedule 2 of the bill proposes a staged approach in which a proportion of additional funding in the forthcoming triennium will be set aside to retire advertising. How much is retired is at the discretion of station management. The bill proposes to allow the Minister by regulation to set aside a proportion of SBS funding for this purpose. In this sense the bill does not appropriate funds, it merely sets up a scheme whereby the station can use a proportion of future funding increases to wind back advertising that runs during programs.

Schedule 3 of the bill holds that by the funding triennium after the one commencing in 2012, advertising within programs will have been phased out altogether.

SBS radio will not be affected by this Bill.

The Greens are on the record as supporting an increasing in base funding to support the health of the station and to reduce the amount of television advertising it carries. The 2012-15 triennial
funding round provides an opportunity to reset the course of SBS and cement its position as one of Australia's most important cultural assets.

Competitive pressures have now sharpened with the introduction of digital multi-channels, cannibalising advertising revenues and bidding up the price of appealing content. Since FY 09-10, advertising revenue growth rates have stagnated and are predicted to fall steeply into decline as highly profitable commercial broadcasters with thousands of hours of airtime to fill hoover up all available content and heavily dilute the value of advertising.

Ironically, the arrival of the commercial multi-channels was smoothed with a surprisingly generous public subsidy to the tune of $250m in waived licence fees for two years.

The Australian Greens believe it is essential in the next funding triennium to reverse the tide of commercialisation, before declining advertising revenues and rising viewer discontent force a crisis on the broadcaster. In addition, to thrive in an increasingly crowded and converging media market, SBS requires an injection of funds above and beyond that sufficient to end program advertising.

Analysis of answers requested at successive budget estimates sessions reveal that additional public funding of $45 million per year would be required to achieve this (see answer to Question 60 from Budget Estimates Hearings May 2011). This estimate is difficult to verify and does not necessarily model the increased ‘scarcity value’ of more restricted advertising timeslots at the top and tail of programs.

Withdrawing advertising could be achieved in a phased manner across the triennium, allowing the station in the short term to use the funding increase to address urgent priorities including first-run Australian content, expanded online services and an expanded slate of Aboriginal content through a proposed tie-up with NITV.

In framing this Bill, great regard has been given to do so in a manner that does not harm SBS. The Bill does not direct SBS to stop placing advertisements in television programs. It merely provides station management with an option to do that in exchange for monies already appropriated by the Parliament for SBS. If SBS exercise that option, it would be akin to the government buying out all the breaks in a program, while still allowing the station to top and tail programs with advertisements.

The challenge in putting this Bill together, was to make it workable in a tight funding situation, without tying the hands either of Government or of station management. In the event that SBS receives a substantial increase in their funding, which we hope is the case, the station will be required to use a portion of this funding increase to retire advertising during in-program breaks.

The Bill has been constructed to avoid a heavy handed approach. It's an attempt to achieve an outcome that will meet community expectations while allowing maximum flexibility. I commend it to the chamber.

Debate adjourned.

MOTIONS

Australian Flag

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (15:39): I move:

That the Senate—

(a) condemns as a form of protest the destruction or desecration on Australian soil of the Australian National Flag, the Australian Aboriginal Flag, or the Torres Strait Islander Flag; and

(b) urges all people to show respect for these flags.

Question agreed to.

COMMITTEES

Education, Employment and Workplace Relations References Committee

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:40): I move:

That the time for the presentation of the report of the Education, Employment and Workplace Relations References Committee on higher
education and skills training for agriculture and agribusiness be extended to 8 June 2012.

Question agreed to.

MOTIONS

Stolen Generations

Senator McEWEN (South Australia—Government Whip in the Senate) (15:40): On behalf of Senators Moore, Siewert and Humphries, I move:

That the Senate—

(a) recognises the 4th anniversary of the apology to the Stolen Generations on 13 February 2012;

(b) affirms the sentiment expressed by the Senate on 13 February 2008 as a significant step to build a new relationship between Indigenous and non-Indigenous Australians and recognise the suffering caused by past injustices;

(c) expresses its support for members of the Stolen Generations and for the activities happening across Australia on 13 February to mark the anniversary of the apology; and

(d) notes the new special collection that will be established in the Parliamentary Library of historical documents presented by the National Sorry Day Committee, which document our nation's shared journey toward reconciliation and the ongoing process of healing and justice for members of the Stolen Generations.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Gillard Government

The DEPUTY PRESIDENT (15:41): A letter has been received from Senator Fifield:

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

The completed dysfunction of the Labor Government.

Is the proposal supported?

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

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:41): Some among us in this chamber will remember the late Rob Chalmers, the longest serving member of the parliamentary press gallery, who began his career when Ben Chifley was the leader of the Australian Labor Party in 1950 and who died last year. When I was a young senator I was befriended by Rob Chalmers and I remember having a conversation with him one day when I was very excited about a particular political event—I cannot remember what the event of the time was. He looked at me in an avuncular and indulgent way, I think, a little amused at my excitability about a transient political happening. He shook his head wisely and said, 'Ah, George, there was nothing as good as the split.'

I think—and if I can conjure the shade of Rob Chalmers in the chamber this afternoon—the extraordinary events that we have seen in the last six days which have riven this Labor government apart will be viewed by historians of the future as events that rival the split. Never before in Australian history, certainly never before in the living memory of any member of this chamber, has a political party been so deeply, so bitterly, so publicly, so poisonously divided as the Australian Labor Party has been in the last several days.

Of course it has only been public in the last several days, but we now know from the mouths of the principal protagonists themselves that this has been going on all along below the surface but not very far below the surface: the government of Australia was a seething well of hatred and poison and personal bitterness and animosity.
and distrust. I actually feel sorry for the decent people in the Labor Party that they have had to put up with this. We had some disputes on my side of politics in 2009, and I know how trying they can be. I know how corrosive of personal relationships they can be, but, if I may say so, nothing that has happened on the coalition side of politics ever, going back to the days of John Gorton and Billy McMahon and the early 1970s, even approaches this in its bitterness—an observation that comes not just from my side of politics but from Labor Party observers like the former Senator Graham Richardson himself.

The Australian people deserve better than this. It does not matter if they are a coalition supporter, a Labor supporter, a Greens supporter or a genuinely unaligned swinging voter; the Australian people deserve better. They deserve a government that conducts itself with even a minimal level of professional competency and skill. They deserve cabinet ministers for whom the conduct of the nation’s business is a higher priority than fighting factional wars for control of the Australian Labor Party. They deserve better than to have the government of the nation consumed by internal power struggles and political games. At a time when the global economy is teetering on the brink of another crisis, they deserve better than to have a Treasurer who devotes his time to blackguarding his historic rival and enemy in Queensland Labor politics, Mr Kevin Rudd.

At a time of acute diplomatic difficulty in various parts of the world, including the possibility of a war in the Middle East, the Australian people deserve better than to have a foreign minister who is being white-anted by his own Prime Minister and her surrogates to the extent that he feels forced to resign as foreign minister. They deserve better than to have a Prime Minister whom her own ministers and her own backbench have felt so strongly to be untrustworthy that they have declared that fact to the Australian people. Mr Kevin Rudd, the senior politician of the Labor Party most favoured by the Australian public, put it very plainly when he said, three days ago:

Julia has lost the trust of the Australian people.

And so she has.

Let it never be forgotten that the only reason Ms Gillard became the Prime Minister of Australia on 24 June 2010 was that she lied to Mr Kevin Rudd when she assured him that, as his deputy, she would support him to the hilt. Mr Rudd learned to his cost how worthless that assurance was. Having secured the leadership of the Labor Party, and the prime ministerships, by a political coup executed in the dark of night, Ms Gillard then fell across the line at the 2010 election and was elected as Prime Minister, albeit in a minority government, only because she lied to the Australian people when, on 6 August 2010, a few days before the election was to be held, she looked down the barrel of a television camera and said:

There will be no carbon tax under the government I lead.

We know that had she not said that, had she told the truth about her intentions, she would not have been re-elected. She seized the leadership of her party through deception and she was elected as Prime Minister in 2010 through deception.

Then, in the political circumstances of the minority government, she only managed to parlay her position into a commitment from the Independents because she told Mr Andrew Wilkie, the Independent member for Denison, that she would support his measures for poker machine reform. The moment, late last year, that the Labor Party, through whatever devious means—I hate to
think of it—convinced Mr Peter Slipper, the member for Fisher, to neutralise his vote by becoming the Speaker, giving them one more vote on the floor of the House of Representatives, she dumped Mr Andrew Wilkie, and Mr Andrew Wilkie now says he was betrayed.

How do you beat that, Mr Deputy President? She became the Prime Minister in the first place because she lied to Kevin Rudd. She fell over the line at the 2010 election because she lied to the Australian people about the carbon tax. She was able to form a government in the hung parliament because she lied to Mr Andrew Wilkie about poker machine reform. Mr Rudd was spot on when, three days ago, he said:

Julia has lost the trust of the Australian people. There will be an attempt, no doubt, to paper over the cracks and, Humpty Dumpty-like, to pretend that the pieces can be put back together. But I dare say that nobody would be so silly as to believe that the hatreds and the vendettas and the poison that beset this government, which have torn it apart in a public spectacle unprecedented in Australian history, will be easily washed away. We know that they will not be. We have a situation in which Labor elders like Senator John Faulkner, Mr Martin Ferguson and Mr Robert McClelland—all of whom I know and like and respect—have all, in their different ways, declared or acted on their lack of confidence in the government of Prime Minister Gillard. There are so many scores to settle. There is so much hatred, antagonism and poison bubbling below the surface.

This government is dysfunctional. Its ministers are not on speaking terms. Its ministers publicly denounce one another’s lack of integrity. Its ministers are incapable of guiding the affairs of this nation. When there is a political deadlock like this in a democracy there is only one way to resolve it: take it to the people and let the people sort out the mess the Labor Party has created.

(Time expired)

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (15:52): I rise to refute the nonsense of this vague and incomprehensible matter of public importance. The internet is a wonderful invention; you can look up almost anything, and instantly there is a response. I did not have to look very far to find an interesting definition of ‘dysfunction’ on dictionary.com: ‘any malfunctioning part or element: the dysfunctions of the country’s economy’. Well, fancy that! There it is, in black and white, for all of us to see. So let us see what really is true. We can see it in this motion from Senator Fifield, the Manager of Opposition Business in the Senate—a member of a coalition government that squandered the opportunities in our nation’s budgets between 2004 and 2007. Their only interest was pork-barrelling at election time. What would the coalition have done in the global financial crisis? They would have done absolutely nothing. Those opposite, at that time, said we should sit back and wait. They wanted to put their heads in the sand.

But what did we do? We took the action the Australian people elected us to take. The Gillard government’s first priority has been to keep the economy strong by delivering jobs and growth and helping Australian workers. Labor made the right decisions during the global financial crisis to keep people in jobs and deliver economic stimulus to drive growth. We have created over 750,000 new jobs since 2007. We have the right plan now to keep the economy strong and drive future growth to help working people.

Would the coalition have cared if hundreds if not thousands of Australians had
lost their jobs during the global financial crisis? Of course not. All they are interested in is big business and their mates—like those in the tobacco industry. Donations are clearly far more important than the Australian community.

Let us have a quick look at what this government has achieved. Those opposite say we should go to an election. The reality is that we have 18 months to the next election, and you have 18 months to come up with some policies to change the Leader of the Opposition's mantra of 'oppose, oppose, oppose'. I might not have time to go through everything, but let us just put things in context. We are about the future, whereas Mr Abbott and the opposition are about taking us back to the 20th century. I said we have created 750,000 jobs since 2007, and we have 140,000 more Australians employed today than we had 12 months ago. The economy is strong. We have bulletproofed the Australian economy and kept it out of recession during the worst economic downturn in three-quarters of a century. Thanks to this, our economy's fundamentals have remained strong, with outstanding employment growth and record investment. We are committed to a return to surplus next financial year.

Mr Deputy President, you would know how favourably the National Broadband Network has been received in Tasmania. It will mean affordable, high-speed broadband for all Australians no matter where they live and for all Australian businesses no matter where they are located. It will mean better education, better health care and better access for Australian businesses to the biggest marketplace in human history.

With our health agreement, we have more doctors, more nurses, more beds, less waiting and less waste, together with better accountability and community control—achieved through a historic health deal with the states at COAG. Our agreement on the carbon price will cut pollution and create clean energy jobs. It will cut taxes and increase the pension to support the Australian economy. This is Australia taking responsibility among the nations of the world.

Our mining tax will give Australians a fair share of the mining boom—a boost to retirement savings, tax breaks for small business and company tax cuts. These again are things that those opposite oppose.

We have doubled our investment in school education, upgraded facilities at every school and provided more information for parents than ever before.

On skills, we are investing $2.4 billion in the Building Australia's Future Workforce package to create 130,000 new training places—new participation measures that provide opportunities but also demand responsibility.

For seniors, there has been a historic increase in the pension, and now we are looking at improving aged care to give older people more choice and control. Those opposite failed miserably to protect our older Australians over their 11 years in government.

We have made a record investment in our infrastructure of more than $36 billion around the country. We have laid the foundations for a National Disability Insurance Scheme. The 2011-12 budget delivered 95 per cent of our election promises, as well as returning the budget to surplus in 2012-13. Some of the savings measures will not be easy but we will be delivering the biggest fiscal turnaround in 30 years. We have invested $2.2 billion in a mental health package to deliver additional services and a greater focus on prevention and early intervention.
And the big thing we did for Australian workers and families was getting rid of Work Choices—but we know the opposition's plans for future attacks on Australian workers. We have cut taxes in the last three years for working families and low-income earners. Someone earning $50,000 a year now pays $1,750 less in tax than they did in 2007. Interest rates are still lower than they were when the Liberals left office.

We introduced Australia's first ever paid parental leave scheme, giving new parents more time with their children and reducing the financial pressures on families. We have increased the childcare rebate to 50 per cent.

Meanwhile, what have we seen from the coalition? They oppose the mining tax. They oppose more superannuation for workers. They oppose tackling global warming by pricing carbon and Australia playing its role in the world. They oppose investing in the National Broadband Network. They oppose health reform, and they are even backing away from something as important as the National Disability Insurance Scheme.

Instead, the three finance stooges of the coalition already have a $70 billion problem to deal with. Savage cuts will adversely affect everyone. Cuts will be needed to pay for the $11.1 billion in forgone revenue from axing the mining tax. They want to give back the mining tax to some of the world's biggest and most profitable mining companies and, in the process, stop an increase in superannuation savings for Australian workers. And $24 billion will be needed to refund the big polluters for the carbon permits they will have bought for their pollution.

The coalition have already promised cuts to GP superclinics, the GP after-hours hotline, computers in schools, trade training centres and apprenticeship training programs. We know, as the Australian people know, that Tony Abbott has form in health. As health minister he cut a billion dollars out of hospital funding, the equivalent of closing 1,025 hospital beds. The coalition will bring back Work Choices laws to strip away basic workplace protections.

**Senator Fierravanti-Wells:** Mr Deputy President, I rise on a point of order. What Senator Polley has just said is untrue. It is misleading of the Senate because—

**The DEPUTY PRESIDENT:** Senator Fierravanti-Wells, it is not a point of order; it is a debating point. You will have an opportunity during your address.

**Senator Polley:** The Australian people will not forget. They know Tony Abbott's record as Minister for Health and Ageing and they are scared he will take residence in the Lodge. We know that the coalition will bring back Work Choices laws to strip away basic workplace protections. They are a risk to your jobs. The Australian people know that they are a risk to their jobs and they are a risk to job security.

We know, as the Australian people know, that it is the Gillard Labor government that is looking after the economy, looking after working Australians and looking after families. Labor has a plan for the future direction of Australia, positioning Australia to take advantage of Asia's remarkable growth. We on this side know that the Australian community are smart. They are much smarter than the opposition gives them credit for. That is why we are laying down a progressive reform program for taking this country forward. At the same time, we are not leaving behind Australian families; we are not leaving behind Australian workers.

We know that delivering a surplus in the 2012-13 financial year will bring about the sort of security that this economy and the Australian people deserve. We are
determined to get the big things done and under Julia Gillard we will get those big things done and we will do what is right. Even when it is difficult we will put the national interest first. We know who is dysfunctional, and it is not this Gillard government. It is Tony Abbott and those opposite. Just as the opposition wants to race back to an election now, the Australian people know that Julia Gillard has Tony Abbott's measure. She can out-negotiate him. She can get the very difficult job done—(Time expired)

The DEPUTY PRESIDENT: Before I call Senator Fierravanti-Wells, I would just remind senators to address members and senators by their correct titles.

Senator FIERRAVANTI-WELLS (New South Wales) (16:02): I will start by correcting the false, misleading, wrong and totally fatuous comments made by Senator Polley. According to the Australian Institute of Health and Welfare, Australian government expenditure on public hospitals increased every year from approximately $5.2 billion in 1995-96 to over $12 billion in 2007-08. And from 1995 to 1996 annual spending on health and aged care by the Australian government more than doubled from $19.5 billion in 1995-96 to $51.8 billion in 2007-08. Senator Polley, next time you come in and lie to this chamber, get your facts right.

Senator Polley: Mr Deputy President, on a point of order: it is inappropriate to use that sort of language. I would expect you to ask the good senator to withdraw her comment.

The DEPUTY PRESIDENT: Senator Fierravanti-Wells, it would be helpful if you withdrew the accusation and directed your comments to the chair.

Senator FIERRAVANTI-WELLS: I withdraw my comments. The point I wanted to make, Senator Polley, is that you know every time you come in here and parrot that absolute codswallop it is wrong, because you cannot even bother reading the data that has been put out by the Australian Institute of Health and Welfare. If I had to believe anybody I would believe the Australian Institute of Health and Welfare—not you, Senator Polley, or your Labor colleagues who would not even know how to lie straight in bed.

I now come to the point in order, which is the motion before us about the dysfunctional government. I begin my comments by quoting the Canberra Times from 27 February, not that I often quote the Canberra Times:


These are the words of venom and vituperation that spewed forth from Labor ranks over the last week, directed at former Prime Minister Kevin Rudd and his brand of leadership, spoken by a cabal of his closest cabinet ministers. We saw the charge led by none other than Minister Roxon and I will come to some of her comments in relation to health in a moment. We had Mr Swan unleashing on Mr Rudd minutes—just minutes—after the latter resigned from his portfolio, accusing him of sabotaging the 2010 election. We had the member for Bendigo, Mr Gibbons, referring to the former Prime Minister as a psychopath. And the list goes on. Sources say, in an article by Samantha Maiden:

Kevin Rudd described Julia Gillard as a “childless, atheist, ex-communist” at an Adelaide pub as he plotted a political comeback a year ago. As everybody was scurrying to deny it, one of the lawyers present at that occasion is prepared to sign a stat dec to that effect. They were all in denial, of course, about this so-called reality of what is now the Labor Party and comments that were made barely a
month ago were denied. Now the real gloves are off and we see that a third of Ms Gillard’s caucus has now voted against her and a quarter of her cabinet do not have confidence in her.

I come now to health. Through the mouth of former health minister Nicola Roxon, we have had an enormous insight into what has become an example of ramshackle decision making under the Rudd-Gillard Labor government. In Senate estimates I prosecuted this issue in February 2010. I asked questions about whether there actually was a health plan when the Rudd government came to power. There was certainly no plan. There was not even a plan on the back of an envelope. Of course, the officials were quick to deny all of this but the reality is that out of Minister Roxon’s mouth we now know just how ramshackle it was. There was not actually a plan. There never was a plan for health reform.

Indeed, in one of many interviews that Minister Roxon gave she talked about the shambolic lack of proper cabinet processes. Processes were not used. She said:

Some very big decisions were being contemplated, in health in particular, that’s of course the closest experience that I had, that often there was an inclination to want to go and announce those things without there being proper cabinet discussion or consideration of the downsides rather than just some of the political or potential upsides.

And we have seen the example of Mr Rudd wanting to go to a referendum, knowing that a referendum on the takeover of health would not succeed. He thought it would be a good tool to be able to win the election. The cynicism!

One cannot but be cynical about the way this government operated. On another occasion in an interview, Minister Roxon referred to Mr Rudd’s choice to have a referendum about taking over the health system ‘knowing full well and agreeing that that referendum would be lost but thought it would be a good tool to be able to win the election’. Mr Rudd was prepared to have such a cynical approach to this.

Again, on Sky News, Minister Roxon was asked by Kieran Gilbert about the rigmarole of a referendum. She agreed absolutely. Minister Roxon said that Mr Rudd had sat there with Karl Bitar and everybody else and said, ‘Look, this is a really popular thing to do; we would win the election.’ She went on: I said, ‘Yeah, but we wouldn’t win the referendum. Look at the history of referendums. This is the sort of cynical stunt that the Rudd-Gillard government were prepared to do in health. And those opposite trumpet the so-called good things that they have done in health! This is what it was all about.

It was all about the photo opportunities. Then Prime Minister Rudd and then health minister Roxon were going out there for the photo opportunities. That was all it was about. If they really cared about the health of this country they would have taken a serious approach in relation to proper health reform. They knew that they would not get the consent of the states to do it but they went along just for the politics of it.

It is very clear from the comments that Minister Roxon has now made that health was only one of the examples. This was what they did in relation to their so-called big health reforms. Ms Roxon went on to say, on Sky News on 24 February:

... he wouldn’t get proper legal advice, he wouldn’t let officials properly prepare the pros and cons and if you don’t do that then you can’t actually assess what risks are involved for Government or the public in going down a course that might be populist and politically successful but ultimately will end in tears.

That is the approach that this government has taken in relation to health, which was
supposed to be one of their most important reforms.

I thank Senator Brandis for his note. He has just informed me that Senator Arbib has just announced that he is resigning from the Senate forthwith. Well they are descending; it is much more shambolic. It will be interesting to see. I wonder if Senator Arbib is going to write a book and tell us the truth about some of the shambolic recent history in New South Wales. I wonder if it is going to be as interesting as the book that Morris Iemma and former minister Costa have written: the real truth about New South Wales.

With all of this happening it is little wonder that, irrespective of the result today, there will be no peace and harmony—that they will all be 'happy little vegemites' to quote former Prime Minister Rudd. I do not think that will be the case.

As Martin Ferguson said, he knows that the faceless men will still be in charge. There will be one faceless man fewer now, Senator Mason, because Senator Arbib is going. But those faceless men are at work today, and they will be at work in the future, because they just cannot help themselves. So, I say to this Prime Minister that the issue at hand is about our government and our future. Let's go to an election.

Senator THISTLETHWAITE (New South Wales) (16:12): Last week I had the great pleasure of touring the beautiful electorate of Cowper on the North Coast of New South Wales. I was up there opening some brand new educational facilities at a number of schools.

On Thursday I visited Bellingen High School to open their brand new hospitality trade training centre—a $1.5 million investment by this government in better educational facilities for students in that important rural and regional community in New South Wales. I went through and visited their first-class industrial kitchen. I sat in their cafe. I sampled some of the produce of the students—the wonderful coffees that they were making. I talked to the students about the fact that they now have the ability and the choice to begin their apprenticeship whilst they are still at school, giving them a great advantage for a future in a trade in the local community.

Later in the afternoon I travelled to Maclean High School, where I was fortunate to open their brand new construction trade training centre. That is a $1.3 million investment by the Gillard government in first-class vocational education and training facilities for students in rural and regional New South Wales. I spoke to the local builder, the head contractor, who had been involved in the construction of that first-class facility. He told me about the importance of this program for his local community—about the fact that he as a local builder was able to keep on a large number of his employees because of the government's commitment to jobs in local communities and to better education facilities for students in rural and regional New South Wales.

On Friday I then travelled to Willawarrin Public School just west of Kempsey. It is a small school with only 60 students. I did a tour of the facilities with their wonderful school captain, young Hayden. He showed me their brand new library, a first-class library that has just been constructed, with their wonderful new video conference facilities. He told me that the week before the students in that tiny school had had a video conference with the staff at the Sydney Opera House about their music program. A number of other local schools in that community had plugged into that video conference to tour the facilities of the Sydney Opera House, to learn about its music program, to learn about how
productions are put together and how they are rolled out on a particular day—all from the convenience of their school library.

I toured some of the classrooms and the students showed me their brand-new smart boards: how they interact on those smart boards and how they can do programs like mathletics to make mathematics more enjoyable. I spoke to the principal about the benefits of these wonderful new facilities not only for the students but also for the local community—the fact that 80 workers from the local community had secured jobs on this important project and that it ensured during the difficult period of the global financial crisis that many of those local builders, architects and designers were kept in employment. They were also providing an investment in a better education for the kids in their local community. I also toured Kempsey East Public School, which had a $2.125 million investment in a new school hall, and Smithtown Public School with a $925,000 investment in better classroom facilities.

I drove past the work that is going on on the Kempsey-to-Frederickton bypass—a $618 million investment by the Gillard government in a dual carriageway on one of the most treacherous stretches of road on the Pacific Highway. Some 394 pylons are being driven into the ground to provide the largest road bridge in this country—2.3 kilometres of road bridge. Some months ago I was fortunate to drive in the first pylon on that very important piece of infrastructure for rural and regional Australia. Through that investment, 450 jobs were created.

In two days I witnessed $625 million worth of investment by the Gillard government in rural and regional New South Wales. During that time, of all the people I met not one of them mentioned the ALP leadership issue. They were much more interested in the services that their government was delivering for families and communities. The main game in the community is policy development and policy delivery, and it should be the main game in this place as well, particularly when we are talking about matters of public importance. This debate is meant to be about the issues that matter to the people of Australia. When it comes to matters of public importance, Labor has a clear policy plan to meet the challenges of the future, to keep our economy strong, to grow jobs, to ensure that the benefits of the mining boom are shared equally amongst the community, to support small businesses and to support the disabled and their families into the future. Our plan is affordable and it is costed and we are happy to have it independently scrutinised by the Parliamentary Budget Office or any other independent auditor of election costings. That is unlike those opposite who do not have a policy agenda, who cannot explain to the Australian people their policy on workplace relations and who cannot come into this place and clearly enunciate what their education policy will be. I have just mentioned some of the investments this government has made in better education facilities for students in rural and regional New South Wales. Australia-wide, the government has invested $16.2 billion in better education facilities through the Building the Education Revolution.

Those opposite cannot come into this place and enunciate what their policy plan will be on one of the most important areas of public policy in this country. They cannot tell us how they will deal with climate change; they consistently resort to a student-politics mentality of seeking to debate goings on in, and what is being backgrounded to, the media in this place. There is no greater example of that than the incompetence in their approach to fiscal policy. At the last
election they refused to submit their election costings for independent scrutiny. When they did, they came up $11 billion short. When they had them independently audited, their accountants also came up short, and later on the accountants were fined for breaches of accounting standards. That pales into insignificance when it comes to what those opposite have planned for Australia. From the very little policy that has been leaked from the shadow cabinet meetings, we do know that they are planning $70 billion worth of cuts in services.

When we talk about matters of public importance there is no greater matter of importance to the public than the cuts those opposite have proposed to service delivery in this country. They should come in here and tell the Australian public what they are planning to do with the childcare rebate, an important support from government that helps families get by—particularly those in the early years of child rearing. They should tell us what it means to pensions when they talk about $70 billion worth of cuts to services. They should tell us what it means when we have a plan to increase superannuation and they are planning to cut $70 billion worth of services. They should tell us what it means when we are planning cuts to the company tax rate and they will not agree to those cuts.

We often get into vigorous debate in this place and we criticise each other about what is happening in our parties, but on the issues that really make a difference to the lives of Australians—the real matters of public importance—it is policy that matters to the Australian people. When it comes to policy and when it comes to comparing the different policy agendas of Labor and the coalition, the contrast is stark. We will always come to the conclusion that Labor is doing a good job when it comes to policy development.

Senator MASON (Queensland) (16:23):
The matter of public importance today is the complete dysfunction of the Labor government. After the brutal battles within the Labor Party in the last week, there is no question they are dysfunctional. It reminded me of when the former United States Secretary of State Dr Henry Kissinger was asked about the very bitter war then being fought between Iran and Iraq. He said that it was a pity that both sides could not lose. I have no doubt that most Australians today, having seen the result of the battle between the Prime Minister and Mr Rudd, wish both of them could lose—because the public has certainly lost.

I am in a somewhat generous mood today, even if the public might not be. I happen to agree with both Ms Gillard and Mr Rudd, and indeed their supporters. I agree with them all. My good friend Senator Conroy—he is one of my favourites, as you know—said:

Kevin Rudd had contempt for the cabinet, contempt for the cabinet members, contempt for the caucus, contempt for the Parliament.

Senator Conroy was right. What a pity he did not make that public 18 months ago or three years ago or four years ago. That is what a senior member of the Labor leadership group says about the alternative Prime Minister and alternative leader of the Australian Labor Party, Mr Rudd.

My fellow Queenslander, Deputy Prime Minister and Treasurer, Mr Swan, said:

The Party has given Kevin Rudd all the opportunities in the world and he wasted them with his dysfunctional decision making and his deeply demeaning attitude towards other people including our caucus colleagues.

Again, I agree with Mr Swan. I do not have any doubt that that was Mr Rudd's conduct. But this all came out in a leadership contest—the most bitter I have ever seen; I
have never seen a contest as bitter as it—a long time after the event. I only wish my Labor colleagues had had the courage to bring this up when it really mattered: three or four years ago, when a dysfunctional person was running the government.

Tony Burke, the Minister for Sustainability, Environment, Water, Population and Communities, said:

... the difference between the Kevin Rudd they saw on their TV screens and how he could actually come to be the micro-manager, the chaotic manager he had become ... It became chaotic, the chaos, the undermining, the temperament that started to develop ...

That is another senior minister talking about the Labor Party's most popular Prime Minister ever. Only now does the truth seep out from senior members of the Australian Labor Party about the most popular Labor Prime Minister there has ever been.

Ms Gillard the Prime Minister said that Mr Rudd had displayed 'very difficult and very chaotic work patterns as Prime Minister.' She added that he had sabotaged her 2010 election campaign. Yet again, that is correct.

These are the people charged with running our country. They are not talking about the issues that matter. My friend Senator Thistlethwaite spoke about matters that do concern the community; but those things have not been concerning the Labor Party for the last six months. Mr Rudd has been running around, as Ms Gillard says, undermining her and the government. Their focus has been on each other and on their own jobs, not on the concerns of the community.

As you know, I like to be catholic in my approach—somewhat eclectic. So let us look at the other side. One of the senior ministers voting for Mr Rudd today was the Minister for Immigration and Citizenship, Mr Bowen. He said, 'I do believe Kevin Rudd has a lot to continue to offer.' He might continue to have a lot to offer to the opposition—we do not complain about the political effect of Mr Rudd—but he has a devastating effect on Australia, its government and its people. That is the problem. So I agree with them all; but what a shambles. These are the people who are supposedly administering this nation.

We have one of the largest economies on earth. All of us know that this is a time of increasing pressure on families. The cost of living is going up because of the carbon tax, which is one of the great disasters in Australia's history. It will go down as an absolute and utter debacle. Job security, particularly in manufacturing, is becoming increasingly difficult. The boats keep coming; border security remains a huge issue; that has not changed. The mining tax will be debated, as Senator Evans said today during question time. 'If it moves, tax it,' says the Labor Party. The mining tax will not solve Australia's problems. Taxing does not solve a nation's issues.

So what has changed? Nothing has changed. The problem with the Labor Party ever since Mr Rudd won the election in 2007 is very simple: they cannot implement anything. The implementation of their policies has been a shambles. The pink batts program was perhaps the classic. It cost $1 billion to implement and $1 billion to fix. The NBN has to be a shambles. I will put a bet on the public record that that will be a shambles—and it will not be worth it. In my own area, in the Building the Education Revolution, I heard what Senator Thistlethwaite said. This is the problem: everyone knows that those school halls cost too much. The government's own adviser said that they cost too much. Do you know what is even worse? It was in state schools where the money did not go very far at all.

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CHAMBER
The government secured much better value when it was dealing with Catholic schools and independent schools. Why is it that government schools cost up to 60 per cent more per square metre than Catholic or independent schools? What is even worse is that the Auditor-General's office said that there were not sufficient oversight mechanisms within the Commonwealth department of education to ensure that the Commonwealth got good value for money. That is the greatest indictment of this government in four years: after spending $16 billion, the Auditor-General said there were not sufficient oversight mechanisms to ensure the Commonwealth got good value for money. That was the problem. But don't believe me; look at what Mr Orgill said. It is all very well to say, 'People thought it was a great idea but we spent all this money.' The trick in government is not to spend money. That is easy. I actually find spending money pretty easy myself. The trick is to spend it well, because for every dollar a government spends, taxpayers deserve a dollar in value at least. And they did not get it out of the BER. That is the problem. It is true.

Senator McLucas interjecting—

Senator MASON: Senator McLucas said that some states did better than others. I would accept that. Some states did do better than others. But overall it was a woeful performance.

Senator McLucas interjecting—

Senator MASON: Read Brad Orgill's report, Senator McLucas. In Victoria alone, state government schools cost 40 per cent more than Catholic ones. It is absolutely outrageous.

Finally, the cancer within the Labor Party, the cancer within social democracy—right across Western Europe and throughout the world—is one four-letter word: debt. The Labor Party, since Federation, has never left government with more money in the bank. They always have more debt upon leaving government. That has happened every single time since 1901. They always leave Australia with more debt. That is the great failing of the Labor Party and social democratic parties in Europe. And aren't we paying for that now?

This morning's contest clearly was between Australia's worst Prime Minister and the second-worst Prime Minister. I am not sure who is who, but we do know this: it was a pretty decisive vote in caucus but history will judge both those people as very poor prime ministers. We should go to an election as soon as possible.

Senator FAULKNER (New South Wales) (16:33): Let me say that I believe this Labor government is a good government. This is no better demonstrated than by the government's sound management of the Australian economy and by the long list of key policy achievements since its election some four years ago.

It is very easy for an opposition to say that a government is dysfunctional. But just consider how Australia currently compares with other advanced economies in the world. The Labor government has steered Australia through the worst global recession since the Great Depression more than three-quarters of a century ago. Unemployment is low—currently at 5.2 per cent—and employment growth is strong. Unemployment is lower in Australia than in any every major advanced economy of the world, bar one. Some 750,000 jobs have been created since Labor was first elected more than four years ago, including 100,000 in the last year alone, and the government is on track for the creation of another 300,000 new jobs this year.
Growth is steady with a strong investment pipeline. Debt is low. Australia has a budget position that is literally the envy of every other nation in the Western world. Inflation is contained in this country, and interest rates under the Labor government have reached lows never seen by the previous coalition government. Importantly, as I have said before in this chamber, for the first time in our history Australia has received a AAA rating from all three global ratings agencies—something that was never achieved by the previous coalition government.

It would not be surprising to anybody that the opposition has proposed this matter of public importance today. As you would expect, the opposition is trying to exploit the fact that we in the federal parliamentary Labor Party had a leadership ballot today. Well, such events are part and parcel of politics. Since I have been in parliament I voted in six leadership ballots: the two challenges by Paul Keating to Bob Hawke, Kim Beazley's challenge to Simon Cream, the ballot between Kim Beazley and Mark Latham, Kevin Rudd's defeat of Kim Beazley, and, of course, today's leadership ballot. I am a traditionalist, and that is a nice way, I suppose, of acknowledging that I am a relic from the past. And I have always refrained from publicly or privately canvassing the respective merits of those who are contesting leadership ballots. I am afraid I have to disappoint my friends in the gallery; I am not about to start now. I will, however, say that I have the greatest respect for all the Labor prime ministers that I have known and I believe that each and every one of them deserves our gratitude for their efforts on behalf of our party and our nation.

On the other side of the chamber, I have seen Andrew Peacock, John Hewson, Alexander Downer, John Howard, Brendan Nelson and Malcolm Turnbull come and go. I have seen others desperately covet the leadership but not have the guts to contest it—Peter Costello comes to mind there. I have seen Tony Abbott win a leadership vote, the ballot he won in fact by one vote after preferences, against two of his most senior colleagues. So, yes, we have leadership ballots just like the Liberal Party and the Nationals have leadership ballots. And, yes, the Labor Party fights and, yes, the Labor Party fights such ballots hard because the stakes are high. We fight hard because we are passionate in our beliefs. We fight hard because in Labor's broad church so many different views are heard. Like other political parties, the Australian Labor Party has internal processes to resolve its differences. Those processes have been in operation again today. They have worked again today as they have worked in the past.

So the bad news for the Liberal Party is that, just as has happened in the past after a leadership ballot is done and dusted, differences will be put aside and members of the government will work together in the national interest. This is the way the Labor Party works. We respect the outcome of democratic processes in the party, in the parliament and at the polls. The Liberals have never done that. They will never acknowledge that Prime Minister Gillard has been voted for by the majority of the Australian voters, the majority of members of the government will work together in the national interest. This is the way the Labor Party works. We respect the outcome of democratic processes in the party, in the parliament and at the polls. The Liberals have never done that. They will never acknowledge that Prime Minister Gillard has been voted for by the majority of the Australian voters, the majority of members of the House of Representatives and the majority of my caucus colleagues. They can spend as much time as they like denying reality. While they do that, this government will get on with the job of delivering for Australia.

How extraordinary in this matter of public importance debate that the three coalition speakers—Senator Brandis, Senator Fierravanti-Wells and Senator Mason—have
themselves been such warriors in internal Liberal Party leadership ballots. Senator Brandis could not stand John Winston Howard. He called him a ‘lying rodent’. Senator Mason had similar views. He probably did not do as much backg

ounding as Senator Brandis did against Mr Howard, but his view was well known. Senator Fierravanti-Wells undermined Mr Turnbull when he was the Leader of the Opposition virtually every minute of every day. Well, I do not think it does any of us any good to have that level of hypocrisy in the chamber. As I said before, leadership ballots are part and parcel of Australian politics. What I say is that after they are over, a responsible political party gets on with the job. In the case of a political party that forms government, it gets on with the job of governing. That is what the Gillard government will do: get on with the job of delivering for Australia. *(Time expired)*

MINISTERIAL STATEMENTS

Afghanistan

HMAS Success

Global Economy

Closing the Gap

Syria and Iran

Senator **SCULLION** (Northern Territory—Deputy Leader of The Nationals) (16:43): by leave—I move:

That the Senate take note of *Closing the Gap Prime Minister's Report of 2012* document.

This is a very important report. Indigenous disadvantage and Indigenous disconnection are the reality in many parts of Australia and require a commitment not only from individuals but from governments at all levels of Australia to address. When the previous Prime Minister, Prime Minister Rudd, made a commitment to produce a report on the first day of parliament in every parliamentary sitting year on the status of closing the gap, this commitment was certainly welcomed across the political divide. It was viewed as an opportunity to assess how government programs are working, what the community acceptance involvement is and whether or not we are actually closing the gap. Unfortunately, most of the reports to date have concentrated on inputs: how much money has been allocated or spent and how many initiatives have been announced. I have to say in defence of the Labor Party that in the first couple years I could probably understand why that might be the case; we have to get a database. But we have been at this for some time now and it has become apparent that the government now seems to believe that the hard work stops when the announcement has been made. I think all Australians would know that in fact the opposite is true.

An example is the government's $100 million Indigenous antismoking initiative. We know exactly what is being spent, but we have no real idea about how it is actually working. We do not know—neither does the government—the exact details of what is happening. We have the details of how much money is invested but absolutely no details at all about how many people have stopped smoking, how many people are attempting to
stop smoking or the variety of communication mechanisms between Indigenous Australia and the government. Why can we not be told about the effect of the program? After spending the amount of $100 million one would expect that we would know what works and does not work. By the time we get to the end of the program it is going to be too hard to make any changes, so we definitely need some interim targets as the long-term closing the gap targets of 10 to 20 years will mean nothing if we cannot assess how we went last year or will go in the next year. The important trend lines, particularly in closing the gap, are something that I do not think we have developed fast enough and are certainly something that we really need.

An example of that is the halving of the gap on year 12 completion by 2020. At the moment, we measure how many people will graduate this year and then we try to do a projection which is, in my view, pretty worthless. There is a much better way to do it. What we need to do is measure how many kids are in and passing grade 5 this year, because they are going to be the same students who will go through year 12 in 2020. The reason I use that particular example is that attendance records and NAPLAN results for that particular age group indicate that we have already failed to meet the 2020 target. The number of kids who have been retained in year 5 and who are actually passing year 5 is not even at 50 per cent, so we have clearly failed the target already and do not have to wait until 2020 and say, 'Oh, we've got it wrong. Let's go and do something more about it.' It is very important that we change that approach. The Closing the gap report needs to highlight all of this information as well in the glossy brochures. It has plenty of pictures but very little qualitative data, and that needs to change. It does a disservice to both the Australian public, who want action, and Indigenous Australians, who deserve action.

The Closing the gap report should also contain data that describes where we are right now. There should be data not designed to attribute blame or shame people but to remind Australia why we need to work so hard to address disadvantage and disconnection. It should be data, disturbing as it may be to some, such as that provided by the Children's Commissioner, Dr Howard Bath. This data was provided in Dr Bath's submission to the Senate Community Affairs Legislation Committee inquiry into the Stronger Futures in the Northern Territory Bill 2011 and two related bills, and it is a salient reminder about why we must continue to intervene in Indigenous affairs. The Australian Early Development Index, the AEDI, provides a population based developmental assessment of children in their first year of school. It explains that those with multiple developmental vulnerabilities will require special assistance in order to benefit from regular schooling and all the lifelong benefits that schooling provides.

To get an idea, across Australia, 11.8 per cent of children have multiple developmental vulnerabilities—and one of the fundamentals of that is that if you are raised in an environment where you feel safe and confident then you will not fall into multiple development vulnerability. Within the Northern Territory, 46.8 per cent—that is nearly half—of all Indigenous children have developmental vulnerability on more than one developmental domain. That is half of Indigenous children across the entire Territory, but in remote communities the number of children assessed as having multiple development vulnerabilities is far worse. Research has indicated that close to 60 per cent of the children in the Northern Territory emergency response zone—that is,
the remote communities and the town
camps—have multiple developmental
vulnerabilities as they enter the school
system. So 60 per cent are significantly
behind the eight ball before they enter the
school system. If we look at the NAPLAN
results and the attendance results—and this
is all to do with it—we understand why they
find it so very hard to complete an education
or, in many cases, as we have seen up to year
5, attempt to start one.

It is a lot harder to identify and access
these children who we need to make a
concerted effort to help because they are in
these remote communities. Developmental
vulnerabilities are significant but there are a
lot of other significant issues that contribute
to the disadvantage and disconnect
experienced by Indigenous Australians. One
of those is the exposure to alcohol abuse and
general violence. Dr Bath stated, ‘One of the
hazards facing children that receives less
attention because it is somewhat hard to
measure and difficult to talk about publicly is
the impact of the exposure of children to
chronic family and community violence.’
You will remember that I spoke a little
earlier, Mr Acting Deputy President Back,
about the multiple presentation of
dysfunctionality and the association with
feeling safe. When we look at this, I think
one of the most important areas of
vulnerability is the exposure to general abuse
and violence not only of the children but of
the whole family. Just as a statistic, most
night patrols that were funded as part of the
Northern Territory emergency response are
the first response to individual and
community violence. In 2010 the patrols
responded—and this is for a target
population of 29,000 adults, and for violent
episodes—to 100,000 incidents. Recent
Australian Institute of Health and Welfare
data indicate that Indigenous people in the
Northern Territory are hospitalised for
assault at twice the rate of Indigenous people
in other parts of Australia. Of particular
concern is the vulnerability of women and
children. Indigenous women are hospitalised
for assault at an alarming rate, 69 times that
of other women in the Northern Territory.
Around 2.5 per cent of all Indigenous
women in the Northern Territory are
hospitalised for assault each year. We can
make some comparisons. For example, in
New South Wales there are 2½ times more
Indigenous people than there are in the
Northern Territory. In the two-year period to
2008, the Australian Institute of Health and
Welfare records that 635 Indigenous women
were hospitalised for assault in New South
Wales. For the same period, for half the
number of people, in the Northern Territory
1,729 women were hospitalised. In many of
these violent incidents, children are present,
witnessing, experiencing and absorbing the
impact of this violence. I welcome the
Closing the gap report, but as I have
indicated the document is more noteworthy
for what it does not say than for what it does.

Senator SIEWERT (Western Australia—
Australian Greens Whip) (16:53): I also rise
to take note of the Closing the Gap
statement. I note once again that this report
was not tabled on the first day of parliament,
as was originally promised. While I am
pleased that the report has been tabled and
has been issued, I think that, by failing to
table it on the first day that parliament sits
every year, what we are doing is failing to
really mark that important date and say, 'We
are totally committed to closing the gap.' We
have missed that date every single time, so
we have missed that opportunity to say, 'We
are putting everything into closing the gap.'

I, like Senator Scullion, was on the trip to
the Northern Territory last week as part of an
inquiry into the Stronger Futures legislation.
I know that we will have some time to debate
that legislation in this place in the coming
weeks—far too soon, I might add, because it is obviously a series of bills that make up a piece of legislation that has very many significant holes in it which have become apparent already. One of the key things that were highlighted in the trip to the Northern Territory—along with those appalling statistics that Senator Scullion just referred to and that I will refer to in a minute—was the overwhelming rejection of the intervention; overwhelming rejection of the Stronger Futures process and a very clear understanding that it was phase 2 of the intervention; and overwhelming condemnation of the lack of adequate consultation throughout the process of the intervention but also in the development of the Stronger Futures legislation. Almost to a person—there was one gentleman who did think the consultation was okay—the consultation process was condemned. In other words, once again this government is taking a top-down, paternalistic approach of, ‘We know what’s best for you,’ and selectively listening.

Last week highlighted very starkly the fact that the intervention just has not delivered. The Closing the gap report does highlight some improvements: how can we not acknowledge that it is a good thing that infant mortality rates have improved? But the gap is still enormous in many, many areas and it just has not been dealt with by the intervention. We are still seeing very significant problems with alcohol. While some people will say alcohol has improved, on one occasion some ladies came up to me and said, ‘Although some of the men think alcohol’s improved, it hasn’t. We still have very, very significant problems.’ The same is evident in other areas. While some of the legislation that the Northern Territory government have put in place most recently, in the middle of last year, started tightening up some of the alcohol controls, and they are going to be supplying us with some statistics to look at what they think is some decrease in hospitalisation due to violent incidents related to alcohol, we are still seeing enormous trauma caused by alcohol. In other words, the approach that the government has taken has failed to work. Income management has failed to work. This top-down, punitive approach, unless you engage with communities, does not work.

The issue of education is again highlighted in the Closing the gap report. There is overemphasis on NAPLAN reports. Senator Scullion was just referring to statistics about the need for special assistance for children as they go into school. Sixty per cent of the children in those prescribed areas need some sort of special assistance, but they are not getting it. I have lost count of the number of times I have stood in this chamber and spoken about just one of the issues that children need special assistance for—hearing or literacy and numeracy programs. Those sorts of programs are absolutely essential. Unless we start dealing with these programs, I and people coming after me are going to be marking this day and saying, ‘We still haven't closed the gap.’ When we actually start putting resources into those critical areas, that is when we are going to see the gap starting to close and when we are actually able to develop a positive relationship between children and school so that children realise there is a meaningful reason to go to school—that is, you can get educational outcomes and there may be job prospects at the end of that process. We still do not have jobs being generated in the Northern Territory for people that have been promised and promised and promised. They have not delivered.

We keep seeing short-term decision making. With CDEP, the Howard government announced it was getting rid of it and started getting rid of it. The Labor
government came in, put it back for a while and took it away again, and guess what: they have put it back again. They have realised that getting rid of CDEP this July is a massive policy blunder and they have temporarily put a freeze on the transition to killing off CDEP. And what have they done? It is indefinite. So once again we have this indefinite policy process going on in the NT around employment. No-one knows when the next step is going to be taken in this flawed policy approach. Again, with Stronger Futures, we have a series of more flawed approaches: 'Let's extend the SEAM program. Let's penalise parents if they don't send their kids to school. Let's alienate those parents from the education system.' All the research shows that what we need to be doing is engaging parents with the education system, encouraging participation in developing school programs and ensuring that we can have bilingual and culturally appropriate education where parents get a say and where students get something meaningful out of the experience of having their special assistance requirements met. I cannot say to you how many people have expressed the desire to want to engage with school, to want to engage in a better education for their kids and to see something meaningful. When you go back to the Closing the gap report, what you see is a whole lot of, 'We've done this and we've done that.' We are getting slightly better results from NAPLAN, but we cannot clearly demonstrate that we are getting satisfactory educational outcomes from sending our kids to school. The process is: 'Let's get the kids into school and the education will take care of itself.' Well, it does not do that. What makes a good education? Engagement with the parents and with the schools, and with a curriculum that is culturally appropriate and actually meets children's needs. Making sure we have the right student-teacher ratio is absolutely critical, as is having quality teachers and quality principals. Those are the keys for delivering good educational outcomes, and we are just not seeing that. The government have tabled this Closing the gap report, and they have tabled the Stronger Futures legislation, but there has been no mention of additional resources.

When we were in the Northern Territory last week we heard about some of the good things that have come out of the intervention—there are a couple. Police in the community, everyone acknowledges, is a better thing, but resources have been absolutely critical. Putting resources into primary health has been absolutely essential, as is putting resources into helping community organisations address justice issues. One of the other 'benefits' of the intervention has been the skyrocketing incarceration rate of Aboriginal people in the Northern Territory. That is a great outcome, isn't it? Not! One of the benefits of the intervention, fortunately, has also been putting resources into addressing justice issues and enabling Aboriginal people to get access to community justice services.

That funding runs out in June. The government has made no commitment of resources. We do not know if those very critical health services are going to continue. We do not whether those critical justice services are going to continue. The government have announced an expansion of the income management process both in the NT and in the other states. We do not know whether there are more resources there to cope with that. And, with the same program, the government said that they will commit some social workers, but we have no idea if that very substantial change in education in the Northern Territory is actually going to get additional funding from the federal government.
In a couple of weeks we in this place will be asked to vote on legislation that goes for 10 years. That will expand the intervention, which will have been in place for 15 years. We are being asked to vote on that legislation, but we do not know if there is going to be any money to implement it. We do not know how much more money is going to be invested in closing the gap. The shadow report that the Aboriginal organisations tabled on the day of the Closing the gap report highlights that as a critical need. It highlights the absolute essential need for the government to commit to resources, to all those health programs that are about to run out in June. It is essential if we are going again to close the gap that we no longer have this stop-start process of funding programs and of people being on short funding cycles. (Time expired)

Question agreed to.

DOCUMENTS

Tabling

The ACTING DEPUTY PRESIDENT (Senator Back) (17:03): Pursuant to standing orders, I present documents as listed on today’s order of business at item 11, which were presented to the President, the Deputy President and Temporary Chairmen of Committees since the Senate adjourned on 9 February 2012. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

(a) Committee report


(b) Government responses to parliamentary committee reports

1. Education, Employment and Workplace Relations References Committee—Report—The administration and purchasing of disability employment services in Australia (received 17 February 2012)

2. Community Affairs References Committee—Report—Consumer access to pharmaceutical benefits (received 22 February 2012)

(c) Government documents

1. Australian Customs and Border Protection Service—Report for 2010-11—Correction (received 10 February 2012)

2. National Residue Survey—Report for 2010-11 (received 17 February 2012)

3. National Rural Advisory Council (NRAC)—Report for 2010-11 (received 21 February 2012)


(d) Letters of advice relating to Senate orders

1. Letters of advice relating to lists of departmental and agency appointments and vacancies:
   - Finance and Deregulation portfolio (received 13 February 2012)
   - Immigration and Citizenship portfolio (received 15 February 2012)

2. Letters of advice relating to lists of departmental and agency grants:
   - Finance and Deregulation portfolio (received 13 February 2012)
   - Immigration and Citizenship portfolio (received 15 February 2012)
   - Education, Employment and Workplace Relations portfolio (received 20 February 2012)

The ACTING DEPUTY PRESIDENT: In accordance with the usual practice and with the concurrence of the Senate I ask that the government responses be incorporated in Hansard.
Australian Government response to the Senate Education, Employment and Workplace Relations References Committee’s Report

The administration and purchasing of Disability Employment Services in Australia

February 2012

Introduction

1. The Senate referred the inquiry into the administration and purchasing of Disability Employment Services in Australia (the Inquiry) to the Senate Standing References Committee on Education, Employment and Workplace Relations (the Committee) on 22 August 2011.

2. The Committee report, The administration and purchasing of Disability Employment Services in Australia (the Report) was tabled on 25 November 2011.


4. Through submissions and hearings the Inquiry was able to document a range of views about a number of issues. There were some clear and divided opinions reflecting different interests in this area.

5. A number of DES employment service providers and their peak bodies expressed a preference not to have to go through a tender process at all or are seeking to limit the number of providers required to do so.

6. Other employment service providers that have been largely or entirely excluded from delivery under DES, and their peak employment service bodies, on the whole supported the decision to go to tender.

7. It is the view of the Australian Government that the interests of people with disability should be paramount in determining these matters. The Australian Federation of Disability Organisations and other disability consumer organisations such as MS Australia and the National Council on Intellectual Disability provided submissions supportive of the DES-ESS tender decision based on the interests of people with disability.

8. In addition the Department for Education Employment and Workplace Relations (the Department) put the view that the DES-ESS tender decision serves the public interest, as well as those of people with disability and employers.

9. In designing the new DES programs, it is relevant to note that there were extensive consultations, beginning in 2008. Furthermore, there were consultations undertaken in advance of the 2011-12 Budget decisions on DES procurement. Evidence contained within the Report largely reflected the positions known through those earlier consultative processes.

10. The Government recognises that the Committee has sought to strike compromises between competing service provider interests. However, in doing so it has given insufficient weight to the public interest and the interests of people with disability.

11. A competitive tender process primarily based on performance is the most promising mechanism for:

- providing people with disability with access to the best possible employment service providers;
- bringing about improvements in employment service provision for people with disability; and
- ensuring value for money is achieved.

Recommendation 1

The committee recommends that the Department consider exploring alternative purchasing models for DES-ESS, especially in relation to the purchasing of specialist provider services.

Response

Not Supported.

The Government believes that people with disability and their employers deserve access to the best possible employment services. A competitive open tender is a tried and proven mechanism that has proven to give fair and balanced outcomes. A tender will result in the contracting of the best possible employment services so more people with disability in more
places in Australia benefit. After this tender, the public will be able to have confidence that the best possible providers are delivering these services.

The Government acknowledges that competitive tender processes can involve some disruption to the market for participants and for employers. However, contracting the best providers will more than compensate for any short-term disruption that may occur during the transition and will deliver better outcomes for people with disability. Depending on the individual management of organisations, tendering can result in a temporary slow-down in performance over the tender period. However, there is evidence that the outcomes of a competitive tender have a positive effect on efficiency and the delivery of quality services to job seekers. For example, research by the Productivity Commission into the previous Job Network program showed that competition between providers and the use of outcome payments created strong incentives for providers to improve efficiency and find better ways of achieving job outcomes for job seekers.

The Government will work closely with providers and stakeholders to put in place a transition plan that minimises disruption for participants and employers. Services and support will continue. Where job seekers move to a new provider, services are likely to improve with providers that have demonstrated their performance through the tender process.

The Department has successfully managed changes in DES providers and the transition of job seekers on numerous occasions as part of regular business. In addition to the role of the Government and Department, providers have a role in providing clear and accurate information to job seekers or their families during any transitioning of the job seeker to another provider.

It is also acknowledged that there may be organisations within the industry, both providers currently delivering DES-ESS and other potential tenderers, that have limited experience in preparing and submitting a response to a tender for employment services. The Government will, therefore, be taking steps to ensure that organisations are as well-prepared as possible for the DES-ESS tender by developing a range of communication products to support the tender process.

Finally, the current arrangements in relation to both business share and direct registration of eligible job seekers provide flexibility in the way the system currently works to cater for some organisations to deliver services based on a very small business share.

**Recommendation 2**

The committee recommends that any purchasing process for DES-ESS, including competitive tendering, be delayed by a further 12 months to avoid unnecessarily disrupting service provision during a time of improving performance.

**Response**

Not supported.

Unlike DES – Disability Management Service (DES-DMS) and Job Services Australia (JSA) providers, DES-ESS providers were not required to demonstrate their capacity to deliver services through a competitive tender when the program was established. Existing providers of the program DES-ESS replaced were instead offered contracts, irrespective of performance.

As such, there was no opportunity in 2009 for new providers to enter the DES-ESS market. There was also no opportunity for existing providers to compete for additional DES-ESS business. At the time, the Government signalled its intention to run a competitive tender process for DES-ESS in the future. This decision was also taken in the context of significant stability for many providers that have received recurrent funding without being required to tender – in some cases, for many years.

Contract extensions are being offered to all DES-ESS providers until 3 March 2013 to allow providers a full two years to engage with the DES-ESS model prior to the collection of performance data to determine the tender. This will also extend the term of the current DES-ESS contract to three years in total. Furthermore, a longer than usual transition period has been allocated to support a sensitive and effective handover of participants and their employers.
The Government notes the concerns raised in the Committee's Report about the timing of the DES-ESS tender given that the Government is simultaneously implementing reforms to the Disability Support Pension (DSP). These measures are designed to increase the workforce participation of people on the DSP and will have limited impact on DES providers and no impact on the tendering process.

As the Department indicated in its submission to the Inquiry:

"the flexibility of the employment services model enables major government reforms to be incorporated. DES providers will be expected to deliver employment services and record information as per the current Deed and guidelines. Providers will not be involved in the assessment process nor be expected to develop specific reports for the DSP Assessor."

The concerns expressed by some providers that the changes will mean an increase in less motivated job seekers onto their caseload are overstated. The estimated additional 10,000 job seekers per year flowing into DES in 2011–12 and 2012–13 have similar characteristics to job seekers currently being assisted by DES providers and the increase will also occur across all providers and their sites over an extended period of time.

**Recommendation 3**

The committee recommends that the contract duration be extended from three to five years. The contract should include a mid-point review to ensure that consistent poor performance is identified and addressed.

**Response**

Supported in principle.

The Government shares the views of the broader employment service and disability consumer sectors that the awarding of contracts should be primarily based on performance as assessed through a competitive tender process. The Government also recognises some merit in five year contracts in which the additional certainty could assist in establishing and growing a business; offering greater security to staff and stakeholders; and building relationships with employers, other local service providers and the community.

Five year contract periods do, however, present some risks. Foremost is the need to ensure that expenditure of Commonwealth funds is efficient, effective, economical and ethical, and represents value for money to the Commonwealth. To do this, there would need to be flexibility built into a longer contract to accommodate change without the need for a renegotiation, for example to cater for changes in economic conditions. Furthermore, there is a need to ensure continual levels of high performance over a five year period. Some of these issues would be addressed through a mid-term business reallocation process.

Employment services contracts are generally for periods of three years with provision for extensions. However, in practice, DEEWR has exercised this extension provision for most contracts, effectively making the contract periods much longer. As has been noted in the Department's submission, many current DES-ESS providers have been contracted for many years without the need to tender.

Under the current purchasing arrangements the Deeds of DES-DMS providers, who were subject to a tender process in 2009, will be extended by an additional three years, taking the entire period to five years and four months. For the first time, organisations that are not delivering sustainable jobs for participants will be subject to a business reallocation process during the DES-DMS contract extension period.

**Recommendation 4**

The committee recommends that the scale of the proposed tender be limited to service providers below the national star-rating median.

**Response**

Not Supported.

The Government's view is that people with disability deserve access to the best possible services. A tender process is an open and transparent way of ensuring that the best possible providers are delivering services to job seekers.

The Inquiry was presented with considerable evidence that a competitive tender process primarily based on performance will contribute to
an improvement in service provision to people with disability.

Through the DES-ESS tender process, the Government will test whether there are other organisations able to deliver higher levels of servicing to job seekers than providers currently performing at average or low levels.

Setting the benchmark high for DES-ESS underscores the Government's commitment to quality services for people with disability, and means that job seekers, employers and the community at large can be confident that the best possible providers are delivering those services. It is simply not good enough to assume that average, or three-star performance, in a never-contested market represents quality service for people with disability.

Attempts to draw parallels between the DES-ESS tender arrangements and the arrangements for JSA (that is, the offer of contract extensions to JSA providers rated three stars and above), are unfounded. JSA was established in 2009 after a full, open tender process to test the market and this was a key consideration in designing the current JSA procurement arrangements. By contrast, all DES-ESS providers were offered contract rollovers, irrespective of performance.

However, rather than replicate the JSA arrangements and have a full tender for DES-ESS, the Government has decided to reward high performing providers with a contract extension. This will ensure some stability for people who are currently receiving services from high performing providers.

Recommendation 5

The committee recommends that a transition strategy for clients be released at the same time as the Exposure Draft Request for Tender to allow interested parties to provide feedback at an early stage to the Department.

Response

Supported.

The Government recognises that DES-ESS participants are some of the most vulnerable job seekers in Australia. The Department will commence the DES-ESS Transition Period from 1 November 2012. In preparation for the smooth transfer process for participants, employers and providers, the Department released a transition objective and statement of principles in the third DES Industry Information Paper on 20 January 2012.

The objective of the transition is to ensure a smooth transfer to the future contracting arrangements that has minimal disruption to participants, employers and providers, and maintains the continuity of service.

The Department proposes to manage the DES—ESS transition process using the following principles:

- All participants will:
  - remain connected with their current DES—ESS provider, or
  - be referred to a new or gaining DES—ESS provider taking into account their individual needs and circumstances.
- Transition activities must support continuity of DES—ESS services.
- Transition will continue to support connections between employers and participants where possible.
- Transition activities will support the future employment services arrangements, while honouring existing contractual obligations.

The Department will continue to work closely with industry through the following consultation mechanisms.

- Immediately following the release of the DES—ESS Exposure Draft Request for Tender (the Exposure Draft), information sessions will provide an opportunity to discuss the proposed transition arrangements.
- A Sub-Working Group of the existing DES Reference Group will be established following the release of the Exposure Draft. This Sub-Working Group will assist with ensuring transition is managed as sensitively as possible and in line with the principles outlined above.

Recommendation 6

The committee recommends that the Department, in consultation with key stakeholders, consider the DES performance framework regression modelling information with a view to public release in ways that are
accessible, meaningful and helpful to advancing program objectives.

Response

Supported in principle.

The Star Ratings regression model is a sophisticated and complex tool which takes into account a range of factors, including the characteristics of job seekers such as disability. Due to this complexity, not all details of the regression model have been published to date. The Department intends to make information available, on the overarching principles that drives the regression model, to reduce any misinterpretations and any misuse.

The Star Ratings regression model was available for wide public consultation during its development. Information on the DES Performance Framework and Star Ratings system is available on the Department's public website and also on the Employment Service Provider Portal. Further, the Department conducted a series of information sessions for DES providers around Australia in 2010 to explain the DES Performance Framework and DES Star Ratings model in detail.

The statistical regression has been used in the calculation of Star Ratings since it was developed in 1999 for Job Network. Since statistical regression has been used in Star Ratings calculations, it has been subject to a number of independent reviews. These reviews by Access Economics, the South Australian Centre for Economic Studies, and other reviews of employment services by the likes of the Productivity Commission and the Australian National Audit Office (ANAO), have highlighted the significant role that Star Ratings play in fostering ongoing performance improvements and providing incentives for delivering services to more disadvantaged job seekers.

The Government notes the Committee's view that the regression model is understandable once it is explained and intends to further release principle level information on the regression model in a way that is understandable and transparent to stakeholders.

Further, issues relating to the DES performance framework have been referred to the DES Reference Group for further discussion.

Recommendation 7

The committee recommends that the Department develop a robust and quantifiable quality assessment mechanism for services under the DES-ESS, and incorporate that assessment mechanism into the performance framework.

Response

Supported in principle.

Quality plays an important role in the DES Performance Framework. Since 1 January 2002 organisations delivering disability employment programs have been required to be certified as meeting the Disability Services Standards in order to receive funding from the Australian Government. This certification is undertaken by auditors that are independent of the Government.

The Disability Services Standards cover issues such as the privacy, dignity, value, and employment conditions of the person with a disability, and the skills and training for service provider staff working with clients with disability. It is a requirement in the DES Deed that all providers hold current certification against the Disability Services Standards.

Reliance on this certification for the majority of quality assessment in DES helps to remove duplication of quality assurance checking. Further, failure to maintain certification may result in the Department taking remedial action under the Deed against the relevant DES provider. Such action may be taken regardless of a provider's performance against other Key Performance Indicators.

Quality also plays an important role in DES contract management. The information collected for day to day contract management processes at the local level also provides important input to the formal performance discussions held with DES providers biannually.

It is inherently difficult to incorporate a quality of service or a quality of employment assessment mechanism into the DES Star Ratings model. However these elements will be reviewed in any future development of the DES Performance Framework.
The Government notes that an Industry Reference Group, consisting of provider and consumer peak bodies, developed and agreed to the DES Performance Framework and Key Performance Indicators. The extensive work undertaken in the development of the DES Performance Framework ensures that the performance of all providers in DES are assessed in a fair and consistent manner and that participants with specific disability types are taken into account in the DES Performance Framework.

Further, the introduction of the Connections for Quality measure on 1 January 2012 gives DES providers the opportunity to publish both claims and achievements against service quality indicators. This measure will enhance public scrutiny of service quality, and provide job seekers and employers with more informed choices in relation to their individual service needs and a mechanism to provide feedback to the Department on the quality of the services they receive.

**Recommendation 8**

The committee recommends that the Department consider a trial monitoring program of 52-week employment outcomes for clients of DES-ESS providers.

**Response**

Supported in principle.

The Government's view is that these arrangements are already in place. The Department already uses a comprehensive range of monitoring and detection strategies to identify activities and practices that impact on the integrity of employment programs. These strategies cover a broad spectrum of activities from centralised data monitoring to site visits and discussions with providers and more detailed feedback from program participants or other third parties through program assurance and customer service lines.

Through its governance arrangements and program monitoring the Department is confident that the vast majority of providers comply with the spirit, intent and letter of their Deed with the Department, the Disability Services Standards and associated requirements for professional service provision to support people with disability.

The Department also has comprehensive and long-standing program governance arrangements which ensure the ongoing quality and accountability of all its employment services programs. This approach meets Commonwealth Government requirements and is reviewed regularly, to ensure its currency and effectiveness. Employment services programs undergo regular audits (both internal and external via the ANAO). The Department also regularly updates its processes in response to these activities and any recommendations by the ANAO.

Major program changes for the commencement of new contracts are subject to Commonwealth Department of Finance and Deregulation 'Gateway Reviews'. These are detailed reviews of governance arrangements for the implementation of program reforms. The DES program underwent a Gateway Review throughout 2009 and 2010, with a final 'Green' assessment awarded – the highest rating possible.

**Recommendation 9**

The committee recommends that the Department establish regular, proactive monitoring practices to identify incidents where the star-rating system is manipulated by providers.

**Response**

Supported in principle.

The committee’s arrangements are already in place. The Department already uses a comprehensive range of monitoring and detection strategies to identify activities and practices that impact on the integrity of employment programs. These strategies cover a broad spectrum of activities from centralised data monitoring to site visits and discussions with providers and more detailed feedback from program participants or other third parties through program assurance and customer service lines.

Through its governance arrangements and program monitoring the Department is confident that the vast majority of providers comply with the spirit, intent and letter of their Deed with the Department, the Disability Services Standards and associated requirements for professional service provision to support people with disability.

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**Recommendation 10**

The committee recommends that the Department include in the Disability Employment Services – Employment Support Services contract:
Definitions of inappropriate practices; and
Provision for the removal of providers who are found to engage in any practices listed in the included definitions.

Response
Supported in principle.

The Government believes that there is sufficient information available and contractual mechanisms in place to manage inappropriate practices. Non-payable outcomes and non-payable job placements are already defined in the existing DES Deed, which comprehensively detail when an outcome cannot be claimed. The contractual definitions of these outcomes will be strengthened in the DES Deed 2012 – 2015 to further support the management of inappropriate practices. However, some practices which may be termed 'scheming' or 'sharp practices' are more difficult to categorically rule as inappropriate. In determining if a practice is (or could potentially be) in breach of the Deed or in other ways inappropriate, the relevant policy intention, the specific circumstances of the job seeker in question and the broader situation must be taken into account.

Under clause 56 of the DES Deed there is already a range of actions open to the Department to implement for breaches of the Deed as follows:
(a) suspending any or all of the following:
   (i) referrals in respect of some or all of the Services, including at some or all Sites; or
   (ii) any payment under this Deed, in whole or in part;
(b) imposing additional conditions on the payment of Fees, Funds, Reimbursements or Ancillary Payments or use of the Employment Assistance Fund;
(c) reducing or not paying specific payments that would otherwise have been payable in respect of the relevant obligation;
(d) reducing the total amount of Fees, Funds, Reimbursements or Ancillary Payments, permanently or temporarily;
(e) where DEEWR has already paid the relevant Fees, Funds, Reimbursements or Ancillary Payments under this Deed, recovering the equivalent amount as a debt;
(f) imposing additional financial or performance reporting requirements on the Provider;
(g) reducing Participant numbers, the Provider's share of available places and/or the business levels of the Provider, permanently or temporarily;
(h) reducing the scope of this Deed; and
(i) taking any other action set out in this Deed.

Breaches of the Criminal Code Act 1995 (deliberate fraud or deception) would be referred for prosecution and are punishable by imprisonment.

As part of the ongoing review of employment programs and their identified risks, where discrepancies between policy and practice are found, findings may result in provider education, recovery of fees, fraud investigation or even the issue of a breach of contract notice. The outcomes for fraud investigations are used to further strengthen the Department's prevention and detection strategies.

In all cases of suspected or detected fraud, a referral to the Department's Investigation Branch must be made by relevant DEEWR staff in accordance with the Department's Fraud Control Plan 2011-2014 and accompanying Fraud Referral Protocol.

Recommendation 11
The committee recommends that the Department collect and publish statistics regarding:
• the number of reports of alleged inappropriate practice;
• action taken in response to these inappropriate practices; and
• the number of providers found to have engaged in inappropriate practices.

Response
Not Supported.

During the course of the Inquiry, a number of claims were made regarding provider behaviour assumed to influence measured performance. The Report notes that evidence was not provided to support many of these allegations, despite it being sought by the Committee. As such, the Government does not see value in routinely
publishing these statistics from a program and quality assurance perspective.

The Australian Federation of Disability Organisations, in answers to Questions on Notice, stated that:

Service representatives supported, and services signed up to, the performance rating system and star rating framework. The system, good and bad, is applied to all services. Criticism of the star rating system has only emerged from services when the Minister announced the tender parameters.

Some allegations, such as statements that job placement and payments were made for positions in Australian Disability Enterprises have been responded to clearly by the Department. Such behaviour is in breach of the DES Deed and actionable by the Department as detailed in the response to recommendation 10.

The Department responded in detail to many of the allegations presented through submissions and hearings to the Inquiry, including details of the auditing, monitoring and contract compliance mechanisms available to manage them.

For example, in the response to the Questions on Notice from the Inquiry, the Department provided the following statement to outline the actions taken in response to allegations of inappropriate practices:

"DEEWR has not taken any DES Provider to prosecution for breaches under the current DES contract. Of the 1.05 million claims made under the DES contract (from 1 March 2010):

- around 4,000 have been withdrawn prior to payment
- around 1,500 have been rejected by DEEWR Account Managers
- in addition, just under 2,000 have been offset (against other claims) or, in a small number of cases, recovered directly. Some of these recoveries are as a result of quality assurance programs both at the local Contract Manager level and by the DES program area.

An examination of a sample of these claims has identified that the majority of offsets / recoveries and almost all of the withdrawn claims, are as a result of provider self identification of invalid claims."

In the absence of substantive evidence to the contrary, it is clear that the existing mechanisms detailed by the Department in this response are adequate to respond to compliance issues where there are grounds to do so.

Response to the Recommendations of the Community Affairs References Committee Report on Consumer Access to Pharmaceutical Benefits

RECOMMENDATION 1

The committee recommends that the government examine ways in which there can be greater engagement with consumers in decisions to create new therapeutic groups, particularly when considering the potential impacts new therapeutic groups may have on consumers.

Response

The Government supports the recommendation and is currently looking at new ways to enhance the consumer input in Pharmaceutical Benefits Advisory Committee (PBAC) matters.

An important development that occurred during the course of the inquiry was the signing of a Memorandum of Understanding (MoU) between the Commonwealth and Medicines Australia, with effect until 30 June 2014. Under the terms of the MoU (Clause 16), the Government has undertaken not to create any new therapeutic groups over the period of the agreement with two exceptions:

- The three Therapeutic Groups which were announced in the 2009 Mid-Year Economic and Fiscal Outlook and comprising drugs for the treatment of depression, osteoporosis and Paget disease;
- A minor variation or a different sponsor of an already listed drug and where the PBAC advises that it is interchangeable on an individual patient basis with members of the extant Therapeutic Group.

The Therapeutic Group Premium (TGP) pricing policy has been in place for 13 years and represents an extension of the evidence-based
assessment of cost-effectiveness that is required by legislation for subsidy on the Pharmaceutical Benefits Scheme (PBS). It ensures that the Government does not pay extra unless there is evidence of extra benefit.

As of the August 2011 Schedule of Pharmaceutical Benefits there are only seven drug products that attract a therapeutic group premium (five for hypertension and two for ulcers) out of over 3,900 on the PBS. In the therapeutic areas of cardiology and gastroenterology where medicines with therapeutic group premiums exist, there are multiple alternatives with no premium and options for exemption for those patients who cannot take another drug on clinical grounds.

The Senate committee acknowledged the work undertaken by the Government to educate and inform consumers and prescribers at the time the therapeutic group policy was introduced and these approaches are detailed in the report. Important elements of this education campaign still operate to explain the therapeutic groups currently available, together with the alternatives and the process for seeking exemptions from a therapeutic group premium on behalf of a patient. The community pharmacy network is an important source of information on PBS medicines with either a brand or a therapeutic group premium while the PBS information line (1800 020 613) is also available to assist consumers in this area.

Health consumers have a unique and important perspective on health services as the users and beneficiaries of health care and ultimately those who pay for it. The Government is currently looking at new ways to enhance the consumer input in PBAC matters, such as:

- greater consumer participation in the organisation and conduct of the Joint Medicines Policy Conference co-hosted by the Department of Health and Ageing and Medicines Australia. This conference, organised every two years, is pivotal in facilitating discussion on the varying perspectives on how public subsidy of medicines operates in Australia, with a particular emphasis on the assessment of medicines through the PBAC; and
- in-depth consultation with the Consumers Health Forum to redesign the public comments pages on the Department’s web-site to facilitate more meaningful consumer input to PBAC agenda items, which are available to the Committee during its considerations.

Both the Government and the PBAC have a long history of improving such input from patients and from the general community. The PBAC has a consumer representative as a full member of the committee; comments are sought from the general public on subsidy applications on the PBAC agenda and these are provided to the PBAC when the submissions are considered; and the PBAC may request a formal consumer impact statement from the Consumers Health Forum when considering the impact of a health condition and the possible improvement in the quality of life for people using the proposed treatment.

Although no new therapeutic groups will be created over the period of the MoU except in specific and limited circumstances, the Government in the development of any future therapeutic groups will endeavour to engage consumers in meaningful consultation, as appropriate within the Budget context. Therapeutic groups remain a valuable pricing policy to reduce costs to the PBS. The policy reflects a 13 year long view of successive governments that PBS patients and taxpayers should pay comparable prices for similar health outcomes.

RECOMMENDATION 2

The committee recommends that the Pharmaceutical Benefits Advisory Committee:

- develop agreed principles of what constitutes "interchangeable on an individual patient basis";
- develop criteria by which the "interchangeability" of a medicine will be determined; and
- publish both the agreed principles and criteria.

Response

The Government supports the recommendation in principle. We consider that transparency in
decision making is important, but note that the current processes are appropriate.


As required under the National Health Act 1953 (the Act), the PBAC gives clear advice to the Minister to the effect that a drug or medicinal preparation should, or should not, be treated as interchangeable on an individual patient basis with another drug or medicinal preparation.

Further this matter has been the subject of a Federal Court case that considered the validity of the PBS Statins – Higher Potency (HP) therapeutic group comprising the drugs rosuvastatin (Crestor®) manufactured by AstraZeneca Pty Ltd and atorvastatin (Lipitor®) manufactured by Pfizer Australia Pty Ltd. This matter was brought by AstraZeneca against the Minister of Health and Ageing and members of the PBAC. The hearing on this matter was held in Sydney before Justice Buchanan on Friday 25 March.

In his decision, delivered on 12 May 2011, Justice Buchanan found that the PBAC had performed its functions in accordance with the Act, in providing advice that atorvastatin and rosuvastatin should be treated as interchangeable on an individual patient basis. His Honour found that neither the PBAC, nor the Minister, are required to consider the individual dosages of the medicine when assessing interchangeability for the purposes of forming therapeutic groups under the Act. This means the Statins-HP therapeutic group was validly constituted and savings from the creation of the therapeutic group will continue.

This court decision has confirmed the Government’s position that consideration of interchangeability at the drug level, and not at the form and strength level, is consistent with the Act. In light of this decision, it was considered that the existing information and processes are adequate and that publication of further definitions is not required.

**RECOMMENDATION 3**

The committee recommends that the Department of Health and Ageing provide regular and ongoing education and information to prescribers to ensure they are aware of the exemptions from payment of a brand premium and the process for seeking those exemptions on behalf of a patient.

**Response**

The Government supports the recommendation in principle.

There was some concern expressed during the inquiry that not all doctors may be aware that they are able to seek an exemption from a therapeutic group premium on behalf of their patients. However the number of drug products on the PBS with a therapeutic group premium, and hence the option to apply for an exemption for an individual patient, is very low. As of the August 2011 Schedule of Pharmaceutical Benefits, therapeutic group premiums apply to only 7 out of over 3,900 drug products and are in the field of gastrointestinal medicine and cardiology. Some prescribers outside of these fields may be unfamiliar with the process for seeking exemption to a TGP, however we do not consider the concerns expressed by the clinicians appearing before the committee are representative of clinicians working in those fields where Therapeutic Group Premium (TGP) drugs are prescribed.

All prescribers have ongoing access through the Schedule of Pharmaceutical Benefits and their computer dispensing software to the specified clinical criteria by which they may apply for exemption from a therapeutic group premium for their patient. The process by which this happens is the same one prescribers already use to apply for approval from Medicare Australia to prescribe...
certain restricted drugs on the PBS. The Schedule of Pharmaceutical Benefits, in both hard-copy and web-based versions, also contains a separate, regularly updated TGP policy section featuring the PBS items that still attract a therapeutic group premium and the process whereby individual patient exemptions may be sought. The Government will continue to use these mechanisms to ensure prescribers are informed about TGPs.

RECOMMENDATION 4
The committee recommends that:

• the threshold for Cabinet consideration of high cost medicines be adjusted, initially to the value the threshold would have had, had it been indexed annually since 2001;
• subsequently, the threshold should be indexed annually; and
• the Department of Health and Ageing examine the most appropriate indicator for indexing the threshold.

Response
This recommendation will be considered in conjunction with the Government’s response to the recommendations of the Finance and Public Administration References Committee in its report on the Government’s administration of the Pharmaceutical Benefits Scheme presented on 17 August 2011.

Ordered that the report of the Environment and Communications Legislation Committee be printed.

COMMITTEES
Government Response to Report
Senator McEWEN: by leave—I move: That consideration of the government responses to committee reports just tabled be listed on the Notice Paper as separate orders of the day.

Question agreed to.

DOCUMENTS
Tabling
The ACTING DEPUTY PRESIDENT (Senator Back): I present a response from the then Minister for Foreign Affairs, Mr Rudd, to a resolution of the Senate of 24 November 2011 concerning Transgender Day of Remembrance.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:05): I table an addendum to explanatory memorandum relating to the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011.

COMMITTEES
Foreign Affairs, Defence and Trade Joint Committee Report

Ordered that the report be printed.

Senator FURNER: by leave—I move: That the Senate take note of the report.

On behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade I have pleasure in presenting the committee’s report entitled Review of the Defence annual report 2009-10. The review of the Defence annual report is an important task, and an opportunity for the Defence subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into a broad range of Defence issues as part of the process of accountability of government agencies to parliament. The subcommittee takes this responsibility very seriously.

The subcommittee took evidence from senior Department of Defence officials at a public hearing held in Canberra on 25 March 2011. The subcommittee selected a broad range of issues for examination at the public
hearing. In broad terms, the focus areas were: the Strategic Reform Program; personnel including the People in Defence Strategy, ADF pay remediation and ADF mental health reforms; justice and security, including military justice, security of vital national assets in the North-West of Australia, Border Protection Command and ADF base security; and, the Defence Materiel Organisation, including reform and procurement, projects of concern and specific projects.

Due to the size and complexity of the defence department, the committee secretariat offered to assist Defence in its preparation for the public hearing on 25 March 2011. Unfortunately, other than the secretary, the Chief of the Defence Force and those officers representing DMO, Defence officials seemed somewhat poorly briefed. This lack of preparedness was compounded by the delay in the provision of answers to questions taken on notice.

Answers to questions on notice were provided some five months after the hearing. The committee therefore recommends that the Department of Defence review its practices and procedures to ensure that answers to the committee’s questions on notice are provided in a more timely manner.

Documentation and hard evidence of the outcomes of the Strategic Reform Program were hard for the committee to find. There is a difficulty, in an organisation as big as Defence of tracking savings. The committee, therefore, spent much of its questioning of Defence on the idea of a ‘cost-conscious culture.’

The committee acknowledge the difficulty in any organisation creating cultural change; however, the committee is concerned that Defence will not be able to institute the cost-conscious culture necessary not only for the SRP but for the Defence organisation long past 2030; the SRP relies more on cultural change than rigorously costed savings plans.

The committee looked into base security and is concerned that, at the time of its public hearing, some 20 months after the threats to Holsworthy Barracks, the defence department is slowly moving towards decreasing the threat level of its bases.

In relation to the Defence Materiel Organisation, whilst heartened by the establishment of the Independent Project Performance Office the committee is concerned that this not become another level of bureaucracy that hinders rather than helps the performance of DMO.

Lastly, I wish to make a comment on the Joint Strike Fighter. At the time of writing the committee had three main concerns regarding the JSF: cost; schedule; and capability. This is an issue that the committee will be pursuing in its review of the Defence Annual Report 2010-11 at the inquiry next month that is currently underway. I commend the report to the Senate.

Question agreed to.

Public Works Committee Report


Public Accounts and Audit Committee Government Response to Report Executive Minutes

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (17:10): On behalf of the Joint Committee of Public Accounts and Audit, I present executive minutes received by the committee...
and government responses to reports of the committee.

**DOCUMENTS**

**Tabling**

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

**COMMITTEES**

**Membership**

*The ACTING DEPUTY PRESIDENT (Senator Back) (17:11):* Order! I have received letters from party leaders and an independent senator requesting changes in the membership of various committees.

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:11): by leave—I move:

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

- **Corporations and Financial Services—Joint Statutory Committee**—
  - Discharged—Senator Hanson-Young
  - **Gambling Reform—Joint Select Committee**—
    - Discharged—Senator Bilyk
    - Appointed—
      - Senator Sherry
  - Participating members: Senators Di Natale and Madigan
- **Legal and Constitutional Affairs Legislation Committee**—
  - Appointed—
    - Substitute member: Senator Hanson-Young to replace Senator Wright for the committee’s inquiry into the Marriage Equality Amendment Bill 2010
    - Participating member: Senator Wright.
  - Question agreed to.

**BILLS**

**Access to Justice (Federal Jurisdiction) Amendment Bill 2011**

**National Health Amendment (Fifth Community Pharmacy Agreement Initiatives) Bill 2012**

**Tax Laws Amendment (2011 Measures No. 9) Bill 2011**

**First Reading**

*Senator LUDWIG* (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:12): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

**Second Reading**

*Senator LUDWIG* (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:13): I present the explanatory memoranda and I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—
ACCESS TO JUSTICE (FEDERAL JURISDICTION) AMENDMENT BILL 2011

Introduction
This Government has a proud history of reforms that facilitate access to justice. This Bill marks the latest tranche of those reforms.

Discovery
The Bill will implement legislative reforms regarding discovery during Federal Court litigation that were recommended in the Australian Law Reform Commission’s Managing Discovery report, tabled in Parliament in May 2011.

The Attorney-General initiated that Inquiry in May 2010, following the 2009 report by the Attorney-General’s Department’s Access to Justice Taskforce, A Strategic Framework for Access to Justice in the Federal Civil Justice System. The Taskforce identified the high and sometimes disproportionate costs of discovery as a specific barrier to justice.

The ALRC made practical recommendations aimed at the Federal Court taking greater control over the discovery process, many of which have already been implemented by the Court in its new Rules, or are under active consideration by the Court. I acknowledge the effort the Federal Court continues to put into refining its case management processes, including those relating to discovery.

The Government also welcomes current consideration by the Federal Court and National Judicial College of Australia of how judicial education and training can better equip judges to manage the discovery process.

The two recommendations to be implemented by this Bill will give the Federal Court stronger powers to deal with the costs of discovery, and clarify that oral examinations can be used to assist to identify which kinds of documents should be subject to discovery. This will support judges in their role as robust case managers.

I am confident that this package of reforms will give the Federal Court the tools it needs to control discovery more tightly, assisting in the delivery of a more accessible and effective system of civil justice.

Suppression and non-publication orders
The Bill will also implement – with some minor variations – the model legislation developed by the then Standing Committee of Attorneys-General on suppression and non-publication orders in the High Court, Federal Court, Family Court and Federal Magistrates Court.

There has been criticism of the volume and breadth of suppression orders granted by some State courts. As a result of these concerns, after extensive consultation, in 2010, the Standing Committee of Attorneys-General developed model legislation on suppression orders.

This Bill will implement that model law in relation to the federal courts – in the interests of national consistency and to provide a more robust and comprehensive legislative framework.

The Bill has several advantages over the current arrangements for the making of suppression orders in the federal courts:

- It provides a clearer legislative framework for the grounds on which suppression orders can be made, what information they can cover, how long they should last for, how broad they should be and what information such orders should contain, as well as clearer rules about standing.

- It clearly preserves the importance of the principle of open justice, and provides that suppression orders can only be made where such orders are necessary, consistent with recent High Court jurisprudence.

- The Bill does not include the provision in the SCAG model law that allows a court to grant a suppression order if it is necessary in the public interest for the order to be made. The Bill therefore does not broaden the grounds on which suppression orders can be made from those that currently apply.

This Bill will provide a more transparent and accountable legislative regime for courts to make suppression orders. By ensuring that courts can only make suppression orders when they are clearly justified – and in as narrow terms as necessary to achieve their purpose – the Bill appropriately recognises the fundamental
importance that open justice plays in the administration of justice, and ultimately in upholding the rule of law.

**Vexatious proceedings**

Vexatious litigants have the capacity to absorb an enormous amount of judicial and registry staff’s time, to the detriment of other litigants waiting to have their cases dealt with.

It was for this reason the then Standing Committee of Attorneys-General developed a model law on vexatious proceedings. This law has already been implemented in Queensland, New South Wales and the Northern Territory. This Bill will implement the model law in the High Court, Federal Court, Family Court and Federal Magistrates Court.

It is important to bear in mind that a self-represented litigant, or a litigant who has challenging behaviour (perhaps caused by mental illness), is very different from a vexatious litigant. With advice and assistance, many self-represented litigants are often able to adequately formulate and articulate their claims, or to obtain legal representation to enable them to do so. Those with challenging behaviours may be able to obtain professional assistance of another kind. I want to emphasise that these are not the kinds of litigants intended to be addressed by this Bill.

Rather, vexatious litigants are those who frequently bring proceedings that are, for example, an abuse of process, designed to annoy others, or have no reasonable grounds.

Although the federal courts already have existing powers to deal with vexatious litigants, these powers are located across various legislation and court rules, and differ in detail. The Bill will establish a more comprehensive and consistent legislative regime across all four federal courts.

While an order preventing access to the courts should not be made lightly, where a person has frequently instituted or conducted vexatious proceedings in any Australian court or tribunal, a court will be able to make an order that a person not be able to commence any subsequent proceedings in that court without first obtaining the leave of the court.

The intention is that, once nationally consistent laws are passed, a vexatious litigant will no longer be able to repeatedly initiate proceedings in different courts with hopelessly doomed litigation.

It is essential that court resources are devoted to cases that have merit, and cases which cannot be resolved by other means. The courts need appropriate powers to be able to deal with clearly unmeritorious cases brought by vexatious litigants. This Bill will deliver that.

**Family law jurisdiction**

The Bill will also remove the current jurisdictional ceiling on Family Law Magistrates in Western Australia that applies in family law property matters.

This will bring Western Australia’s Family Law Magistrates into line with the family law property jurisdiction which can be exercised by the Federal Magistrates Court in the rest of Australia, and give the Family Court of Western Australia more flexibility in the allocation of cases.

Ensuring that disputes are dealt with at the most appropriate level is an important aspect of access to justice.

**Administrative Appeals Tribunal fees**

The Bill also makes amendments relating to fees in the Administrative Appeals Tribunal. These amendments will serve two purposes.

Firstly, they will allow applicants to make a valid application for review where they do not have the money to pay immediately, but where there is a time limit for making the application.

Secondly, they will allow regulations to be made to prescribe fees to be paid by any party to proceedings. This will allow regulations to be made to give the Tribunal the discretion to impose fees on respondent government agencies which unsuccessfully defend Tribunal proceedings, unless there were compelling reasons for proceeding to a hearing.

This is intended to provide a financial incentive to promote better primary decision making and early resolution of disputes where possible.
These are both important access to justice measures, aimed at early dispute resolution and ensuring that applicants can access the review of government decisions.

**Conclusion**

This Bill will implement a number of important measures that will improve access to justice in a variety of ways.

The reforms to discovery, family law property jurisdiction and vexatious proceedings aim to ensure that valuable judicial resources are used appropriately, efficiently and effectively: for the benefit of all litigants.

Reforms to suppression orders create a framework that safeguards the public interest in open justice and accountability, reinforcing an important aspect of the administration of justice.

Finally, reforms to fees in the Administrative Appeals Tribunal will facilitate fairer access to the review of Government decisions – encouraging better decision making by Government agencies and earlier dispute resolution.

All these reforms are consistent with the Strategic Framework for Access to Justice—implemented by this Government – designed to facilitate accessible and equitable dispute resolution, at the most appropriate level, delivered through efficient and effective means.

I thank all involved for their work in developing this Bill, which is an important part of the Government’s ongoing access to justice initiatives.

**NATIONAL HEALTH AMENDMENT (FIFTH COMMUNITY PHARMACY AGREEMENT INITIATIVES) BILL 2012**

Tax Laws Amendment (2011 Measures No. 9) Bill 2011 The National Health Amendment (Fifth Community Pharmacy Agreement Initiatives) Bill 2011 will amend the National Health Act 1953 to implement two key initiatives in the Fifth Community Pharmacy Agreement.

These initiatives represent another important step in improving services for Australian health consumers, and will bring pharmacists even closer to the centre of the Gillard Labor Government's health reform agenda.

A pillar of these reforms is the $15.4 billion, five-year, Fifth Community Pharmacy Agreement – particularly the clear role within it for pharmacists to improve professional practice and patient care.

The initiatives implemented by this Bill, Supply and Pharmaceutical Benefits Scheme Claiming from a Medication Chart in Residential Aged Care Facilities and Continued Dispensing of Pharmaceutical Benefits Scheme Medicines in Defined Circumstances introduce more patient-focused health services that will deliver better health outcomes.

In addition, the Bill includes technical changes for prescribing certain quantities of pharmaceutical benefits.

The Fifth Community Pharmacy Agreement between the Australian Government and the Pharmacy Guild of Australia was entered into on 1 July 2010.

Through the Fifth Agreement the Australian Government has committed to ensuring that fair and adequate remuneration is provided to approved pharmacists for the supply of pharmaceutical benefits. This creates and maintains a stable environment for community pharmacy to remain viable and participate in delivering better care for all Australians.

Importantly, the Fifth Agreement also directly provides positive health outcomes for the Australian community through the efficient delivery of professional services and targeted community programs.

The two initiatives within this Bill are scheduled to be implemented at the Commonwealth level by 1 July 2012. Amendments to State and Territory government legislation will also be required to support the implementation of these initiatives and it is anticipated that this will occur through a staged progression of changes within the various jurisdictional frameworks.

They have both been the subject of wider consultation with consumer representatives, interested parties and professional organisations, such as the Pharmaceutical Society of Australia and the Consumers Health Forum.
The Government thanks all parties for their important input, particularly the Pharmaceutical Society, which helped to draft the protocols that will guide the Continued Dispensing initiative, should it be passed. This input is an example of the more inclusive nature of the 5th agreement, which is helping to ensure health consumers are the biggest beneficiaries.

**Medication Charts**

The Supply and Pharmaceutical Benefits Scheme Claiming from a Medication Chart in Residential Aged Care Facilities initiative will introduce the supply and claiming of PBS medicines, by Approved Suppliers under the National Health Act 1953, from an approved Medication Chart within residential aged care facilities.

This initiative will allow the medication chart to be used in place of the PBS prescription form. This will eliminate the requirement for prescribers to write a separate PBS prescription as well as having to write on a medication chart. A pharmacist will be able to use this medication chart when supplying and claiming medicines for residents of aged care facilities.

Medications included on the Repatriation Pharmaceutical Benefits Scheme will also be able to be prescribed, supplied and claimed in this manner where the person is a resident of an aged care facility.

Enabling the supply and claiming of PBS medicines from a medication chart will improve patient safety by reducing risk of transcription error when writing a prescription from a medication chart entry.

A more streamlined process will also mean that more healthcare practitioners re engage with aged care facilities. Lessening the administrative burden on prescribers through the removal of administrative processes will allow more time to be spent on clinical care. Feedback received by the Government indicated that the necessity for a prescriber to write the medication order on a prescription, as well as on a medication chart, makes some general practitioners reluctant to provide services to residents of aged care facilities.

The medication chart will be designed to encourage prescribers to review the chart in its entirety each time a medicine is ordered. This will result in quality use of medicine benefits and ensure the resident gets the right medication at the right time.

This initiative will also address issues faced by prescribers, pharmacies and aged care facilities regarding the ordering or prescribing, supply and PBS claiming of medicines within aged care facilities, and improve the timeliness of medicine supply.

Pharmacies will be provided with timely notice of updates and changes to a resident's medication regimen, ensuring that the prescriber's most recent intentions for the resident's clinical care are promptly acted on.

The initiative will be supported by the development of a nationally standardised chart that incorporates all the necessary information to allow for the prescribing, supply and claiming of PBS medicines from the medication chart. Importantly the chart will also enable aged care facility staff, such as nurses, to record administration of treatment to residents as well as act as a complete record of the resident's medication needs.

As part of the development of the initiative, standard fields for inclusion on a medication chart that can be utilised in electronic format will be developed. This will enable the chart to interface with other new initiatives being developed in the e-health sphere such as the Personally Controlled Electronic Health Record.

**Continued Dispensing**

The second initiative to be enabled by this Bill is Continued Dispensing of PBS Medicines in defined circumstances. This initiative will provide an additional mechanism for patients to access certain PBS medicines where a valid prescription is unavailable.

The PBS is an Australian Government initiative that provides affordable access for all Australian residents to effective and cost-effective medicines. Under Part V (21)(1) of the National Health (Pharmaceutical Benefits) Regulations 1960, a pharmacist must not supply or claim for a pharmaceutical benefit unless the
prescription is written in accordance with these regulations. The requirement for a written prescription is also included in respective state and territory legislation.

This can create problems when consumers are in need of a prescription medicine but have run out of the prescription, lost it, or are not able to see a GP. Currently, both Commonwealth and state and territory legislation require that a medicine will only be supplied on presentation of a prescription.

In an urgent case, a prescriber may communicate a prescription to a pharmacist personally by telephone or other means. The prescriber is then obliged to supply a PBS prescription, known as an 'owing' prescription, to the pharmacist within seven days.

Where it is not possible to contact the prescriber, most state or territory legislation allows for an 'emergency supply' of medicines without a prescription. The quantity supplied is generally limited to no more than that required for three days' treatment or the smallest standard pack in which certain medication forms, for example liquids, are contained. PBS subsidies do not apply in the case of emergency supply and so the patient is required to pay the full price of the medicine.

This initiative will ensure optimal health outcomes for patients.

For consumers taking medication for the treatment of certain chronic conditions it means that their treatment will not be interrupted should they, for example, not be able to synchronise their medical appointments with their medication requirements. Patients will not bear the financial burden of paying the full cost of the medication, as is currently the case for 'emergency supply' situations.

From commencement, Oral Hormonal Contraceptives for systemic use and Lipid Modifying Agents, specifically the HMG CoA reductase inhibitors as listed in the Schedule of Pharmaceutical Benefits are in scope for this initiative. These two therapeutic groups have been chosen on the basis that they are relatively well tolerated medicines with a very good safety profile.

Professional protocols by the community pharmacist will apply, so that quality and patient safety will not be compromised. These protocols will assist the pharmacist in ensuring that a person on a stable medicine regimen is being given ongoing medication through the application of Quality Use of Medicines principles.

The protocol is expected to include how continued dispensing interacts with already existing emergency supply arrangements, a mandatory feedback loop to the prescriber that continued dispensing has occurred; and communication to the patient about the medicines dispensed under this initiative, including the importance of regular review by the prescriber, and the limited and selective availability of supply under this initiative.

The Continued Dispensing initiative will introduce efficiencies for pharmacists and prescribers, lessening the administrative burden of having to chase 'owing prescriptions' and decrease the wastage that occurs when an original pack of medication has to be broken to adhere to the limited emergency supply provisions under the current state or territory legislation.

The initiative will be implemented in the community pharmacy setting only.

A review will be conducted of this initiative two years following its implementation to assess the suitability and appropriateness of the current therapeutic categories as well as the impact the initiative has had on patient access to medicines.

Technical amendments

The technical changes proposed in the Bill for prescribing certain quantities of pharmaceutical benefits are intended to enhance current policy, for example, by expanding use of the streamlined 'authority required' process. This continues the Government's commitment to its 2010 policy, in accordance with requests from prescribers, for expansion of the criteria for streamlining 'authority required' medicines.

The Bill also enhances current arrangements by providing for determination of rules about increasing prescribed quantities for some medicines. The binding rules would be consistent with current guidelines in the Schedule of Pharmaceutical Benefits.
Conclusion

The $15.4 billion, five-year, Fifth Community Pharmacy Agreement is a central pillar of our health reform agenda.

Community pharmacists are a vital part of our primary health care system. They play an important role in the health care of their local communities, they are experts in medicines, and they are visited more often than GPs.

The initiatives contained within this Bill are just two ways in which the Gillard Labor Government is supporting community pharmacy to provide better quality health outcomes to all Australians.

TAX LAWS AMENDMENT (2011 MEASURES NO. 9) BILL 2011

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

Schedule 1 amends the Superannuation Industry (Supervision) Act 1993 and the Retirement Savings Accounts Act 1997 to permit the ATO to operate a scheme that will make it easier and simpler for lost superannuation fund members and retirement savings account holders to consolidate their benefits.

This scheme, known as the electronic portability form, will allow members reported as lost by their superannuation funds to electronically request the transfer of their superannuation benefits through the ATO.

The new form will enable lost members to visit the ATO website, find their benefits, fill in a simple transfer request and submit it electronically to the ATO. The ATO will apply a verification process using data supplied by the member. If these processes are successfully completed, the ATO will electronically send the member's request to the fund that reported the member as lost, which will then transfer the member's benefits to the nominated receiving fund.

The electronic portability form will not prevent members from dealing directly with their fund to arrange the transfer of their benefits if they so wish.

The amendments allow the regulations to set out the operating details of the electronic portability form and also amend the tax file number provisions for the purposes of the new form.

The amendments are expected to reduce the amount of lost superannuation. There are about 5 million lost super accounts worth $20.2 billion (as at 30 June 2011). These amendments will benefit individual members by reducing the fees they pay on multiple accounts and maximising their benefits on retirement.

Schedule 2 amends the CGT provisions to make it easier for businesses to restructure. These changes include extending the CGT roll-over for the conversion of a body to an incorporated company and broadening the range of CGT roll overs where entities can use a share or interest sale facility for foreign residents in a restructure. These changes also allow CGT demerger relief for demerger groups that include corporations sole or complying superannuation entities, which currently cannot access the relief. These changes are consistent with the Government's objective of promoting flexibility for business.

Schedule 3 amends the GST law to implement three of the recommendations agreed to by the Government arising out of Treasury's Review of the GST financial supply provisions. The remaining measures require amendments to GST regulations and will be put before the Parliament at a later date.

Part 1 amends the GST law to increase the first limb of the financial acquisitions threshold from $50,000 to $150,000. This increase will reduce compliance costs for businesses that only make a small number of low value financial supplies, through reducing the number of businesses that are drawn into the financial supplies regime and then prevented from claiming input tax credits on acquisitions that relate to making financial supplies.

An entity can now make up to $1.65 million of financial acquisitions in the relevant 12-month period and still be able to claim input tax credits on those acquisitions. This compares with up to only $550,000 of similar acquisitions prior to 1 July 2012.
Part 2 amends the GST law to exclude financial supplies consisting of a borrowing made through the provision of deposit accounts by an Australian authorised deposit-taking institution from the current concession for borrowings. This will better target the exemption to reflect the policy intent.

Part 3 allows taxpayers who account on a cash basis to claim input tax credits upfront for acquisitions they make under hire purchase agreements.

This change will remove the distortion between hire purchase and other forms of financing for cash-based taxpayers, and also ensure that hire purchase transactions are treated the same regardless of whether taxpayers account on a cash or non cash basis. Removing the current discrepancy in the GST treatment will allow cash based taxpayers to acquire business assets at a lower cost.

These amendments apply from 1 July 2012.

Schedule 4 amends the GST Act to ensure that sales or long-term leases of new residential premises by a registered entity are taxable supplies, and that sales or long-term leases of existing residential premises are input taxed supplies.

This Schedule provides that a ‘wholesale supply’ of residential premises is disregarded in certain circumstances for the purposes of determining whether a subsequent supply of the premises is a supply of new residential premises.

In addition, any supply of residential premises by a government body as a result of the lodgment of a property sub-division plan is disregarded for the purposes of determining whether a subsequent supply of the premises is a supply of new residential premises.

Further, these amendments clarify and remove any doubt that the subdivision of existing residential premises that are not new residential premises, by itself, does not result in the subdivided premises being new residential premises.

The main provisions take effect from the date of the Government's announcement on 27 January 2011. This is to reduce risks to revenue that might otherwise arise from behavioural change.

However, this Schedule also contains a transitional provision to ensure that developers who were ‘commercially committed’ to arrangements to develop premises before 27 January 2011 are not disadvantaged by the measure.

Schedule 5 adds one new organisation to list of deductible gift recipients, namely, the Rhodes Trust in Australia. The purpose of Rhodes Trust in Australia is to raise monies in Australia to augment the existing Rhodes Scholarship program at Oxford University in the United Kingdom. All monies raised in Australia are used to provide scholarships to Australians to undertake tertiary education at Oxford University in the United Kingdom.

Schedule 5 also recognises the name change of 'Playgroup Australia Incorporated' to 'Playgroup Australia Limited'.

DGR status will assist this organisation to attract public support for their activities.

Schedule 6 includes amendments to the tax laws to ensure that the law operates as intended by correcting technical or drafting defects, removing anomalies, and addressing unintended outcomes.

These amendments are part of the Government's commitment to the care and maintenance of the tax law.

This package also includes some legislative issues raised by the public through the Tax Issues Entry System, or TIES for short.

Full details of the measures in this Bill are contained in the explanatory memorandum.

Leave granted; debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

**Nuclear Terrorism Legislation Amendment Bill 2011**

**First Reading**

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:14): I move:
That this bill may proceed without formalities and now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:14): 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—
NUCLEAR TERRORISM LEGISLATION AMENDMENT BILL 2011
Second Reading Speech

The Convention recognises that acts relating to nuclear material and other radiological material and devices can pose a serious threat to international peace and security.

The Convention is an important tool in the international fight against terrorism and the proliferation and use of weapons of mass destruction.

It fills a gap in existing international regimes by recognising the potential for nuclear weapons, facilities and radioactive material to be used to carry out acts of terrorism.

The Convention establishes frameworks for criminalising certain conduct relating to nuclear material and other radiological material and devices and international cooperation in the prevention, investigation, prosecution and extradition of persons who commit those offences.

Some of the obligations under the Convention are already satisfied.

For example, existing provisions in the Criminal Code Act 1995 and the Australian Nuclear Science and Technology Organisation Act 1987 implement some of the Nuclear Terrorism Convention's provisions.

While some aspects of the conduct prohibited by the Convention are consistent with measures Australia has already taken, some amendments to Commonwealth legislation are necessary to fully implement the Convention.

The Bill creates new offences for specific conduct that is prohibited by the Convention.

This includes:
- possessing radioactive material or a device
- using or damaging a radioactive material or device or nuclear facility
- demanding the use of radioactive material or device or nuclear facility
- threatening or attempting to use or damage a device, radioactive material or nuclear facility, and
- using radioactive material, or a device, or using or damaging a nuclear facility.

The offences will not be limited to conduct by Australians and in Australia, but will apply in a broad range of situations where the Convention requires States Parties to assert jurisdiction.

For example, the offences will cover situations where the offender is a foreigner if the offence is committed on board an Australian ship or aircraft or against an Australian citizen.

The Bill also contains minor technical amendments to the Nuclear Non Proliferation (Safeguards) Act 1987 updating various provisions to take account of the Legislative Instruments Act 2003 and amending the definition of Australian Aircraft by replacing the reference to the Air Navigation Regulations (which is no longer correct) with a reference to the Civil Aviation Act 1988.

Australia is committed to ratifying all international counter-terrorism instruments as an integral part of strengthening its legal framework to fight terrorism.

Ratifying this Convention will send a strong message to the international community and demonstrate Australia's continued commitment to addressing the threat of terrorism.
It will represent an important contribution by Australia to the second Nuclear Security Summit, which will take place in the Republic of Korea in March 2012.

In addition, it will strengthen Australia’s efforts to encourage other countries in our region to ratify the 16 international counter-terrorism instruments.

It is in this context that the Government today commends to the chamber the Nuclear Terrorism Legislation Amendment Bill 2011.

Debate adjourned.

Ordered that consideration of this bill be made an order of the day for a later hour.

Fairer Private Health Insurance Incentives Bill 2012

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2012

Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2012

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:15): I move:

That these bills be now read a second time.

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES BILL 2011

The Fairer Private Health Insurance Incentives Bill 2011 will amend various acts to give effect to a 2009-10 Budget measure to introduce three new private health insurance incentives tiers.

The new arrangements will commence on the later of 1 July 2012 or the day on which the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 receives royal assent or the day on which the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2011 receives royal assent. However, they will not commence at all unless both the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 and the Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2011 receive royal assent.

The Bill was introduced into the House of Representatives on 27 May 2009 and 19 November 2009, where it was passed on 2 June 2009 and 3 February 2010 respectively. This Bill was previously introduced into the Senate on 15 June 2009 and 4 February 2010 and on 9 September 2009 and 9 March 2010, respectively, a motion moved in the Senate that this Bill be read a second time was defeated.

The Government re-introduced this Bill because we want to make the private health insurance rebate fairer and more sustainable into the future.

The Government supports a mixed model of balanced private and public health services. We are committed to a sustainable private health system, and to ensure it remains sustainable the Government will rebalance support for private health insurance to provide a fairer distribution of benefits.

Let me emphasise one point that has been missing in much of the debate about these changes. The vast majority of taxpayers with
private health insurance will not be affected by
the means testing this legislation introduces. Singles earning $83,000 or less and couples and families earning $166,000 or less will receive the same rebate as they currently enjoy.

In fact, the Government’s changes will ensure that these taxpayers receive a greater share of the private health insurance rebate than they currently get.

Under the rebate model we inherited from the Howard Government, approximately 14 per cent of single taxpayers who have incomes above $83,000 receive about 28 per cent of the total private health insurance rebate paid to singles based on an average premium—or twice their population share.

And approximately 12 per cent of couple taxpayers who have incomes above $166,000 receive about 21 per cent of the total private health insurance rebate paid to couples based on an average premium—again, almost twice their population share.

So when the Opposition was in Government it designed a system that favoured wealthier income earners. That is people like myself and the Opposition Spokesperson on Health—not the cleaners and security guards who work in this building.

How does the Leader of the Opposition reconcile his track record on this issue when he was Health Minister with the crocodile tears he was crying for the ‘forgotten families’ in his Budget reply?

Under our reforms, the 14 percent of single taxpayers earning more than $83,000 with private health insurance will receive about 12 per cent of the total private health insurance rebate paid to singles based on an average premium.

Similarly, the 12 per cent of couple taxpayers earning more than $166,000 will receive around 9 per cent of the total private health insurance rebate paid to couples based on an average premium.

Far from being an attack on families as some have alleged, this Bill reinforces an important principle that has underpinned the Australian tax-transfer system for decades - that the greatest share of benefits are provided to those on lower incomes.

There is a second crucial principle at stake here – the need to ensure our health system is placed on a sustainable footing for the future.

Spending on the private health insurance rebate is growing rapidly and is expected to double as a proportion of health expenditure within the next 40 years.

Clearly this presents challenges in the current fiscal environment. It is estimated that these reforms will result in savings to Government expenditure of around $2.4 billion across the forward estimates. This will help ensure that the Government’s support for private health insurance remains fair and sustainable.

The Opposition’s previous refusal to support this legislation has already hit the 2010-11 Budget bottom-line by $890 million. If we don’t act now the fiscal consequences will only worsen. Treasury estimates that not passing this legislation will have a cumulative impact on health spending of around $100 billion over 40 years.

No-one professing an interest in good fiscal management can ignore these statistics.

The Opposition has also said on the record that if they oppose savings measures they will identify where these savings can be found in the Budget. On 22 June, Kevin Andrews said in the House of Representatives “if we are going to oppose measures which the Government puts forward and that opposition will lead to a cost to the budget, we will identify where the savings are going to be made in the budget in order to compensate for that loss to the budget.”

I challenge the Opposition to find an area in the Health portfolio where an equivalent saving of $2.4 billion can be found, that will not have a noticeable impact on health outcomes as is the case with means testing the private health insurance rebate.

So the Government will act.

From 1 July 2012, the Government proposes to introduce three new private health insurance incentive tiers. The tiers will mean high-income earners receive lower Government payments for
private health insurance but will face an increase in costs if they opt out of private health cover.

The Government’s commitment to retaining the private health insurance rebate remains. Rebates for low and middle income earners will be unchanged, with the Government continuing to pay 30 per cent of the premium cost for a person earning $83,000 or less and couples and families earning $166,000 or less. The existing rebates for older Australians will remain in place for people earning below these thresholds—35 per cent for people aged 65 to 69 years and 40 per cent for people aged 70 years and over.

These people will continue to have no surcharge liability if they decide not to take out appropriate private health insurance.

The new tiered system will be introduced for higher income earners and will set three different rebate levels and surcharge levels based on income and age. The purpose of this is to reduce the carrot but increase the stick and ensure those who can afford to contribute more for their health insurance do so. The Government does not believe it is appropriate for low-income earners to subsidise the private health insurance costs of high-income earners.

Tier 1 will apply to singles with an income of more than $83,000 and couples and families with an income of more than $166,000. For these people the private health insurance rebate will be 20 per cent for those up to 65 years, 25 per cent for those aged 65 to 69, and 30 per cent for those aged 70 and over.

The Medicare levy surcharge for people in this tier who do not hold appropriate private health insurance will remain at one per cent.

Tier 2 applies to singles earning more than $96,000 a year and couples and families earning more than $192,000. The rebate will be 10 per cent for those up to 65 years, 15 per cent for those aged 65 to 69, and 20 per cent for those aged 70 and over. The surcharge for people in this tier who do not have appropriate private health insurance will be increased to 1.25 per cent of income.

Tier 3 affects singles earning more than $129,000 a year and couples and families earning more than $258,000 a year. No private health insurance rebate will be provided for people who fall within the third tier and the surcharge for avoiding private health insurance will be increased to 1.5 per cent of income for these people.

Annual indexation to average weekly earnings of the tiers income thresholds will ensure that these changes remain equitable and can be maintained into the future.

There has been some hysterical claims made in recent times about the effects of these changes.

None more so than the claim in a Private Healthcare Australia (then the Australian Health Insurance Association) Report that 1.6 million people would abandon private health cover if the Government introduced a means test for the rebate.

I won’t waste any time pointing out the flaws in this Report, but I would draw the attention of the Senate to the statement about the impact of the rebate changes issued to the Australian Stock Exchange by the private health insurer nib on 4 May 2011 which said, and I quote:

“our analysis indicates any impact would be moderate, which is in line with previous Treasury estimates which … rely upon the countervailing influence of the Medicare Levy Surcharge and proposed increases.”

As the nib statement points out, the Government is retaining a system of carrots and sticks that will minimise the impact of the proposed changes.

The increased Medicare levy surcharge for people on higher incomes will help ensure that about 99.7 per cent of insured people remain in private health insurance. This is because those high-income earners who receive a lower rebate will face a higher tax penalty for avoiding private health insurance.

It is estimated that approximately 27,000 people may no longer be covered by private health insurance hospital cover and this might result in 8,600 additional public hospital admissions over two years.

When considered against the fact that public hospitals have around 4.7 million admissions per year, the impact of this measure will be insignificant.
The Ipsos Syndicated Survey: Health Care & Insurance - Australia 2011 was released in November 2011. According to Ipsos approximately 40,000 would drop their private hospital insurance—provided that insurers inform their members about the impact of Lifetime Health Cover and the Medicare levy surcharge.

In summary, this measure will make private health fairer, more balanced and more sustainable in the long term. By maintaining a carefully designed system of carrots and sticks, it will have a negligible effect on both private health insurance premiums and the public hospital system.

At the same time, low and middle income earners who choose to have private health insurance will continue to enjoy the benefit of a significant Government rebate.

**FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE) BILL 2011**

The Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011 will amend the Medicare Levy Act 1986 to give effect to the Budget measure to introduce three new private health insurance incentives tiers.

This Bill will commence concurrently with the Fairer Private Health Insurance Incentives Bill 2011.

This Bill was previously introduced into the House of Representatives on 27 May and 19 November 2009 where it was passed on 2 June 2009 and 3 February 2010, respectively. This Bill was previously introduced into the Senate on 15 June 2009 and 4 February 2010. On 9 September 2009 and 24 February 2010 a motion moved in the Senate that this Bill be read a second time was defeated.

This Bill is being introduced again to give effect to the Budget measure to introduce the private health insurance incentives tiers that will make the private health rebate fairer.

The Medicare Levy Act 1986 determines whether an individual is liable to pay the Medicare levy surcharge in respect of their taxable income or that of their spouse. The individual’s income for surcharge purposes determines whether a person must pay the surcharge. If the individual’s income exceeds prescribed income thresholds they will need to pay the appropriate level of surcharge.

This Bill inserts the new tier system in order to determine which level of surcharge a person must pay where they do not hold appropriate private health insurance.

**FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE—FRINGE BENEFITS) BILL 2011**

The Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2011 will amend the A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 to give effect to the Budget measure to introduce three new private health insurance incentives tiers.

This Bill will commence concurrently with the Fairer Private Health Insurance Incentives Bill 2011.

This Bill was previously introduced into the House of Representatives on 27 May and 19 November 2009 where it was passed on 2 June 2009 and 3 February 2010, respectively. This Bill was previously introduced into the Senate on 15 June 2009 and 4 February 2010, and on 9 September 2009 and 24 February 2010 a motion moved in the Senate that this Bill be read a second time was defeated.

This Bill is being introduced again to give effect to the Budget measure to introduce the private health insurance incentives tiers that will make the private health rebate fairer.

The A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 determines whether an individual is liable to pay the Medicare levy surcharge in respect of a reportable fringe benefits total they or their spouse may have. The individual’s income for surcharge purposes determines whether a person must pay the surcharge. If the individual’s income exceeds prescribed income thresholds they will need to pay the appropriate level of surcharge.
This Bill inserts the new tier system in order to determine which level of surcharge a person must pay where they do not hold appropriate private health insurance.

Debate adjourned.

**MOTIONS**

**Fairer Private Health Insurance Legislation**

Senator FIERRAVANTI-WELLS (New South Wales) (17:17): I seek leave to move a motion in the terms circulated in the chamber relating to the Fairer Private Health Insurance Incentives package of bills.

Leave not granted.

Senator FIERRAVANTI-WELLS: Pursuant to contingent notice of motion, and at the request of the Leader of the Opposition in the Senate, Senator Abetz, I move:

That so much of the standing orders be suspended as would prevent Senator Abetz moving a motion to provide for the consideration of a matter, namely a motion to give precedence to a motion relating to the consideration of the Fairer Private Health Insurance Incentives Bill 2012 and related bills.

I move this suspension because this is yet another betrayal of the Australian people by the Australian Labor Party. It is another betrayal from the most serial of betrayers, the Prime Minister herself. This is the Prime Minister who betrayed the Australian people with the carbon tax, and she is at it again with private health insurance. Julia Gillard and other Labor members have, over many years, repeatedly ruled out any changes to the private health insurance rebates. They have been totally and utterly false about their positions.

I take the Senate back, if I may, to the then shadow minister for health, Julia Gillard, on 2 September 2004: I grow tired of saying this: Labor is committed to the 30 per cent private health insurance rebate.

In the *Courier Mail*, on 23 September 2004, she reiterated her commitment. She did it again in October 2005, saying:

The truth is I never had a secret plan to scrap the private health insurance rebate and, contrary to Mr Latham's diaries, do not support such a claim. For all Australians who want to have private health insurance the private health insurance rebate would have remained under a Labor government. I gave an iron-clad guarantee of that during the election.

But wait for the punchline:

The difference between Tony 'rock-solid, iron-clad' Abbott and me is that, when I make an iron-clad commitment, I actually intend on keeping it.

What a joke! The hypocrisy of the woman! Then we had Nicola Roxon on *Meet the Press*, on 23 September 2007, saying, 'We are committed to the 30 per cent.' Then, when she was asked by Steve Lewis, 'So you won't wind back the 30 per cent private health rebate, despite the fact that Labor has been ideologically opposed to it in the past?'

Nicola Roxon replied, 'No, we won't.' On 26 September 2007, the former Minister for Health and Ageing, Nicola Roxon, said:

The Liberals continue to try to scare people into thinking Labor will take away the rebates. This is absolutely untrue.

Then we have the letter of 20 November 2007 from then Prime Minister Rudd to the Australian Health Insurance Association, reiterating this commitment in writing, but the letter was not even worth the paper it was written on. After that federal election, former Prime Minister Rudd said that the private health insurance rebate policy 'remains unchanged and will remain unchanged'. We kept getting these promises that Labor would retain the rebate.

In a speech in October 2008, Nicola Roxon was again making this commitment, yet during Senate estimates it was revealed that, while Minister Roxon was giving that public assurance behind closed doors, she
and other senior members of the government were seeking advice on how to progress changes to those private health insurance rebates. They were firmly committed to retaining the existing rebates in public, while secretly working on plans to reduce and scrap them. We know that Minister Roxon first obtained advice from her department on 12 January 2009, and the advice on how to change the rebate was being sought by the health minister's office as early as December 2008. Treasury provided advice on means testing the rebate on 20 February 2009 at the request of the Treasurer.

This is the hallmark of the Rudd and Gillard governments. They say one thing and they do another. We know that these cuts will affect and further add to Labor's cost-of-living burden on working Australians. After years of waste and mismanagement, Labor is hiking up prices for working Australians. We know that Labor's premium hikes will force people to drop private health insurance and will downgrade their cover, and this will further stretch the overstretched public hospital system. Labor is wrong to imply that private health insurance is only for the rich—5.6 million people with private health insurance have an annual household income of less than $50,000 and 3.4 million have an annual household income of less than $35,000. Given this government's history, we are very concerned that, unless these bills are discharged from the Notice Paper, the Australian public will be hit again. Consequently, I seek support for a suspension to enable this discharge motion.

(Time expired)

Senator CORMANN (Western Australia) (17:23): The government's decision to abolish the private health insurance rebate for millions of Australians is just another example of the bad and ideologically driven policy we get from this very incompetent and deeply divided Labor government. This broken promise on the private health insurance rebate is bad policy, it is bad for our health system and it is bad for patients right across Australia. Before the 2007 election the coalition was somewhat suspicious about the Labor Party's intentions in relation to private health insurance. So we made the assertion that Labor in government would do what they have done before—that is, undermine those Australians who take additional responsibility for their own healthcare needs by taking out private health insurance, who are putting additional money into the health system and who received a tax incentive from the Howard government to encourage them to put more of their own resources into the health system. Of course, whenever we made the assertion that Labor would do as they have always done—that is, make people who take additional responsibility for their own healthcare needs pay the price for the government's reckless and wasteful spending in other areas—Labor put their hands on their hearts and said: 'We wouldn't do that. We're not going to touch the private health insurance rebate.' This government, which is completely untrustworthy—this Labor administration which made promise after promise before the election only to break them after the election—is now trying to put through the Senate a piece of legislation which has previously been rejected by the Senate.

Senator Fierravanti-Wells: Twice.

Senator CORMANN: As Senator Fierravanti-Wells has just reminded me, the Senate very sensibly rejected this bad legislation on two occasions. And why did the Senate reject Labor's attempts to make people who take additional responsibility for their own healthcare needs pay for Labor's own reckless and wasteful spending in other areas? Because the Senate knew that this
piece of legislation will push up the cost of private health insurance, put it beyond the reach of a number of Australians and see more people leave private health insurance, which will push up the cost of health insurance for everyone, including low- and middle-income earners who are currently making significant sacrifices in order to be able to afford their private health insurance every year—the people who are most likely to leave private health insurance after the cost increases by 42 per cent immediately.

Courtesy of this decision, many Australians will have to pay 42 per cent more for their private health insurance just like that, without even taking any of the flow-on consequences into account. As those Australians who are least likely to need private health insurance in the foreseeable future leave private health insurance, the cost for all of the remaining Australians, including those who are most likely to need private health insurance in the foreseeable future, will go up. This will take us back to the vicious cycle where past Labor administrations have taken us before, where we see the cost of private health insurance go up and people leave, and then the cost goes up more and more people leave. Of course, we end up with a downward spiral of additional pressure on our public hospital system, with more people having to join public hospital queues, when quite frankly what the government should be doing is providing well-targeted incentives to encourage more people to take out private health insurance and put additional resources into the health system.

All of the evidence that has been presented over the last 10 or so years since this very sensible and very successful Howard government policy was put in place has demonstrated that this has been part of a highly successful package of policy initiatives. It was of course the Howard government that reversed the decline in private health insurance when it came into government in 1996. The private health insurance rebate, lifetime health cover and the Medicare levy surcharge were a successful package of initiatives that helped restore the balance in our health system. We need both a strong public system and a strong private system so that all Australians can have timely and affordable access to high quality health care.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:27): It is groundhog day again for those opposite. We have heard this debate twice over now. They get up on procedural matters and suck up oxygen which could be used for the merit of the debate when we have the second reading debate and the committee stages of the bill. Rather than wait for that, they use a cheap political stunt such as a procedural motion to argue the point again. What we did not hear from those opposite is the actual argument for why Senator Fierravanti-Wells's motion should get up—not the merit of the actual debate. Senator Fierravanti-Wells and Senator Cormann can have their say, for 20 minutes a pop, during the second reading debate to argue their case and convince those here in this chamber. But we did not hear one jot about why we should up-end the Senate and pay attention to the false and pitiful motion that Senator Fierravanti-Wells has put up, which would ultimately stop the bill from proceeding. Forget about the fancy words that are put in front of it; it would stop the bill from proceeding. And what would we be doing? We would be denying reform by a Labor government committed to improving the lives of working people and creating greater fairness for them and their families. This legislation is a win-win for working families, and those opposite do not
want to participate in it. I understand that. They have a different view. They have a very different view on this legislation. But this is not the time for that debate. They will all have an opportunity to debate that in due course.

We are now having a debate on this motion, put up by Senator Fierravanti-Wells, that is simply a procedure device. They have used it before; they will do it again. As I said, they have not learnt from the last time. All you are doing is using procedural devices to try to change the course, to say that your particular motion should have precedence. This would effectively mean that your motion would take precedence in the Senate. There is no argument for that. There is no argument as to why your motion should take precedence. No specific issues were raised other than the same arguments that were raised in the lower house about the merits of the bill. It is quite appropriate. You can have your say when the second reading debate comes on. That is the place to say it, not here. If we start to add them up, it becomes very clear to me that you are simply into delay and Senate time-wasting opportunities.

In recent years, it seems those opposite have been unable to contain themselves. They find procedural devices to give the debate some more currency—wake up to yourself. Use the force of the second reading debate to make your point in committee rather than try to use cheap political stunts such as this to rerun your argument. Alternatively, subscribe to the groundhog theory that you simply want to rerun the argument time and time again without recognising that what you are doing has little merit. In my view, it has no merit at all.

Five bills have been introduced. This is the point where we introduce the bills for debate. It is usually non-controversial. We bring these bills in, we put them on the Notice Paper and they are there for debate. Unfortunately those opposite seem unable to resist the temptation to use the time of the chamber for procedural shenanigans on the introduction of the Fairer Private Health Insurance Incentives Bill 2012 and related bills. Let us be clear: this debate is using up the time of the Senate for a cheap, political stunt on a procedural motion that cheapens the opposition's ability to argue during this second stage. Quite disappointingly, those opposite seem only prepared to rerun the arguments without— (Time expired)

**Senator FIFIELD** (Victoria—Manager of Opposition Business in the Senate) (17:33): Welcome back, Senator Ludwig, for what may be a cameo appearance as Manager of Government Business. We all wish Senator Arbib well. It is nice to see Senator Ludwig again.

Senator Ludwig said that coalition members in this place are running the same arguments that had been run by the coalition in the other place. He is quite right. We are. They were valid there, they were valid then and they are valid now. The purpose of this procedural motion is to seek the opportunity to have the order of the day for this legislation discharged from the Notice Paper. Why do we seek to have this matter discharged from the Notice Paper? It is so that this legislation is not further considered and does not proceed through this chamber. That is the purpose. We have been denied leave to move the motion so we are now debating that standing orders be suspended to enable this particular debate. I hope that the chamber agrees for that to happen.

This is yet another clear-cut case of a government breaking its word. We all know of the now infamous commitment by the Prime Minister that there would be no carbon tax under a government she leads. She lied; she fibbed; she broke her word. This case is
as clear-cut as that. Election after election this party went to the Australian people—

Senator Ludwig: Madam Acting Deputy President, I rise on a point of order. I normally do not interrupt the flow of a speaker in full flight. In this instance, the point of order is that he may have inadvertently slipped into language that is inappropriate and unparliamentary in this place. I am sure he did not do that on purpose. I know, Madam Acting Deputy President, you were changing place with Acting Deputy President Back at that moment, but I ask Senator Fifield to reflect on that and to withdraw.

The ACTING DEPUTY PRESIDENT (Senator Crossin) (17:35): My apologies. I was swapping chair positions with Senator Back. Perhaps I could just remind you of the words you choose to use, Senator Fifield.

Senator Fifield: Certainly. I did use the word 'lie' and I withdraw that. I am happy to replace it with 'fib'.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Fifield. I am not sure that is improving the situation but let us continue.

Senator Fifield: I think the word 'fib' is well within the bounds of discourse in this place but thank you, Madam Acting Deputy President. I was saying that this is as clear-cut a case of breaking one's word, of fibbing, as was the broken carbon tax promise. At successful elections members of the Australian Labor Party—candidates, members and senators—put their hands on their hearts and said, 'We will not touch the private health insurance rebate.' I recall the member for Griffith saying, 'Not one jot; not one tittle.' I am not sure what that was but I took it to mean he was not going to change it in any way, shape or form. That is the commitment they made. They said: 'Trust us, we love private schools—no schools hit list.' They said, 'Trust us, we love private health insurance. We're not going to touch the private health insurance rebate, in any way—not even a means test.'

Minister Roxon made that commitment. Minister Rudd made that commitment. Prime Minister Gillard made that commitment. Each and every one of the them said: 'No way. Trust us. We've changed. We're not the party of envy any more. We don't believe in the politics of envy any more. We've changed.'

You know what? A lot of Australians at successive elections took them at their word. I know because I had members of the public come to me and say, 'Look, Labor don't want to attack private schools. Labor don't want to attack private health insurance. I have heard Labor senators and members say that.' That is what they say to me. I would explain, calmly and patiently, 'Don't believe them; they haven't changed.' It is clear that nothing has changed about the Australian Labor Party. Its traditions and its roots in class envy and envy politics go deep.

This is bad legislation. We want to encourage Australians to make provisions for themselves. We believe in both the carrot and the stick. We believe that if you do not take out private health insurance and you have the capacity to, above a certain income level there should be a penalty. We believe there should be that stick. But we also believe that there should be a carrot—encouragement and reward for making provision for yourself. This legislation seeks to attack that very idea of making provision for yourself when you have the capacity to do so.

It is the politics of envy. It should be condemned. We do condemn it. We are moving this motion to suspend standing orders because we believe we should be able to move a motion seeking the discharge of
this legislation from the Notice Paper. The legislation should not have got this far. Members in the other place should have stopped this legislation in its tracks. They failed to do so. We have an obligation to hold this government to its word—to hold the Australian Labor Party to its word. It is time they were called on it. We want to call them on it.

The Senate should support this motion to suspend standing orders so that Senator Fierravanti-Wells can move her motion to seek to have this matter discharged from the Notice Paper.

Senator XENOPHON (South Australia) (17:39): I indicate that I will not be supporting this motion. I think it is important that I outline the reasons for doing so, so that it is not misinterpreted as in any way supporting the government's position, in a substantive sense, with respect to the legislation that is being put up.

Firstly, I do not think it is appropriate to use this vehicle of the suspension of standing orders in relation to a motion with respect to legislation that will be coming to the Senate shortly. The fact is the legislation has passed the House of Representatives. The fact is we will have ample opportunity to debate this. Provided there is not a gag motion applied there will be a fulsome debate on this piece of legislation. So my issue with Senator Fierravanti-Wells is not with the substance of what she is trying to achieve—that is, to highlight the inadequacies of this legislation—but I do not think it is appropriate for there to be a suspension of standing orders so that the bills are not debated at all.

I do have concerns about the government's bills. I will be opposing the government's bills for the same reason that I opposed them previously. I think that this legislation will have a number of unintended consequences. Those consequences will be that people will drop out of private health insurance. It will mean that more and more people will go to the public system. It will place an undue and unnecessary burden on the public system.

We need to bear in mind what the impact of that will be. It could mean a spiralling of increased premiums in the private health insurance system. It could mean a greater burden on the public purse in terms of the public system. I think it is worth reflecting on the work of the Productivity Commission. Some three years ago I negotiated with the government, in return for my support for changes to the Medicare surcharge thresholds, that a report be undertaken by the Productivity Commission into the different outcomes between the public and private systems. Something like that was never done before. I thought it was a very fair report. It was a robust report, as is generally the case from the Productivity Commission. That report, I think, is worth reflecting on in the context of the legislation that this motion refers to. I am worried that we will disturb the equilibrium between the public and private systems as a result of the government legislation that has already gone through the lower house.

I am worried that the government has not adequately modelled a whole range of issues in terms of the impact of this legislation, including the issue of people dropping out or downgrading their cover because, if that is the case, expect to see—with respect to physiotherapy, some help with dental work, occupational therapy and a whole range of ancillary covers—a massive shift to the public system. In order to avoid any levies and in order to avoid any penalties people will simply downgrade their cover to the absolute minimum. That, to me, will have all sorts of dire consequences to the private health system, with a significant flow-on effect to the public health system.
These are matters that I think ought to be ventilated at the second reading stage. So I agree with Minister Ludwig in relation to this. That stage is the appropriate time to debate them. I certainly hope there will not be a gagging of debate either at the second reading or committee stages.

I do not quite understand that this motion to suspend standing orders is appropriate. I think we should subject this legislation to the robust scrutiny it deserves. I will be voting against the legislation but I am looking forward to the committee stages. For those reasons—those technical reasons, if you like—I cannot support what Senator Fierravanti-Wells is proposing. But I do share her deep concerns about the impact of this legislation.

**Senator McLUCAS** (Queensland—Parliamentary Secretary for Disabilities and Carers) (17:43): I also rise to oppose the motion—perhaps we should call it a stunt—from Senator Fierravanti-Wells.

**Senator Xenophon:** Nothing wrong with stunts!

**Senator McLUCAS:** There is nothing wrong with stunts, Senator Xenophon. I think you got the prize today! But this is another stunt. If the motion were carried—let us be very clear about what this means—we would not allow the Senate to do what it is noted for, and that is to scrutinise legislation.

The upshot of this being carried would be that we would not debate a series of bills that have been passed by the House of Representatives. We would not be able to do what the Senate is noted for—scrutinise, amend, negotiate, and work with the crossbenchers to get a better outcome for the Australian community. I believe that the bills represent very good policy—great policy—but there are people in this place who have a different opinion. And Senator Xenophon has said as much in his contribution. This is a procedural motion—a procedural motion that would mean, if it were carried, that we would not debate significant changes to the private health insurance levies system in our country. Let us go to why the Liberal Party does not want to have a fulsome debate about this particular set of bills. We know that this legislation will save taxpayers $2.4 billion over the next three years or $100 billion over the next 40 years. We also know that the opposition leader had said that, if he were to become prime minister, the proposal that Labor is putting forward would be repealed. That is another $2.4 billion that he has to find in the forward estimates. It is another $100 billion over the next 40 years if these changes to the private health insurance rebate are not carried.

If we carry this motion we will not have the opportunity to refute the absolutely incorrect assertions that private health insurance membership will decrease. We know Treasury modelling estimates that, after these changes come into effect, 99.7 per cent of people will remain in private health insurance as a result of incentives such as the Lifetime Health Cover and the Medicare Levy Surcharge. Any time there is a change to the way the premium subsidy works, we get railed by that side about how everyone is going to leave their private health insurance and that the public hospital system will be inundated. Can I say that that has never happened. That has not happened any time there have been changes to the private health insurance modelling even under previous governments.

The facts are that 90 per cent of lower income adults should not subsidise the private health insurance of the top 10 per cent of contributors. It is not fair, in our view, that a bank teller who is earning $50,000 should be subsidising the private health insurance of a banker who is taking home $260,000. That is not fair. I think if
you go out there and talk to those wealthier Australians, they are probably a bit embarrassed that the people they are employing in their businesses are subsidising their private health insurance. It will not result, in my view or Treasury's view, in an exodus from private health insurance coverage. In fact, eight million Australians will not even be impacted; 2.4 million people will be; 930,000 of those will have their rebate reduced by 10 percentage points; and 780,000 will have their rebate reduced by 20 percentage points. We are talking about 700,000 of the wealthiest Australians who will no longer receive the rebate; 700,000 of the wealthiest Australians who currently have their rebate subsidised in many cases by the people they employ. This is a stunt of the first order and should be opposed.

Senator RONALDSON (Victoria) (17:48): Before I start talking I notice that the acting Manager of Government Business spoke about the fact that we were not addressing the motion but rather the substance of other issues and then moved straight away to talk about the substance of other issues. I feel as if I have a licence to do so.

Clearly, what we have seen today is another broken promise from this Labor government. When Senator McLucas says the outcome of this motion getting up would be to remove these bills from the Notice Paper, she is absolutely right. That is exactly what we want to do. We want to remove this because we want to keep you to the promise you have made over successive elections. We want you to keep your word to the Australian people, as you did before the last election and the election before that, about what you were going to do. It reminds me of what you have done in relation to the carbon tax, another broken promise. You go into election campaigns, say one thing and then do another.

Do you know how many people supported you on the back of your firm, non-negotiable commitment to keep the private health insurance rebate? Tens of thousands of Australians were warned you would do this, but they said, 'No, surely not.' As Senator Fifield said: 'They believed you. We warned them of what you were going to do.' You sit here and laugh as if it is funny that you can break an election commitment and it is worth giggling about, Senator McLucas. If you find those sorts of things funny, then I think that is a gross indictment on the party that you represent. You broke this promise. You went to two elections saying you would not do it and you have broken it. You went to the last election with a promise on the carbon tax and you broke that. (Time expired)

The PRESIDENT: The question is that the motion moved by Senator Fierravanti-Wells be agreed to.

The Senate divided. [17:55]

(The President—Senator Hogg)

Ayes ...................... 30
Noes ...................... 37
Majority ................... 7

AYES

Abetz, E
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Fisher, M
Humphries, G
Kroger, H
Madigan, JJ
McKenzie, B
Payne, MA
Ryan, SM
Sinodinos, A

NOES

Bilyk, CL
Brown, CL (teller)

Back, CJ
Boswell, RLD
Bushby, DC
Colbeck, R
Edwards, S (teller)
Fawcett, DJ
Fifield, MP
Heffernan, W
Johnston, D
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Scullion, NG
Williams, JR

Bishop, TM
Brown, RJ
CHAMBER

MONDAY, 27 FEBRUARY 2012

SENATE

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Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Wong, P
Xenophon, N

NOES

Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ
Wright, PL

PAIRS

Adams, J
Bernardi, C
Brandis, GH
Nash, F
Sherry, NJ
Evans, C
Milne, C
Arbib, MV

Question negatived.

COMMITTEES

Report

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (17:58): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Senate Education, Employment and Workplace Relations Legislation Committee; the Senate Rural and Regional Affairs and Transport Legislation Committee; and the Senate Finance and Public Administration Legislation Committee.

Ordered that the reports be printed.

BUSINESS

Consideration of Legislation

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (18:00): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 AUTUMN SITTINGS

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) AND OTHER LEGISLATION AMENDMENT BILL

Purpose of the Bill

Following the release of the initial report of the Remuneration Tribunal (the Tribunal), Review of the Remuneration of Members of Parliament, on 15 December 2011, the Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill (the bill) seeks to implement the Government's commitment to abolish the Life Gold Pass (LGP) entitlement prospectively so that it is not available to those who enter or re-enter the Parliament following the commencement of the Members of Parliament (Life Gold Pass) and Other Legislation Amendment Act 2012.

The bill also reduces the number of return trips available to an existing LGP holder, who has never held office as Prime Minister, and his or her spouse or de facto partner and the spouse or de facto partner of a sitting member who has qualified for a LGP (entitled person) from 25 to 10 per financial year. Consistent with the Tribunal's recommendation that the entitlement for existing LGP holders be reduced now, the bill includes a transitional provision for the last quarter in this financial year or the date of Royal Assent, whichever is the later, limiting the number of return trips available to two, where the
entitled person has at least two unused return trips from his or her 2011-12 financial year entitlement.

The bill also amends the Remuneration Tribunal Act 1973 and makes consequential changes to the Parliamentary Contributory Superannuation Act 1948 (1948 Act) to grant the Tribunal the power to limit the flow of windfall gains to the superannuation benefits for current and former parliamentarians covered by the 1948 Act, from increases in the additional salary for Ministers of State and parliamentary office holders.

Reasons for Urgency
The bill should be introduced and passed in the 2012 Autumn sittings to ensure the number of return trips for existing LGP holders is reduced from the start of the 2012-13 financial year. It is also preferable that the transitional provision apply from 1 April 2012.

It is also important that the Tribunal has the capacity to limit any windfall gains that could flow to the superannuation benefits of current and former Ministers of State and parliamentary office holders covered by the 1948 Act, from a determination of the Tribunal on parliamentary remuneration. The Tribunal has indicated that it will not determine any variation in parliamentary remuneration, terms and conditions, or any associated matters, until measures have been enacted to address the potential windfall gains. Delays in passage of the bill will mean that the Tribunal is not able to properly fulfil its role in determining parliamentarian's remuneration.

BILLS
Nuclear Terrorism Legislation Amendment Bill 2011
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.
(Quorum formed)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (18:02): The opposition is occasionally and foolishly accused of being too negative. Many of the legislative proposals of the Gillard government are catastrophic and against the national interest. An opposition should always oppose legislation which is against the national interest, and we always will. But an urban myth has developed, fostered and propagated by the Labor Party spin machine, that we oppose everything. As a matter of fact, the opposition has supported the vast majority of the bills brought before the parliament by this government. You do not hear about that in the public debate because ex hypothesi such bills, being uncontroversial, do not generate news. The Nuclear Terrorism Legislation Amendment Bill 2011 is such a bill. It is uncontroversial, like the vast majority of the legislation which the government brings before the chamber, and the opposition, agreeing with its effect, supports it.

The purpose of the bill is to add a new offence to the Nuclear Non-Proliferation (Safeguards) Act 1987 by implementing provisions of the International Convention for the Suppression of Acts of Nuclear Terrorism—known as the 'nuclear terrorism convention'. The nuclear terrorism convention arose from a global initiative established by the United States and the Russian Federation in 2006. One of the fruits of the West's victory in the Cold War is that the United States and the Russian Federation are able to agree and jointly sponsor such beneficial measures. Commonwealth legislation already implements most of the convention obligations. This legislation seeks to ensure that all criminal offences provided for in article 2 of the convention are covered by Commonwealth law.

The amendments in this bill would create new criminal offences for possessing radioactive material or a 'convention device'—a term defined by the convention as including a nuclear explosive device or a...
device to emit material with radiological properties which may cause death, serious bodily injury or substantial damage to property or the environment; making a convention device; using or damaging a convention device or nuclear facility, or threatening to do so; threatening to use radioactive material; demanding that another person create radioactive material, a convention device or a nuclear facility; and demanding that a third person access or control radioactive material, a convention device or a nuclear facility.

Members of the Australian Defence Force will not be liable to prosecution in respect of acts done in connection with the defence or security of Australia. The convention does not govern the actions of armed forces during an armed conflict. That exemption does not apply to serving personnel whose actions are not connected with the defence or security of Australia or who are otherwise acting unlawfully. The bill does not criminalise the lawful possession and use of radioactive material—for example, material with a medical application. There must be an intention to use or make available the material for a prohibited purpose, such as death or property damage. Whether or not the intended outcomes occurs is not relevant to a prosecution. A maximum penalty of 20 years imprisonment applies to the offences created by the bill.

The bill is directed toward the conduct that all members of the Senate would devoutly hope will never come to pass. Should such threats ever be contemplated, we must ensure that we have the legislative armoury to enable our security and law reform agencies to nip them in the bud. Accordingly, the coalition support the bill—as we do all sensible bills brought to the chamber by this government.

**Senator LUDLAM** (Western Australia) (18:07): I rise to add the comments of the Australian Greens to the debate on the Nuclear Terrorism Legislation Amendment Bill 2011 and to add my support to that of the coalition for this bill. This bill is Australia’s instrument to ratify the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism. This is a threat that has been considered internationally for decades. Indeed, the fears of individuals or state networks illicitly acquiring nuclear materials and using them for deadly ends have been felt for as long as nuclear technology has existed. The very existence of nuclear materials invites these fears and makes them rational to have because this technology is truly terrifying in the scale of its consequences.

In 1979 the Convention on the Physical Protection of Nuclear Material was adopted in Vienna. This treaty aimed to avert the potential dangers posed by the unlawful taking and use of nuclear material and to protect nuclear material in use, storage and transfer. The events in New York on 11 September 2001, Bali in October 2002, Madrid in 2004 and London in July 2005 prompted that negotiation of the treaty we are discussing today. The International Convention for the Suppression of Acts of Nuclear Terrorism is the 13th antiterrorism convention of the United Nations and the first international accord aimed at fighting against acts of nuclear terrorism. The document, for the first time, defines nuclear terrorist crimes. It fills the gaps in the existing antiterrorism treaty system, it helps improve the international legal framework on antiterrorism and it provides the legal guarantee to prevent and punish acts of nuclear terrorism.

The sentiments that led to the negotiations are summed up very well in a 2005 speech
given by the former United Nations Secretary-General Kofi Annan. He said:

I firmly believe that our generation can build a world of ever-expanding development, security and human rights—a world "in larger freedom". But I am equally aware that such a world could be put irrevocably beyond our reach by a nuclear catastrophe in one of our great cities.

In the chaos and confusion of the immediate aftermath, there might be many questions. Was this an act of terrorism? Was it an act of aggression by a state? Was it an accident? These may not be equally probable, but all are possible. Imagine, just for a minute, what the consequences would be. Tens, if not hundreds, of thousands of people would perish in an instant, and many more would die from exposure to radiation.

The global impact would also be grave. The attention of world leaders would be riveted on this existential threat. Carefully nurtured collective security mechanisms could be discredited. Hard-won freedoms and human rights could be compromised. The sharing of nuclear technology for peaceful uses could halt. Resources for development would likely dwindle. And world financial markets, trade and transportation could be hard hit, with major economic consequences. This could drive millions of people in poor countries into deeper deprivation and suffering. As shock gave way to anger and despair, the leaders of every nation represented here at this conference—as well as those who are not here—we would have to ask: How did it come to this? Is my conscience clear? Could I have done more to reduce the risk by strengthening the regime designed to do so?

The Greens support the intention of this legislation and treaty, but we remind the Senate this is really only a bandaid measure—it is a valuable one, but that is all it is when it comes to identifying the root cause of nuclear terrorism, which is of course the existence of nuclear materials, fissile materials and nuclear weapons.

As senators would know, the four forms of nuclear terrorism canvassed by this bill include theft or purchase by terrorists of a nuclear weapon from the arsenals of the states that possess nuclear weapons and those states include the United States, Russia, France, the UK, China, India, Israel, Pakistan and the DPRK. The second category is acquisition by terrorists of highly enriched uranium, HEU, or plutonium for use in an improvised nuclear device. The third category is terrorist attacks on or sabotage of vehicles transporting nuclear materials or weapons or on nuclear reactors themselves, which you often hear described as pre-deployed radiological weapons waiting to be detonated by an enemy. Around the world there are also numerous research reactors at universities which have virtually no security at all. Finally, the building and use of radiological dispersal devices, or 'dirty bombs'. This does not involve fissile material but simply dispersing material, whether it be from radioactive sources or material from uranium mines or indeed the dispersal of depleted uranium emissions.

The Weapons of Mass Destruction Commission rightly called their report Weapons of terror because the weapons they had spent some years analysing were designed to terrify as well as destroy. The title was somewhat controversial at the time. They used this terminology because these weapons are in the stockpiles and hands of states. Critics of the treaty in the bill that we are discussing today have noted that it excludes activities of armed forces during an armed conflict and that it does not address the issue of the legality of the use or threat of use of nuclear weapons by states. So, of course, what it effectively does is entrenches the legitimisation of nuclear weapons and fissile materials in the hands of a very small number of states while further criminalising—as is entirely appropriate—the possession or theft of these weapons or
materials by nonstate actors or terrorist networks.

The WMD Commission dealt with the threat of nuclear terrorism in lengthy detail in their report but they were also unequivocal on a crucial point. The commission:

... rejects the suggestion that nuclear weapons in the hands of some pose no threat, while in the hands of others they place the world in mortal jeopardy. Governments possessing nuclear weapons can act responsibly or recklessly. Governments may also change over time. Twenty-seven—or now 22—thousand nuclear weapons are not an abstract theory. They exist in today's world.

Explanations by the nuclear haves that the weapons are indispensable to defend their sovereignty are not the best way to convince other sovereign states to renounce the option. This is a debate that is occurring in the Australian defence community at the moment with the reconsideration of the defence white paper. Where do US nuclear weapons fit within Australia's security doctrine? We exist, as we did right through the years of the Cold War until now, under what is called the United States nuclear weapons umbrella—that is, we are not pursuing actively the development of Australian nuclear weapons because we understand that the United States government would use them on our behalf if they had to. Let us think about that for a moment. That entirely legitimises the use of these weapons of genocide in the cause of the defence of Australia. That is completely unnecessary. We need to get out from under the US nuclear umbrella as a way of encouraging our nuclear ally to disarm. Although it is often forgotten and not much remarked upon these days, President Obama came to office with such an extraordinary promise in his speech in Prague shortly after his election about renunciation of these weapons—that is, not simply a non-proliferation agenda: a disarmament agenda. In this respect, the commission was echoing the Canberra commission final document, which says:

... immediate and determined efforts need to be made to rid the world of nuclear weapons and the threat they pose to it. The destructiveness of nuclear weapons is immense. Any use would be catastrophic.

The proposition that nuclear weapons can be retained in perpetuity—lacks credibility. It continues:

The only complete defence is the elimination of nuclear weapons and assurance that they will never be produced again.

That was an extraordinarily valuable effort on behalf of the Australian government and, I think, quite a creative example of middle power diplomacy in order to get our allies to shift their thinking and to shift doctrine.

Nuclear weapons and nuclear reactors are themselves the root cause of the problem of nuclear terrorism that is being addressed by this bill and by this treaty that it enshrines. The fact today that the theft of fissile material somewhere can jeopardise security everywhere is not controversial, as Dr Mohamed ElBaradei, the former head of the IAEA, explained when discussing the AQ Khan network, which illicitly sold weapons technology to Libya, North Korea and Iran. He said:

The relative ease with which a multinational illicit network could be set up and operated demonstrates the inadequacy of the present export control system. The fact that so many companies and individuals could be involved (more than two dozen, by last count)—and that, in most cases, this could occur apparently without the knowledge of their own governments—points to the shortcomings of national systems for oversight of sensitive equipment and technology. It also points to the limitations of existing international cooperation on export controls, which relies on informal arrangements, does not
include many countries with growing industrial capacity, and does not include sufficient sharing of export information with the IAEA.

... In a modern society characterized by electronic information exchange, interlinked financial systems, and global trade, the control of access to nuclear weapons technology has grown increasingly difficult. The technical barriers to mastering the essential steps of uranium enrichment—and to designing weapons—have eroded over time. Much of the hardware in question is "dual use", and the sheer diversity of technology has made it much more difficult to control or even track procurement and sales.

This reflects some of the comments that I made subsequent to question time here in the Senate this afternoon in the instance of Iran. The technology that you use to enrich nuclear materials for fuel is the same plant, the same factory and the same technologists and engineers that you employ to enrich that same uranium all the way up to weapons grade.

Dr ElBaradei's words are those of a man who deeply believes in nuclear energy, unlike myself, and who headed up an agency with a mandate of promoting nuclear energy. Nonetheless, we are still making a long-term radioactive mess that will be dangerous and usable by terrorists—however you define that term; the international community has still not arrived at a mutually shared definition—for centuries. Solutions to the threat posed by nuclear terrorism obviously involve international cooperation such as the means advanced through the treaty that we ratify through this bill. Obviously eliminating nuclear materials would seriously impede terrorist networks' ability to acquire such materials. Immediately securing all nuclear weapons and weapons-grade material is also obvious. Locking down and eliminating existing fissile material and nuclear weapons and facilities is really the only way to address the danger of nuclear terrorism.

Of course, terrorist networks are very unlikely to blow up a wind farm or make a dirty bomb from a solar panel, but these weapons will continue to exist as long as we give our collective consent to that existence. So, inasmuch as we support the aims of this bill and the work that has gone into it—the international collaboration and the international work that has gone into bringing this bill into this parliament and other parliaments and assemblies around the world—we know that it is only part of the question. This does not deal with the source of the materials. It does not deal with the source of the expertise or any of the rationales why various networks or other states around the world might seek to acquire these weapons. This debate must go further. We pass this bill today but we must proceed further to the debate about how to eliminate these weapons from the arsenals of all nations, including our ally the United States.

Senator SINGH (Tasmania) (18:19): I also rise to speak to the Nuclear Terrorism Legislation Amendment Bill 2011, and I acknowledge the contribution by Senator Ludlam. This bill implements the International Convention for the Suppression of Acts of Nuclear Terrorism, a treaty that was signed by Australia in September 2005 and which entered into force generally in 2007. Certainly the passage of this bill is well overdue. Despite many of its provisions already being covered under Australian law, it is important to strengthen our existing legislation and to better complement international regimes to prevent terrorism wherever possible.

Consideration of this bill by the Senate today is in fact timely, as Australia's ratification of the convention will be an important contribution to the second nuclear security summit, to be held in the Republic of Korea next month. The international convention was conceived and created as
part of the redoubling of global efforts against terrorism and the changes in the way in which terrorism is and potentially could manifest. Taken together with the International Convention for the Suppression of Terrorist Bombings, the International Convention for the Suppression of Financing Terrorism and the Convention on the Physical Protection of Nuclear Material, this treaty and the legislative change introduced by this bill contribute to a framework for international cooperation on terrorist offences, including investigation and extradition.

It goes without saying that over the last decade, especially since the tragic events of September 11, 2001 and the attacks on Kuta, Bali, in October 2002, the nature and challenges of asymmetric warfare have become clear. Global terrorist cells have become more widespread, just as they have become more sophisticated. Changes in warfare have necessitated a new legislative response. While the conduct of state actors in conflict has long been dealt with through international humanitarian law—that is, of course, the laws of war—the way in which non-state actors wield the same instruments of destruction requires a specific criminal response. In an age in which nuclear proliferation has been far too widespread and where too often the security around state-held nuclear devices has been vulnerable to degradation and exploitation by organised crime, there exists this terrible prospect that radical organisations willing to resort to political violence rather than peaceful expression may be able to acquire nuclear material.

This legislation, of course, responds to that awful possibility, reinforces Australia's criminal law against political violence in these especially extreme circumstances and sends a message to the international community that Australia stands committed to addressing the threats of global and domestic terrorism. The bill creates new criminal offences of making or possessing radioactive material or a convention device, damaging a nuclear device or a nuclear facility, threatening to use or damage radioactive material, and demanding that another person create radioactive material, a nuclear device or a nuclear facility. Whilst these offences are new under this bill, some other crimes captured under the international convention already exist under Australian law. Each of these offences carries a maximum penalty of 20 years imprisonment, reflecting the gravity of the offence conduct.

The bill inserts a number of new definitions for expressions relevant to the new offences. To ensure consistency with the convention which the bill will implement and in accordance with current drafting practices, the bill adopts the definitions set out in the convention. In recognition of the need to work in concert with our allies and partners overseas, these offences are not limited to conduct by Australians and in Australia but will apply in a broad range of situations where the convention requires state parties to assert jurisdiction.

Importantly, the bill makes a consequential amendment to the Extradition Act 1988 to prevent a person avoiding extradition from Australia for a convention offence by arguing that they had committed a political offence. Understanding the time, I will make the rest of my contribution short, but I would like to add that I strongly believe that the types of offences considered under this legislation are far, far from being considered statements of political expression. We must emphasise, however and wherever we are able, that recourse to violence, especially the types with devastating, enduring effects covered by this bill, can never be excused by any legitimate cause.
Australia takes the proliferation and use of nuclear weapons and related materials seriously and actively participates in a range of international activities and forums designed to reduce proliferation and improve nuclear safety arrangements. Australia is a longtime supporter of the international legal framework for the nonproliferation of nuclear weapons, including as a state party to the Treaty on the Non-Proliferation of Nuclear Weapons and the South Pacific Nuclear-Free Zone Treaty. Australia also participates in the Proliferation Security Initiative. The purpose of the initiative is to prevent illicit trafficking in weapons of mass destruction, their delivery systems and related materials.

The Nuclear Terrorism Legislation Amendment Bill 2011 will make a contribution to Australia's fight against terrorism and misuse of weapons of mass destruction. Importantly, it will also demonstrate to the international community that Australia is serious about cooperating with other nations to defeat threats to international peace and security. Nuclear terrorism is a horrifying thought. A nuclear terrorist attack could kill millions, lay waste to cities and the environment for decades, and cause grave social and economic dislocation. We hope that the world never sees this day. While our hope is that the probability of this happening is low, we should never discount that possibility. The bill will put in place offences that will allow Australia to more easily prosecute nuclear terrorists. It would also facilitate cooperation with other nations in the fight against nuclear terrorism. The bill forms part of a broad effort by the international community to fight nuclear terrorism. It will allow Australia to ratify the International Convention for the Suppression of Acts of Nuclear Terrorism. It is a significant piece of legislation which sends a strong message to the international community and would-be nuclear terrorists. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Crossin) (18:27): As no amendments to the bill have been circulated, I call Senator McLucas to move the third reading unless any senator requires that the bill be considered in Committee of the Whole.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (18:27): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Sitting suspended from 18:28 to 19:30

BUSINESS

Consideration of Legislation

Senator Feeney (Victoria—Parliamentary Secretary for Defence) (19:30): by leave—I move:

That intervening business be postponed until after consideration of the government business order of the day relating to the Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012.

Question agreed to.

BILLS

Members of Parliament (Life Gold Pass) and Other Legislation Amendment Bill 2012

Second Reading

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

Senator RYAN (Victoria) (19:30): This bill is mainly technical in nature in that it completes the process commenced with the Remuneration and Other Legislation Amendment Bill, passed in this place last year in order to grant complete independence to the Remuneration Tribunal. It implements the recommendations of the Remuneration Tribunal, released in December last year, which in simple terms are to close the Life Gold Pass scheme to new entrants to this place from the commencement of the bill, including those who have not qualified but re-enter. It also reduces the cap upon the number of domestic return trips eligible for current holders of the Life Gold Pass. It also gives the Remuneration Tribunal the power to determine portions of additional office holder and ministerial salary that may be excluded from the benefits payable to members of the now closed 1948 parliamentary superannuation scheme.

In relation to the second matter, this bill merely ensures that members of the former and current superannuation schemes do not receive different treatment due to the Remuneration Tribunal's announcement or future determinations. The opposition supports this bill.

Senator RHIANNON (New South Wales) (19:31): The Greens have long opposed the Life Gold Pass. In July 2009, Senator Bob Brown called for the Life Gold Pass to be reviewed by an independent arbiter. The bill abolishes the Life Gold Pass entitlement prospectively so that it is not available to those who enter the parliament at or after the commencement of the bill. The bill also severs the link between the additional pensions paid under the 1948 superannuation scheme and additional salaries paid to office holders and ministers.

The Life Gold Pass scheme, which in 2010 to 2011 cost taxpayers—cost the public, therefore—$1.3 million, will be closed for new members, and the entitlement of existing members will be reduced from 25 to 10 business class flights a year. While we commend the closure of the scheme, it should be noted that the reason for the rush to pass this bill is to facilitate the Remuneration Tribunal in gifting parliamentarians a pay rise. It has been made clear by the Remuneration Tribunal and the minister that this rise in base salaries from $140,910 to $185,000 per year is contingent on the passage of this bill. The reason for the government and opposition support for the hurried debate of the bill is certainly clear.

The Greens do not support the corresponding restoration of the Remuneration Tribunal's power to determine parliamentary base salaries without the power of parliament to disallow the determinations. Surely that should be in place. Transparency and accountability demand that the parliament maintain oversight over such matters. The major parties removed the embarrassment of accepting the pay offer and shed responsibility for a pay grab. They are some of the comments that were made when this announcement was made. It is the responsibility of each parliamentarian to justify to the electorate, to the taxpayers, to the public, the remuneration for MPs. Politicians' salaries should be compared with those of ordinary Australians like police, nurses and teachers, not corporate executives who earn millions of dollars. We support the bill but it is important that we note what is behind it.

Senator XENOPHON (South Australia) (19:34): My contribution will be short, perhaps not quite as short as Senator Ryan's or Senator Rhiannon's, but I think it is important that we put a few things in context, and I have an amendment that I will move in
the committee stage of this bill. I understood, when I spoke to the Special Minister of State's office, that the government was not inclined to support the amendment, but I believe in miracles. Who knows? Senator Feeney may have some different news for me, although I doubt it.

We need to put this in context. This bill relates to consequential amendment. It relates to recommendations made arising out of the Belcher review, and that was a very useful process. I would like to commend the work done by former Special Ministers of State Faulkner and Ludwig, and I would particularly like to thank the current Special Minister of State, the Hon. Gary Gray, for the work his office has done to bring about some reforms to the system.

When we dealt with the issue of the independence of the Remuneration Tribunal, I raised some concerns about issues of transparency and openness, and I will discuss that further in the context of the amendment I will be moving. I think it is very important when we consider legislation such as this that it should not be about us; it should be about the people who voted for us. The people of Australia are our employers. Their taxes pay our salaries, their votes give us our jobs and their confidence or otherwise, and they determine our futures. Like any employer, the Australian people deserve to have some say in what they pay their employees. There has been a long-time argument that politicians deserve to be paid on an equal footing with other industries—wages relativity, if you like. I think that what the Remuneration Tribunal has done by speaking to a number of MPs—and I was one of those—was a very useful and good exercise. I was impressed with the forensic nature of what they did, and I think that the secretariat of the Remuneration Tribunal should also be commended for their professionalism and the way they tackled the task in their discussions with MPs and senators. I think that was a very good exercise.

While I accept that if you pay peanuts you are most likely to get monkeys, we cannot forget that our sole purpose in being here is to represent our constituents. Schemes like the Life Gold Pass might not raise an eyebrow in another industry but they erode the faith that Australians have in their representatives. People believe fairly enough that, after we retire, we are not here to enjoy business class flights and comfy pension packages. I can understand why there is significant public opprobrium in relation to the gold pass scheme. I think there is one exception: we need to make sure that our former prime ministers are treated differently. My understanding is that they are, and I do not think we will ever go to the stage—nor should we—of the way they treat former presidents of the United States. It is fair to say that if you have been a Prime Minister of this nation then you have something to offer. You are in demand from the community from all over to discuss and be requested to open an art exhibition or speak on issues of public policy. It is quite reasonable that those gold pass entitlements ought to continue for former prime ministers if they are travelling for the purpose of public duties arising from the fact that they are a former Prime Minister.

I support the government's intentions in this bill and, even though they have been a long time coming, there have been some welcome reforms. I think we need to go further. I propose some amendments to this bill that will require the Remuneration Tribunal to hold public consultations before making a determination into politicians' pay or entitlements, and I will expand on this during the committee stage. I note that the government has previously made changes to the Remuneration Tribunal's operations and
their powers. Having true independence is a good thing but it ought to be coupled with greater transparency. I believe those changes need to go further. One of the Australian Labor Party's founding principles is 'a fair day's work for a fair day's wage', and there are not too many who would disagree with that. It should apply to those who make the rules as much as to those who are required to obey them. There needs to be a transparent process for evaluating politicians' pay and entitlements, a process that takes into account the positions of the general public, of interest groups and of politicians themselves. In the real world there are not many people who would get to decide whether they should get a pay rise, and I think that is why it is good that there is now independence on the part of the tribunal.

It is important to strengthen confidence in the process of politicians' pay and their entitlements and to have a process that is much more transparent, where there is a public hearing process and where public submissions are called for. I note that the Remuneration Tribunal did that in previous years, but mandating that the tribunal do this does not fetter their independence; it is a question of ensuring some essential processes to ensure that occurs. Whether we like it or not there is a higher standard on politicians to be transparent, particularly in respect of the processes that relate to their pay and conditions being altered. It is an honour to serve Australia in this place but it does not make me or anyone here deserving of special treatment, and that is why it is important that this legislation ought to be strengthened.

I will have some questions at the committee stage about the issue of the decoupling of politicians' superannuation, those who were elected prior to the changes in 2004 and these changes. They will be genuine questions as to how this will work and what formula will apply to ensure that there is not an unnecessary windfall, which is the intention of this bill. I want to ask some technical questions in relation to how this will actually work. I would like to hear from my colleagues on all sides as to whether or not they support some greater transparency and why the Remuneration Tribunal, which I think is made up of honourable and capable people, along with its secretariat, would not be able to accommodate these amendments to have a much better system of determining politicians' pay and entitlements.
closed prospectively; that the travel entitlement of Life Gold Pass holders be reduced; and that the link between additional pensions under the Parliamentary Contributory Superannuation Scheme, the 1948 scheme, and additional salaries for serving parliamentary office holders and ministers be severed. This bill implements those recommendations of the independent tribunal.

Once this bill takes effect, the Life Gold Pass scheme will be closed to those who enter or re-enter the parliament. The travel entitlement of existing Life Gold Pass holders who have never held office as Prime Minister and their spouses or de facto partners will be reduced from 25 to 10 domestic return trips per financial year from the 2012-13 financial year. Sitting senators and members will remain eligible to accrue an entitlement to a Life Gold Pass where they serve the remainder of their relevant qualifying period prior to leaving the parliament. Further, a sitting senator or member who ceases to be a member of their house and who becomes a member of the other chamber within three months will be regarded as having had continuous service in the parliament and will continue to be eligible for a Life Gold Pass. In accordance with the tribunal’s recommendation that the travel entitlement of Life Gold Pass holders be reduced immediately, the bill introduces a transitional provision which limits the number of domestic return trips for the remainder of 2011-12 to a maximum of two. This provision will apply from the later of the day on which the bill receives the royal assent or 1 April 2012.

As senators may be aware, serving ministers of state and parliamentary office holders receive additional salaries as a percentage of parliamentary base salary. Any increase in the parliamentary base salary determined by the tribunal would then flow to the additional salaries of ministers of state and parliamentary office holders. The measures in this bill will allow the Remuneration Tribunal to limit any windfall gains from increases in the additional salaries of office holders and ministers of state flowing to the superannuation benefits for current and former parliamentarians. These measures complement similar arrangements approved by the parliament last year, in the Remuneration and Other Legislation Amendment Act 2011, in relation to increases in the parliamentary base salary for members of parliament.

The reforms to the parliamentary entitlements framework set out in this bill will contribute to an effective, efficient and transparent system of remuneration and entitlements, and will help to build the Australian public’s confidence in the parliamentary entitlements system. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator XENOPHON (South Australia) (19:45): I have some questions about the bill with respect to the decoupling of superannuation arrangements. It is understood that, in order for the pay rise recommended by the tribunal to come into effect, there must be some decoupling of the superannuation arrangements. It is understood that, in order for the pay rise recommended by the tribunal to come into effect, there must be some decoupling of the superannuation arrangements for those who were elected prior to 2004. That is the general consensus of the intent of the bill.

Senator Feeney: Yes.

Senator XENOPHON: The parliamentary secretary Senator Feeney said that is the case. It was a good, direct answer, which is what I expect from Senator Feeney. My question is this: how will the formula be derived at? Has the tribunal indicated to the
government the sorts of things that it will be looking at? I understand the independence of the tribunal—I get that—but how will the tribunal look at those issues to ensure that there will not be an undue benefit or, arguably, an undue detriment to those members of parliament elected prior to 2004? The other issue, which would also apply to the issue of the gold pass, is whether consideration has been given as to whether there is any potential for legal action by any aggrieved members of parliament—presumably former members of parliament—in terms of the gold pass being reduced. Would they argue that it is taking away a property right? Similarly, has advice been obtained in relation to the issue of superannuation benefits for those elected prior to 2004, particularly those who may have retired?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:48): Thank you, Senator Xenophon. I begin by outlining, in general, the government's position with respect to your amendments, before turning to some of the particular points you made in those remarks.

Firstly, as you foreshadowed, Senator Xenophon, the government does not support your proposed amendments—that is, to add a schedule to the bill prescribing a process for the way the independent Remuneration Tribunal goes about making a determination or a report about members of parliament. It is the government's view that it is a matter for the independent Remuneration Tribunal to determine how best to undertake the task of determining remuneration levels within its jurisdiction. It is already open to the tribunal to take submissions and conduct hearings, and the tribunal can also publish submissions received and the transcripts of hearings.

The easiest way I could sum this up is to say that the public hearings you are seeking may be entirely possible. It is, of course, within the remit of the tribunal to conduct its affairs in that way if it so chooses, but the legislation does not mandate it. Rather, the legislation seeks to emphasise the independence of the tribunal to conduct its affairs as it sees fit. The government submits that the proposed amendments submitted by Senator Xenophon would constrain the independent tribunal's discretion in this matter.

It is worth noting that the tribunal undertook a wide range of public consultations in the lead-up to its most recent reports regarding members of parliament, departmental secretaries and specified statutory office holders. The Remuneration Tribunal already has transparency measures in place. The tribunal is already required by section 7A of the Remuneration Tribunal Act 1973 to publish full details of its reports. In relation to its most recent report into the remuneration of parliamentarians, the tribunal published a detailed report of 67 pages, with 227 pages of appendices for those who have the stomach for it, as well as a related consultant report and an accompanying statement. The tribunal is also subject to the Freedom of Information Act 1982 and, as such, any submissions to the tribunal may be accessed under the act, subject to any necessary exemptions. For these reasons, the government does not support the amendments proposed by Senator Xenophon.

Firstly, with respect to the question, 'Does the tribunal need the power to determine a portion of additional office holder salaries that will not flow to members of the 1948 scheme?' the answer is yes. In its report of 15 December 2011, the Remuneration Tribunal indicated that the link in the 1948 scheme between the additional salary of a current office holder in parliament or a minister of state and the additional pension of a retired
parliamentarian be severed. The bill achieves this outcome by extending the tribunal's existing power in the Remuneration Tribunal Act 1973 to determine a portion of parliamentary base salary not to be taken as parliamentary allowance for the purpose of the 1948 scheme. These new powers will allow the tribunal to similarly determine a portion of additional salary that is not to be taken into account for superannuation purposes. The tribunal indicated in its statement that it does not intend to make a determination on the remuneration of parliamentarians until this issue has been resolved.

Secondly, the government does not consider that the closure of the Life Gold Pass scheme, and the reduction in the number of domestic return trips available under entitlement, is an acquisition of property within the meaning of paragraph 51(xxxi) of the Constitution. This issue was considered in 2002, when limits were first introduced on the number of return domestic trips provided by the Life Gold Pass scheme, and resulted in a constitutional safety net provision being included in the Members of Parliament (Life Gold Pass) Act 2002. This bill includes an equivalent provision to provide a reasonable amount of compensation in circumstances where any provisions in the bill are found to result in an acquisition of property under section 51(xxxi) of the Constitution.

Senator XENOPHON (South Australia) (19:53): Only insofar as they advertised on their own website.

Senator XENOPHON (South Australia) (19:53): So they requested submissions but did not put it out there publicly?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:53): I contend that putting it on their website is a public communication.

Senator XENOPHON (South Australia) (19:53): How many hits has that website had since these submissions? I do not know if it has had as many hits as the 'Happy little vegemite' YouTube posting!

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:54): Excluding the—

The CHAIRMAN: Senators, do not jump the gun too quickly; otherwise, the recording people will not be able to change the microphones over. Senator Xenophon.

Senator XENOPHON (South Australia) (19:54): Unfortunately I did not get to hear Senator Feeney's words of wisdom there. Is he able to indicate how many hits there have been on the website since the call for submissions went up? It was not an actual call for submissions. I asked whether it had had as many hits as, for instance, the 'Happy little vegemite' YouTube posting.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:54): Your witicisms, as always, are extraordinarily welcome, senator. I will take that on notice. I am not in a position to give you a comprehensive answer. I am advised that there may have been some further advertising, but I undertake to get back to you on that.

Senator XENOPHON (South Australia) (19:55): In terms of the whole issue of property rights—and I appreciate Senator Feeney's answer in relation to that, which

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deals with section 51(xxxi) of the Constitution in terms of the acquisition of property—is it the case that those things that were considered in respect of the gold pass would not apply in terms of altering the issue of parliamentary pensions?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:55): I understand that the issue will be treated in the same manner, and the legal advice of government would cover both eventualities.

Senator RHIANNON (New South Wales) (19:55): I want to go back to some of the comments Senator Feeney made earlier. He made out that the problem with Senator Xenophon's amendments is that they will constrain the independence of the tribunal. But he really has not established that case at all. I think this is an important point for our consideration. I congratulate Senator Xenophon. I am sure he will not mind me saying that what he has put forward here is very minimal. It is certainly not a constraint; it is just setting out some very minor issues of process. That is all we have here. Let us remind ourselves what the essence of that is: there should be a call for public submissions; there should be a website where those submissions can be received and there should be a public hearing conducted—and there are a few other process issues. So Senator Feeney's statement that the independence of the tribunal will be restrained—which obviously nobody would want to do—has not been established. I would ask that the senator set out his arguments for making that statement, which, from what I heard, was the whole basis of his argument for dismissing Senator Xenophon's amendments. I would be interested in his arguments.

The CHAIRMAN: Before I call Senator Feeney, I indicate to the committee that we are not actually debating the amendments per se as they have not been moved. Even though we are aware of the amendments, we are in general discussion. Senator Feeney.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (19:57): I am happy to expand on my answer. It really goes to the point of the independence of the tribunal. It is the view of the government, as set out in the legislation, that the tribunal itself ultimately determines how best to undertake the important task of determining the remuneration levels within its jurisdiction. It is obviously given an independence—

Senator Xenophon: You're shifting the argument now.

Senator FEENEY: I am just responding to the question. As I said earlier in response to Senator Xenophon, the public hearings, which he in particular is seeking, would not be precluded by the tribunal; rather, it is our view that the tribunal, in determining how best to go about its business, will have discretion as to whether that is or is not appropriate. That is a matter for the tribunal. I understand that in your view, Senator Rhiannon, we should mandate or require that. I would simply say that that is a difference of opinion between you and the government. Our view is that the legislation means the tribunal is able to contemplate what you are seeking but is not required to do so.

Senator XENOPHON (South Australia) (19:58): Mr Chairman, I am grateful for your guidance. I think it is appropriate that I move those amendments now, but I may have some further questions in the committee stage about how widely disseminated the call for submissions was and what sorts of submissions the tribunal got in respect of their quite comprehensive
report of December last year. I seek leave to move the amendments as a whole.

Leave granted.

Senator XENOPHON (South Australia) (19:59): I move:

(1) Clause 2, page 2 (at the end of the table), add:

7. Schedule 3 Immediately after the commencement of the provisions covered by table item 6.

(2) Page 9 (after line 15), at the end of the bill, add:

Schedule 3—Determinations and reports about politicians' pay and entitlements

Remuneration Tribunal Act 1973

1 After section 7

Insert:

7AA Process for making determination or report about members of Parliament

(1) Before making a determination or report under this Act relating to a member of the Parliament (including a Minister of State), the Tribunal must:

(a) make a call to the public for submissions; and

(b) publish on its website each submission received (but only with the consent of the person making the submission); and

(c) conduct a public hearing in relation to the matters that are the subject of the proposed determination or report.

(2) The Tribunal must publish on its website a transcript of public hearings conducted under paragraph (1)(c).

2 Section 7A

Before "The Tribunal", insert "(1)".

3 At the end of section 7A

Add:

(2) The Tribunal's reasons for a determination or report under this Act relating to a member of the Parliament (including a Minister of State) must address:

(a) any submissions received under subsection 7AA(1); and

(b) any evidence given in a public hearing conducted under that subsection.

4 At the end of section 11

Add:

(3) This section applies subject to section 7AA (process for making determination or report about members of Parliament).

These amendments introduce an additional process for the Remuneration Tribunal to follow when considering politicians' pay and entitlements. Item 1 states that these amendments will come into effect immediately after the provisions covered by schedule 2 of the bill. Item 2 inserts a new schedule into the bill. This schedule states that before making a determination or report about politicians' pay and entitlements the Remuneration Tribunal must take the following steps: firstly, make a call to the public for submissions; secondly, publish all submissions on its website, subject to the consent of the person or organisation making the submission; thirdly, conduct a public hearing in relation to the proposed determination or report; fourthly, publish a transcript of the hearings on its website; and, fifthly, refer to the submissions and evidence provided in the public hearing when providing reasons for the decisions reached by the tribunal in relation to the proposed determination or report.

Senator Rhiannon is right. These are minimalist amendments and there is nothing wrong with minimalism, Senator Rhiannon. Sometimes less is more. It is a case of these amendments being quite straightforward. These amendments do not constrain—in any way, whatsoever—the independence of the tribunal in making a determination about the salary, conditions and entitlements of members of parliament. But it sets up a process that guarantees a certain benchmark of transparency. To require that certain benchmark of transparency is not onerous and is essential for public confidence in the
whole issue of politicians' pay and entitlements. It would help demystify the process; it would help strengthen public confidence in the process by which politicians are remunerated and how their pay and conditions are set. That would unambiguously be a good thing. At the moment there seems to be too much mystery. There is something to be said for having this benchmark of transparency.

These amendments would also allow members of parliament, unions, industry groups and other interested parties to provide information to the tribunal in relation to determinations or reports. Politicians are employed to serve the Australian public. I think it only fair that the Australian public be involved in that process in a transparent fashion. This bill makes amendments to the definition of salary and allows the tribunal to make determinations of what constitutes salary for the purpose of assessing superannuation. Therefore, there is a direct relevance to these amendments, because they relate to the heart of what is being proposed. These amendments would not have been necessary, in a sense, had it not been for the subject matter of the bill and what is being proposed.

I note that Senator Feeney has indicated the government's opposition to this. I ask Senator Feeney if he would concede that the independence of the tribunal to make determinations as to the pay and conditions and entitlements of members of parliament is not in any way constrained by this bill. There is simply a requirement to have advertisements for public hearings, to conduct a public hearing, to have submissions that can be published on the website subject to the consent of those making the submissions and to at least make reference to the submissions that have been made and to the evidence heard in the course of a public hearing. I say to Senator Feeney, with his eminent legal background—I say that without any irony whatsoever: how does that impinge on the independence of the tribunal? The tribunal could hear all this evidence and go through the process that is suggested or mandated in this amendment. It can still decide what it wants to decide, but at least the Australian people will know that there has been a benchmark of accountability and transparency in the process.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:03): Senator Xenophon, I do not have a great deal to add to what I have already said. I accept the fact that your motives here are pure and that you are seeking for the tribunal to operate, going forward, in a manner that engenders public confidence and I agree that is a worthwhile objective. But the government's view is that the objective is best secured by enshrining the independence of the tribunal and its capacity to govern its own affairs.

With respect to the point you made concerning the process and demystifying the process for the purposes of justifying the decisions of the tribunal, I would point you to the fact that the tribunal is now required to publish reasons for its decisions. They will be public documents in a way with which you are familiar, and the reasons for decisions are then available for people to peruse and make their own assessments.

Senator XENOPHON (South Australia) (20:04): Oops, Mr Chairman, the question has not been asked. Regarding the requirement for the tribunal to advertise that it is seeking submissions, to obtain submissions, to publish those submissions with consent and to hold a public hearing, it does not say how long the hearing has to be. It could be a 30-minute hearing, which would be problematic. But, if it were a one-day hearing in Canberra or a half-day
hearing, how on earth does that impinge on
the independence of the tribunal? That is
what the government is saying, through
Senator Feeney's answer.

Senator FEENEY (Victoria—
Parliamentary Secretary for Defence)
(20:05): Senator Xenophon, I am happy to
repeat my answer. It really is very simple. It
is within the remit of the tribunal to do all of
the things you have described. We have in no
way constrained its powers. It may very well
undertake the course of action that you are
suggesting. But it is the government's view
that the independence of the tribunal must be
enshrined and maintained and that it must
govern its own affairs. It may very well do
the things that you are describing, but we are
not mandating that it does.

Senator XENOPHON (South Australia)
(20:06): Senator Feeney made reference to
the issue of public confidence. Does the
government believe that there would be
greater public confidence in the process of
setting the pay and conditions of members of
parliament if there is a process that would
involve public submissions and a public
hearing? It is my understanding that he does
not disagree with that proposition—that there
would be greater public confidence in the
process if the tribunal undertook, for
instance, the public submissions and the
public hearing, referring to the evidence that
was obtained and heard.

Senator FEENEY (Victoria—
Parliamentary Secretary for Defence)
(20:06): It is my very firm view that public
confidence in these matters is critically
important. It is equally my firm view that
that public confidence will be strengthened
by the fact that this tribunal is independent—
independent of politicians and the decisions
of politicians—and is able to go about its
business and to govern its own inquiry
process. I believe that that governance—that
independence—will ensure that its future
determinations have the confidence of the
public.

Senator RYAN (Victoria) (20:07): The
opposition does not support the amendments
moved by Senator Xenophon. In short, I note
that Senator Xenophon earlier commended
the work of the Remuneration Tribunal in
recent months. The opposition agrees that the
current legislation allows the tribunal to
conduct investigations as it sees fit. Everything Senator Xenophon has proposed
is quite within the powers of the tribunal to
conduct at the moment. The very
independence that parliament has granted the
tribunal is critical to generating the public
confidence that I think we all share with
Senator Xenophon. The opposition does not
see the need to mandate a particular course
of action for the now independent
Remuneration Tribunal. We will not be
supporting the amendments.

Senator XENOPHON (South Australia)
(20:08): I thank Senator Ryan for outlining
the opposition's position. It seems that there
is no real dispute that the more transparent
and robust the process, the greater the degree
of public confidence. But you do not want to
mandate that, notwithstanding that the
tribunal is still free to decide whatever it
wants to decide in terms of politicians' pay
and entitlements.

I have a budgetary question. It goes to the
ability of the tribunal to have a public
process. In other words, if it wanted to
advertise and hold a public hearing for a day,
two days or more, is there any provision in
the current budget of the tribunal for that to
take place? If there is not, would the
government be in a position to say, here and
now, that if the tribunal made a request, 'We
want to hold public hearings; we want to
hear the submissions'—because it has been
flooded with submissions and they have to
be duly considered—the government would provide the necessary resources for the tribunal to carry out its work? If it does not have adequate resources then that raises issues of its ability to carry out its functions appropriately and independently.

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (20:09): I thank Senator Xenophon for his question. I am advised that, should the tribunal resolve to go down the course of seeking public hearings, then that would, in all likelihood, mean that the tribunal's small budget would require budget supplementation in order to meet such requirement. In the event that the tribunal resolves upon a process which engenders more costs, that is something the tribunal would then raise with the minister.

**Senator XENOPHON** (South Australia) (20:10): My question to the parliamentary secretary is: is the government not in a position to say that, if a tribunal is truly independent in terms of the carrying out of its functions and it wants to hold public hearings—if it considers that that is the best way of undertaking its work—the government will be able to facilitate any reasonable request for the funding of a public hearing of submissions?

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (20:10): Unfortunately it is not possible for me at this moment—let alone in my very different capacity as Parliamentary Secretary for Defence—to commit to how it would respond to any such request.

**Senator Xenophon interjecting**—

**Senator FEENEY:** Certainly not. I really can go no further than to say that, in the event that the tribunal was to develop such a request and provide it to the minister, that would be a matter for the minister's consideration.

**Senator XENOPHON** (South Australia) (20:11): Does the parliamentary secretary concede that, if the tribunal made such a request and the government said, for instance, 'No, we won't facilitate additional resources for a public hearing,' that that act in itself could arguably fetter the independence of the tribunal because it would not be able to do its job as it sees fit—that is, to hold a public hearing?

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (20:12): I think you are inviting me to participate in a political debate around a question that is obviously dear to your heart. I will decline your invitation. It is not for me to imagine future scenarios and engage in hypotheticals. I really cannot go any further than to say that should the tribunal seek to adopt a course of action whereby it requires additional resources then it would, of course, put such a request to the relevant minister.

**Senator XENOPHON** (South Australia) (20:12): I just say that I am disappointed in the position of both the government and the opposition. I think that here was an opportunity to strengthen transparency, accountability and processes. Senator Ryan quite accurately reflected my views of the Remuneration Tribunal. I think that they have done a good job in terms of improving processes and in their publishing of decisions. I thought they were quite rigorous and robust but fair in the processes by which they dealt with members of parliament in taking a forensic view of their roles and the like. I have confidence, based on their past record, that if they were mandated to do this—to have public hearings and to request public submissions—they would do a very good job.

I think we are losing an opportunity here to have a greater degree of accountability, transparency, robustness and, above all,
increasing public confidence in the system by which politicians’ pay and entitlements are determined. We had an opportunity with this amendment tonight to say that we have confidence in this process in the sense that we can mandate these requirements. I think we would have brought some significant members of the public with us to say that this is a better process. I am happy for this to be put to a vote. I will be seeking a division, come what may.

The CHAIRMAN: The question is that amendments (1) and (2) on sheet 7194 moved by Senator Xenophon be agreed to.

The Committee divided. [20:18]

The Chairman—Senator Parry

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

AYES
Brown, RJ
Hanson-Young, SC
Madigan, JJ
Siewert, R
Wright, PL

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Xenophon, N (teller)

NOES
Back, CJ
Birmingham, SJ
Boswell, RLD
Brown, CL
Cameron, DN
Cash, MC
Collins, JMA
Edwards, S
Feeney, D
Fifield, MP
Furner, ML
Heffernan, W
Ludwig, JW
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ryan, SM
Stephens, U
Thistlethwaite, M

Bilyk, CL
Bishop, TM
Boyce, SK
Bushby, DC (teller)
Carr, KJ
Colbeck, R
Crossin, P
Farrell, D
Fierravanti-Wells, C
Fisher, M
Gallacher, AM
Hogg, JJ
Lundy, KA
McEwen, A
McLucas, J
Payne, MA
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE

Question negatived.

The CHAIRMAN: The question now is that the bill stand as printed.
Question agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:22): I move:
That this bill be now read a third time.
Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (20:22): I move:
That government business orders of the day nos 1 (National Radioactive Waste Management Bill 2010) and 2 (National Broadcasting Legislation Amendment Bill 2010) be postponed to the next day of sitting.

Question agreed to.

BILLS

Intellectual Property Laws Amendment (Raising the Bar) Bill 2011 [2012]

Second Reading

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

Senator COLBECK (Tasmania) (20:23): I rise to make a contribution to the debate on the Intellectual Property Laws Amendment (Raising the Bar) Bill 2011 [2012]. The coalition is broadly supportive of this piece of legislation, but we also recognise that a number of elements remain to be considered
in relation to intellectual property in this country.

The opposition has undertaken considerable consultation during consideration of its position on this piece of legislation. We have spoken to a broad range of interested parties in relation to the bill. During that consultation a number of issues were raised with us, and I will detail those shortly. I also note that there are a number of issues around intellectual property that concern a number of members of this chamber. However, during our consultations, the bottom line was that this piece of legislation is broadly beneficial; those we consulted with would prefer that this legislation be passed so that work can continue with other elements that remain of concern to those we have spoken to. We have given that commitment to continue to work on those matters.

We understand that government thinks this is the full kit as far as managing issues around intellectual property might be concerned, but it is quite obvious from our consultations that there remains some work to be done.

The bill amends the Patents Act 1990, the Trade Marks Act 1995, the Copyright Act 1968, the Designs Act 2003 and the Plant Breeder's Rights Act 1994. The bill is divided into six schedules.

The first schedule relates to the quality of granted patents and addresses concerns that the threshold in Australia for granting patents is too low, and I am certain some of my colleagues will address some of that later in the debate. I know there are some particular concerns around the granting of patents for human and plant genes. With respect to where Australia sits at the moment, the concern was that the threshold was too low and that patents were granted for inventions that were not sufficiently inventive. So this piece of legislation addresses that to a certain extent.

Schedule 2 provides for free access to patent inventions for regulatory approvals and research. That is an issue that has been discussed at length; it has been the subject of a couple of Senate reports around patenting breast cancer research. The intention of this schedule is to ensure that free access to patent inventions for regulatory approvals and research is freed up.

Schedule 3 looks at reducing delays in resolution of patent and trademark applications.

Schedule 4 looks at assisting the operations of the IP profession. That provides for amendments to the patents and trademarks acts to allow for registration and regulation of incorporated patent attorneys and to extend the same client-attorney professional privileges as currently exist for communications between a lawyer and their client.

Schedule 5 relates to improving mechanisms for trademark and copyright enforcement.

Schedule 6 amends the patents, trademarks, design and plant breeder's rights acts, to remove some procedural hurdles, streamline processes and make improvements to ensure the system is fit for purpose in the increasingly electronic and globalised business environment.

My colleagues and I have heard that—as with other legislation—although there was government consultation, there was a question as to whether it was effective. A number of people have told us that they made submissions but received no response—in other words, their submissions were effectively ignored.

There are some concerns around the practicality of implementing some sections
of the legislation, particularly relating to jurisdiction of the courts for criminal matters. It appears that even members of the bench are confused. One submission we received was in respect of a practical issue relating to the mechanics of issuing court proceedings for summary offences and the difficulties in ensuring court or courts have jurisdiction to hear such matters—being in the midst of running a criminal prosecution for breaches of the Trademarks Act 1995—it is clear that there is a considerable amount of doubt amongst the bar and the profession, and even from the bench, on this issue. There is also concern around the ability of Customs to provide the required information to brand owners in respect of Customs seizures. That relates to the sophistication of many businesses involved with counterfeit operations and concerns around Customs regarding the ability of Customs to effectively pull together the threads of deception. We know that some of these counterfeit operations are extremely sophisticated and we have heard concerns expressed in relation to other elements of Customs operations. There is cost shifting within Customs to increase capacity in some regions, but at the expense of others, and that obviously remains a concern for people within this industry in relation to products coming in and the capacity to bring in small quantities of product on a regular basis that might be scoping the system.

We note that there might be a need for further reforms to section 41 of the Trademarks Act, and we will continue to look at that. I also note that in respect of schedule 2 there is some concern from agricultural chemical companies around the capacity for springboarding. I acknowledge that that has some benefits with respect to providing cheaper product in the context of generics into the market, ensuring that the effective time for a patent and the protection that provides is provided to the industry and not too much more, but I do note that there remained some concern about the viability around some particular products coming into the market if that period is shortened too much.

With respect to schedule 5, I note that the Senate Standing Committee for the Scrutiny of Bills has provided comment regarding the proposed penalties and offences under schedule 5, item 27. Notably, the committee leaves to the Senate as a whole the question of whether the provisions under this item are appropriate. The coalition does not have any specific comments to make in relation to this piece of legislation, but, as I said at the outset, given the consultation that we have had, despite the concerns raised by industry that there are a number of issues that remain to be dealt with surrounding the issue of intellectual property in Australia, I know that this will be addressed by colleagues as this debate proceeds. There is no question, given the strength of the submissions that the coalition has received as part of its consultation process, that this legislation in its current form should be allowed to pass the parliament so that the benefits it provides to the operations of IP can be taken advantage of. Some work does need to be done to follow up on the other issues that, I have no doubt, will be raised as this debate proceeds. The coalition will be supporting this legislation, despite some concerns that we continue to have.

**Senator BOYCE** (Queensland) (20:33): As my colleague Senator Colbeck has pointed out, the coalition is broadly supportive of the Intellectual Property Laws Amendment (Raising the Bar) Bill 2011 as a result of not only the inquiries that took place but also the extensive consultation undertaken by the coalition with business, industry representatives and the legal profession. Public consultation on this bill
started in May 2009, and there were some issues raised during those consultations, but the majority of industry is urging this parliament to proceed with the bill.

I am a passionate advocate of the Australian intellectual property system. Our system of trademarks, patents and registered designs is the absolute underpinning of industry and service provision in this country. Without it there would be fewer products, less commerce and much less happening in Australia. I took part, as did my colleague Senator Heffernan, in the gene patents inquiry. Whilst I am sure that Senator Heffernan will want to talk a lot more about some of the issues there, there are some very well-intentioned people who have some serious issues with the patent system as it currently is in Australia. In my view, we cannot sacrifice the broad intellectual property system in Australia for the sake of some quite narrow concerns. Not unreasonably, one of the primary issues that has to be dealt with is what constitutes a discovery—which of course is not patentable—and what constitutes an invention. This was certainly dealt with a lot in a narrow context within the gene patents inquiry, but it is a far broader issue than the use of gene patents. It applies right across our entire patents industry.

Other concerns that were raised during the inquiries were around the reasonable use of patented materials for research and looking at better ways to undertake testing. It does not apply just in the gene patents area. Concerns were also raised by academics—who of course are not patent lawyers—about what they could do in terms of legitimate research using patented products and what they could not do. Currently, in the law, there are no statutory provisions clarifying researchers' freedom to conduct experiments. There is uncertainty about the scope of any existing common law protection and this leads to inefficiencies in research. Researchers are discouraged from taking up new lines of research when there is uncertainty about their liability for infringing a patent. That uncertainty can lead to researchers who, in Australia, are not the best resourced people to spend a lot of effort and expense trying to find out whether they are going to be behaving legally or illegally. The bill seeks to actually give them the opportunity to be very certain about where their research sits within this framework.

There was evidence given during the gene patents inquiry that in fact this law was unnecessary because reasonable research was acceptable under the law as it currently stood. However, we heard that evidence from very well resourced, very large medical groups. It was the smaller groups, who perhaps had the best opportunity to come up with some interesting research, who were very worried about whether they could go ahead with that research and simply did not have the in-house resources to know the answer. This bill is designed to fix that aspect.

The other concern that was raised during that inquiry was the interaction of regulatory approval processes with the patent legislation. Obviously, regulatory approval processes are extremely important in ensuring that Australians have good-quality, high-standard, safe products in every aspect. But we did not want unintended consequences of the interaction of those regulatory processes with patents law, which basically meant that in some cases patent terms could be extended well beyond the maximum 20 years. This activity was known in other places as 'evergreen'. It is an unintended consequence that a company, by somehow tweaking a patent, may have the opportunity to extend that patent well beyond the original 20 years they were given for the patent.
We need to think about why patents exist. What are they there for? They are there to encourage and reward innovation and clever invention. No company is going to spend the money that is required in researching and developing new products, new technologies and new ways of doing things without some sort of sense that they can recoup their investment by having what is effectively a monopoly in a field for a certain length of time. In the majority of cases this is up to 20 years.

I hoped to speak a little bit about the history of intellectual property in Australia, because we are very good at it. We introduced the first prepaid postal system in 1838; the first combine harvester in 1882; the first automated locomotive brake system in 1904, which was in fact the first-ever patent that was issued under Australia's law; and the first electric drill. How would half of Australia cope at the weekend without the invention of the first electric drill, which was patented in Australia in 1889? In 1926 we patented the world's first electronic pacemaker. Think about that: 1926. There have been improvements on that since. There are hosts more: the tank used in warfare, the box kite, the wine cask. We were even the first people in the world to codify and afterwards copyright a kicking ball game. That was in 1875 when the 10 basic rules of Aussie Rules were developed and, as I said, copyrighted. Vegemite is another creation that was protected by IP statutes in 1922.

The Australian Patent Office in fact opened in Melbourne in 1904, but the Australian government's involvement in protecting Australian innovation and development began in the previous century with the individual state registers of trademarks, patents and copyrights. It was in 1904 that we got our act together nationally. I was quite interested to look at some of the statistics provided by Intellectual Property Australia, which is the organisation we have to thank for the impetus behind the amendments proposed in the Raising the Bar bill. In 2010 the United States, perhaps not unsurprisingly, led the world with over 10,500 patent applications. But we came second. There were 2,409 patent applications in 2010 from Australia. In the world of trademarks, as opposed to patents, we came first with 68,241. There may well be an argument to say that this simply means that it is too easy to trademark something in Australia. There may be some truth in that. But it is not just about that. It is also about the fact that we are a very innovative and inventive nation. Without legal support for that, it is not going to continue.

I am indebted to IPA who used the Sydney to Hobart Yacht Race as an example of how intellectual property underpins so many aspects of our lives. What do you see as the race starts? You see brand names, logos and trademarks. The race is core marketing for major corporations. But without those brand names, logos and trademarks and the safety, protection and security of them, this would not exist. We are talking millions of dollars when you add in naming rights, broadcast rights and the brand-naming sponsorship of crews. Whether this marketing investment would happen without the protection of the intellectual property of those companies through their registered trademarks is another question.

Philip Noonan, the Director General of IP Australia, said:

A registered trade mark is bit like putting a barbed wire fence around your brand. You're warning competitors to stay away as you own the rights to that word, image or logo.

I know that there are views that people should not actually be able to own words, images or logos to patent inventions or to trademark names and products. But without
this Australia is not going to survive as a commercial or industrial society. Without the money trademarks create, the Sydney to Hobart yacht race broadcast itself would be of poorer quality. There would not be live satellite crosses, onboard yacht cameras or views from helicopters, because all the technology used to create all of those is in many cases patented. It would not happen without a patent system.

Stan Honey, a legend in the international sailing community and part of the Investec crew for last year’s race, has 21 patents for TV special effects and eight for navigational systems. A world without intellectual property, without patents, would mean slower boats. Racing yachts are in fact made from patented materials that are also used in the aeronautical and motor racing industries. The locator beacons, the Gore-Tex, and I should probably draw the little circle with the ‘R’ in the middle, the foul weather gear, the Spectra and Dynema ropes, and the Kevlar sails are used—and, again, we need all those registered trademarks—and are all supported by trademarks and by intellectual property.

Patents, as I have said, are granted across a very, very broad array of products and processes, from industrial machinery to pharmaceuticals and even to toys. They represent innovation, improvement and advancement. They apply in every part of our lives, and it is quite interesting sometimes to look at some of the history of them. The can-opener, for example, was a patented product. The seatbelt was a patented product. In 1879, a ‘parachute hat’ that was designed to allow the wearer to leap safely from a burning building was patented. I presume from the fact that we are not all running around with a parachute hat in our back pocket suggests that this was not one of the world’s greater inventions.

According to a 2009 report by the Department of Foreign Affairs and Trade, Australia now ranks—and I think I earlier gave the figures on our trademark and patent applications—amongst the top innovative economies in the world, with the total value of Australia’s intellectual property standing at about A$30 billion. One of the key components of our innovative economy is our intellectual property regime. I could go on to talk considerably more about the intellectual property regime in Australia, but I want to congratulate IPA on the work that they have done to develop the amendments to our legislation that are contained in the bill and to acknowledge that intellectual property in Australia applies across a very broad field of activity. It is not limited to one or two products.

I congratulate IPA on the work they have done in getting this to the stage where it becomes legislation in this house and the fact that we now have the chance to pass legislation that will not just support and underpin research and further invention but also ensure that the activities that are undertaken by people who hold patents are legitimate and recognise honestly their need to make a profit out of their product without it giving them the opportunity to pork-barrel those inventions into the future. I think this legislation is a good start. There are some concerns about it, but it is a balanced approach to underwriting, supporting and strengthening an absolutely crucial part of the structure of our economy.

**Senator HEFFERNAN** (New South Wales) (20:50): Well, where do I start? That was a fairly off-the-subject sort of way of working out what is discovery and what is invention. Can I say that this bill does not address the core problem. There is a lot of gutless rhetoric that has been given by government bureaucrats and people who have spoken on this which does not address
the question: why are we allowing the patenting of discoverable material to be included in inventive patents? So as to highlight the fundamental flaw, which is not addressed by this bill, Senator Boyce talked about a can-opener being patented, the point being that the steel that the can-opener was made of is not itself patented; the inventive use of the steel is. The problem we have in the patent world—and Australia is a soft entry point for patents globally—is that we have included in the patents, which have now been challenged in Australian and American courts, the discoverable material. No-one was allowed to discover and patent the moon and, Senator Scullion, you cannot patent the wood in a tree—but you, being a clever bushie, might be able to patent a use of the wood. You might have been able to make a smart boomerang, but you could not actually patent the wood that the boomerang was made out of. This argument is as simple as that, and there is a lot of gutless political cover given to that. Politicians have been intimidated by the commercial world, and I have to say they are winning the argument.

When the minister last rose to speak in support of this bill last June, he described it as 'a major reform of the intellectual property system'. He also said it would ensure that Australia maintains a world-class intellectual property system. But, at the same time, he did not have the courage politically to define the line between discovery and invention, so who is he kidding? The legislation does absolutely nothing of the kind. This bureaucratic—Senator Jacinta Collins: Through the chair.

Senator HEFFERNAN: The bureaucratic argument that has been put by a whole lot of people ducking for cover is that somehow—through you, Madam Acting Deputy President Fisher, and it is good to see you up there—discoverable material is included in the patent because the precedent has been set over 30 years. The patent system is steeped in a quagmire in this area, and it has been misused, misapplied and misappropriated. This legislation is not going to fix that. I have to say that, until we have the courage to understand that, as the bill demonstrates—and there is probably no harm in the bill, but there is no use in the bill—

The ACTING DEPUTY PRESIDENT (Senator Fisher) interjecting—

Senator HEFFERNAN: You may laugh, Madam Acting Deputy President, and the bureaucrat may think it is laughable material, but I do not think it is. I think your attitude is gutless. This is all about whether we have the courage to say—

Honourable senators interjecting—

Senator HEFFERNAN: Yes, ignore it—that discoverable material is patented or not. This is all about saying, 'Well, we'll give an exemption for research.' All right. Suppose I am a laboratory and, Madam Acting Deputy President, I apply to you for research because you hold the patent on the gene that I want to research. I have a smarter laboratory and a smarter technician than you, and I beat you to the commercialisation prize. So then do I go back to you and say, 'Can I now have an exemption so I can commercialise my research?' You will say no. If you do not say no, why did you have the patent on the gene in the first place? It is
an absurdity to say that you will give an exemption for research when it naturally follows that you will need an exemption for the commercialisation of that research.

The argument put by all the phoneyes in the debate is that, if you do this, you will somehow have a decline in research. You will not at all. This is not about banning inventive work to be patented—work that has an inventive step and a commercial and useful purpose. You can certainly patent it. This bill is about nullifying the argument through some phoney clause that you can give an exemption for research, which does not address the question of how you then proceed to give an exemption for the commercialisation when someone else is holding the patent. Most people, when you talk to them, say, 'How in God's name can you patent something that is naturally occurring in your body?' This is the bureaucratic answer to the minister—certainly in the case of the Department of Innovation, Industry, Science and Research as opposed to the Department of Health and Ageing. By the way, just for the record, the department of health is seriously opposed to the view of the department of industry on this, because the department of health knows the added cost to health care in the case of biological materials for pharmaceuticals. We have not even begun to talk about the cartel that is growing in the seed world for food production; we will get to that. Do not ask me what this has to do with a tin-opener, as demonstrated, or the Sydney to Hobart yacht race.

This is about having the guts to say—which is clearly demonstrated at law—that discoverable material is not patented. What is in your body no-one invented, but people did discover it. We now have medical opportunities for research and enhancement of human life, which includes multiple series of genetic sequences. So, if you are tucked away in the back of Westmead Hospital in a little room on a six-month contract because the hospital cannot guarantee you any longer than six months—which is actually a fact of how it works—how can you mount a case against a bunch of lawyers and a multinational to defend your rights to do research on a gene that is naturally occurring? The phoney argument is, 'Oh, well, we've isolated it; therefore it's materially different from what's in your body.' That is absolute rubbish. It is identically the same. There is no material difference. We demonstrated that through estimates, and IP Australia was up there versus the health department, and they were fundamentally opposed during the hearing. This is just cheap political cover.

I just take you to an example. I have asked to table some documents of a court case which I am about to address, and hopefully they can be tabled. The government have those documents and they have said that it is okay to table them. I raised this in estimates the other day. A French pharmaceutical company called Sanofi-Aventis succeeded in absolutely hoodwinking Australia and the patent office into giving an extension—one of these evergreening patents—for a drug called clopidogrel. As a result, the total period of the patent protection, which was due to expire in 2013, was nearly 30 years. The second patent, however, was revoked in 2009 by the full Federal Court. The High Court refused to interfere. These are the problems here. First is the cost to the PBS. When the pharmaceutical company took out the injunction to go to the High Court against the generic company in 2007, it said in the injunction—and the documents back this up—that it would recompense the Commonwealth for any loss to it through the extra funding of the PBS, instead of having the generic brand. The reality was that the cost to the Commonwealth in that time was
$60 million. The High Court refused and the pharmaceutical company lost, but the Commonwealth has not collected, and I presume it will probably spend $60 million in legal fees to try to get it. The cost from when the original patent ran out to the present time is somewhere between $480 million and $600 million extra because of the evergreening effect of the patent, which has been declared invalid. And who in the government has got the guts to go to the pharmaceutical company and say, ‘We would like compensation for that?’ This is just one pharmaceutical line. It is because of the flaws in the patent law, where patents are allowed to include the genetic material which is naturally occurring.

I assure you that, if you thought about it, without biotech and patent lawyers whispering—as they do around this building—you would agree that no-one invented the BRCA genetic mutations linked to breast and ovarian cancers, but they were certainly a discoverable material. Yet here we are about to vote on a bill that the minister says makes all the problems about the patent system, including the ones I have just talked about, go away. That is as big a furphy as Myriad's claim to have invented the BRCA human genes that cause breast cancer. There is a legal process and, as we all know, the courts are not actually about truth. If you have ever been to court you will discover that the courts are about the law. If you are guilty, you get a good solicitor or a lawyer or a barrister, not to tell a lie but to use the law to avoid the truth. It goes on all the time. It happened the other day. I had better not mention the case, but if you take a trip to The Gap you will find the case. Rather than give research scientists an exemption from patent infringement, which is one of the things this bill's so-called improvements do, wouldn't it be better and more efficient if the scientists' knew upfront that any discoveries of nature, such as the BRCA human genes, are simply not patentable? Everyone agrees that you cannot patent discoverable material but no-one wants to draw the line between discovery and invention. As for raising the inventive step threshold—it is actually lowering the bar—what is the point of the exercise when IP Australia, the patent attorneys and the patent pharmaceutical companies can drive a truck through the loophole? It is as simple as that. This bill may be well intended but it does not address the problems.

I would just like to go to Senate estimates and define this one pharmaceutical item. In March 2010, two years ago, the High Court of Australia rejected an application for leave to appeal in a patent case concerning the drug Clopidogrel. Until then, the drug had been subject to two Australian patents. The original patent over the chemical compound expired in 2003. Sanofi-Aventis, the patent owner, had applied for and was granted a second patent—as we call an evergreening patent—over virtually the same chemical compound. The difference was immaterial, so the full Federal Court found. The second patent was due to expire in 2013 because the Federal Court held that it was invalid. A decision of the High Court was not prepared to interfere with it and the second patent came to a premature end in March 2010. This saved the PBS and the Australian taxpayers tens of millions of dollars and is a good example of the issue of lax patents being granted by IP Australia. Globally we are known as a soft entry point for patents.

Here is the problem. As part of the legal proceedings, the pharmaceutical company Sanofi sought and was granted an interim injunction to prevent Apotex, a generic medicines company, from marketing a generic version of this particular pharmaceutical. That was back in September 2007. As a result of the injunction, the
generic company Apotex was enjoined from marketing the generic version and this resulted in two things. First was the automatic price reduction of 12½ per cent, which, by the way, is now 16 per cent, that applies to any PBS listed drug on market entry or if a generic version does not happen. This is why the Department of Health and Ageing are really concerned about the patent law, whereas the Department of Innovation, Industry, Science and Research, which is driven by all the lawyers and their promoters and the people who creep around this building giving you stuff and getting paid good money to do it, have a different view. This meant the PBS had to keep paying the same price to Sanofi-Aventis that it agreed to under the PBS while a patent was alive. Secondly, it was a condition of the grant of the interim injunction that Sanofi-Aventis agreed to compensate any party, which included the Commonwealth, adversely affected by the interim injunction. This means that when the High Court of Australia refused the application for special leave to appeal, that condition to the interim injunction took effect. No-one has done anything about it.

The estimated cost of the interim injunction between September 2007, when the injunction was granted, and March 2010, when the injunction was lifted, to the Commonwealth PBS—and therefore taxpayers—is some $60 million. That figure does not take into account the benefit of the illegal patent monopoly that this company had since the first patent expired in July 2003, which has been estimated to have cost between $480 million and $600 million for one pharmaceutical item.

So my question to the Department of Health and Ageing was: what have you done, what are you doing or what are you planning to do to collect at least the $60 million from the pharmaceutical company? At five per cent per annum on the debt, which has not been collected, it certainly starts to compound. I would also like to know what involvement the Department of Health and Ageing had in the patent litigation between Apotech and Sanofi-Aventis. I understand that any patent law suits must be served under IP Australia under the Patents Act. IP Australia has the right to be heard by the court. Would the department care to enlighten me in this chamber on what steps were taken to ensure that IP Australia intervened in these proceedings so as to protect Australian taxpayers from overpaying this pharmaceutical company? You may smile, Madam Acting Deputy President Fisher; this is a serious issue. We are talking about $600 million because of a slack patent law interpretation.

I also understand that one of many patent cases inviting what we might call evergreening is this one: that is to say patents over some pharmaceuticals renew the period of patent protection for so-called innovations that often amount to little more than a new cover around a pill or tinkering, as in the case of clenbuterol, which the High Court has rejected. It is hardly what you call inventive.

I would like to know what protection Australian taxpayers have against this sort of behaviour. In this debate we have the patients, the people locked away in those little rooms on six months wages, universities, people driven not by money but by vocation against lawyers, attorneys and bankers who are trying to avoid the question for the betterment of human health and the future of humans on the planet to an affordable access to health remedies by absolutely having the guts which this bill does not address. It does not address the fundamental problem of why we have allowed the patenting of discovery. We have allowed discovery through the broad
interpretation of patent law to be included in the inventive side. Why can't we say, 'Sure, you've have got the gene there. You've twigged it. You've done something with it which is inventive, commercially useful and patentable, but let everyone have access to the original gene'? They say it is because you will reduce research; you will actually increase research, and no snarly, smiling legal advice can get around that. I seek leave to table these documents.

Leave granted.

Senator XENOPHON (South Australia) (21:10): I endorse the remarks of Senator Heffernan and I think we need to put this in perspective. Senator Heffernan indicated just one example: it did not cost taxpayers tens of millions of dollars but hundreds of millions of dollars. That is something that should be addressed in the government's response to the quite serious allegations that Senator Heffernan made in relation to how the patent system in this country is and has been abused. I think Senator Heffernan is right: you see a difference of opinion in the way that these matters ought to be dealt with in terms of our patent laws between the Department of Health and Ageing and IP Australia, which is of course part of the Department of Innovation, Industry, Science and Research and has portfolio responsibility for Australia's IP system. There is a huge gulf between the two. I have seen it in Senate inquiries on related matters to gene patenting. I am a co-sponsor of the bill, along with a number of other senators—coalition and Australian Greens senators and, without verballing Senator Madigan, I think he shares similar concerns in relation to this.

These are important issues. I think it is widely agreed that Australia's patenting system is in need of an urgent overhaul. It could be argued that this bill takes the first steps towards that but does not go far enough. It does not deal with the fundamental issues that have been outlined by Senator Heffernan and additional issues that I will refer to shortly.

I support the government's intention of raising the standard of patents in Australia and I also support the provisions for the bill relating to research, but, again, I wonder whether it actually provides the protection that needs to be provided. Supporting Innovation Australia is vital. If we continue to fail to provide a research exemption in relation to patents, we face more and more companies taking their research work offshore. In particular, it hampers those medical researchers who for altruistic reasons are doing all they can to improve the lives of others through medical breakthroughs. They are tied up. Patents can tie them up in a way that is quite destructive that winds back the cause of genuine medical research. It fetters our science and innovation.

We need to take into account the remarks and tremendous work of Dr Luigi Palombi of the Australian National University Centre for Governance of Knowledge and Development in his submission to the Senate community affairs committee and its inquiry into gene patents. Dr Palombi made it very clear how gene patents negatively impact on the provision and cost of health care, progress and medical research, and the health and wellbeing of Australian people. We should heed his warning and legislate to ensure that genes cannot be patented as an invention. This will ensure that researchers are not impeded in medical research and that Australians are not denied access to healthcare treatments. My question to the parliamentary secretary in relation to this is: to what extent does the government consider that this bill would adequately deal with these issues so that medical research is not
fettered, is not impeded, by the unfair use or abuse of patent laws?

I believe that the government needs to consider this bill as only a first step in reforming Australia's patent system. The consultation process for this bill revealed major concerns within interest groups about how the current patent system operates. The general consensus seems to be that this bill is better than no reform at all, but without further reforms we run the risk of losing even more of our best and brightest overseas.

I would like to reflect on some of the concerns that have been outlined by Dr Palumbi. He acknowledges that there are aspects of this bill that are long overdue and positive. It is not all bad, but, really, it is just tinkering around the real problems. I share Dr Palumbi's concern that this bill may not make any real practical difference to how the Australian patent system works, which is currently pathetically poor. I agree with Dr Palumbi's concern about the way the Patents Act 1990 is written. It was drafted by IP Australia, with the help of senior patent attorneys and patent licensing executives from major corporations, so I wonder about issues of potential conflict within the patent system in terms of how the bill was structured.

What are the matters that I think need to be addressed in any future bills? We ought to have all patent applications and granted patents define one single invention in the patent specification. That would be an important reform. Under the current legislation, the patent ability requirements in subsection 18(1) are that the presence of a patentable subject matter, novelty, an inventive step and utility are assessed against each and every claim. Again, I am borrowing directly from the concerns outlined by Dr Palumbi. His concern is that, if a patent has 50 claims, the patent examiners have to look at each and every claim. How much time should that take in order to do it properly? I am concerned that not enough time is being taken. The problem, as we know from IP staffers, is that they do not have the time, and the tendency for patent examiners is to allow the claim rather than to rigorously apply the rules. I do not blame the patent examiners, who I believe diligently do their very best to enforce the law, but they simply do not have the resources or the time to go through some of these applications properly.

The BRCA patents are a perfect example. What is it that Myriad Genetics invented? Was it the BRCA genetic mutations linked to breast cancer? Was it the genetic sequence of the BRCA genetic mutations? Was it the genetic test for BRCA gene mutations? Or was it something else? I agree with Dr Palumbi that by looking at one of the four BRCA patents you can see that they are apparently all related to one invention. I think there is an issue there. Every patent should define clearly and simply what it is that the inventor says the invention is. In the BRCA patent example, why did Myriad have four patents if the invention was a BRCA genetic test? Why did they have 30 claims alone in just the first of the four patents? And why did they include claims to BRCA genes and proteins if they did not invent them? These are the questions posed by Dr Palumbi and I believe they ought to be answered.

There are other matters that need to be dealt with. The test should be that all patent ability thresholds are assessed against the one invention, as defined in the patent specification. This will save much time, as the patent examiners can then focus on that invention. That is a necessary and important reform. There ought to be antiavoidance provisions inserted in our patent laws. It is a bit like the tax act in that, if patent attorneys know that they are crossing the line, if they are overreaching in a way that stifles
innovation or in a way that unfairly knocks out competition, then they could be subject to prosecution and fines at the very least. There needs to be a definition of patent abuse and it needs to be a crime to be involved in patent abuse. It is a controversial issue that has been raised by Dr Palumbi and I agree with him. If you hold back essential research when dealing with breast cancer, or any cancer, to me that is untenable. We need to have clear antiavoidance provisions. Patents are like taxes in reverse in that, unlike the tax act, in which the government gets the money, it is private individuals and companies who get the money. Without a patent abuse provision there is no disincentive not to game the system, and my fear is that the system is being gamed.

There ought to be a meaningful objects clause in the Patents Act. There ought to be a meaningful damages provision that enables the Commonwealth or state governments and individuals who are negatively impacted on by a patent that is revoked to recoup the value of the patent monopoly or the damages caused by the patent monopoly. That is what a patent is: it is a monopoly sanctioned by law. It is the only circumstance where a monopoly is allowed by virtue of a patent. So if we are going to grant a monopoly we need to be very careful about the circumstances in which that monopoly is granted. I still remember that quote by Rupert Murdoch, who said, 'A monopoly is a terrible thing, unless you happen to have it.' I think that is something we need to bear in mind in the context of patent law. This is the only form of a sanctioned, legislated monopoly protected by statute that private individuals are allowed to have, and we must grant monopolies for patents very carefully. We must have antiavoidance provisions. We must have a provision to allow for damages following an abuse of that monopoly for those who have been damaged by that monopolistic abuse of this provision.

These are just some of the issues that need to be dealt with. Again, I have borrowed heavily from the wise research and work of Dr Palumbi. We need to heed his concerns regarding the abuses occurring within our Patents Act. This piece of legislation is not unwelcome, but I believe it ought to have gone much further. I would like to think that this is the beginning of further reforms. We should note the tension between the Department of Health and Ageing and IP Australia. The department of health understands what the cost will be to the public health system unless we address these issues comprehensively and unless we comprehensively tackle the issue of abuse of the patent system. I think it was Senator Madigan who helpfully mentioned that we need to look at the cost to people. The cost to people could actually be their lives if we hold back unnecessary research and the cost of essential life-saving medication is much higher than it ought to be because of abuses in the patents system. I commend the work of Minister Carr in relation to this, but I believe we need to go further. I fear that, unless the warnings of Dr Palumbi and others are heeded, unnecessary abuses of our patent laws will continue to lead to adverse outcomes for the Australian people.

Senator HUMPHRIES (Australian Capital Territory) (21:23): I want to make a brief contribution to this debate. I participated in the Senate community affairs committee inquiry into the private member's legislation that proposed to deal with the way in which patents relating to genetic material are dealt with. I think all the participants in that inquiry—and it was a very substantial inquiry—came away with somewhat more knowledge of the patents laws of Australia than perhaps they really wanted to have. But it did demonstrate very amply, I think, to
those who participated in the inquiry that intellectual property laws in Australia are creaking and groaning, are in need of overhaul, have not kept up with the changing way in which technology is impacting on the process of industrial manufacture and invention and that there needs to be a revision of some of the concepts within our legislation.

Many pointers to those findings were available to the committee, particularly things like the report of the Advisory Council on Intellectual Property and at least one report by the Australian Law Reform Commission. The fact that it had been quite some time since these reports had been tabled—in the case of the ALRC report, at least—suggested not only that these were important and complex issues but also that the difficulties associated with understanding the implications of the changes recommended had caused some lack of movement on the part of those in government who are responsible for progressing the sorts of reforms which have been identified.

So the legislation that we see before us today has been brought forward. I welcome this legislation. Although, as other senators have said, it does not solve the sorts of problems I have just referred to with respect to Australia's intellectual property laws, particularly its patent laws, there are welcome steps forward in this legislation and it does deserve the attention which the Senate now gives it to ensure that issues such as research are addressed in a more contemporary way than is evident in the existing legislation.

I particularly welcome the provisions relating to research. There is claimed to be uncertainty about the scope of protection at common law for those who seek to use existing patent material or patents as the basis for their ongoing research. The fear that a person might conduct research, make a significant finding and then find that they are unable to use that discovery because they have infringed someone else's patents is alleged to be a significant barrier towards proper research in Australian companies and, in particular, not-for-profit organisation such as universities and research institutes. The evidence of that barrier to research is not as plentiful as some have suggested. But I suggest that some clarification of what a person may do when they are conducting research in an area where patents already exist does need to occur. As such, the step forward in this legislation is important.

This bill provides an exemption for activities undertaken solely for the purpose of gaining regulatory approval to market or manufacture a patented technology. The effect of this expands the existing exemption for pharmaceutical inventions to all technologies. That provides a measure of certainty, which is important, and I welcome that very much.

There is more precision required from patent applications than has been the case in the past. Senator Xenophon made reference to the ambit claim approach which so many patent applications appear to have made in the past—and, I think, fairly did make in the past. This legislation appropriately limits the scope of that and requires more to be demonstrated by the patent applicant than has been the case in the past.

I think it also needs to be recorded, however, that Australia's intellectual property laws do not operate as an invention of the Australian legal system. Our intellectual property laws are very much a reflection of international property regimes around the whole world—and we depart from those norms at our peril. We have to acknowledge that most of the companies
around the world that use patents to bring products to market—products which are efficacious to health, agricultural production, manufacturing and all sorts of other purposes—will generally want to own patents in every country where their products might be produced or sold. If the regime applying in Australia is dramatically different from the regimes applying elsewhere, it is hard to do that, and Australians might miss out because we do not share the common approach, broadly speaking, of other countries in the world.

I do not want to use this debate to rehearse the many arguments that took place in the community affairs committee about the patenting of genetic material. I would simply say that some clarification of the law needs to occur. It is provided for here, at least in part. I want to associate myself very much with Senator Colbeck's remarks that further work needs to be done and the concerns of a number of parties who submitted to the examination of this legislation that it has not been addressed fully and does need to be addressed. I look forward to this legislation being an important first step in getting a better state, a better functioning intellectual property system, than Australia currently enjoys.

**Senator CARR** (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (21:30): I thank the senators for their contribution to this debate. As I understand it, there is broad support in the chamber for this bill and I thank senators for that. Let me take this opportunity, in response, to try to answer some of the questions that have been raised. My understanding is that Senator Heffernan and Senator Xenophon have raised the case involving Sanofi-Aventis, where the High Court invalidated a patent. As I understand this particular case, or the suggestion has been made—

**Senator Xenophon:** That was Senator Heffernan, I think.

**Senator CARR:** You did not raise it? I see. My understanding then is that Senator Heffernan raised the issue about an undertaking to compensate the Commonwealth in regard to the court's actions in invalidating a patent. It has been suggested that money was lost to the PBS system because of the extended patent but it has not been repaid to the Commonwealth. The officers who are here tonight do not have the detail of that matter. It is the responsibility of the health department, as I understand it. The officers will take the questions on notice and provide further information to Senator Heffernan.

There have been a number of issues raised by the stakeholders. Senator Colbeck, I am sure you would appreciate this point. The bill is one that the community values and wants passed. I support the point that Senator Boyce made on the importance of the IP system. These are changes that have been under negotiation through a very broad range of consultations since 2009. It is a project that I had the opportunity to work on with the community to ensure significant advances to the IP system as a result of consultations.

I believe the effect of the three separate rounds of discussions over the past two years have seen innovators, researchers, small businesses, large corporations, lawyers, and patent and trademark attorneys make very useful contributions. The bill before the chamber is now a much better piece of legislation. A strong intellectual property system is critical to our capacity to drive innovation and research in this country. It directly benefits Australians. A robust patent system ensures that we have a proper system to protect intellectual property, but the administrative arrangements are undertaken
in such a way as to not clog up the system. It allows proper competition in regard to the development of new ideas and better inventions.

This bill provides us with an opportunity to align standards with our major trading partners, to modernise the system. It allows us to be more competitive for Australian inventors, so they do not have to take their work overseas. It provides clarity, it provides certainty for our researchers and it means that if there is any suggestion—and the argument has been put that it is not presented with great evidence to sustain it—that litigation might be used as an impediment to research then that will be removed as a result of this legislation.

This bill when enacted will speed up the process of resolving patent and trademark applications. It will provide applications and the public with much better opportunities to ensure that they have the protections of patent law. The law helps IP professionals to assist those who seek to take advantage of the patent system. It makes it easier for them to secure a patent, but not for trivial things. It provides a much stronger quality of advice by making it easier to ensure that we can secure the necessary legal protections for people. It protects people from imitations and fakes. It provides better border protection systems and stronger sanctions against counterfeits.

Finally, the bill simplifies the more technical aspects of the current IP system so that innovators can spend less time prosecuting applications and more time innovating. That is why the bill is so named: raising the bar. It raises the quality of the innovation system to raise the quality of innovation and to benefit all Australians. That is why I argue we ought to support this bill and we ought to give it rapid passage.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Boyce) (21:36): As no amendments to the bill have been circulated I shall call the minister to move the third reading, unless any senator requires that it be considered in committee of the whole.

Senator CARR: I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

BUSINESS

Rearrangemen

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (21:37): I move:

That government business order of the day no. 4 (Cybercrime Legislation Amendment Bill 2011) be postponed till the next day of sitting.

Question agreed to.

BILLS

Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (21:37): The opposition supports the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011. Because it is increasingly common for criminal activity to have a transnational component, the coalition believes it is essential that Australia provides and seeks international cooperation in ensuring that criminals are not able to evade justice simply by crossing borders. This requires a working
extradition regime that includes appropriate safeguards.

Australia's extradition relationships with other countries ensure the effective administration of criminal justice here in this country. They also allow us to cooperate with other countries to fight crime and prevent Australia from becoming a safe haven for people who have been accused of serious crimes in other countries. Our national interest also requires that criminals cannot evade investigation, prosecution and asset confiscation simply because the evidence or proceeds of their crimes are in different countries. The coalition strongly believes this requires a responsive mutual assistance system to combat domestic and transnational crime with, again, appropriate safeguards built into the system.

It is important to recall that extradition does not arise as an obligation under international law. Rather, it is a favour accorded by one country to another. Extradition obligations between countries therefore arise principally from reciprocal treaty arrangements between states. The extradition treaties to which Australia is party are given effect by the Extradition Act. Mutual assistance is a different process directed towards a different outcome: it is directed towards the provision of formal government-to-government assistance in criminal investigations and prosecutions rather than the surrender of individuals between jurisdictions. Mutual assistance is also used to recover the proceeds of crime, which is integral to the fight against serious and organised crime.

Although a number of treaties exist between Australia and other countries for mutual assistance in criminal matters, the Mutual Assistance Act does not depend on the existence of a treaty with the relevant overseas country.

The current laws relating to extradition and mutual assistance in criminal matters were passed more than 20 years ago. A number of reviews of the legislation have been undertaken in the meantime, including a 2001 Joint Standing Committee on Treaties report, a government review in 2006, and more recently, discussion papers on both acts in 2009 and again in January 2011. As we all know, there have been significant changes in the nature and scale of global crime since that time, attributable to globalisation and changes in technology.

The Australian Federal Police have expressed concerns that the legislation, as it stands, has not kept pace with the advancements in technology—including the pervasiveness of technology—as it exists today. In a public hearing held by the House of Representatives Standing Committee on Social Policy and Legal Affairs the AFP expressed its concern about the fact that it is now possible to make telephone calls that do not go through Australian exchanges and it is possible to store data on devices and servers that are not in our jurisdiction. The AFP argued that this issue needs to be addressed in order to maintain the fight against organised crime and protect national security. The coalition strongly supports giving the AFP the tools it needs, subject to appropriate safeguards, to protect Australia's national security and wage war against transnational crime.

This bill amends the following features of the extradition and mutual assistance regimes. Firstly, it expands the existing grounds for refusing an extradition request, to include punishment or discrimination on the basis of a person's sex or sexual orientation. Secondly, similarly, it expands the existing grounds for refusing a mutual assistance request to include discrimination on the basis of a person's sexual orientation. Thirdly, it extends of the availability of bail
in extradition proceedings, so that bail may be granted where a person has consented to extradition, and permits applications for bail in the later stages of the extradition process.

Fourthly, the bill widens the circumstances in which a person may be prosecuted in Australia in lieu of extradition. Currently, this only applies where extradition is refused on the basis that the person is an Australian citizen. Under the proposed amendments, a person may be prosecuted in Australia in any circumstances where Australia has refused extradition, and thus ensures that a refusal to extradite will not entail an escape from justice.

Fifthly, the bill incorporates an express prohibition on providing mutual assistance where the provision of that assistance may expose a person to torture, and provides guidance on assessing the risk of torture in extradition determinations, consistent with the UN convention. Sixthly, it expands the death-penalty grounds for refusal in mutual assistance requests to cover situations where a suspect has been arrested and detained but not formally charged. Finally, it expands the grounds for refusal to cover mutual assistance requests which relate to all stages of the investigation, prosecution and sentencing of a person. The coalition supports all of those amendments.

The Greens have circulated amendments to this bill, which the coalition does not support. I do, however, wish to make some remarks in relation to the proposed Greens amendments on the bail provisions. As a general principle, the coalition agrees that there should be a presumption in favour of bail in criminal proceedings. However, this presumption does not apply in extradition proceedings and is available only where special circumstances exist.

The status quo on the presumption against bail is appropriate in extradition matters because there are significant risks in granting bail to people suspected of serious criminal offences who have fled a jurisdiction in an attempt to evade justice. The Senate will be aware of the recent case of accused Serbian war criminal Dragan Vasiljkovic—also known as Daniel Snedden—who disappeared from the High Court in Canberra just one day before it ruled against him in an extradition request from Croatia. The result was a 43-day manhunt, involving a team of up to 40 police and a four-day covert surveillance operation by the Australian Federal Police, which eventually led to his arrest. The coalition agrees with the position of the Attorney-General's Department, which states that:

The current presumption against bail for persons sought for extradition is appropriate given the serious flight risk posed by the person in extradition matters, and Australia's international obligations to secure the return of alleged offenders to face justice in the requesting country. The High Court in United Mexican States v Cabal had previously observed that to grant bail where a risk of flight exists would jeopardise Australia's relationship with the country seeking extradition and jeopardise our standing in the international community.

Evidence given to the Joint Standing Committee on Treaties during its inquiry indicated that the presumption against bail was included in the legislation on the basis that 'there was a very high risk of a person escaping, particularly since in many cases the person had fled the jurisdiction for Australia to evade justice'. Other countries, such as the United States, also uphold the presumption against bail, only allowing suspected criminals to be granted bail in special circumstances.

In summary, the coalition supports measures to ensure Australia is not seen as a safe haven for criminals and the profits of their crimes or indeed is not in fact a safe haven for criminals and the profits of their
crimes. We also support measures that contribute to improving Australia’s international crime cooperation legislation. For those reasons, the coalition supports the bill.

Senator WRIGHT (South Australia) (21:46): I rise to speak on the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011. The bill proposes a number of significant reforms to streamline and modernise Australia’s laws on extradition and mutual assistance. It is the first major reform to these laws in over 20 years. There is no doubt that in this time the landscape within which international crime occurs has changed considerably. Over the last 20 years we have seen massive advances in technology, communications and travel, and criminal networks have adapted accordingly.

Our law enforcement agencies must be adequately equipped to effectively combat crime in this new era. Certainly the Australian Greens do not dispute that law reform in this area is warranted. However, I wish to place on the record some considerable concerns that I, as legal affairs spokesperson for the Australian Greens, have about certain aspects of the bill and to explain why we feel it is necessary to move the five groups of amendments that we will be moving when the debate resumes. Despite the imperative to act effectively and decisively against international crime, Australia must also ensure that our justice system at all times respects and safeguards the democratic freedoms and human rights of those it affects.

There are significant social and economic costs of crime, but we must be vigilant that in responding we do not unduly encroach on hard won and painstakingly developed fundamental legal principles or erode well-recognised universal human rights, which are the hallmark of fair and civilised societies. As everyone here would agree, we need to strike the right balance. The issue exercising my mind has been whether indeed the right balance has been struck in this bill. It is the hard but essential work of this parliament to confront difficult issues such as how best to combat international crime without eroding the principles of the rule of law in Australia. In the laws that it makes, this parliament must fully discharge our international human rights obligations both at home and abroad. In so doing we help to protect our own citizens against arbitrary and unfair action and extend that approach to citizens in the rest of the world.

I recognise that this bill seeks to streamline and modernise Australia’s laws on extradition and mutual assistance while maintaining appropriate human rights safeguards. I recognise that in a number of cases the bill introduces important new safeguards to the existing extradition and mutual assistance regimes. But on close consideration the Australian Greens cannot sit back and say that the right balance has been struck. In saying that I do wish to acknowledge the extensive consultation undertaken by the government with respect to this bill. I also recognise that significant changes were made to the bill as a result of that consultation process. However, through the consultation process, dating back to 2006 when discussion papers canvassing these reforms were first released, serious reservations have been expressed by a number of Australia’s peak legal and human rights bodies about a range of matters associated with this bill, some of which have not been addressed by the government. These bodies include the Law Council of Australia, the Australian Human Rights Commission, the Australian Lawyers Alliance and the Human Rights Law Centre.
ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Boyce) (21:50): Order! I propose the question:
That the Senate do now adjourn.

Centenary of Canberra

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (21:50): Over the last several years Australia's national capital city has recognised and celebrated a series of centenary moments as we work our way towards the climax of activity on the big birthday, 12 March 2013. Notable highlights of this commemorative suite so far have included the battle of the sites, when in the first instance cities and towns right across the continent and later courtesy of section 125 of the Constitution across the state of New South Wales pushed their optimistic claims to host the capital city.

The option originally called Yass-Canberra would ultimately carry the day and in late 1908 it was a very close-run thing and hotly contested. With the elegant Monaro Plains region thus secured for the new national city, it was time for the surveyors to embark on their vital work. So it was Charles Scrivener and the many talented men he hired for the Commonwealth who did their bit, marking out the city as we know it today. Perhaps the far more exhausting and challenging work for them was mastering the many ups and downs of a full five-year border survey which took them to the heights of the southern alps. In 2009 and 2010 we rightly recalled those original surveyors for their skill, resilience and the sheer quality of their work, which would enable the Federal Capital Territory to be established on 1 January 1911. The first ordinance of the new Federal Capital Territory was announced by the Minister for Home Affairs of the day, the colourful Labor Party personality King O'Malley. That first ordinance was in fact the introduction of prohibition. It is hard to imagine a dry capital, but that is definitely a story for another day. In 2011, the major centenary was getting ever closer and we were all beginning to appreciate the extraordinary achievements and milestones of that first federal government since Federation to have a majority in both houses of parliament, from 1910 to 1913. It was 100 years ago that the majority Labor government of the impressive Andrew Fisher was, over its full three-year term, able to pursue an ambitious nation-building policy agenda.

The country was finally put on a stable political, social, economic and cultural footing as Prime Minister Fisher and his team of committed ministers firmly prioritised national infrastructure. I would like to cite two Fisher government initiatives that had their centenary last year. In June 1911, the Royal Military College at Duntroon was established. Duntroon cadets were actively involved in the earliest AIF conflicts, including Gallipoli, and they participated with distinction, as did the college's first commandant, Brigadier General William Throsby Bridges. Bridges was shot by a sniper near Anzac Cove on the morning of 15 May 1915, only weeks into the campaign. He died on 18 May, and his body was controversially returned to Australia for eventual burial on Mount Pleasant, in a Walter Burley Griffin designed grave site, overlooking the college that he helped to found. Duntroon's establishment just over a century ago was a defining moment in Australian military history.

Perhaps much less well known, but of seminal cultural importance for the new nation and the new national capital, was the establishment by the Fisher government of
the Historic Memorials Committee, which was immediately tasked with establishing a historic memorials collection. As Kylie Scroope, the Director of Art Services in the Department of Parliamentary Services, noted in her Senate occasional lecture late last year:

This invaluable collection also set in place the foundations for other important collecting institutions, such as the National Gallery of Australia and the National Portrait Gallery.

It was entirely appropriate that these early symbolic foundation stones of our nation’s broad and diverse cultural fabric should be erected under the careful watch of Labor’s third government since Federation.

But the reformist government did much more for the fledgling nation. Prime Minister Fisher personally oversaw the redesign of the Australian coat of arms, confirming the genuinely Australian emblem we have such great affection for today. He shepherded through the parliament the purchase by the Commonwealth of the massive 16,500 item collection of Edward Augustus Petherick—what Fisher called a national heirloom, with its impressive array of books, newspapers, photographs and ephemera. He made sure that Australian stamps shrugged off the dated monarchist icons in favour of images distinctively Australian, particularly the kangaroo.

Fortunately, in the midst of all of this prodigious output, the Fisher government, under the watchful eye of home affairs minister Mr O’Malley, recognised that it was time that a national government took concrete steps to honour the Federation founders' commitment to create an inland purpose-built capital city. The result was an international design competition that quite simply captured the imagination of the world—and this from a nation not even a dozen years old. The competition—its winners and the stunning entries, from winner and place-getters and a number of the unplaced—all demand to be richly celebrated as we near the exact centenary of the announcement of the prize winners on 23 May 2012.

The internationally renowned Finish architect Eliel Saarinen came second, and the French architect planner Alfred Agache—who would in time produce the plan for the Rio de Janeiro we know today—came third. But, of the 137 announced entries, the deserving winner was the Chicago architect, Walter Burley Griffin, who, with his wife and professional partner, Marion Mahony, formed an irresistible creative team.

There is no doubt in my mind that the Griffin entry, with its 16 large and radiant panels now carefully preserved in the National Archives of Australia, comprises one of Australia's most treasured artistic collections. Equally, there is no doubt in my mind that Australians will, as the 21st century unfolds, come to properly appreciate and honour the visionary design, the futuristic design, the city truly in the landscape, selected in that original competition.

Minister O’Malley famously declared at the time:

I am satisfied the best design has been selected. It is a wonderful design and shall make the federal capital [of Australia] the finest in the world … what we wanted was the best the world can give us and we have got it.

Griffin was certain of what he and Marion had gifted to Australia. In perhaps the most often quoted utterance in Canberra's design history books he wrote:

I have planned a city not like any other city in the world. I have planned it not in a way that I expected any governmental authorities in the world would accept. I have planned an ideal city—a city that meets my ideal of the city of the future.
So, in this the centenary year of that landmark competition, I ask all of my parliamentary colleagues to spare a bit of time to familiarise themselves with one of their nation capital's most engaging moments, when the Griffin's entry, No. 29, was showcased around the world, one century ago.

One of life's most enjoyable experiences as an ACT senator is to take overseas visitors to the top of Mount Ainslie to see the outline of that indelible Griffin landscape design for themselves. Once they see it, they get it; they understand the significance of the capital, the 'city in the landscape', beautifully spread out before them, with its compelling geometry, at one with the natural landforms.

It is a precious legacy. The Griffin's then radical concept of the living city is the city of the future. Through Canberra's centenary years, as parliamentarians we all share the responsibility to inform ourselves as proactive custodians of this unique history of our beautiful national capital.

Australian Greens

Senator IAN MACDONALD (Queensland) (21:59): I noticed during the break that Senator Brown and the Australian Greens had been waxing lyrical yet again in the media, this time wanting the government to legislate to regulate newspapers to control content and ownership—shades, I might say, of totalitarian regimes of the 20th century. So tonight I want to return to an issue related to the so-called independent media inquiry which is currently being conducted at the behest of the Australian Greens party, primarily as a payback to News Limited for its scrutiny of Senator Brown and his party—a scrutiny which, I might say, has exposed the Greens party for its hypocrisy and the contradictions between its policies and its rhetoric.

Senators may recall that late last year I drew attention to Senator Brown's advocacy to this inquiry of tax deductibility for not-for-profit journalism enterprises. In particular, I drew attention to the fact that this policy would benefit the Greens' major donor, Mr Graeme Wood, with whom Senator Brown negotiated the largest donation in Australia's political history and who is now backing former ABC reporter Monica Attard in a new 'independent' journalism enterprise, The Global Mail, to the tune of $3 million a year for five years. The Global Mail, senators might recall, was launched earlier this month.

Senators may also recall that I called upon Senator Brown to say whether or not he has had any discussions with Mr Graeme Wood about the need for such a journalism venture and/or the need for such ventures to receive tax deductibility status and to say what, if anything, he knew of the genesis of the letter to him from six academics advocating just such a policy—whether it was something out of the blue or whether Senator Brown had had any discussions about it and, if so, with whom. According to Crikey, which broke the story of Graeme Wood's support for The Global Mail, Mr Wood said, 'He's happy to cop ongoing businesses losses,' and also, 'I think eventually there will be a financial business model for this sort of thing, but it ain't there yet.'

In an interview with the ABC in July last year, Monica Attard said, 'I have a generous philanthropist in Graeme Wood, who is prepared to fund us into the foreseeable future whilst we attempt to forge a new model of journalism and perhaps even a new business model somewhere down the track.' At the time I thought to myself, 'What could Graeme Wood and Monica Attard mean by this talk of "new business models"? We now have some idea and—surprise, surprise—it seems that The Global Mail's business model
is that it should get tax-deductibility status, the status advocated by Senator Brown to the independent media inquiry.

In October last year, The Global Mail made a submission to the media inquiry which, in a section entitled 'How governments can help', urged the government to make donations to such ventures tax deductible by giving them deductible gift recipient status with concomitant fringe benefits tax and GST concessions. In addition, The Global Mail puts in bids for government subvention by way of direct funding, compensation and seed funding, as well as asking for relief from state based payroll taxes. Why is it that whenever the Greens and the Left talk about business models, what they are really talking about and what they really mean is taxpayer handouts?

Monica Attard concluded her submission to the inquiry by saying: 'This is not an exhaustive wish list. It is, however, a means by which government might assist in supporting media ventures aimed at producing high-quality, non-partisan journalism.' We will wait to see how non-partisan The Global Mail turns out to be. I would have my guesses, but it will have to guard against just being a more sophisticated Green Left media outfit dressing up a left-wing agenda in the guise of public interest—all the while wanting taxpayers to underwrite its operations.

In the meantime, Senator Brown—as all senators know—still has a lot of explaining to do about how he came to advocate a measure which would provide a tax windfall to his party's biggest donor to the tune of a million or more dollars a year. Senators will be aware that the Privileges Committee is currently investigating whether or not Senator Brown acted corruptly in using Senate or other fora to repeatedly push Mr Wood's commercial interest to secure the Triabunna woodchip mill for future property development and also to damage the interest of his competitors. The question arises as to whether anything untoward has occurred on this occasion.

As well as calling Senator Brown to come clean, I would ask Senator Rhiannon—who is known to hold certain views on political donations, particularly from property developers—to encourage her leader, Senator Brown, to say whether or not he discussed with Mr Wood the desirability of a journalism venture like The Global Mail or the desirability of such a venture receiving tax deductibility status.

Senator Bob Brown: On a point of order: Mr President, you are aware that certain matters are before the Privileges Committee. I ask you to rule that submission out of order.

The PRESIDENT: Senator Brown, I am aware of a matter that is before the Privileges Committee. I do not interfere in the business of that committee, as you know. I have issued warnings in this chamber before, in other debates, that people should steer clear of that material. I would really need to examine that quite closely to see how it is progressing. Take it that I will review the matter for you. I remind Senator Macdonald of the inquiry. I am not sure how that might be infringing into the area of the inquiry at this stage.

Senator Bob Brown: Mr President, with Senator Kroger in the chamber, who sought your referral of a matter to the Privileges Committee which canvassed the very issues that Senator Macdonald—

Senator IAN MACDONALD: What is your point of order?

Senator Bob Brown: Do not interrupt; that is a breach of—
The PRESIDENT: Senator Macdonald, order! Senator Brown, you have the floor.

Senator Bob Brown: It canvassed matters that Senator Macdonald has just been talking about. This was a matter that you, Mr President, considered carefully and that you are fully conversant with, and you should be able to deal with it here on the floor of the chamber. I submit to you that Senator Macdonald is right out of order. If you need to go and look back through Senator Kroger's application to you, so be it. But, Mr President, you should rule that matter out of order now on the floor.

The PRESIDENT: Senator Brown, I have indicated to you that I will be permitting Senator Macdonald to continue. I will be reviewing the matter and I will come back to the chamber.

Senator IAN MACDONALD: Thank you, Mr President. You can see that Senator Brown is definitely very concerned about this. One would think he might have something to hide, perhaps.

Senator Bob Brown: Mr President, I rise on a point of order: the asseveration by Senator Macdonald that, because I take a point of order on this matter and ask you to invoke standing orders, I have something to hide is a clear injunction to the Privileges Committee against the matters they are considering. It is right out of order and it should be ruled as such.

The PRESIDENT: Senator Brown, I have undertaken to you that I will review this fully. Senator Macdonald, you have one minute and 57 seconds remaining. Be careful of where you are going in your delivery to the chamber.

Senator IAN MACDONALD: Mr President, I am pleased that you will review it. As you will see when you read what I have said, I have said no more than Senator Brown himself has said tonight and there is nothing in there that in any way states anything other than the facts of the matter. But Senator Brown continues to try to interrupt my speech, and one can only wonder why that is.

In conclusion I was saying that, before I leave this topic, I should note again the hypocrisy of the Greens political party, who have been decrying Gina Rinehart's taking of a stake in Fairfax with her own money—on which she has paid tax—while wanting taxpayers to underwrite The Global Mail, the pet media project of the Greens political party's biggest donor. When will those people who genuinely support the Greens political party as a keeping-the-bastards-honest type of party realise that the Greens are—

Senator Bob Brown: Mr President, I rise on a point of order: the senator is trespassing on matters which, through you from Senator Kroger, have been put before the Privileges Committee. That is out of order, and it should be ruled as such.

The PRESIDENT: Senator Brown, I have undertaken to you that I will review this fully. Senator Macdonald, you have one minute and 57 seconds remaining. Be careful of where you are going in your delivery to the chamber.

Senator IAN MACDONALD: Thank you, Mr President. I continue to be very careful, as any fair-minded review of my speech will clearly show. What a pity it is that we are not on broadcast tonight so that people can see how this speech on special favours for The Global Mail is being interrupted by a senator who has been urging support for The Global Mail.
Senator Bob Brown: Mr President, if that is allowed, my point of order is this: the wrong claims—outrageous claims—coming from the senator that special favours are being dispensed by the Greens are in direct contravention of the matters you dealt with and referred to that committee and should be ruled out of order. They should not be adjudicated later but should be ruled out of order now, on the floor of the Senate.

The President: Thank you, Senator Brown. I have undertaken to look at that matter. I have been speaking with the clerk at the table, and I believe we will be looking at this matter very closely.

Senator Bob Brown: I ask that you rule on the matter now.

The President: I am ruling that I will take a close look at the Hansard of what is being said and come back to you later on this matter.

Senator Bob Brown: I ask that you rule on the matter now.

The President: I am ruling that I will take a close look at the Hansard of what is being said and come back to you later on this matter.

Senator Bob Brown: So it is your ruling that this will continue, and I object.

The President: I am not ruling that it will continue; I am asking Senator Macdonald to be careful that he does not transgress. As you know, I am not on the Privileges Committee. You know that. I am listening very closely to the contribution that Senator Macdonald is making.

Senator IAN MACDONALD: I repeat my last paragraph: when will those people who genuinely support the Greens political party as a keeping-the-bastards-honest type of party realise that the Greens political party is a party that wants tax deductibility for certain newspapers while opponents are subjected to even more stringent constraints and government controls?

In concluding this much-interrupted-by-Senator-Brown speech on freedom of the press, on special deals for some elements of the press and on constraints on other elements of the press, I leave senators with this quite famous quotation: freedom of the press … cannot be limited without being lost.

Coal Seam Gas

Senator WATERS (Queensland) (22:14): I rise with the aim of raising the tone of the debate after that diatribe from Senator Macdonald and to speak on the—

Senator Ian Macdonald: You know what? I'm not going to interrupt you once!

Senator Bob Brown: You just did.

Senator WATERS: You just did interrupt me, Senator Macdonald. I rise to speak about the Rural and Regional Affairs and Transport Legislation Committee's report, which was tabled earlier today, into my bill—the Environment Protection and Biodiversity Conservation Amendment (Protecting Australia's Water Resources) Bill 2011—the aim of which is to better protect water from the ravages of the mining and coal seam gas industries. It is with great shame and disappointment that the committee has recommended that the bill not be passed. Once again, we see both of the old parties colluding to make sure that the federal government takes no responsibility whatsoever for acting on coal seam gas and protecting our precious and ancient water resources from coal seam gas and other mining.

My bill proposes to improve and increase the environment minister's power to better protect water. What environment minister or government would not want the power to protect water from various impacts? It is lost on me. Surely, in the driest inhabited continent on earth, water should be treated as a national resource. I genuinely do not understand why the federal government still thinks that it is not their business to properly protect our national water resources, particularly given that the states have
demonstrated time and time again that they are failing to protect our farmland, our rural communities and our environment from the risks of the rampant coal seam gas industry.

You only need to look at the example of the contamination in 2009 of the Springbok aquifer—in my home state of Queensland, on our beautiful Darling Downs, our best food-producing land—from fracking to know that fracking is not safe. Why is the federal government still doing nothing about that? The examples continue. Following the terrible floods in Queensland just over a year ago, we saw massive pollution of our rivers from both mining pits and coal seam gas evaporation ponds. There was massive environmental damage, and still the feds do nothing. Most recently, we saw a terrible spill in the Pilliga State Forest of New South Wales caused by a dodgy— if I may use that word—previous operator. Again, the feds still think that the states are doing a fine job and that the feds should not be bothered to do anything about it. I, and in fact 67 per cent of Queenslanders, beg to differ. A poll last week showed that that percentage of Queenslanders do not support coal seam gas and that they are rightly worried about our lack of knowledge about the long-term impacts of this industry.

I now turn to addressing some of the complaints about the bill made by the committee in its report and to talk about why I think the bill is an excellent idea. First of all, our surface and groundwater systems are ancient. We do not properly understand how they are connected and we certainly do not understand the impacts that coal seam gas and other mining is having on them now and may have on them in the long term. There are big threats to our water, our land and our environment. There is an incredible level of uncertainty. National bodies like the CSIRO and the National Water Commission gave evidence in the inquiry into the bill, and they have put out various public statements saying, 'We do not understand the long-term impacts of coal seam gas on our water, and we do not understand enough about the hydrological connectivity of our groundwater and surface water systems to know whether or not fracking and other aspects of coal seam gas are safe.' These are big warning bells being sounded by our most informed expert bodies. You would think that the government would listen to those expert bodies—certainly they should.

A number of charges have been levelled at the bill, and I will address the key ones. Once again there is a tendency to say, 'The states have this all covered; it's not a problem—go back to sleep everybody.' Unfortunately, the states are not managing this risk properly. I cited some of the examples of where state regulation has not protected our water resources and our rural communities. CSIRO, as I said, has highlighted the uncertainties about coal seam gas. In their evidence to the committee they stated:

As it is a relatively new industry, whilst the processes are understood, it takes some time to understand the properties associated with any hydrogeological setting … In a situation where you have done extraction for a limited amount of time, you are working with less information and the uncertainties are higher.

That is the first reason that the federal government should be involved in properly protecting our water resources—we simply do not have enough information. It is not okay for the feds to say, 'Because we don't know what we don't know, we're not going to do anything.' That is a really flimsy excuse. The second point—you have heard me say this before, Mr President, and I am sure I will have the opportunity to say this many more times in this chamber, unfortunately—is that there are serious gaps and shortcomings in the states' and
territories' regulation of this matter. We heard a lot of evidence in the hearing into this bill from various experts, in fact we heard from a body of national lawyers as well as some conservation activists, about the various loopholes in state laws. They demonstrated—very amply, I thought—that the states are simply not doing their job of protecting the environment and protecting our water resources.

I express in particular my disappointment at the position of the National Farmers Federation. They did not back the bill because they were concerned that at some point in the future another bill might come in which would somehow regulate agricultural water use. This bill does not do that. It is squarely confined to regulating the impacts of mining on water—and, of course, mining includes coal seam gas in the definitions. So I found it a little disappointing that the Farmers Federation were, I think, acting against the interests of their members in recommending that the bill not proceed. In fact, many farmers have told me that they do want the federal government to play a better role to protect water and that my bill is in fact precisely the means of doing that. So I have a bit of a bone to pick there with the National Farmers Federation.

I turn now to the assertion the committee adopts as to why we do not need this bill is that the agreement the Prime Minister reached with Tony Windsor MP to establish an independent expert scientific panel is, again, going to somehow solve all our problems. We think that this panel is a really good idea and that it is a great first step. We support the fact that they are going to be providing advice to government, and we support the fact that they will be doing bioregional assessments of priority areas. I am interested to see how those areas are chosen. No doubt they will be in marginal seats. Be that as it may, we think it is a great first step. But the problem is that that panel will not be able to advise the federal government. The panel will simply be advising the states; the federal government does not have the power to look at these water impacts, because my bill has not yet been passed. That is the very point. It is all well and good to say, 'Let's provide science based decision making'—and we completely support that—but this is just another pretext for the federal government to wash its hands of properly protecting our water resources. I am afraid that I do not think anyone is going to be fooled.

I finish by pointing out that, despite the committee's report that the bill is unnecessary and duplicative, a water trigger is in fact what the Prime Minister herself proposed in the event that this COAG agreement does not come off. I found it
somewhat perplexing that the report found the bill was unnecessary when it is indeed a foreshadowed policy outcome of the Prime Minister's own undertaking in the event that those COAG processes do not come to fruition.

I look forward to the debate on this bill when it comes before this chamber. The Greens have long been advocates for strong national protection for our water resources, which do not respect state borders. The states are not doing a good job of protecting our water, and they are unfortunately selling out our rural communities to turn a buck from the mining industry. The Greens will continue to advocate for better and stronger federal protection for our water resources.

**Defence Workforce Skills and Training**

Senator MARK BISHOP (Western Australia) (22:23): In November last year I spoke on the subject of procurement, with an emphasis on skill shortages and training. I spoke of the competing demands for skilled workers coming from the mining industry. I also expressed concern at the apparent lack of effort on high-tech engineering, especially in systems engineering and integration. These are areas of extreme importance in the new era of defence capability, development and maintenance—areas to which so much funding is being allocated by the Commonwealth government. In this I was stimulated by some worthwhile submissions to the Senate Foreign Affairs Committee inquiry by several submitters—namely, the Association of Professional Engineers, Scientists and Managers of Australia and the Defence Systems Innovation Centre, located at the University of South Australia and clearly in that state. I set out the current skills development initiatives in defence and in industry, expressing quite significant misgivings about their adequacy.

I was therefore pleased to see the release of the initial Defence Industry Workforce discussion paper issued by Skills Australia. This paper was released by the minister only a couple of weeks ago, on 1 February this year. The task force behind the report is comprised of a complete raft of government agencies. Defence industry representatives were also on board. In this I hoped to see a thorough professional assessment of the scope of the task. However, I must say at the outset that I am a little disappointed at that publication.

If its purpose was and is to quote 'stimulate discussion and debate', it is far too general, simply because the picture it paints is very incomplete. In fact, given the strength of membership from industry generally, as well as a senior officer from Defence, I wonder whether any of them had any serious input at all. Indeed, given the strategic importance of this task, I wonder why Defence, with DMO itself, has not done this work already. It is, after all, a fundamental plank of any industry policy. In short, the paper adds little to our knowledge.

Let me summarise what I think is needed from this task force if it is to be treated seriously and have serious input. First, on the demand side we need an accurate assessment of the implications of the current capability plan for both design and production. The same is needed for materiel in service—that is, the context in which this problem of skill shortages is to be considered. You need to look at the scope and nature of the industry task in a total defence framework. That should include an assessment of the technology with respect to its sophistication for each of the three services. I expect this has already been done. It should include the maintenance task, none of which should be a surprise to industry—they, of course, having many multibillion-dollar contracts going over decades and decades. After all, the
capability plan, while huge, should be sufficiently well known and understood by industry.

Industry would be only too aware of their own internal skills needs, one presumes. In assessing this demand, the task force also needs to more finely delineate between the skills needed—for example, trades skills, project management skills, and the higher level graduate and post graduate qualifications needed. Specifically, we need to see greater specificity with respect to those skills, reflecting the high degree of specialisation necessary from basic trades through to the most difficult systems integration tasks. To that end, I suggest the generality of the descriptors used in the discussion paper are not very indicative at all of the range of skills needed.

The discussion paper correctly identifies the competition on the demand side. However, I suggest the assessments significantly underestimate its strength, especially from the mining and support industries sectors. I refer again to the work of Port Jackson and Partners issued by the ANZ Bank last August. I would suggest in line with that report, recognition needs to be given on the supply side for significant new and re-training programs. They will be needed to cope with rapidly changing nature of the workforce driven by economic restructuring already seriously underway.

We know that the manufacturing industry in this country is already under pressure, especially in the case where it is competing with cheaper imports against a very strong dollar—and I would suggest a dollar this is going to both remain high and go higher over the next 10 to 15 years.

On the supply side, I accept the reservation that industry has expressed that continuity of work poses for stability of investment. It is particularly the case within their manufacturing workforce. Over the next 30 years the defence procurement budget is set at almost $300 billion. There is high-level technical input and therefore considerable reliance on reach back to overseas company headquarters where R&D is usually concentrated. I seek leave to continue my remarks.

The PRESIDENT: Time has expired for the debate. You can continue that contribution in another adjournment debate.

Senate adjourned at 22:30

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Acts Interpretation Act—
Acts Interpretation (Substituted References—Section 19B) Amendment Order 2012 (No. 1) [F2012L00223].

Select Legislative Instrument 2012 No. 6—
Acts Interpretation (Registered Relationship) Amendment Regulation 2012 (No. 1) [F2012L00392].

Appropriation Act (No. 1) 2010-2011, Appropriation Act (No. 2) 2010-2011 and Appropriation Act (No. 4) 2010-2011—
Determination to Reduce Appropriations Upon Request (No. 7 of 2011-2012) [F2012L00215].

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determinations Nos—
1 of 2012—Certain information provided by specified entities under Reporting Standard SRS 100.0 [F2012L00229].

2 of 2012—Information provided by trustees under Reporting Standard SRS 200.0, SRS 210.0, SRS 210.1, SRS 230.0, SRS 240.0 and SRS 250.0 [F2012L00231].
Aviation Transport Security Act—Select Legislative Instrument 2012 No. 5—Aviation Transport Security Amendment Regulation 2012 (No. 1) [F2012L00266].

Banking Act—Banking (Exemption) No. 1 of 2012 [F2012L00207].

Broadcasting Services Act—Broadcasting Services (Digital-Only Local Market Areas for Northern New South Wales TV1) Determination (No. 1) 2012 [F2012L00342].

Broadcasting Services (Primary Commercial Television Broadcasting Service) Amendment Declaration 2012 (No. 1) [F2012L00225].

Broadcasting Services (Start Dates for Section 38C Licence Areas) Amendment Declaration 2012 (No. 1) [F2012L00221].

Civil Aviation Act—Civil Aviation Regulations—Instrument No. CASA 45/12—Instructions – primary means navigation system [F2012L00258].


Instruments Nos CASA—EX01/12—Exemption – maximum take-off weight requirements in aerial application operations [F2012L00339].

EX13/12—Exemption – from standard take-off and landing minima – Malaysia Airlines [F2012L00340].

EX15/12—Exemption – validation flight checks for AA [F2012L00374].

Revocation of Airworthiness Directives—Instrument No. CASA ADCX 003/12 [F2012L00218].


Taxation Determinations—Addenda—TD 95/60 and TD 2004/75.

Corporations Act—ASIC Class Order [CO 12/1482] [F2012L00209].

Customs Act—Tariff Concession Orders—1005214 [F2012L00210].

1014956 [F2012L00350].

1035707 [F2012L00356].

1111096 [F2012L00389].

1112366 [F2012L00351].

1113892 [F2012L00388].

1114057 [F2012L00387].

1114139 [F2012L00386].

1114142 [F2012L00353].

1114143 [F2012L00385].

1120044 [F2012L00312].

1121190 [F2012L00254].

1122947 [F2012L00363].

1124754 [F2012L00202].

1125318 [F2012L00327].

1125773 [F2012L00256].

1126017 [F2012L00251].

1126093 [F2012L00268].

1126558 [F2012L00300].

1126581 [F2012L00299].

1126861 [F2012L00306].

1126915 [F2012L00249].

1126916 [F2012L00244].

1127009 [F2012L00237].

1127069 [F2012L00311].

1127155 [F2012L00301].

1127159 [F2012L00201].

1127273 [F2012L00308].

1127276 [F2012L00318].

1127416 [F2012L00303].

1127418 [F2012L00310].

1127457 [F2012L00307].

1127484 [F2012L00314].

1127486 [F2012L00312].
1127458 [F2012L00304].
1127479 [F2012L00271].
1127538 [F2012L00305].
1127539 [F2012L00302].
1127541 [F2012L00296].
1127602 [F2012L00326].
1127603 [F2012L00324].
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1127867 [F2012L00276].
1128462 [F2012L00321].
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1128500 [F2012L00283].
1128946 [F2012L00390].
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1129160 [F2012L00298].
1129177 [F2012L00315].
1129188 [F2012L00280].
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1129195 [F2012L00263].
1129197 [F2012L00267].
1129227 [F2012L00325].
1129230 [F2012L00323].
1129281 [F2012L00264].
1129321 [F2012L00265].
1129585 [F2012L00317].
1129602 [F2012L00328].
1129608 [F2012L00261].
1129627 [F2012L00329].
1129727 [F2012L00332].
1129949 [F2012L00314].
1129962 [F2012L00313].
1129972 [F2012L00309].
1129981 [F2012L00285].
1130077 [F2012L00317].
1130352 [F2012L00348].
1130438 [F2012L00357].

Tariff Concession Revocation Instruments—

1130481 [F2012L00316].
1130493 [F2012L00366].
1130498 [F2012L00365].
1130501 [F2012L00354].
1130627 [F2012L00364].
1130841 [F2012L00359].
1130844 [F2012L00358].
1130845 [F2012L00362].
1130948 [F2012L00383].
1130949 [F2012L00382].
1131123 [F2012L00381].
1131308 [F2012L00361].
1131325 [F2012L00377].
1131357 [F2012L00373].
1131380 [F2012L00368].
1131383 [F2012L00355].
1131414 [F2012L00369].
1131441 [F2012L00384].
1131717 [F2012L00367].
1132150 [F2012L00370].
1132152 [F2012L00371].
1132153 [F2012L00360].
1132155 [F2012L00393].
1132157 [F2012L00391].
1172/2011 [F2012L00212].
207/2011 [F2012L00217].
5/2012 [F2012L00211].
6/2012 [F2012L00216].
7/2012 [F2012L00214].
10/2012 [F2012L00243].
11/2012 [F2012L00233].
12/2012 [F2012L00234].
13/2012 [F2012L00248].
14/2012 [F2012L00259].
15/2012 [F2012L00246].
16/2012 [F2012L00247].
17/2012 [F2012L00241].
18/2012 [F2012L00239].
19/2012 [F2012L00242].
20/2012 [F2012L00245].
25/2012 [F2012L00253].
26/2012 [F2012L00260].
27/2012 [F2012L00255].
28/2012 [F2012L00257].
29/2012 [F2012L00262].
30/2012 [F2012L00270].
31/2012 [F2012L00274].
32/2012 [F2012L00275].
33/2012 [F2012L00262].
Family Law Act—Select Legislative Instrument 2012 No. 9—Family Law Amendment Regulation 2012 (No. 1) [F2012L00394].
Federal Financial Relations Act—

Federal Financial Relations (General purpose financial assistance) Determination No. 34 (January 2012) [F2012L00204].


2012/01—Section 32 (Transfer of Functions from HEALTH to ANPHA) [F2012L00222].

2012/03—Section 32 (Transfer of Functions from DPMC to DRALGAS) [F2012L00224].

2012/04—Section 32 (Transfer of Functions from DPMC to DEFENCE) [F2012L00226].

2012/05—Section 32 (Transfer of Functions from AGD to DPMC) [F2012L00228].

2012/06—Section 32 (Transfer of Functions from DEEWR to DIISRTE) [F2012L00227].

2012/07—Section 32 (Transfer of Functions from SEWPaC to FaHCSIA and TREASURY) [F2012L00236].

Fisheries Management Act—Heard Island and McDonald Islands Fishery Management Plan Amendment 2011 [F2012L00372].

Food Standards Australia New Zealand Act—

Australia New Zealand Food Standards Code—Standard 1.4.2 – Maximum Residue Limits Amendment Instrument No. APVMA 2, 2012 [F2012L00278].

Food Standards (Application A1051 – Food derived from Herbicide-tolerant Soybean Event FG72) Variation [F2012L00208].


Migration Act—

Migration Regulations—Instrument IMMI 11/085—Required health assessment [F2012L00375].
Select Legislative Instrument 2012 No. 4—
Migration Amendment Regulations 2012 (No. 1) [F2012L00282].

Military Rehabilitation and Compensation Act—
Military Rehabilitation and Compensation (Non-warlike Service) Determination 2012 (No. 1) [F2012L00345].

Military Rehabilitation and Compensation (Warlike Service) Determination 2012 (No. 1) [F2012L00341].

Motor Vehicle Standards Act—

Vehicle Standard (Australian Design Rule 2/01 – Side Door Latches and Hinges) 2006 Amendment 1 [F2012L00284].


National Health Act—Instruments Nos PB—
1 of 2012—National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2012 (No. 1) [F2012L00288].

2 of 2012—National Health (Price and Special Patient Contribution) Amendment Determination 2012 (No. 1) [F2012L00272].

3 of 2012—National Health (Chemotherapy Pharmaceuticals Access Program) Special Arrangement Amendment Instrument 2012 (No. 1) [F2012L00378].

4 of 2012—National Health (Efficient Funding of Chemotherapy) Special Arrangement Amendment Instrument 2012 (No. 1) [F2012L00379].

5 of 2012—National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2012 (No. 1) [F2012L00380].

10 of 2012—National Health (Listed drugs on F1 or F2) Amendment Determination 2012 (No. 1) [F2012L00346].

11 of 2012—Amendment Determination under section 84AH of the National Health Act 1953 (2012) (No. 1) [F2012L00344].


Privacy Act—Public Interest Determinations Nos—
13—Disclosure and collection of personal information to improve outcomes for children and young people at risk of serious harm [F2012L00330].

13A—Disclosure and collection of personal information to improve outcomes for children and young people at risk of serious harm [F2012L00331].

Private Health Insurance Act—Private Health Insurance (Prostheses) Rules 2012 (No. 1) [F2012L00335].

Radiocommunications Act—
Radiocommunications (Class of Services) Determination 2012 [F2012L00235].

Radiocommunications (Spectrum Licence Limits) Direction No. 1 of 2012 [F2012L00205].

Radiocommunications (Spectrum Licence Limits) Direction No. 2 of 2012 [F2012L00206].

Remuneration Tribunal Act—Determination 2012/01—Remuneration and Allowances for Holders of Public Office [F2012L00352].

Retirement Savings Accounts Act—Select Legislative Instrument 2012 No. 1—Retirement Savings Accounts Amendment Regulation 2012 (No. 1) [F2012L00269].

Superannuation Act 2005—Sixth Amending Deed to the Superannuation (PSSAP) Trust Deed [F2012L00319].

Superannuation Industry (Supervision) Act—
Select Legislative Instrument 2012 No. 2—Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 1) [F2012L00273].


Veterans’ Entitlements Act—
Veterans’ Entitlements (Non-warlike Service – NATO no-fly-zone and maritime enforcement operation against Libya) Determination 2012 [F2012L00347].

Veterans’ Entitlements (Warlike Service – NATO no-fly-zone and maritime enforcement operation against Libya) Determination 2012 [F2012L00343].

Governor-General’s Proclamations—
Commencement of provisions of Acts
Evidence Act 1995—Day on which the provisions of the Act (other than sections 185, 186 and 187) cease to apply to proceedings in an Australian Capital Territory court, except so far as the provisions apply to proceedings in all Australian courts—1 March 2012 [F2012L00287].

Family Law Act 1975—Date on and after which the jurisdiction of the Family Court of Australia under paragraph 31(1)(aa) of the Act can be exercised in all proceedings, in the following States and Territories: (a) New South Wales; (b) Victoria; (c) Queensland; (d) South Australia; (e) Tasmania; (f) Australian Capital Territory; (g) Northern Territory; (h) Norfolk Island—11 February 2012 [F2012L0240].

Parliamentary Service Amendment (Parliamentary Budget Officer) Act 2011—Schedules 1, 2 and 3—15 February 2012 [F2012L00277].

Departamental and Agency Appointments
The following document was tabled pursuant to the order of the Senate of 24 June 2008, as amended:
Finance and Deregulation portfolio
Immigration and Citizenship portfolio

Departamental and Agency Grants
The following documents were tabled pursuant to the order of the Senate of 24 June 2008:
Finance and Deregulation portfolio
Immigration and Citizenship portfolio

Education, Employment and Workplace Relations portfolio

Indexed Lists of Departemental and Agency Files
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 2011—Statements of compliance—
Fair Work Ombudsman.
Finance and Deregulation portfolio.
National Archives of Australia.

Departmental and Agency Contracts
The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:
Departmental and agency contracts for 2011—Letters of advice—
Attorney-General’s portfolio.
Australian Organ and Tissue Donation and Transplantation Authority.
Defence portfolio.
Finance and Deregulation portfolio.
Resources, Energy and Tourism portfolio.
Treasury portfolio [2].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Immigration Detention Centres
(Question No. 673)

Senator Abetz asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 30 May 2011:

(1) What measures and/or procedures are in place to prevent contraband or weapons being brought into detention centres.

(2) Since 1 January 2008, have any contraband or weapons been detected in detention centres; if so, can the following in relation to each detention centre be provided:

(a) what items were found;
(b) where those items were found;
(c) on what date they were found; and
(d) what action was taken against the person or persons identified as being involved.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) Section 252 of the Migration Act 1958 provides detention service provider staff and officers of the Department of Immigration and Citizenship the powers to search clients for weapons. This includes powers to search clothing and property. In addition, there are a number of measures and procedures in place to prevent contraband or weapons from being brought into immigration detention facilities. These ensure the department is able to meet its obligations with regard to maintaining the good order of its detention facilities.

There are a range of items that are either not permitted or are controlled in detention facilities, such as weapons, illicit drugs and associated paraphernalia, alcohol, flammable sprays, liquids and solids, sharp items, pornographic or offensive material, mobile phones with visual and audio recording devices, and other visual and audio recording devices.

All clients and their property are screened before entering immigration detention facilities. Screening may include a client walking through screening equipment, or the passing of hand-held screening equipment over or around the client and the client's possessions, or passing the client's possessions through screening equipment. Any controlled items are stored securely with the client's property and cannot be accessed by the client. All controlled items are returned to the client when the person leaves immigration detention. Illegal items are secured and referred to the police.

All mail to people in immigration detention is screened and any item that is regarded as suspicious is opened in the presence of the client.

All staff and visitors entering immigration detention facilities are screened via x-ray facilities. Items brought into detention facilities are also screened and controlled items are stored securely. Illegal items are referred to the police. The Migration Act 1958 does not provide detention service provider staff or officers of the Department of Immigration and Citizenship the powers to search a visitor's clothing.

(2) Since 1 January 2008, there have been a number of items located in immigration detention facilities that are not permitted. These items may be located upon entry, during routine searches in immigration detention facilities or during other searches that occur from time to time as a result of information. The table below summarises the detection of items that are not permitted in immigration detention facilities since 1 January 2008.

QUESTIONS ON NOTICE
Actions taken by the detention services provider in relation to items located in immigration detention facilities that are not permitted are recorded in multiple systems depending upon the nature of the items located. The very detailed information sought in the question is not readily available in consolidated form and it would be a major task to manually interrogate relevant systems. The department estimates that this would take a departmental officer an average of 30 minutes for each incident. This equates to approximately 24 working days.

The possession of items not permitted in immigration detention facilities may affect the placement of the client within the immigration detention network. Action can also be taken against clients who exhibit illegal or antisocial behaviour, such as the possession of weapons or illicit drugs. The detention service provider may develop individual behavioural agreements with clients who exhibit illegal or antisocial behaviour, which allow for the implementation of interventionist or restrictive measures.

Recent amendments to the Migration Act make provision for a person to fail the character test if convicted of an offence while in immigration detention. This may, in turn, affect a client’s visa outcome.

The following table summarises items detected in immigration detention facilities that are not permitted for the period 1 January 2008 to 30 May 2011.

<table>
<thead>
<tr>
<th>Item</th>
<th>Facility</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Smoking implement</td>
<td>Villawood Immigration Detention Centre (IDC)</td>
<td>3/01/2008</td>
</tr>
<tr>
<td>Alcohol</td>
<td>Villawood IDC</td>
<td>7/01/2008</td>
</tr>
<tr>
<td>Green leaf matter</td>
<td>Villawood IDC</td>
<td>8/01/2008</td>
</tr>
<tr>
<td>Non-prescribed medication</td>
<td>Villawood IDC</td>
<td>9/01/2008</td>
</tr>
<tr>
<td>Aerosol</td>
<td>Northern IDC</td>
<td>17/01/2008</td>
</tr>
<tr>
<td>Alcohol</td>
<td>Villawood IDC</td>
<td>29/01/2008</td>
</tr>
<tr>
<td>Scissors, pool balls</td>
<td>Maribyrnong IDC</td>
<td>6/02/2008</td>
</tr>
<tr>
<td>Broken pool cue</td>
<td>Villawood IDC</td>
<td>9/02/2008</td>
</tr>
<tr>
<td>Metal bar,</td>
<td>Villawood IDC</td>
<td>9/02/2008</td>
</tr>
<tr>
<td>Razor blades, mop handle</td>
<td>Villawood IDC</td>
<td>12/02/2008</td>
</tr>
<tr>
<td>Hacksaw blade</td>
<td>Villawood IDC</td>
<td>15/02/2008</td>
</tr>
<tr>
<td>Straining ladle</td>
<td>Villawood IDC</td>
<td>16/02/2008</td>
</tr>
<tr>
<td>Money</td>
<td>Villawood IDC</td>
<td>17/02/2008</td>
</tr>
<tr>
<td>Alcohol</td>
<td>Villawood IDC</td>
<td>18/02/2008</td>
</tr>
<tr>
<td>Scissors, money</td>
<td>Villawood IDC</td>
<td>21/02/2008</td>
</tr>
<tr>
<td>Timber plank, metal bar</td>
<td>Villawood IDC</td>
<td>21/02/2008</td>
</tr>
<tr>
<td>Timber planks, broken concrete</td>
<td>Villawood IDC</td>
<td>23/02/2008</td>
</tr>
<tr>
<td>Alcohol</td>
<td>Villawood IDC</td>
<td>27/02/2008</td>
</tr>
<tr>
<td>Camera phone</td>
<td>Villawood IDC</td>
<td>28/02/2008</td>
</tr>
<tr>
<td>Alcohol</td>
<td>Villawood IDC</td>
<td>8/03/2008</td>
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Foreign Affairs and Trade: Mekong River

(Question No. 840)

Senator Rhiannon asked the Minister representing the Minister for Foreign Affairs, upon notice, on 21 July 2011:

In regard to Lao People's Democratic Republic's (Laos') proposed Xayaburi Dam on the mainstream of the Mekong River, Australia's support to the Mekong River Commission (MRC), and Australia's bilateral aid to Mekong countries bordering the Mekong River:

(1) As a major donor to the MRC, and for the MRCs Procedures for Notification, Prior Consultation and Agreement under the 1955 Mekong Agreement (PNPCA), what position does the Australian Government hold on the proposed Xayaburi Dam, and the other proposed mainstream dams on the Mekong River.

QUESTIONS ON NOTICE
(2) What is the Australian Government's understanding of the current status of the PNPCA.

(3) Does the Australian Government consider that obligations under the procedures have been met, and whether they are completed or still ongoing.

(4) What messages will Australia be sending to the Mekong governments in the lead up to the proposed ministerial meeting to discuss the Xayaburi Dam.

(5) Given that the Vietnam and Cambodian Governments have made clear public statements regarding their concerns with the Xayaburi Dam, including support for the recommended 10 year moratorium on the dams, how will Australia support these countries' clearly stated public views on the Xayaburi Dam and the PNPCA.

(6) Will the Minister, or an Australian Government representative, meet bilaterally with the Lao Government to encourage a renewed commitment by Laos to international dialogue and decision making, via regionally mandated processes, for the Xayaburi Dam; if so, what messages will the Australian Government give to the Lao Government.

(7) Given Australia's previous influential role in Development Partner considerations of the proposed dams, will the Australian Government join with other governments such as Vietnam and the United States of America, in publicly supporting the recommendations of the Strategic Environmental Assessment and call for a 10 year moratorium on decisions regarding the Mekong mainstream dams.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) The Australian Government regards the development and use of the waters of the Mekong River Basin as sovereign decisions for Mekong governments. However the Australian Government is concerned that deliberation processes about Mekong water resources development are transparent, well-informed and inclusive, as the livelihoods of millions of people may be affected. The Australian Government's technical support provided under the Australian Mekong Water Resources Program and policy advocacy about the Procedures for Notification, Prior Consultation and Agreement (PNPCA) process supports this ambition.

(2) The MRC met at ministerial level in Siem Reap, Cambodia from 7-9 December 2011 to further discuss the proposed Xayaburi Hydropower Dam proposal. There was no direct statement on the Xayaburi Hydropower Dam issued at that meeting. Member countries agreed to conduct further studies on the sustainable development and management of the Mekong River, including the impacts of mainstream hydropower development projects. The MRC has not officially announced that the formal Xayaburi Hydropower Dam deliberation process has completed.

(3) The Australian Government notes the status of the formal Xayaburi Hydropower Dam deliberation process is uncertain. The Australian Government, and other MRC development partners, consider that there are many key remaining knowledge gaps about the potential impact of Xayaburi Hydropower Dam proposal and other Mekong mainstream dam proposals. The potential impact of the Xayaburi Hydropower dam proposal, and others like it, on fisheries and sediment flows are areas that in particular warrant further research. Therefore Australia and other MRC development partners have urged (through a range of fora that includes the MRC), that the results of research work into these issues needs to be made available and discussed with all relevant stakeholders before any Lower Mekong mainstream dam proposal proceeds to construction, including the Xayaburi Hydropower Dam.

(4) Australia took the lead in formulating a joint MRC development partner statement, which addressed the dam, delivered to the 7-9 December 2011 MRC Council meeting. In this statement donors welcomed the decision reached at the Council meeting to conduct further studies on the sustainable development and management of the Mekong River, including the impacts of mainstream hydropower development projects. The statement noted that the study should draw upon the best of international scientific, social and economic advice and holistic consultation processes and that MRC development
partners would assist the MRC to ensure this was realized. The statement urged that the results of the research work needed to be available and discussed before any Lower Mekong mainstream dam proposal proceeds to construction, including the Xayaburi Hydropower Dam.

(5) The Australian Government will continue to engage with all MRC Member States in support of dam deliberation processes that are well-informed, transparent and allow for contestability. The Australian Government’s aim is to support, and advocate for, robust deliberative processes in the countries and communities most affected. The Australian Government wants to ensure the benefits and costs are fully considered, and that as a result, informed decisions are taken by the governments of the Mekong basin countries. The Australian Government’s support for, and engagement with, the MRC and its Member States supports these objectives.

(6) Australia’s Ambassador to Laos has raised the Xayaburi Hydropower dam on several occasions with senior members of the Government of Laos. These have included the Minister in the Prime Minister’s Office and Head of the Water Resources and Environment Administration, the Minister for Planning and Investment, and the Minister for Natural Resources and Environment. During these meetings Australia advocated for a transparent and well informed Xayaburi hydropower dam deliberation process that would allow for meaningful discussions by all interested stakeholders. Australia and other donors have continued to call for this through the Joint MRC development partner statement to the December 2011 MRC Council meeting.

(7) The Australian Government has not called for a 10 year moratorium of Mekong mainstream dam construction. The Australian Government judges it would be more productive to continue to engage with MRC Member States in support of dam deliberation processes that are well-informed, transparent and allow for contestability. The Australian Government’s aim is to support, and advocate for, robust deliberative processes in the countries and communities most affected. The Australian Government wants to ensure the benefits and costs are fully considered, and that as a result, informed decisions are taken by the sovereign nations of the Mekong basin.

Foreign Affairs and Trade
(Question No. 928)

Senator Johnston asked the Minister representing the Minister for Foreign Affairs, upon notice, on 18 August 2011:

What is the accumulated sum of outstanding and written off debt from consular assistance rendered since the Foreign Affairs, Defence and Trade References Committee report, Helping Australians abroad: A review of the Australian Government’s consular services was tabled in 1997.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

The current sum of outstanding debts from consular loans is $1,425,256 (as at 31 August 2011).

To provide information on all written-off debt would entail a significant diversion of resources and in these circumstances I do not consider the additional work can be justified.

Foreign Affairs and Trade: Staffing
(Question Nos 1117 and 1131)

Senator Humphries asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 12 September 2011:

(1) Have staffing numbers in agencies within the Minister’s portfolio been reduced as a result of the efficiency dividend and/or other budget cuts; if so, in which areas and at what classification.

(2) Are there any plans for staff reduction in agencies within the Minister's portfolio; if so, can details be provided i.e. reduction target, how this will be achieved, services/programs to be cut etc.
(3) What changes are underway or planned for graduate recruitment, cadetships or similar programs, and if reductions are envisaged can details be provided, including reasons, target numbers etc.

Senator Conroy: The Minister for Foreign Affairs and the Minister for Trade have provided the following answer to the honourable senator's question:

DFAT

(1) There has been no reduction in the average staffing levels in the Department of Foreign Affairs and Trade (DFAT) as a result of the efficiency dividend or other budget cuts in 2010-11 or 2011-12.

(2) There are no plans for a reduction in the average staffing level.

(3) No changes are underway or planned for DFAT's graduate recruitment. DFAT has no plans to reduce its intake for graduate recruitment, cadetships or similar programs.

AusAID

(1) No.

(2) No.

(3) In 2012 the AusAID Graduate Program will increase from 25 to 50 participants and the program period will be extended from eleven months to two years.

Austrade

(1) There have been no staff reductions as a result of the efficiency dividend. At 1 July 2011, Austrade had reduced, by 17, offshore locally engaged positions at various levels in the established markets of North America (Denver, Honolulu, Kansas, Miami, San Diego and Montreal) and Europe (Copenhagen, Amsterdam, Rotterdam and Dublin). These reductions were guided by a comprehensive review of Austrade announced by the Minister for Trade on 17 May 2011 which redistributed resources to maximise the organisation's value to Australian companies doing business internationally and also met the portfolio savings target of $2.223 million per year.

(2) See response to 1.

(3) A graduate program and a trade commissioner development program will commence in 2011–12.

Export Finance and Insurance Corporation (EFIC)

(1) No.

(2) No.

(3) Nil.

Australian Centre for International Agricultural Research (ACIAR)

(1) No.

(2) No.

(3) Nil.

Attorney-General's, Home Affairs and Justice: Staffing
(Question Nos 1127, 1136 and 1137 supplementary)

Senator Humphries asked the Minister representing the Attorney-General, and the Minister for Home Affairs and Minister for Justice, upon notice, on 12 September 2011:

(1) Have staffing numbers in agencies within the Minister's portfolio been reduced as a result of the efficiency dividend and/or other budget cuts; if so, in which areas and at what classification.

(2) Are there any plans for staff reduction in agencies within the Minister's portfolio; if so, can details be provided i.e. reduction target, how this will be achieved, services/programs to be cut etc.
(3) What changes are underway or planned for graduate recruitment, cadetships or similar programs, and if reductions are envisaged can details be provided, including reasons, target numbers etc.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

For the purpose of answering the question, staffing is measured by Average Staffing Levels (ASL). As a Government Business Enterprise, the Australian Government Solicitor (AGS) operates on a commercial and competitive basis and does not receive any parliamentary appropriations and is not subject to the efficiency dividend.

(1) The following agencies have not had their budgeted ASL reduced as a result of the efficiency dividend and/or other budget changes: Administrative Appeals Tribunal, Australian Commission for Law Enforcement Integrity, Australian Human Rights Commission, Australian Law Reform Commission, Australian Security Intelligence Organisation, CrimTrac, Federal Court of Australia, Copyright Tribunal of Australia, Defence Force Discipline Appeal Tribunal, Federal Magistrates Court of Australia, Insolvency and Trustee Service Australia and the Office of Parliamentary Counsel.

As identified in the 2011-12 Portfolio Budget Statements the Attorney-General's Department and the following agencies have had reductions in budgeted ASL as a result of the efficiency dividend and/or other budget changes: Australian Crime Commission, Australian Federal Police, Australian Customs and Border Protection Service, Australian Institute of Criminology, Australian Transaction Reports and Analysis Centre, Commonwealth Director of Public Prosecutions, Family Court of Australia, High Court of Australia, and the National Native Title Tribunal.

The budgeted reductions are anticipated to be across a broad range of the portfolio's functions, areas and classifications in response to Government priorities over the forward estimates.

(2) The following agencies do not have planned staff reductions: Administrative Appeals Tribunal, Australian Commission for Law Enforcement Integrity, Australian Human Rights Commission, Australian Institute of Criminology, Australian Law Reform Commission, Australian Security Intelligence Organisation, CrimTrac, Federal Magistrates Court of Australia, High Court of Australia, Insolvency and Trustee Service Australia and the Office of Parliamentary Counsel.

Attorney-General's Department

The Department operates within budget and deploys employees between programs in response to Government priorities. In the 2011-12 Portfolio Budget Statements, the Department has forecast a reduction of 25 ASL, of which 21 ASL are directly related to changes in funding received for New Policy Proposals and four relate to a general reduction in staff numbers. The planned staffing reduction will be managed by natural attrition.

Australian Crime Commission

The ACC is planning to reduce its staffing levels by approximately 23 ASL. The ACC will manage this reduction through voluntary redundancies, natural attrition and the expiry of non-ongoing contracts. Measures are in place to ensure that priority areas of the ACC are allocated the resources required to perform their functions.

Australian Customs and Border Protection Service

As outlined in the 2011-12 Portfolio Budget Statement the Australian Customs and Border Protection Service is planning a reduction in the average staffing level (ASL) of 90. The majority of staffing reductions will occur in the Passengers Division with average ASL levels being reduced by 87 over four years. There will also be a small number of other staff reductions across the agency. This reduction will be managed through natural attrition and adjustments to recruitment programs.
**Australian Federal Police**

As stated in the 2011-12 Portfolio Budget Statement the AFP is anticipating a reduction of 72 ASL. The organisation has reduced its Full Time Equivalent (FTE) during the 2011-12 financial year due to natural attrition, retirements and voluntary redundancies. The voluntary redundancy program is part of a normal workforce management program for the organisation. The AFP will continue to exercise financial restraint.

As part of the Government's commitment to increase the number of sworn investigators by an additional 500, the 2011-12 budget process was projected to achieve 359 FTE against this New Policy Initiative.

**Australian Transaction Reports and Analysis Centre**

Yes. AUSTRAC is planning to reduce its staffing numbers. The number will be determined in light of the outcomes of other savings measures. This reduction will primarily be achieved through natural attrition and workforce planning strategies. Progress will be monitored throughout the year and other measures will be considered should the required reduction target not be met.

**Commonwealth Director of Public Prosecutions**

There are plans for further reductions. Staffing number reductions will be achieved across the broad range of office functions rather than in relation to specific areas, classifications, services or programs.

As stated in the 2011-12 Portfolio Budget Statements the staffing levels expected for the out years are

(a) 2011-12 anticipated ASL 513;
(b) 2012-13 anticipated ASL 508;
(c) 2013-14 anticipated ASL 496;
(d) 2014-15 anticipated ASL 494.

**Family Court of Australia**

As outlined in the 2011-12 Portfolio Budget Statements, the Family Court of Australia is planning to reduce its staffing levels by an approximate 25 ASL. Staffing reductions in the Court will be managed in accordance with the Commonwealth's redeployment principles which give a high priority to redeploying excess employees across the APS and stress that compulsory retrenchment should be avoided.

**Federal Court of Australia, Copyright Tribunal of Australia and Defence Force Discipline Appeal Tribunal**

There will be a need for further staff reductions but there are no plans at this stage on how these will be achieved.

**National Native Title Tribunal**

There are plans for further reductions. The staffing levels expected for the out years are

(a) 2011-12 anticipated ASL 154;
(b) 2012-13 anticipated ASL 150;
(c) 2013-14 anticipated ASL 145.
(d) 2014-15 anticipated ASL is expected to plateau at 145.

The reduction in staffing will be achieved through implementing the Tribunal's Workforce Plan 2011-14, produced in August 2011. Measures to date include the following decisions:

- to merge three sections (Legal, Research and Library) into one section, as at 26 September 2011, and associated involuntary redundancies;
- to further reduce staffing levels in Finance and Human Resources;
continuing to further reduce staff numbers, through natural attrition wherever possible.

(3) There are no planned changes across the portfolio to graduate recruitment, cadetships or similar programs with the following exceptions:

**Australian Customs and Border Protection Service**

The Graduate Development Program is anticipated to increase by 19 participants for the calendar year 2012.

A small increase in numbers for the National Trainee Training Program is anticipated for the calendar year 2012.

The Indigenous Graduate Program is anticipated to decrease by one participant for the calendar year 2012.

**National Native Title Tribunal**

As part of its Indigenous Employment Strategy, the Tribunal hopes to be able to offer a cadetship, traineeship or internship to an Indigenous employee each year.

**Foreign Affairs and Trade: Travel**

(Question No. 1245)

**Senator Johnston** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 22 September 2011:

What was of the department's total expenditure on travel for the 2010-11 financial year, and of this, what sum was spent on:

(a) first class air travel;
(b) business class air travel;
(c) economy class air travel;
(d) international air travel; and
(e) domestic air travel.

**Senator Conroy:** The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

For the department's expenditure on travel refer to the 2010-11 DFAT Annual Report page 284, Financial Statements 2010-11, Note 3B. Following is a breakdown of the air travel booked in Australia through the department's Travel Management Company:

(a) First class air travel
$1,448,234
(b) Business class air travel
$20,529,172
(c) Premium Economy class air travel
$13,901
(d) Economy class air travel
$2,697,565
(e) International air travel
$20,438,958
(f) Domestic air travel
$4,249,914
Foreign Affairs and Trade: Hospitality
(Question No. 1246)

Senator Johnston asked the Minister representing the Minister for Foreign Affairs, upon notice, on 22 September 2011:

What was the department's total expenditure on hospitality and entertainment for the 2010-11 financial year, and of this, what sum was used for entertainment provided:

(a) overseas;
(b) within Australia; and
(c) in conjunction with the United Nations Security Council bid.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

For the financial year 2010-11, the department spent $4.75 million in Australia and overseas on hospitality and entertainment.

The composition of entertainment and hospitality expenditure overseas and in Australia:

(a) Overseas $4.02 million
(b) Australia $0.73 million
TOTAL $4.75 million

(c) Hospitality and entertainment expenditure relating to the United Nations Security Council bid has been incurred both through a range of specific events and as part of broader hospitality events across the diplomatic network. To collate records to identify this expenditure would entail a significant diversion of resources and, in these circumstances, I do not consider the additional work can be justified.

Foreign Affairs and Trade
(Question No. 1247)

Senator Johnston asked the Minister representing the Minister for Foreign Affairs, upon notice, on 22 September 2011:

What was:

(a) the department's total expenditure for the 2010-11 financial year on:
   (i) information and computer technology,
   (ii) consultancies,
   (iii) external accounting,
   (iv) external auditing,
   (v) external legal services, and
   (vi) membership and grants paid to affiliate organisations; and
(b) for each category in (a), what was the program breakdown of this expenditure.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer the honourable senator's question:

Total expenditure for 2010-11 in each of the requested categories is detailed below:

(a) (i) Refer 2010-11 Annual Report, Section 5, page 284.
  (ii) Refer 2010-11 Annual Report, Section 4, Appendix 12 – Consultancy services, page 232.
  (iii) External accounting: $0.056 million.
(iv) External auditing expense: $0.467 million. Of this $0.45 million relates to a notional charge for the annual audit conducted by the Australian National Audit Office. This is reported in the Financial Statements at Note 12 within the 2010-11 Annual Report (Resources received free of charge).

(v) External legal services: $3.080 million.

(vi) Refer 2010-11 Annual Report, Section 4, Appendix 11 – Grants and contributions, page 229.

The department does not itemise expenditure at the level of detail sought. To fully report expenditure at the level of detail asked would require a significant diversion of resources and I do not consider the additional work can be justified.

**Attorney-General's: Legal Aid**

(Question No. 1275 supplementary)

Senator Abetz asked the Minister representing the Attorney-General, upon notice, on 18 August 2011:

With reference to the answer to question on notice no. 1011 (Senate Hansard, 11 October 2011, p. 106), how much has been paid by way of legal aid in the pursuit of the cases.

Have any detainees or former detainees at immigration detention facilities initiated legal action against the Commonwealth for illegal detention: if so:

(a) how many;
(b) how many claims have been: (i) settled, or (ii) contested in court, by the Commonwealth;
(c) what has been the: (i) average, and (ii) total cost of settling these claims to date;
(d) which law firms, centres or practitioners have acted for such claimants;
(e) how many claimants has each firm, centre or practitioner represented; and
(f) has any firm, centre or practitioner been in receipt of funding from the Commonwealth for acting on behalf of detainees or former detainees; if so, in each case, how much was the funding].

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

Further to the interim answer tabled on 22 November 2011, the Attorney-General's Department has obtained additional information on services provided by legal aid commissions.

Legal Aid New South Wales has reported that for the relevant period costs and disbursements recovered by Legal Aid NSW were $218,006.

Victoria Legal Aid (VLA) has confirmed that it is assisting four former child detainees at immigration detention facilities in actions against the Commonwealth for illegal detention. VLA advises that it would not be appropriate to disclose information about costs at this point in time as it may have a bearing on the outcome; including VLA's ability to recover some or all of its costs from the Commonwealth.

VLA does not anticipate that it will usually or frequently fund claims for compensation by immigration detainees.

**Immigration and Citizenship**

(Question No. 1308)

Senator Abetz asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 31 October 2011:
With reference to the answer to question BE11/0081 taken on notice during the 2011-12 Budget estimates of the Legal and Constitutional Affairs Legislation Committee, in which it was indicated that the Enterprise Migration Agreement templates were under development:

(1) Have they been finalised?
(2) Can a template be provided?
(3) Which projects will potentially have the ability to use an Enterprise Migration Agreement?
(4) Which projects have sought an Enterprise Migration Agreement to date?

**Senator Ludwig:** The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

The Enterprise Migration Agreement template which is a legal contract is currently being developed in conjunction with the Department's legal area. The Enterprise Migration Agreements Submission Guidelines published early September 2011 (copy attached) provide comprehensive information on requirements for the program. The final template will reflect these guidelines. The Department expects the template to be finalised in coming months in time for the first Enterprise Migration Agreement to be given effect.

Enterprise Migration Agreements will be available to all State/Territory government approved resource projects with a capital expenditure of more than two billion Australian dollars and a peak workforce of more than 1500 workers during the construction phase.

The Department continues to actively liaise with a number of large scale resource companies that are interested in making a submission for an Enterprise Migration Agreement. To date, one formal submission to access an Enterprise Migration Agreement has been received. For commercial reasons, the Department does not consider it appropriate to disclose the company's details until such a time as the submission is approved.

**Native Forests: Timber Exports**

(Question No. 1322)

**Senator Ludlam** asked the Minister representing the Assistant Treasurer, upon notice, on 1 November 2011:

For each of the following financial years: 2005-06, 2006-07, 2007-08, 2008-09, 2009-10 and 2010-11:

(1) In relation to the export of sawn native forest timbers from Western Australia:
   (a) what quantity of sawn jarrah, karri and marri was exported from Western Australia on a per species basis;
   (b) from which ports was the timber exported;
   (c) who was the owner of the timber at the point of departure from Western Australia;
   (d) which ports received the timber (for each port, provide details of the quantity of each species received, for each year specified); and
   (e) who was the owner of the timber at the point of arrival overseas (for each owner, provide details of the quantity of each species received, for each year specified).

(2) In relation to the export of whole native forest logs from Western Australia:
   (a) what quantity of whole native forest logs was exported from Western Australia on a per species basis;
   (b) what was the financial value of the logs exported on a per species basis;
(c) from which ports were the logs exported, (for each port, provide details of the quantity of each species exported, for each year specified); and

(d) which ports received the timber, (for each port, provide details of the quantity of each species received, for each year specified).

Senator Wong: The Treasurer has provided the following answer to the honourable senator’s question:

(1) Please note: the native timber Marri (Corymbia Calophylaa) is not identified by Customs, and is not recorded as such in the dataset available to the Australian Bureau of Statistics. The answers provided below relate to jarrah and karri only.

(a)

FIN YR 2005—2006 Jarrah (Eucalyptus marginata) 6006.52 tonnes
FIN YR 2005—2006 Karri (Eucalyptus diversicolor) 1074.408 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) 8724.27 tonnes
FIN YR 2006—2007 Karri (Eucalyptus diversicolor) 1235.693 tonnes
FIN YR 2007—2008 Jarrah (Eucalyptus marginata) 8193.844 tonnes
FIN YR 2007—2008 Karri (Eucalyptus diversicolor) 1163.641 tonnes
FIN YR 2008—2009 Jarrah (Eucalyptus marginata) 8970.34 tonnes
FIN YR 2008—2009 Karri (Eucalyptus diversicolor) 1177.354 tonnes
FIN YR 2009—2010 Jarrah (Eucalyptus marginata) 8505.352 tonnes
FIN YR 2009—2010 Karri (Eucalyptus diversicolor) 2916.469 tonnes
FIN YR 2010—2011 Jarrah (Eucalyptus marginata) 9433.152 tonnes
FIN YR 2010—2011 Karri (Eucalyptus diversicolor) 809.812 tonnes

(b)

FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Brisbane 3.43 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Fremantle 5977.489 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Melbourne 17.201 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Perth 8.4 tonnes
FIN YR 2005—2006 Karri (Eucalyptus diversicolor) Fremantle 1039.234 tonnes
FIN YR 2005—2006 Karri (Eucalyptus diversicolor) Melbourne 35.174 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Fremantle 7976.181 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Melbourne 712.58 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Perth 0.25 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Sydney 35.259 tonnes
FIN YR 2006—2007 Karri (Eucalyptus diversicolor) Fremantle 1235.693 tonnes
FIN YR 2007—2008 Jarrah (Eucalyptus marginata) Fremantle 6919.438 tonnes
FIN YR 2007—2008 Jarrah (Eucalyptus marginata) Melbourne 1274.406 tonnes
FIN YR 2007—2008 Karri (Eucalyptus diversicolor) Fremantle 1103.394 tonnes
FIN YR 2007—2008 Karri (Eucalyptus diversicolor) Sydney 38.853 tonnes
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<th>Total Tonnage</th>
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<td>Karri</td>
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(c) The confidentiality provisions of the Census and Statistics Act 1905 prevent the disclosure of this information.

(d)
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<th>Port</th>
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QUESTIONS ON NOTICE
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Other and Unspecified Ports-Malaysia 18.38 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Other and Unspecified Ports-Vietnam 37.299 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Shanghai 549.747 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Tauranga 223.324 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Thessaloniki 1 tonne
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Tokyo 87.541 tonnes
FIN YR 2005—2006 Jarrah (Eucalyptus marginata) Yantian 29.227 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) All Ports 156.094 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Christmas Is. 0.1 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) All Ports-Singapore 618.258 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Antwerp 152.032 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Cape Town 0.056 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Felixstowe 88.74 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Other and Unspecified Ports-New Zealand 114.993 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Other and Unspecified Ports-USA 131.751 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Other and Unspecified Ports-Vietnam 161.302 tonnes
FIN YR 2006—2007 Jarrah (Eucalyptus marginata) Pasir Gudang 13.94 tonnes
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(2) Data for whole native logs is not captured by the Australian Bureau of Statistics.

Qantas
(Question No. 1323)

Senator Abetz asked the Minister for Tertiary Education, Skills, Science and Research, upon notice, on 2 November 2011:

In regard to the decision made by Qantas on 29 October 2011 to lock out its staff and ground its fleet: (1) How many meetings has the Minister or the Minister's office had with Mr Alan Joyce or Qantas executives, and for each meeting what was the date and time? (2) Can details be provided of the damage to Qantas caused by the union's campaign of industrial action as outlined by Qantas? (3) Was the Minister ever informed of the likely consequences of this damaging campaign on the survival of the airline?

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

I am advised that Minister Evans was in regular contact with all parties to the dispute, as stated in media statements prior to 29 October 2011.

Qantas has publicly stated its reasons for notifying a lock-out of employees and consequent decision to ground the Qantas fleet. Neither the Department nor my Office is in a position to verify Qantas' statements about the financial impact of protected industrial action by employees on its business.

I am advised that Minister Evans received a range of correspondence from constituents, industry groups, unions and other stakeholders expressing concern about the effect of the Qantas dispute on all...
parties involved. Minister Evans repeatedly urged the parties to negotiate in good faith and expressed concern about the Qantas dispute in public statements and media interviews prior to 29 October 2011.

**Qantas**

(Question No. 1325)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 2 November 2011:

In regard to the decision made by Qantas on 29 October 2011 to lock out its staff and ground its fleet: (1) How many meetings has the Minister or the Minister's office had with representatives of the Transport Workers Union, the Australian Licensed Engineers Association or the Australian and International Pilots Association in the past 12 months, and for each meeting what was the date, time and who was present. (2) Can details be provided of the damage to Qantas caused by the union's campaign of industrial action or any intention to cause damage as outlined by any of these unions. (3) Was the Minister or the Minister's office ever informed of the union's intention to continue industrial disputation?

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) I am advised that Minister Evans was in regular contact with all parties to the dispute, as stated in media interviews and public statements prior to 29 October 2011.

(2) No. Qantas has made some statements about the financial impact of protected industrial action by employees on its business, however, the Department is not in a position to verify these statements. Officials of the Transport Workers Union, the Australian Licenced Aircraft Engineers Association and the Australian and International Pilots Association have made statements about the objectives of their protected industrial action against Qantas. However, the Department is not in a position to verify these statements.

(3) Officials of the Transport Workers Union, the Australian Licenced Aircraft Engineers Association and the Australian and International Pilots Association made public statements at various times about taking protected industrial action against Qantas.

**Qantas**

(Question No. 1328)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 2 November 2011:

In regard to the decision made by Qantas on 29 October 2011 to lock out its staff and ground its fleet:

(1) At what time was the Minister's office informed that Qantas intended on locking out staff from Monday and grounding the fleet?

(2) At what time was the Minister informed that Qantas intended on locking out staff from Monday and grounding the fleet?

(3) Was the message conveyed that Mr Alan Joyce was available to speak to in regards to the advice that was provided?

(4) At what time was advice requested from the department?

(5) At what time was advice received from the department?

(6) At what time was a teleconference with ministers convened?

(7) At what time did the teleconference with ministers take place and which ministers were involved?
(8) Were any other people who were not Ministers involved in the teleconference; if so, who?
(9) Which minister made the final decision for the Government to take action under section 424 of the Fair Work Act 2009
    (the Act)?
(10) At what time did the Minister intervene under section 424 of the Act?
(11) At what time was a brief:
    (a) prepared; and
    (b) provided to the lawyers representing the Government at Fair Work Australia.
(12) Was the Minister in receipt of any advice prior to 29 October 2011 that the Qantas dispute was having a damaging effect on any sectors of the Australian economy; if so, can details be provided, including who the advice was from and what was the advice?
(13) Was the Minister aware of any calls prior to 29 October 2011 for the Government to take action on the Qantas dispute; if so, can details be provided, including from whom the calls were made, the concern expressed and the Minister's action.
(14) Prior to 29 October 2011 and since May 2011, did the Minister or anyone in the Minister's office request information or prepare a note or briefing for the Minister on the use of sections 424 or 431 of the Act; if so, can details be provided including the date, who prepared the information and the reason for the request.
(15) Was the Minister aware that Qantas, under provisions of the Act, could take action to lock out their staff?
(16) Did the Minister have any concerns prior to 29 October 2011 that the ongoing Qantas dispute was having an impact on the Australian economy or sectors within it; if so, did the Minister take any action to deal with those concerns.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) & (2) As the Prime Minister has publicly stated, the Government was advised around 2pm on Saturday 29 October 2011 that Qantas was grounding its fleet in preparation for a lockout. The Prime Minister has also confirmed that the Government did not have any earlier advice that planes would be grounded at 5pm. Minister Evans is also on the public record as confirming that Qantas gave the Government a 'couple of hours' notice.
(3) I am advised that Mr Joyce spoke in person to Minister Evans.
(4) & (5) I am advised that at 3.38pm on 29 October 2011 the Deputy Secretary for the Department (Deputy Secretary), spoke with the Minister about Qantas' decision on 29 October 2011 to lock out employees and ground its fleet. During this conversation the Minister sought and was provided with oral advice from the Deputy Secretary. The Minister then requested written advice from the Department, which was provided at around 4.35pm that afternoon.
(6), (7) The issue has been addressed in public statements made by Minister Evans and Minister & Albanese.
(8) The Minister for Tertiary Education, Skills, Jobs and Workplace Relations.
(9) The Australian Government Solicitor filed the Minister's application to terminate protected industrial action at Qantas under section 424 of the Act with Fair Work Australia at 8.48 pm. The hearing commenced at 10.09 pm.
(10) The Department instructed the Australian Government Solicitor
(AGS) at approximately 5 pm on 29 October 2011 to file the Minister's application with Fair Work Australia and to represent the Minister in this matter. AGS briefed Senior Counsel on the Minister's application at 6.30 pm on 29 October 2011.

(12) Several stakeholders suggested on the public record that the dispute was having a damaging effect. Legal advice concerning the Qantas dispute was provided to the Minister prior to 29 October 2011. The content of that advice is subject to legal professional privilege. So as to preserve that privilege, and recognising the public interest in governments being able to seek and receive legal advice in confidence, it would not be appropriate to provide the further information sought.

(13) A number of stakeholders (excluding Qantas and the relevant unions) requested Government 'intervention' in the dispute before 29 October 2011. These requests are on the public record. As Minister Evans has noted on the public record, all of the parties were suggesting that they could reach a negotiated settlement and did not ask the Government to intervene.

(14) Yes. Legal advice concerning the Qantas dispute was provided to the Minister in the period May 2011—29 October 2011 in relation to ss 424 and 431 of the Fair Work Act 2009. The further details that are sought about that advice are subject to legal professional privilege. So as to preserve that privilege, and recognising the public interest in governments being able to seek and receive legal advice in confidence, it would not be appropriate to provide the further information sought.

(15) Yes.

(16) As Minister Evans has noted on the public record, the parties were suggesting that they could reach a negotiated outcome and did not seek Government intervention. I am advised that Minister Evans encouraged the parties, on a number of occasions, to negotiate in good faith and reach agreement.

Immigration and Citizenship

(Question No. 1422)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 4 November 2011:

1. What was the total operating expenditure for the 2010-11 financial year.
2. What was the increase from the 2009-10 financial year.
3. What is the difference between the budgeted and actual expenditure for the 2010-11 financial year.
4. With reference to the answer to question no. BE11/0012 taken on notice during the 2011-12 Budget estimates of the Legal and Constitutional Affairs Legislation Committee, which states 'with their terms ending on 30 June 2010, 21 members did not seek reappointment, or were not reappointed for a further term', of these 21 members:
   (a) how many did not seek reappointment;
   (b) how many were not reappointed; and
   (c) of those who were not reappointed what was the reason in each case.
5. With reference to the answer to question no. BE11/0005 taken on notice during the 2011-12 Budget estimates of the Legal and Constitutional Affairs Legislation Committee, which states 'fees for the period from 1 March 2011 are subject to current negotiation and have not yet been invoiced':
   (a) what is the status of the of the 'current negotiation'; and
   (b) has it been completed; if so, what were the fees invoiced to the Independent Protection Assessment Office for this period; if not, why not.
6. How many additional tribunal members were appointed effective 1 July 2011.
(7) In regard to each of the following Key Performance Indicators (KPIs):
   (a) fewer than 5 per cent of tribunal decisions set aside by judicial review;
   (b) 70 per cent of bridging visas (detention cases) decided within 7 working days;
   (c) 70 per cent of RRT cases decided within 90 calendar days;
   (d) 70 per cent of MRT visa cancellation or revocation cases decided within 150 calendar days;
   (e) 70 per cent of MRT cases decided within 350 days;
   (f) fewer than 5 complaints received per 1,000 cases; and
   (g) at least 40 per cent of decisions published, can an analysis be provided of whether they were met for the 2010-11 financial year and 2011-12 financial year to date, and if a KPI was not met, why was it not met and what action has been taken.

(8) What has been the set-aside rate for the RRT and the MRT for the 2011-12 financial year to date by country of origin and visa category, and how does this compare with previous years.

(9) How many decisions have been made from 1 July 2011 to date by the RRT.

(10) How many decisions have been made from 1 July 2011 to date by the MRT.

(11) What has been the total cost of running the tribunals in the 2011-12 financial year to date.

(12) How many set aside decisions of the tribunal have been challenged by the minister in the 2011-12 financial year to date.

(13) With reference to an online article 'Immigration tribunals warn of tough times' (by Adam Gartrell on NineMSN, 14 October 2011), in which the tribunals head Mr Denis O'Brien is quoted as saying 'Meeting the target of finalising 70 per cent of RRT cases within 90 days will be a significant challenge in 2011-12', what is the basis for this statement.

(14) What will be the cost impact of the Government's new onshore processing policy and the prediction that up to 600 irregular maritime arrivals (IMAs) may arrive per month on the tribunal's operations, and are the tribunals making provisions for the expected increased arrivals and onshore processing; if so, what are they; if not, why not.

(15) How many IMAs are currently subject to the Protection Obligation Determination (POD) process which replaced the Refugee Status Determination process used for IMAs, and of this number, how many IMAs have had their claims for protection processed by the POD process.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) The tribunals' total operating expenditure for the 2010-11 financial year was $46.0 million.

(2) The tribunals' operating expenditure for the 2010-11 financial year was $1.2 million higher than the $44.8 million for the 2009-10 financial year.

(3) The tribunals' budgeted total operating expenditure for the 2010-11 financial year (for finalising 8,300 cases, as per the Portfolio Budget Statements 2010-11) was $42.5 million. The tribunals' recorded an actual total operating expenditure of $46.0 million in finalising 9,181 cases.

(4) (a) Four members did not seek a further appointment.

(b) Seventeen of the 42 members who sought reappointment were not appointed for a further term.

(c) The appointments were advertised and applicants, including members seeking reappointment, were assessed against the selection criteria by a selection committee in accordance with the Australian Public Service Commission's guidelines in relation to the appointment of statutory office holders. Those applicants who were rated most highly against the selection criteria were recommended for appointment.
(5) (a) Following negotiations, a revised Memorandum of Understanding (MOU) was signed between the tribunals and the Department of Immigration and Citizenship (DIAC) on 9 August 2011.

(b) Under the terms of the 9 August 2011 MOU, the tribunals invoiced DIAC fees totalling $326,721 (excluding GST) for the provision of legal services and country advice services to the Independent Protection Assessment Office (IPAO) for the period 1 March 2011 to 31 August 2011.

(6) Twenty-three new tribunal members were appointed for periods of five years on 1 July 2011 comprising one senior member, 10 full-time members and 12 part-time members. In addition four full-time members were promoted to senior members.

(7) (a) The key performance indicator of fewer than 5% decisions set aside by judicial review was met in the 2010-11 financial year and 2011-12 to date. In 2010-11, 0.3% of MRT and 1.1% of RRT decisions were set aside by judicial review. In 2011-12, no decisions made have yet been set aside by judicial review.

(b) The key performance indicator of 70% bridging visas decided within seven working days from lodgment was met in the 2010-11 financial year and in 2011-12 to date. In 2010-11, 96% of bridging visas were decided within seven working days from lodgment. In 2011-12, 98% of bridging visas were decided within seven working days from lodgment.

(c) The key performance indicator of 70% of RRT cases decided within 90 calendar days from receipt of the Department's documents was met in the 2010-11 financial year, but not met in 2011-12 to date. In 2010-11, 71% of RRT cases were decided within 90 calendar days. In 2011-12 to date, 52% of RRT cases were decided within 90 calendar days.

Reasons for cases taking longer than 90 days are included in reports to the Minister prepared every four months under section 440A of the Migration Act 1958 and tabled in Parliament. The report covering 1 July to 31 October 2011 is currently being prepared. For this reporting period, factors contributing to a lower compliance rate were increased lodgments and a reduction in member capacity, with members unavailable while undertaking independent protection assessments in relation to irregular maritime arrivals.

(d) The key performance indicator of 70% of MRT visa cancellation cases decided within 150 calendar days from lodgment was not met in the 2010-11 financial year or in 2011-12 to date. In 2010-11, 60% of MRT visa cancellations were decided within 150 days from lodgment. In 2011-12 to date, 25% of MRT visa cancellations were decided within 150 days from lodgment.

The capacity to decide MRT visa cancellation cases within 150 days of lodgment has reduced as lodgments have increased and members have been unavailable while undertaking independent protection assessments in relation to irregular maritime arrivals.

(e) The key performance indicator of 70% of MRT cases decided within 350 calendar days from lodgment was not met in the 2010-11 financial year or in 2011-12 to date. In 2010-11, 55% of MRT cases were decided within 350 calendar days from lodgment. In 2011-12 to 31 October, 56% of MRT cases were decided within 350 calendar days from lodgment.

The capacity to decide MRT cases has reduced as lodgments have increased and members have been unavailable while undertaking independent protection assessments in relation to irregular maritime arrivals.

(f) The key performance indicator of fewer than five complaints received per 1,000 cases decided was met in the 2010-11 financial year and in 2011-12 to date. In both the 2010-11 and 2011-12 financial years, fewer than three complaints per 1,000 cases were received.

(g) The key performance indicator of at least 40% of decisions published was met in the 2010-11 financial year and in 2011-12 to date. In 2010-11, 43% of all decisions were published. In 2011-12 to date, 44% of all decisions were published.
(8) Between 1 July and 31 October 2011 36% of decisions have been set aside by the MRT and 26% by the RRT. By comparison, in 2010-11, 41% of MRT decisions and 24% of RRT decisions were set aside.

The following tables present the set aside rates for MRT, by visa category, and RRT, by country of origin, from 1 July to 31 October 2011 and the 2010-11 and 2009-10 financial years.

### MRT Set Aside Rates (and Cases Set Aside) by Visa Category

<table>
<thead>
<tr>
<th>Visa Category</th>
<th>2011-12 Financial Year to 31 October 2011</th>
<th>2010-11 Financial Year</th>
<th>2009-10 Financial Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bridging refusal</td>
<td>11% (11)</td>
<td>12% (33)</td>
<td>15% (23)</td>
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<tr>
<td>Visitor refusal</td>
<td>69% (188)</td>
<td>59% (445)</td>
<td>58% (393)</td>
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<tr>
<td>Student refusal</td>
<td>28% (167)</td>
<td>36% (473)</td>
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<td>Temporary business refusal</td>
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<td>Permanent business refusal</td>
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<td>Skilled refusal</td>
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<tr>
<td>Partner refusal</td>
<td>55% (158)</td>
<td>62% (579)</td>
<td>66% (840)</td>
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<td>Family refusal</td>
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<td>Student cancellation</td>
<td>20% (59)</td>
<td>25% (201)</td>
<td>41% (333)</td>
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<tr>
<td>Sponsor approval refusal</td>
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<td>21% (32)</td>
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<tr>
<td>Other</td>
<td>26% (32)</td>
<td>32% (143)</td>
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<td><strong>TOTAL</strong></td>
<td>36% (806)</td>
<td>41% (2,728)</td>
<td>45% (3,429)</td>
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### RRT Set Aside Rates (and Cases Set Aside) by Country of Origin

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QUESTIONS ON NOTICE
### QUESTIONS ON NOTICE

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<tr>
<td>Pakistan</td>
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### QUESTIONS ON NOTICE

<table>
<thead>
<tr>
<th>Identified country</th>
<th>2011-12 to 31 October</th>
<th>2010-11</th>
<th>2009-10</th>
</tr>
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<td>Palestinian Terr. (W.Bank/Gaza)</td>
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</tr>
<tr>
<td>Zimbabwe</td>
<td>10</td>
<td>59%</td>
<td>47</td>
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<tr>
<td>Total</td>
<td>211</td>
<td>26%</td>
<td>626</td>
</tr>
</tbody>
</table>

(9) Between 1 July and 31 October 2011, 816 cases were decided by the RRT.
(10) Between 1 July and 31 October 2011, 2,227 cases were decided by the MRT.
(11) The tribunals’ total operating expenditure for the 2011-12 financial year to 31 October was $16.5 million.
(12) No tribunal decisions have been challenged by the Minister for Immigration and Citizenship in the courts in the 2011-12 financial year to 31 October 2011.
(13) The tribunals have experienced large increases in lodgments over the last two years and member capacity has reduced through members who are working as independent protection assessors for the IPAO.
Since 2008-09, lodgments to the MRT and RRT have increased by 33%, rising from 9,960 to 13,281 in 2010-11. Although the tribunals' membership was recently boosted by the appointment of 23 new members to a total of 112 members, 20 members are currently appointed as independent protection assessors, and the tribunals operated for much of 2010-11 with 81 active members. These factors resulted in the tribunals' on-hand caseload almost doubling since 2009, with the number of cases on hand increasing from 6,919 on 1 July 2009 to 13,726 at 31 October 2011.

(14) Funding adjustments are currently being considered and negotiated with the Department of Finance and Deregulation. Updated expense estimates will be provided as part of the 2011-12 Additional Estimates process.

(15) As at 20 November 2011, 3,399 people had been screened into the POD process, with the RSA process continuing in parallel for those people already in that process. Of these, 817 people had been granted a Protection visa and 474 people referred for independent merits review.

**Employment and Workplace Relations and School Education, Early Childhood and Youth**

(Question Nos 1455 and 1456)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations and the Minister for School Education, Early Childhood and Youth, upon notice, on 10 November 2011:

In regard to the department and all agencies within the Minister's portfolio, can a breakdown be provided of spending for the 2010-11 financial year and an estimate of spending for the 2011-12 financial year, in relation to:

(a) advertising;
(b) travel, including a further breakdown for economy versus business class travel and domestic versus international travel;
(c) hospitality and entertainment;
(d) information and communications technology;
(e) consultancies;
(f) education or training for staff;
(g) external accounting;
(h) external auditing;
(i) external legal; and
(j) memberships or grants paid to affiliate organisations.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The below tables provide expenditure outcomes for 2010-11 and estimates for expenditure for 2011-12.

(a) Advertising

<table>
<thead>
<tr>
<th>Dept/ Agency</th>
<th>2010-11 $</th>
<th>2011-12 Estimate $</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>11,225,344</td>
<td>7,400,000</td>
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<tr>
<td>Australian Building and Construction Commissioner (ABCC)</td>
<td>67,715</td>
<td>60,000</td>
</tr>
<tr>
<td>Australian Curriculum, Assessment &amp; Reporting Authority (ACARA)</td>
<td>1,613,706</td>
<td>125,000</td>
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</tbody>
</table>

QUESTIONS ON NOTICE
(b) Travel – expenditure is not recorded in the financial ledger in a way that readily identifies economy versus business. To provide this level of detail would require examination of thousands of records which is an unreasonable diversion of departmental/ agency resources.

<table>
<thead>
<tr>
<th>Dept/ Agency</th>
<th>2010-11</th>
<th>2011-12 Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Institute for Teaching and School Leadership (AITSL)</td>
<td>261,911</td>
<td>255,000</td>
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<tr>
<td>Australian Skills Quality Authority (ASQA)</td>
<td>Nil</td>
<td>22,500</td>
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<tr>
<td>Comcare</td>
<td>67,000</td>
<td>124,000</td>
</tr>
<tr>
<td>Fair Work Australia (FWA)</td>
<td>89,847</td>
<td>135,000</td>
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<tr>
<td>Fair Work Ombudsman (FWO)</td>
<td>106,769</td>
<td>90,000</td>
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<tr>
<td>Safe Work Australia (SWA)</td>
<td>127,293</td>
<td>52,545</td>
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<tr>
<td>Tertiary Education Quality and Standards Authority (TEQSA)</td>
<td>Nil</td>
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</tr>
</tbody>
</table>

Note: Comcare and FWO do not keep separate records of domestic and international travel.
ACARA have not separated the 2011-12 estimate into domestic and international travel.
ABCC and SWA travel figures are for airfares only.

(c) Hospitality and Entertainment

<table>
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<th>Dept/ Agency</th>
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<th>2011-12 Estimate</th>
</tr>
</thead>
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<td>Dept/ Agency</td>
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<td>2011-12 Estimate $</td>
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<td>--------------------------------------------------</td>
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<tr>
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<tr>
<td>(d) Information and Communications Technology</td>
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1 Includes legal consultancies

(f) Education or training for staff
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### (g) External Accounting

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<td>Safe Work Australia (SWA)</td>
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<tr>
<td>Tertiary Education Quality and Standards Authority (TEQSA)</td>
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</table>

1 Included in consultancies; not separately identified.

### (h) External Auditing (including Resources Received Free of Charge)

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1 Relates to ANAO only. The cost of other auditing services is included in consultancies and is not separately identified.

### (i) External Legal

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<th>2011-12 Estimate $</th>
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<tr>
<td>Tertiary Education Quality and Standards Authority (TEQSA)</td>
<td>Nil</td>
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</tr>
</tbody>
</table>

(j) Memberships or Grants paid to affiliate organisations
**Housing Affordability**  
*(Question No 1458)*

**Senator Ludlam** asked the Minister representing the Treasurer, upon notice, on 10 November 2011:

With reference to the answer to question no. AET 157, taken on notice during the 2010-11 additional estimates hearings of the Economics Legislation Committee, which stated that 5.8 full-time equivalents within the department are working on housing affordability:

1. To what extent are taxation issues relating to housing included in the work or analysis of these staff.

2. Can a detailed outline be provided of the work of these staff relating to 'identifying currently underutilised land'.

**Senator Wong:** The Treasurer has provided the following answer to the honourable senator's question:

The Treasury considers a comprehensive range of housing and housing related issues. These have included taxation issues from time to time.

Issues relating to underutilised land also arise. The main area of activity however relates to work lead by the Department of Finance and Deregulation as part of the Commonwealth Land Audit which identifies underutilised Commonwealth land.

**Broadband, Communications and the Digital Economy**  
*(Question No. 1465)*

**Senator Ludlam** asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 14 November 2011:

In regard to Australia Institute's research and survey of July 2011 ('What you don't know can hurt you' – Institute Paper No. 6) on public attitudes about online competition:

1. How is the department promoting a competitive online market place.

2. What stakeholder engagement has it undertaken to examine how vertical search engines are able to compete on an equal basis.

**QUESTIONS ON NOTICE**
(3) What consideration has the department given to the need for network neutrality in ensuring effective growth in the digital economy.

(4) Has the department encountered concern from stakeholders regarding transparency of search engine rankings and how is this likely to influence their position in the digital economy.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) How is the department promoting a competitive online market place.

The department is responsible for three government initiatives that promote an informed and competitive online market place:

- Digital Enterprises program
- Digitalbusiness.gov.au resource
- Digital Hubs program

_Digital Enterprises_

The Digital Enterprise program is designed to help small-to-medium enterprises and not-for-profit organisations better understand how they can maximise the opportunities from greater digital engagement enabled by the NBN.

The program will provide group training seminars as well as one-on-one advice on how participants can use the NBN to make greater use of online opportunities to conduct their existing processes more efficiently and better achieve their organisational goals.

The program was established to contribute to the Australian Government's vision for Australia as a leading global digital economy by 2020. In particular, this program is designed to contribute to the Digital Economy Goal that by 2020 Australia ranks in the top five OECD countries in relation to the percentage of businesses and not-for-profit organisations, using online opportunities to drive productivity improvements, expand their customer base and enable jobs growth.

The Digital Enterprise program will provide $10 million in grant funding over three years from 2011-12 to the first communities to benefit from the NBN.

_Digitalbusiness.gov.au_

Digitalbusiness.gov.au provides small and medium businesses and community organisations with up-to-date information and advice about establishing or enhancing their online presence.

A regularly updated blog provides ongoing information about issues in the field and new Government initiatives, while case studies provide users with practical examples of businesses and community organisations that have already found success online.

The website provides practical instructions on what people can do to go online and access the benefits and resources of the internet.

_Digital Hubs_

Digital Hubs will provide training to narrow the gap between those Australians who engage online and those who do not. Digital Hubs will enable local residents to increase their online engagement and better understand the opportunities presented by the NBN by demonstrating applications enabled by high-speed broadband.

This training will include advice on performing operations online such as using a search engine effectively.

(2) What stakeholder engagement has it undertaken to examine how vertical search engines are able to compete on an equal basis.
The department is aware of the Australia Institute's report's concerns that Google is used for the vast majority of searches in Australia. The department is monitoring this issue, however it notes that Australians are free to choose between search providers on a case-by-case basis.

(3) What consideration has the department given to the need for network neutrality in ensuring effective growth in the digital economy.

The government considers its role in the development of the digital economy as an enabler, as this transformation is very much a market-led phenomenon. Much of the network neutrality debate has occurred in the US where there is wide use of unlimited data broadband plans and associated network congestion. The Government is seeking to avoid congestion by building ubiquitous, high-speed bandwidth across the nation.

(4) Has the department encountered concern from stakeholders regarding transparency of search engine rankings and how is this likely to influence their position in the digital economy.

The department is aware of industry concern surrounding the transparency of search engine rankings. The department notes however that consumers can choose from a range of search engine providers to access information. There are no plans to regulate the algorithms used by search engine providers to generate their rankings.

**Australian Taxation Office: Information Sharing**

(Question No. 1468)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 14 November 2011:

(1) What arrangements for information sharing between the Australian Taxation Office (ATO) and the Office of the Child Support Registrar were in place from 2001 to the coming into law of the Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010 (the Act).

(2) What is the nature of the information sharing arrangements in place between the ATO and the Office of the Child Support Registrar following the coming into law of the Act.

(3) (a) Are the documents forming the information sharing arrangements:

(i) private or restricted access documents, and

(ii) able to be recovered under freedom of information; and

(b) if access to the documents is restricted, on what basis is access restricted.

(4) On what date was the first formal administrative arrangement put in place to allow authorised access to taxation information by the Office of Child Support Registrar.

**Senator Wong:** The Treasurer has provided the following answer to the senator's question:

(1) Following the Government's administrative arrangements order of October 1998, the Child Support Agency (CSA) was established as a separate entity from the Australian Taxation Office (ATO). Memorandums of Understanding (MOUs) and other agreements were put in place to support effective ongoing collaboration between the agencies to ensure legislative requirements are met on an ongoing basis. These agreements set out the protocols for the exchange of taxpayer information and facilitate compliance with the information-handling obligations of CSA and the ATO.

Information sharing arrangements were included in an agreement between CSA and the ATO which came into effect on 2 August 1999. Further, an MOU was signed on 30 June 2004, with the objective of formalising the links between the agencies in relation to information required to support CSA's assessment, collection and enforcement activities. On 6 September 2007, a head MOU between the agencies came into effect. A subsidiary arrangement under the head MOU for access by CSA to ATO.
information was signed on 19 November 2009. A revised version of the subsidiary arrangement came into effect on 25 November 2011.

(2) The information sharing arrangements between the ATO and CSA have not changed since the coming into law of the *Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010*. This Act consolidated the secrecy provisions that had previously existed in 18 taxation law Acts and placed them in Division 355 of Schedule 1 to the *Taxation Administration Act 1953*. The Act did not change the effect of the legal authority under which the ATO may disclose taxpayer information to the Child Support Registrar. ATO officers have remained able to disclose taxpayer information to the Child Support Registrar "for the purpose of administering the *Child Support (Registration and Collection) Act 1988* or the *Child Support (Assessment) Act 1989*" (item 7 in table 1 in subsection 355-65(2) of Schedule 1 to the *Taxation Administration Act 1953*). The new taxation secrecy framework had no effect on the Child Support Registrar's information gathering powers under child support legislation. The Registrar continues to be able to exercise powers in the child support legislation to require the Commissioner to provide information about taxpayers, including tax file numbers.

(3) The MOU and subsidiary arrangements between the ATO and CSA have generally not been published. They may, like any document, be the subject of a request under the *Freedom of Information Act 1982*. The 19 November 2009 'Subsidiary Arrangement – Access to Tax Office Information' is now available to the public on the Parliament of Australia website.

(4) The first formal administrative arrangement put in place in relation to access to taxation information by CSA was the agreement relating to information sharing arrangements that came into effect on 2 August 1999. This administrative arrangement did not in itself allow access to information. It merely set in place administrative arrangements for carrying out activities involving both the ATO and CSA, including the disclosure of information as permitted or required by relevant taxation and child support laws.

**Immigration and Citizenship**

(Question No. 1470)

Senator Abetz asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 18 November 2011:

In regard to the answer to question on notice no. BE11/0577 taken on notice during the 2011-12 Budget estimates hearings of the Legal and Constitutional Affairs Legislation Committee, who is on the Community Consultation Committee and who determined who would be on it.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

The Community Consultation Group (CCG) comprises of key stakeholders drawn from Tasmanian Government agencies, local government representatives, organisations and groups that have approached Serco or DIAC with the offer of voluntary services, and others as guided by the protocol set out in the Detention Services Manual, Chapter 4 "Community Consultative Group Protocol".

CCG membership will comprise of:

- the Chair (member/s of the Council for Immigration Services and Status Resolution)
- the regional manager (or delegate)
- the detention service provider (DSP) centre manager (or delegate)
- other departmental or DSP officers involved in service delivery
- a representative from the Commonwealth Ombudsman's office
- up to ten community representatives, as determined by the regional manager, for a period of 12 months.
Membership was by invitation from the Regional Manager, DIAC after consultation with the Chair. Nominations for CCG membership can also be proposed by existing members. A formal committee was established and meetings were held on 7 September 2011 and 29 November 2011.

The CCG is Chaired by Air Marshal Ray Funnell, a member of the Council for Immigration Services and Status Resolution (CISSR).

The membership of the CCG is as follows:

- CISSR Representative (Chair)
- Regional Manager, DIAC
- Director Case Management, DIAC
- Contract Manager, DIAC
- Detention Operations Manager, DIAC
- Centre Manager, SERCO
- Senior Programs Manager, SERCO
- Program and Activities Manager, SERCO
- Senior Operations Client Welfare Manager, SERCO
- Community Liaison Officer, SERCO
- Health Services Manager, IHMS
- Mental Health Team Leader, IHMS
- Mayor, Brighton Council
- Australian Red Cross South Tasmania Representative
- Tasmania Asylum Seeker Support Group Representative
- Tasmanian Council of Churches
- Public Affairs Officer Tasmania
- Migrant Resource Centre Representative
- Department of Premier and Cabinet Representative x 2
- Phoenix Centre Representative
- Centacare Representative x 2
- Occupational Therapy Tasmania

**National Broadband Network**  
*(Question No. 1480)*

**Senator Ian Macdonald** asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 25 November 2011:

1. In regard to the National Broadband Network (NBN) rollout:
   a. Why has NBN Co dismissed the use of existing teleports in Australia;
   b. Why is NBN Co not looking to maximize Australian content; (i) what orbital slots is NBN Co using; (ii) how did it procure the orbital slots; and (iii) at what cost; and
   c. Are the orbital slots fully coordinated with adjacent satellite operators?

2. In regard to NBN Co satellite services:
(a) How many users is NBN Co intending to serve with the two Ka-band satellites and what is the estimated cost on a per user basis;

(b) Can the satellite service be delivered more cost effectively through hosted payloads; if not, why not;

(c) What have senior NBN Co procurements staff stated to industry during discussions that their vision is that NBN Co will become the satellite operator in Australia;

(d) Is there an intention to re-create Aussat;

(e) Why is NBN Co building a large organisation to procure, design and manage the satellite service when it could be done by specialist organisations;

(f) Why has it taken more than 2 years to develop the project;

(g) Can the Minister or NBN Co advise if NBN Co will provide government-subsidised satellite services to large multi-national enterprises; and (i) what is the cost per user for the interim satellite service, (ii) how does this compare to commercially available services, and (iii) can the interim satellite service be scaled with additional leased capacity on other satellites; if not, why not.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) In regard to the National Broadband Network (NBN) rollout:

(a) Why has NBN Co dismissed the use of existing teleports in Australia?

NBN Co Limited (NBN Co or the Company) is a Government Business Enterprise established to build and operate the National Broadband Network (NBN). Infrastructure investment decisions taken by the Company are considered by the NBN Co Board in the Company's commercial interests. This would include 'build versus lease' infrastructure investment decisions such as those relating to satellite teleports.

NBN Co has performed a detailed analysis and determined that no existing or newly proposed teleport meets its stringent service delivery requirements.

(b) Why is NBN Co not looking to maximise Australian content?

On 19 January 2010, NBN Co extended an invitation for Capability Statements from experienced Satellite Network operators and equipment providers capable of supporting the delivery of NBN Co's Long Term Satellite Service (LTSS) requirements.

This process has allowed NBN Co to test the market to determine what capabilities are available both from Australian and international providers.

While the Government expects NBN Co to maximise the use of Australian content and solutions where practical and economic to do so, it is reasonable that NBN Co may consider international providers as part of its high capacity broadband satellite service given they have a proven ability to deliver large-scale satellite projects.

(c) What orbital slots is NBN Co using? How did it procure the orbital slots? And at what cost? Are the orbital slots fully coordinated with adjacent satellite operators?

NBN Co has identified four orbital slots and is working with the Australian Communications and Media Authority (ACMA) on the orbital slot filing and coordination process.

(2) In regard to NBN Co satellite services:

(a) How many users is NBN Co intending to serve with the two Ka-band satellites and what is the estimated cost on a per user basis?

The NBN Co Corporate Plan 2011-13, which was publicly released on 20 December 2010, indicates that the Long Term Satellite Service (LTSS) will serve up to 200 000 users (pg. 71). The Corporate
Plan provides combined capital expenditure for both the LTSS and the fixed wireless network, which is approximately $3.2 billion to FY2021 (pg. 135).

(b) Can the satellite service be delivered more cost effectively through hosted payloads, if not, why not?

As part of the Request for Capability Statement process initiated on 19 January 2010, NBN Co tested the market to assess the viability of different arrangements including a hosted payload model and this approach was considered as part of planning for the Long Term Satellite Service.

NBN Co has advised that there is not sufficient capacity available through current or soon to be launched satellite networks to effectively meet NBN Co's requirements of delivering a 12/1 Megabits per second (Mbps) service with an Average Busy Hour Throughput (ABHT) of 300kbps for up to 200 000 end users.

(c) Why have senior NBN Co procurement staff stated to industry during discussions that their vision is that NBN Co will become the satellite operator in Australia?

It is not the Government's intention for NBN Co to be the sole satellite operator in Australia.

NBN Co's long term satellite objective is to provide affordable, high-speed broadband to the 3 per cent of Australian premises which will not have access to fibre to the premises or fixed wireless technology.

(d) Is there an intention to re-create Aussat?

No.

(e) Why is NBN Co building a large organisation to procure, design and manage the satellite service when it could be done by specialist organisations?

NBN Co assessment to date, including the Request for Capability Statement process initiated on 19 January 2010, has not found that outsourcing these aspects of the Long Term Satellite Service (LTSS) would help meet the requirements of delivering a 12/1 Mbps service with an ABHT of 300kbps for up to 200 000 end users.

It is also important to note that NBN Co is deploying the LTSS to integrate with its fibre and fixed wireless networks. In this context, NBN Co has indicated there is a clear benefit in developing in-house expertise to harmonize the coordinated rollout of the three technologies.

(f) Why has it taken more than 2 years to develop the project?

NBN Co has an objective of delivering fibre to the premises to 93 per cent of Australian premises and next-generation fixed wireless and satellite services to the remaining 7 per cent. NBN Co as a start-up company has commenced work concurrently on the fibre, wireless and satellite footprints.

On 7 September 2010, the Prime Minister announced that as the NBN is built, regional areas will be given priority to ensure they can more quickly overcome the 'digital divide' they currently experience. Fibre will be built in regional areas as a priority and NBN Co has brought forward the introduction of wireless and satellite services so that regional Australia can get access to better broadband as soon as possible.

On 1 July 2011, NBN Co announced the commercial launch of an interim satellite service which offers enhanced broadband services to eligible regional and remote end users, ahead of the commencement of the Long Term Satellite Service in 2015. This approach is consistent with the Statement of Expectations provided by the Government to NBN Co on 17 December 2010.

(g) Can the Minister or NBN Co advise if NBN Co will provide government-subsidised satellite services to large multi-national enterprises?

The Long Term Satellite Service (LTSS) is designed to provide affordable, high-speed broadband to premises outside the fibre and wireless footprints. The Government intends that the LTSS will connect
homes, small and medium enterprises, and community or government service organisations such as schools, hospitals, health clinics and councils.

(h) What is the cost per user for the interim satellite service? How does this compare to commercially available services? Can the interim service be scaled with additional leased capacity on other satellites, if not, why not?

The Interim Satellite Service (ISS) is being offered at wholesale pricing consistent with NBN Co's uniform national wholesale pricing for a 12/1 Mbps service. This equates to a wholesale access cost of $24 per month.

As of November 2011, retail price plans from ISS retailers started from $29.00 per month.

Feedback from NBN Co indicates that there is not sufficient capacity available through current or soon to be launched satellite networks to effectively meet NBN Co requirements of delivering a 12/1 Mbps service with an ABHT of 300kbps for up to 200 000 end users.

Commonwealth South-West Marine Parks

(Question No. 1488)

Senator Cormann asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 12 December 2011:

In regard to the proposed Commonwealth South-West Marine Parks:

(1) Given that in October 2011 a document entitled 'Revised SW Network September 2011' was discovered, are the proposed boundaries on that map the Commonwealth's proposed boundaries.

(2) Is it correct that when the current marine planning process is finished, Australia will have more sanctuaries that the rest of the world combined.

(3) Can the Minister provide the relevant scientific data on which these new proposed marine park areas have been based.

(4) Can the Minister provide the submissions received from the consultation process so that it is possible to assess the basis on which the submissions provide a sound basis for creating new national marine parks.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

In regard to the proposed Commonwealth South-West marine reserves:

(1) The document referred to by the Senator does not represent the boundaries for the proposed South-west marine reserves network.

(2) Australia is one of many countries establishing marine reserves, also known as marine protected areas, to meet commitments made by the Howard Government at the 2002 World Summit on Sustainable Development and to meet obligations that Australia has as signatory to the Convention on Biological Diversity.

Australia's marine reserves and their zoning have not been finalised. Therefore, it is not possible to compare the size and extent of the sanctuaries zones within the Australian system with what exists or is proposed in other countries.

(3) The reserve design is based on the Goals and Principles for the Establishment of the National Representative System of Marine Protected Areas (NRSMPA) in Commonwealth waters, which were finalised in 2007 by the Howard Government, drawing on lessons learnt through the earlier development of marine reserves in the South-East region.

Key inputs into the process include:

_____________________________________________________

QUESTIONS ON NOTICE
• existing scientific information underlying the Integrated Marine and Coastal Regionalisation of Australia (IMCRA v.4.0) (e.g. bathymetry, geomorphic features, distribution of endemic biota)
• additional regional information on habitats, species distribution and ecology gathered during the marine bioregional planning process
• data on the location and distribution of human activities in a marine region
• views of ocean users and stakeholders in each marine region
• consideration of the contribution that existing spatial management measures can make to the NRSMPA and
• consideration of potential management effectiveness (e.g. feasibility of compliance).

The department's website has a list of online datasets that have been used in developing marine bioregional plans. The list includes datasets from CSIRO and Geosciences Australia. The Goals and Principles for the Establishment of the National Representative System of Marine Protected Areas in Commonwealth Waters are also on the department's website.

(4) The formal consultation period invited submissions on a marine reserve proposal released by Government. The submissions received are being considered in revising the network. Where individuals and organisations have agreed, their submissions will be made publicly available. It is anticipated that this will occur early in 2012.

**Naltrexone**

(Question No. 1492)

Senator Abetz asked the Minister representing the Minister for Health, upon notice, on 13 December 2011:

In regard to the National Health and Medical Research Council report into naltrexone implants, can the names of the persons who wrote the original draft and all those who were involved in the review be provided.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question: The 'Naltrexone implant treatment for opioid dependence—Literature Review' (Literature Review) was drafted by staff within the office of the National Health and Medical Research Centre (NHMRC). The Group Head overseeing this work was Professor John McCallum.

The resulting draft literature review was considered by an expert reference group convened by NHMRC. Details of the reference group are available on NHMRC’s website. The Literature Review was updated to incorporate the reference groups' comments.

The Literature Review was subsequently peer reviewed by the following five external experts:
• Professor Andrew McKinnon, expertise in the design, conduct and analysis of Psychiatry Trials, University of Melbourne.
• Professor Wayne Hall, expertise in addiction medicine and policy, University of Queensland.
• Associate Professor Nicholas Lintzeris, expertise in addiction medicine, Royal Prince Alfred Hospital.
• Dr Alex Wodak, expertise in addiction medicine, St Vincent's Hospital Sydney; and
• Dr Yvonne Bonomo, expertise in addiction medicine, St Vincent's Hospital Melbourne.
Tertiary Education, Skills, Science and Research
(Question No. 1493)

Senator Abetz asked the Minister for Tertiary Education, Skills, Science and Research, upon notice, on 13 December 2011:
In regard to the Australian Labor Party's National Conference, did the department provide any briefing notes to the Minister or the Parliamentary Secretary in anticipation of the conference or on request; if so, what was each briefing note in relation to.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:
No briefing notes were provided to the Minister or Parliamentary Secretary by any areas of the Department of Education, Employment and Workplace Relations, including the Tertiary, Skills and International Groups which are now part of the Department of Innovation, Industry, Science, Research and Tertiary Education under Machinery of Government changes.

Pontville Immigration Detention Centre
(Question No. 1495)

Senator Abetz asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 15 December 2011:
In regard to the Pontville Immigration Detention Centre:
(1) What number of detainees have been released after they were granted permanent visas and, of those, how many have remained in Tasmania.
(2) Have any of the detainees of the detention centre been allowed into the community while not having been granted permanent visas; if so, how many.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:
(1) Departmental records indicate that, between 1 September 2011 and 31 January 2012, 264 clients were granted Protection visas.
Departmental records also indicate that seven clients in Pontville IDC who were granted Protection visas, were settled in Tasmania. Two of these have since moved interstate.
(2) Departmental records indicate that, between 1 September 2011 and 31 January 2012, 21 clients from Pontville IDC were approved for community detention.

Attorney-General
(Question No. 1497)

Senator Boyce asked the Minister representing the Attorney-General, upon notice, on 19 December 2011:
With reference to the answer provided to question no. 72 taken on notice during the 2011 12 Supplementary Budget Estimates of the Legal and Constitutional Affairs Legislation Committee:
(1) Can statistics be provided on the number of regulations promulgated for each of the past 5 calendar years, including a break-up by department.
(2) Does the department have information on where Australia fits in the world league table of regulation makers for example United Kingdom, Canada, South Africa and the United States of America; if so, can a table detailing that information be provided.
(3) Does the department liaise with its state and offshore counterparts to benchmark the production of new regulations, and has it attended any conferences on this topic; if so, can the conference outcomes be provided.

(4) Has the department inquired into the level of powers conferred by regulation rather than by statute; if so, were these inquiries conducted internally and/or by external consultants to examine this matter and can a copy of the results/outcomes be provided.

(5) (a) What role, if any, does the department play in minimising the growth of regulations; (b) what checks and balances are in place; and (c) which branch and section of the department is responsible for recommending policy on growth of new regulations and/or administrative procedures relating to new regulations.

(6) What mechanisms are in place within the department to expunge old and outdated regulations and, if these mechanisms are different for other departments, can an outline be provided of those that differ from the Attorney-General's Department.

(7) What role does the Office of Parliament Counsel play in generating new regulations and does it have a role in monitoring and/or advising on 'regulation creep', for example, does it have an internal procedure to ensure that, where possible, material which might be included in subsequent regulations is actually inserted into a parent statute.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question.

(1) Information on Australian Government law by type, year and portfolio is available free of charge on the whole of government ComLaw website www.comlaw.gov.au as maintained by my department.

(2) My department has provided ComLaw data to independent benchmarking bodies notably the Australian Productivity Commission and the international Organisation for Economic Co-operation and Development (the OECD), and the results of such benchmarking are available online (see www.pc.gov.au and www.oecd.org respectively).

Comparisons between jurisdictions are problematic if only because, to quote the Productivity Commission's 2011 report on Identifying and Evaluating Regulation Reforms, "Australia is one of the few countries to have a complete database of all major government regulation".

(3) Under the current Administrative Arrangements Order, monitoring and reducing the burden of government regulation is a function of the Department of Finance and Deregulation. My department's focus is on legislative drafting and publishing, and on specific policy issues such as criminal law.

(4) In 1992 the Administrative Review Council released a report on rule-making by Commonwealth agencies which made a range of relevant recommendations. This report is available online (see www.ag.gov.au/agd/WWW/arcHome.nsf).

In response, guidelines on what matters should be dealt with only through Acts were developed and these have now been endorsed by successive governments. They form part of the Legislation Handbook published by the Department of the Prime Minister and Cabinet (see www.pmc.gov.au).

In addition, the first Legislative Instruments Bill was introduced. The Legislative Instruments Act 2003 now provides for the Parliament to veto or disallow any legislative instrument unless it has previously agreed to exempt an instrument from disallowance or from registration.

(5) Under the current Administrative Arrangements Order, reducing the burden of government regulation is a function of the Department of Finance and Deregulation. Details of key policies and processes can be found in the Best Practice Regulation Handbook (see www.obpr.gov.au).

(6) Under the Legislative Instruments Act 2003, all legislative instruments are subject to sunsetting, that is, they cease automatically after 10 years unless they are exempt from sunsetting or their sunsetting is deferred in accordance with that Act.
The first large list of sunsetting instruments will be tabled on or after 1 October 2012, and if no action is taken all the instruments listed will sunset on 1 April 2015. Instruments will be listed and will sunset at 6-monthly intervals afterwards.

More frequent reviews may be undertaken as required by specific Acts, at the discretion of individual lawmakers and as issues emerge. More information about such matters can be found in the Productivity Commission report mentioned above (see www.pc.gov.au).

(7) The Office of Parliamentary Counsel (OPC) drafts government Bills based on instructions from policy departments and agencies. More information about policy approval processes and about OPC's role can be found in the Legislation Handbook (see www.pmc.gov.au).

When drafting provisions that delegate the power to make laws, OPC gives careful consideration to factors including how much Parliamentary scrutiny may be appropriate, how often changes may be needed, and the existing structure of an Act and any instruments made under it.

Defence

(Question No. 1500)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 16 January 2012:

With reference to each review currently being conducted, or recently conducted, by the department, can a list be provided detailing the:

(a) name of the review;
(b) individuals, groups and companies conducting the review;
(c) individuals, groups and companies being paid;
(d) terms of reference;
(e) timeline;
(f) cost per stage;
(g) anticipated final cost;
(h) scheduled reporting date, including any preliminary stages and the final report;
(i) reasons why the work was not conducted by senior executive service members of the department; and
(j) departmental officer who commissioned the review.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

The response to Senate Questions on Notice 776,777 and 778 details all reviews that were being undertaken by Defence as at 31 October 2011. That response also covered reviews that were completed in the period 1 January to 30 June 2011.

The following reviews are currently being conducted or were recently concluded (since 31 October 2011) by the Department of Defence as at 31 January 2012.

Review No. 1

(a) Name of the review
   Air Force Review into Civil Aviation Access to Air Force Air Fields
(b) Individuals, groups and companies conducting the review
   Review being conducted internally by members of the Royal Australian Air Force.
(c) Individuals, groups and companies being paid
Nil

(d) Terms of reference
To address the impacts and consequences of the use of Air Force airfields by civil aircraft, with recommendations to enable the drafting and implementation of policy that supports the current and future needs of military aviation.

(e) Timeline
Review was conducted in 2010, with the policy creation to be completed by 2012.

(f) Cost per stage
Nil

(g) Anticipated final cost
Nil

(h) Scheduled reporting date, including any preliminary stages and the final report
Review was completed and published on 16 June 2011. A period of public consultation was completed on 31 October 2011. The drafting of Defence policy on civil aviation access to Air Force airfields to be completed by fourth quarter 2012.

(i) Reasons why the work was not conducted by senior executive service members of the department
N/A

(j) Departmental officer who commissioned the review
Deputy Chief of Air Force

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**Review No. 2**

(a) Name of the review
Defence Budget Review.

(b) Individuals, groups and companies conducting the review
Chief Finance Officer, Acting First Assistant Secretary Financial Management & Reporting and Deloitte Australia.

(c) Individuals, groups and companies being paid
Deloitte Australia.

(d) Terms of reference
Undertake a line by line assessment of the budget aggregates to clarify:
- accountabilities for allocated budgets;
- the methodology for constructing each of the individual budget estimates;
- the frequency and methodology for updating the budget estimate during the year; and
- the Group Head/Service Chief responsible for the construction and authorisation of individual budget estimates.

Undertake a comparative analysis of other large corporates to:
- determine their approach to developing budget estimates and managing budget estimation risks; and
- consider the accountability mechanisms used by comparative organisations to manage budget performance.

Such corporates will include those that are capital intensive or logistics intensive and will include, but not be limited to, BHP Billiton Limited and Rio Tinto Limited.

Review the utility of global contingency, slippage and over-programming in the management of the various capital budgets within Defence unless they are covered by another review such as the DCP Review.

Consider the extent to which program budgeting accountability (vis a vis project budgeting accountability) is a driver for estimation quality.

Consider the extent to which there are any barriers to the development of quality estimates including but not restricted to:
the inherent volatility of an estimate;
the timing of budget estimate forecasting within Defence; and
the extent to which processes, systems, skill levels or lack of standardisation inhibit budget development.
Consider how best to record and report on budget estimates on the corporate systems to enable transparency of budget items and actual achievements.
Consider the scope for budget system improvements to incorporate activity level data and opportunities to link activity data to financial budget information.
Determine the extent to which budget estimates are flexible or fixed and consider opportunities to manage the inherent uncertainties of Defence's business environment into budget estimation practices.
Propose opportunities for improvements to budget estimation methodologies, processes, systems and accountabilities.
(e) Timeline
The Review is expected to be completed early 2012.
(f) Cost per stage
$259,840
(g) Anticipated final cost
$259,840
(h) Scheduled reporting date, including any preliminary stages and the final report
A draft report was provided to the Minister for Defence, the Secretary and the Chief of Defence Force mid December 2011 for their review.
(i) Reasons why the work was not conducted by senior executive service members of the department
The Budget Review was conducted by Senior Executive Service members of the Department, with assistance from Deloitte Australia.
(j) Departmental officer who commissioned the review
Minister for Defence.

Review No. 3
(a) Name of the review
Australian Defence Force Posture Review
(b) Individuals, groups and companies conducting the review
The Review is being undertaken by the Department of Defence (ADF Posture Review Secretariat) and overseen by an expert panel (Dr Allan Hawke and Mr Ric Smith)
(c) Individuals, groups and companies being paid
Expert Panel – Dr Allan Hawke and Mr Ric Smith
Deloitte Access Economics was commissioned to conduct a Long Term Economic and Demographic Projections as a supplementary study to the Review.
(d) Terms of reference
The Force Posture Review will:
as its starting point draw on the security, strategic and capability judgements outlined in the Defence White Paper 2009 Defending Australia in the Asia Pacific Century: Force 2030;
draw on work currently underway in Defence through the 2011 Annual Defence Planning Guidance;
outline the future security and strategic environment and challenges Australia needs to be positioned to respond to up to 2030;
consider the potential strategic and security role of Australia's offshore territories, particularly Cocos and Christmas Islands, for Force Posture requirements;
consider the implications for ADF Force Posture of the need for energy security, including security...
issues associated with expanding offshore resource exploitation in our North West and Northern approaches;
consider how the future ADF Force Posture will support Australia's ability to respond to a range of activities including:
deployments on missions and operations overseas;
support of operations in our wider region; and
practical engagement with the countries of the Asia-Pacific and Indian Ocean rim in ways that help to shape security and strategic circumstances in Australia's interest;
assess the impact on the ADF's Force Posture of a range of domestic, demographic and economic issues including:
more intense minerals and petroleum resource activities around Defence training and exercise ranges;
urban encroachment on existing Defence facilities;
community attitudes to living standards and residential locations; and
the need for a more cost-effective approach to basing;
make recommendations in relation to the basing options for Force 2030 across Australia including in relation to:
Navy platforms (including the Air Warfare Destroyers, Landing Helicopter Docks, Future Submarines, the ANZAC Frigate and its replacements and offshore patrol vessels);
Army's additional northern basing requirements; and
Air Force's plans to introduce a range of new aircraft and associated support systems into service; and
consider other relevant issues including population and population spread.
(Ref: Media Release MR 177/11, dated 22 June 2011)
(e) Timeline
The Review commenced in July 2011 and it is expected to complete by 30 March 2012, when the final report is due for submission to Government.
(f) Cost per stage
The cost as at 31 December 2011 is $158,600.
(g) Anticipated final cost
The final cost of the Review will not be known until its completion.
(h) Scheduled reporting date, including any preliminary stages and the final report
The Review has provided a progress report to the Minister for Defence in December 2011.
Government has directed that the Review's final report will be provided on 30 March 2012.
(i) Reasons why the work was not conducted by senior executive service members of the department
As directed by the Minister for Defence in his Media Release on 22 June 2011, the Review is guided by an Expert Panel of eminent experts in defence and national security policy, Dr Allan Hawke and Mr Ric Smith, both are former Secretaries of the Department of Defence. The Review is supported by a Secretariat comprise of a small team of Defence APS and ADF staff; and it also draws on the broad range of expertise within Defence, including both professional military and civilian officers at executive levels (O6/EL2, AS/1-Star, and SES Band 3/3-Star).
(j) Departmental officer who commissioned the review
This Review is directed by the Minister for Defence on 22 June 2011.
The Weapons of Mass Destruction (Prevention of Proliferation) Act 1995 (the WMD Act, the Act) and the Regulations provide the framework for the implementation of Australia's international obligations and national policy to prevent the proliferation of Weapons of Mass Destruction. The review of the WMD Act and Regulations will offer recommendations on any changes required. Based on experience in cases that have been assessed, and cases where prohibition orders have been made, the review could usefully consider the following issues:

1. The adequacy and suitability of the test in section 14 of the Act for the Minister to issue a notice prohibiting the export or supply of goods or the provision of services;
2. Whether the issuing of a section 14 notice should be limited to a 12 month period;
3. Whether the Act should include a mechanism to enable persons to seek the Minister's confirmation that a proposed activity is not subject to control under the Act;
4. The consequences of the Minister providing a confirmation as detailed above and whether the consequences need to be limited by the Act or in some other way;
5. Whether there is a need for additional protections for the disclosure of classified information under the Act;
6. Whether the current application of procedural fairness requirements under the Act needs to be modified given the reliance on classified information in decisions made under the Act;
7. Whether consideration should be given to establishing a process to review decisions made under the Act or regulations;
8. Does the Act's definition of a WMD program adequately describe the types of goods and services that Australia seeks to control;
9. The adequacy and suitability of the requirement under sections 9, 10 and 11 of the Act for a prosecution to prove that a person believes or suspects, on reasonable grounds and whether an alternative test should be applied;
10. Whether the investment of funds in companies that develop, produce, acquire or stockpile weapons of mass destruction should be controlled by the Act;
11. Whether provisions, additional to those enabling the Minister to seek an injunction, should be considered for Commonwealth agencies to allow goods to be either held at the border or to compel a person not to proceed with an activity, while an assessment of the goods is undertaken;
12. Whether the 'state of mind' provisions in the Act relating to bodies corporate should deviate from the current Commonwealth policy which is to rely on Part 2.5 of the Criminal Code;
13. Whether the forfeiture, seizure and destruction provisions in the Act and regulations appropriately meet the needs for effective law enforcement;
14. Whether the Act should provide any legal protection (similar to that provided by section 17G of the Charter of the United Nations (Sanctions - Iran) Regulations 2008) to persons who are forced to breach their contractual obligations due to being issued with a prohibition notice or permit with conditions that limit the company's ability to meet their obligations under the contract;
15. Whether the Act should provide a mechanism for compensating a person, where a decision under the Act impacts financially upon a person;
16. Whether the proposed Defence Trade Controls legislation implementing the Australia-US Defence Trade Cooperation Treaty has any implication for the Act and decisions taken thereunder;
17. Processes in place to ensure that the Minister for Defence is appropriately and adequately consulted with respect to decisions taken pursuant to the Act;
18. Processes in place to ensure relevant departments and agencies are working together in a coordinated way, in particular the Department of Defence, the Department of Foreign Affairs and Trade and the Defence Export Control Office;
19. The implementation of the recommendations contained in the Brady Review of WMD Act
Decision Making Processes, including whether there should be a single Prohibited Export Control
Centre; and
20. Any other matters you consider appropriate to report on.
(e)  Timeline
Mr Blick is expected to undertake the review between 01 November 2011 and 01 July 2012
(f)  Cost per stage
N/A
(g)  Anticipated final cost
This review is expected to cost $65,000
(h)  Scheduled reporting date, including any preliminary stages and the final report
Mr Blick is expected to report to Defence in mid-2012
(i)  Reasons why the work was not conducted by senior executive service members of the
department
Mr Blick was chosen to conduct this review because of his depth of experience in Commonwealth
policy, particularly in relation to considering accountability and the public interest in areas of
national security and the application of law. He is a former Inspector-General of Intelligence and
Security. He has also held other senior Commonwealth appointments, including Deputy Secretary in
the Department of the Prime Minister and Cabinet and Deputy Commonwealth Ombudsman.
Defence decided to review the Act in order to capture the lessons from its experience of applying it
in recent years and to ensure that the legislation and surrounding processes reflect current regulatory
best practice. This review will complement a review of decision-making processes under the Act,
conducted in 2010 by Mr Martin Brady AO.
(j)  Departmental officer who commissioned the review
The Hon. Stephen Smith, Minister for Defence

Review No. 5
(a)  Name of the review
Inspector-General of Intelligence and Security – Inquiry into allegations of inappropriate vetting
practices in the Defence Security Authority and related matters.
(b)  Individuals, groups and companies conducting the review
Inspector-General of Intelligence and Security.
(c)  Individuals, groups and companies being paid
N/A.
(d)  Terms of reference
Investigation into allegations of inappropriate vetting practices in the Defence Security Authority
and related matters.
(e)  Timeline
The Minister for Defence tabled the final report on 8 February 2012.
(f)  Cost per stage
N/A.
(g)  Anticipated final cost
$40,000
Note – This review was requested by the Prime Minister and IGIS is responsible for this activity.
However, Defence is expected to provide funds to meet the cost of conducting the review.
(h)  Scheduled reporting date, including any preliminary stages and the final report
The Minister for Defence tabled the final report on 8 February 2012.
(i)  Reasons why the work was not conducted by senior executive service members of the
department
Preliminary investigation undertaken by Defence Inspector-General. More comprehensive review able to be undertaken by Inspector-General of Intelligence and Security due to the powers given under the relevant Commonwealth legislation.

(j) Departmental officer who commissioned the review
Minister of Defence sought commission of review by Prime Minister.

Review No. 6

(a) Name of the review
Assessment of Cyber Threat Risks to Internet Facing Applications and Networks.

(b) Individuals, groups and companies conducting the review
Defence Security and Counter Intelligence Board (acting in the role of Project Board representing all Defence Groups and Services and the interest of major ICT System Owners).
Defence Security Authority Directorate of Information Systems Security (Project Lead).
Chief Information Officers Group (ICT System Maintainers/Owners).
Defence Signals Directorate (Provision of expert technical advice).
STRATSEC (Conduct of Technical Vulnerability Assessments of selected ICT systems).

(c) Individuals, groups and companies being paid
STRATSEC.

(d) Terms of reference
Terms Of Reference are Classified RESTRICTED.

(e) Timeline
Terms of Reference Established 18 October 2010.
Review Completed 3 November 2011.

(f) Cost per stage
One Stage with final cost of $206,722.25.

(g) Anticipated final cost
$206,722.25.

(h) Scheduled reporting date, including any preliminary stages and the final report
End April 2011.

(i) Reasons why the work was not conducted by senior executive service members of the department
Outsourced component of the review included technical vulnerability analysis of ICT systems requiring specialist technical skills.

(j) Departmental officer who commissioned the review
Chief of the Defence Force tasked Deputy Secretary Intelligence and Security with the conduct of the review.

Review No. 7

(a) Name of the review
DLA Piper Review of Allegations of Sexual and Other Abuse in Defence

(b) Individuals, groups and companies conducting the review
The contract for the conduct of this Review is between Defence and DLA Piper. Dr Gary Rumble, Professor Dennis Pearce and Ms Melanie McKean (now with HWL Ebsworth) are the Review leads and are subcontracted to DLA Piper for the purposes of the Review.

(c) Individuals, groups and companies being paid
DLA Piper.

(d) Terms of reference

Terms of Reference
On 11 April 2011, the Minister for Defence announced that an external law firm would be engaged by the Secretary of Defence to review the allegations of sexual or other forms of abuse that have been drawn to the attention of the Minister's office, as well as to the Department of Defence and the media since the recent Australian Defence Force Academy (ADFA) incident.

The Review will consider all relevant allegations, whether referred from the Minister's Office, raised in the media or coming directly to the Review which have been or are made in the period 01 April - 17 June 2011.

The Review will be conducted in two phases.

Phase 1 will review all allegations of sexual or other abuse and any related matters to make an initial assessment of whether the matters alleged have been appropriately managed and to recommend further action to the Minister.

Phase 1 will also report on whether Phase 1 has identified any particular systemic issues that will require further investigation in Phase 2.

DLA Piper has been engaged by the Secretary of Defence to conduct Phase 1 of the Review. Phase 2 is expected to provide oversight of Defence's implementation of recommendations of Phase 1.

Phase 2 will also review Defence's processes for assessing, investigating and responding to allegations of sexual or other forms of abuse to consider with any systemic issues identified in Phase 1 and any other systemic issues and to make appropriate recommendations about all systemic issues that have been identified.

Allegations made within Defence between 01 April 2011 and 17 June 2011 regarding sexual or other forms of abuse, will continue to be dealt with in accordance with standing Defence procedures in parallel with the review.

The Review will attempt to address late submissions in its Report although depending on when they are received, it may not be able to address all late submissions. The Report will, however, include recommendations about what steps should be taken in relation to those late allegations/complaints.

Allegations received after Friday, 17 June 2011 will be dealt with in accordance with current Defence procedures or such new procedures as may be introduced following the review.

Phase 1 Terms of Reference
1. The review is only concerned with alleged abuse perpetrated by Defence personnel in connection with their workplace or in the conduct of their duties.
2. The review team will assess all allegations raised, or otherwise under consideration, in the period Friday, 01 April 2011 to Friday, 17 June 2011 of sexual or other forms of abuse (such as bullying, harassment or intimidation) or related matters.
3. The review is not concerned with matters raised directly with the Inspector-General Australian Defence Force (IGADF) which fall within the IGADF's statutory functions.

QUESTIONS ON NOTICE
4. The review team will make an initial assessment of each allegation.
5. For each allegation, the review team will:

   a. advise the Ministers and Defence as to whether the alleged incident appears to have received proper consideration and appropriate action has been taken, or is being taken, by Defence; and
   b. make recommendations to the Minister and Defence on further action to be taken.

6. Any matter referred to the Review that is considered by the Review Team to be out of scope of this review will be identified to the Minister with the basis of the Review Team's assessment that it is out of scope so that the Minister may consider what if any further action should be taken.
7. Where the Review considers that further investigation is necessary, the team will make recommendations as to the appropriate mechanisms for such further investigation.
8. Where requested, the review team will offer anonymity and/or confidentiality subject to the provisos that the Review may have to reveal the identity of an informant or other information:
   a. if required by law to do so; and/or
   b. to prevent threat of injury or abuse of others.

9. The Attorney-General's Department and the Ombudsman's Office will assist Defence with governance and will undertake 'quality assurance' of the process.
10. In the event that DLA Phillips Fox or Professor Pearce has had any previous involvement in any matters referred for review, those matters will be referred to the Ombudsman's Office.
11. The Review team is to refer any matters requiring urgent referral to police to the ADF Investigative Service (ADFIS). ADFIS is to keep the Review team informed of steps taken in relation to those matters.
12. The Review team will provide fortnightly interim reports to Defence and the Minister on its assessment of allegations and other relevant issues for the duration of Phase 1.
13. The Review team may need to access and review records held by Defence as part of Phase 1.
14. This review will continue until all matters raised in the period have been assessed. The report on Phase 1 is expected to be provided to the Minister before the end of August 2011.

That is, only allegations of abuse by people who were Defence personnel at the time of the incident fall within the scope of the review.

(e) Timeline
On present planning, the Review is expected to report to the Minister in March 2012.

(f) Cost per stage
Phase One is expected to cost over $11m.
Anticipated costs for subsequent phase/s will be determined when options are considered.

(g) Anticipated final cost
Phase One is expected to cost over $11m.
Anticipated costs for subsequent phase/s will be determined when options are considered.

(h) Scheduled reporting date, including any preliminary stages and the final report
On 11 October 2011, Volume One (General Findings and Recommendations) and the first tranche of Volume Two (Individual Allegations) was provided to the Minister for Defence.

The remainder of Volume Two is yet to be provided.

(i) Reasons why the work was not conducted by senior executive service members of the department
At the request of the Minister for Defence, the allegations are being dealt with methodically and at arm's length from Defence.

(j) Departmental officer who commissioned the review
Review No. 8

(a) Name of the review
Comprehensive Review of Defence Estate
(b) Individuals, groups and companies conducting the review
Defence Services and Groups plus Thinc Projects and AECOM (Consultants to Defence)
(c) Individuals, groups and companies being paid
Thinc Projects and AECOM
(d) Terms of reference
On 17 November 2009, the then Minister for Defence, Senator John Faulkner advised that Defence would undertake a comprehensive review of Defence's base requirements and develop options for changes to the estate over the long term, a 25-30 year period.
(e) Timeline
It was envisaged that the review would take 12-18 months. On 22 June 2011, the Minister for Defence the Hon Stephen Smith MP announced that Defence would undertake a strategic level review of broader ADF Force Posture, with its report provided to Government during the first quarter of 2012. The work on the comprehensive review of the Defence estate is not yet complete but it is informing the ADF Force Posture Review. It is anticipated that this work will resume, taking account of Force Posture Review outcomes as appropriate.
(f) Cost per stage
As at January 2012, cost for work undertaken by Thinc Projects and AECOM in support of the comprehensive review of the Defence estate is $5.2 million.
(g) Anticipated final cost
TBC
(h) Scheduled reporting date, including any preliminary stages and the final report
TBC
(i) Reasons why the work was not conducted by senior executive service members of the department
Due to the highly technical nature of the work
(j) Departmental officer who commissioned the review
(This Review was directed by the then Minister for Defence Senator the Hon John Faulkner on 17 November 2009)

Review No. 9

(a) Name of the review
The Use of Alcohol in the Australian Defence Force
(b) Individuals, groups and companies conducting the review
Professor Margaret Hamilton, executive member of the Australian National Council of Drugs.
(c) Individuals, groups and companies being paid
Brian Vendenberg (Victoria Health), Professor Margaret Hamilton (Hammar & Healy Consulting), Professor Steve Allsop (Curtin University of Technology).
(d) Terms of reference
Terms of Reference are publicly available on the Department of Defence website at www.defence.gov.au/culturereviews/index.htm
(e) Timeline
The Independent Advisory Panel was commissioned on 15 April 2011. Report submitted to the Minister for Defence on 2 November 2011.

QUESTIONS ON NOTICE
(f) Cost per stage
$0.153 million

(g) Anticipated final cost
$0.153 million

(h) Scheduled reporting date, including any preliminary stages and the final report
Report submitted to the Minister for Defence on 2 November 2011. Defence will respond to all of
the reviews in a single, comprehensive response.

(i) Reasons why the work was not conducted by senior executive service members of the
department
Due to the nature of the issues, the Minister for Defence directed an Independent Review, as
announced on 11 April 2011. The advisory panel was led by a subject matter expert to review the
strategy for managing alcohol use in the ADF. The then Surgeon General of the Australian Defence
Force was on this panel to represent the ADF.

(j) Departmental officer who commissioned the review
Vice Chief of the Defence Force.

Review No. 10

(a) Name of the review
Review into the Treatment of Women at the Australian Defence Force Academy (ADFA) and the
Australian Defence Force

(b) Individuals, groups and companies conducting the review
Ms Elizabeth Broderick, Sex Discrimination Commissioner, on behalf of the Australian Human
Rights Commission

(c) Individuals, groups and companies being paid
This review is being funded by Defence.

(d) Terms of reference
Terms of Reference are publicly available on the Australian Human Rights Commission website at

(e) Timeline
The review was commissioned on 9 May 2011 and Phase 1 of the Report was tabled in Parliament
on 3 November 2011. Phase 2 has commenced and the deadline for submissions is 4 March 2012.

(f) Cost per stage
Stage 1 – $4.7m
Stage 2 – $2m

(g) Anticipated final cost
The estimated cost of the two reviews is approximately $6.7 million.

(h) Scheduled reporting date, including any preliminary stages and the final report
Stage 1 – Tabled in Parliament on 3 November 2011
Stage 2 – Currently underway, due for completion in 2012.

(i) Reasons why the work was not conducted by senior executive service members of the
department
Due to the nature of the issues, the Minister for Defence directed an Independent Review, as
announced on 11 April 2011. It is appropriate that a review of this nature into Defence's culture be
conducted by an external organisation.

(j) Departmental officer who commissioned the review
Minister for Defence
Review No. 11

(a) Name of the review
Review of the Management of Incidents and Complaints, including Civil and Military Jurisdiction

(b) Individuals, groups and companies conducting the review
The Inspector General of the Australian Defence Force, Mr Geoff Earley.

(c) Individuals, groups and companies being paid
This review was conducted by Defence personnel.

(d) Terms of reference
Terms of Reference are publicly available on the Department of Defence website at www.defence.gov.au/culturereviews/index.htm

(e) Timeline
The review commenced on 12 April 2011 and a report was submitted to the Minister for Defence on 2 November 2011.

(f) Cost per stage
$0.019

(g) Anticipated final cost
$0.019

(h) Scheduled reporting date, including any preliminary stages and the final report
Report submitted to the Minister for Defence on 2 November 2011. Defence will respond to all of the reviews in a single, comprehensive response.

(i) Reasons why the work was not conducted by senior executive service members of the department
This work was conducted by Department of Defence personnel.

(j) Departmental officer who commissioned the review
Chief of the Defence Force

Review No. 12

(a) Name of the review
Review of Social Media and Defence

(b) Individuals, groups and companies conducting the review
George Patterson Y & R, led by Mr Rob Hudson.

(c) Individuals, groups and companies being paid
George Patterson Y & R

(d) Terms of reference
Terms of Reference are publicly available on the Department of Defence website at www.defence.gov.au/culturereviews/index.htm

(e) Timeline
The contract for this review commenced on 11 May 2011. The report was submitted to the Minister for Defence on 2 November 2011.

(f) Cost per stage
$0.296 million

(g) Anticipated final cost
$0.296 million

(h) Scheduled reporting date, including any preliminary stages and the final report
Report submitted to the Minister for Defence on 2 November 2011. Defence will respond to all of the reviews in a single, comprehensive response.

(i) Reasons why the work was not conducted by senior executive service members of the department
Due to the nature of the issues, the Minister for Defence directed an Independent Review, as
announced on 11 April 2011. The nature of the review, including benchmarking and assessment of Defence against international best practice for overseas military forces and other relevant organisations.

(j) Departmental officer who commissioned the review
Vice Chief of the Defence Force.

Review No. 13

(a) Name of the review
Review of Employment Pathways for Australian Public Service Women in the Department of Defence

(b) Individuals, groups and companies conducting the review
Ms Carmel McGregor, Deputy Public Service Commissioner

(c) Individuals, groups and companies being paid
The review was funded by the Department of Defence, with funding costs for staffing transferred from Defence to the Australian Public Service Commission.

(d) Terms of reference
Terms of Reference are publicly available on the Department of Defence website at www.defence.gov.au/culturereviews/index.htm

(e) Timeline
The review commenced on 9 May 2011 and a report was submitted to the Minister for Defence on 25 August 2011.

(f) Cost per stage
$0.228 million

(g) Anticipated final cost
$0.228 million

(h) Scheduled reporting date, including any preliminary stages and the final report
Report submitted to the Minister for Defence on 25 August 2011. Defence will respond to all of the reviews in a single, comprehensive response.

(i) Reasons why the work was not conducted by senior executive service members of the department
This work was conducted by personnel from the Australian Public Service Commission and the Department of Defence.

(j) Departmental officer who commissioned the review
Secretary of the Department of Defence

Review No. 14

(a) Name of the review
Review of Personal Conduct

(b) Individuals, groups and companies conducting the review
Major General Craig Orme

(c) Individuals, groups and companies being paid
Major General Craig Orme and other Defence personnel

(d) Terms of reference
Terms of Reference are publicly available on the Department of Defence website at www.defence.gov.au/culturereviews/index.htm

(e) Timeline
The review commenced on 12 April 2011 and a report was submitted to the Minister for Defence on 2 November 2011.
(f) Cost per stage
Staffing costs for the personnel on this review were funded by Defence.

(g) Anticipated final cost
No additional costs other than internal staffing costs.

(h) Scheduled reporting date, including any preliminary stages and the final report
Report submitted to the Minister for Defence on 2 November 2011. Defence will respond to all of the reviews in a single, comprehensive response.

(i) Reasons why the work was not conducted by senior executive service members of the department
This work was conducted by Departmental personnel.

(j) Departmental officer who commissioned the review
Vice Chief of the Defence Force.

Review No. 15

(a) Name of the review
Defence Home Ownership Assistance Scheme Implementation (DHOAS) Review.

(b) Individuals, groups and companies conducting the review
Ernst & Young have been contracted to provide a report on the implementation. A Defence Working Group has been raised to provide input to the review. Personnel Policy and Employment Conditions Branch is conducting the review and will produce the report for Government.

(c) Individuals, groups and companies being paid
Ernst & Young

(d) Terms of reference
In line with the R2 initiative of attraction and retention, the review will seek to determine the success of the DHOAS in terms of the number of members who have accessed the scheme and if access to the scheme has influenced members decision to continue to serve in the ADF.

From an administrative perspective the review will seek to examine the role of the Department of Veteran's Affairs (DVA) as the contracted scheme administrator, performance of the three loan providers and home loan provider panel arrangement.

(e) Timeline
A report will be presented to Government by mid 2012.

(f) Cost per stage
$49,800 (ex GST) at the commencement of the project.
$66,400 (ex GST) on delivery of the draft report
$49,800 (ex GST) on completion of the project

(g) Anticipated final cost
$166,000 (ex GST).

(h) Scheduled reporting date, including any preliminary stages and the final report
Ernst & Young will report to Defence by 31 March 2012. A final report will be presented to Government by mid 2012.

(i) Reasons why the work was not conducted by senior executive service members of the department
It is considered that an independent review of the implementation of the scheme will provide a balanced and impartial opinion of the operation of the scheme and the value of the benefit provided to members.

(j) Departmental officer who commissioned the review
At the time of the implementation of the scheme, 1 July 2008, the Government directed that a review of the implementation be conducted after four years.
Review No. 16

(a) Name of the review

(b) Individuals, groups and companies conducting the review
Dr Allan Hawke AC, supported by a secretariat of one APS EL2 and two Royal Australian Naval Reserve officers.

(c) Individuals, groups and companies being paid
Dr Allan Hawke AC.
Review Secretariat staff salaries (RAN Reserve daily rates).
Power Initiatives consultancy for one cost analysis report.
Adcorp for issue of Public Notices calling for submissions.

(d) Terms of reference

TERMS OF REFERENCE
POTENTIAL FOR ENHANCED CRUISE SHIP ACCESS TO GARDEN ISLAND, SYDNEY

1. A review is to be carried out into the capacity of Garden Island in Sydney to accommodate increased numbers of visiting cruise ships. The review will assess current and future Royal Australian Navy (RAN) requirements and whether there is scope to enhance cruise ship access to Garden Island, noting its primary role of support to the RAN's raise, train and sustain roles and functions and the timely delivery of maritime operational capability.

2. The review is to examine:
   a. Outcomes from the New South Wales Government-sponsored Passenger Cruise Terminal Steering Committee Part B report on infrastructure requirements and locations for a Cruise Passenger Terminal east of Sydney Harbour Bridge;
   b. Current and future RAN requirements for facilities at Garden Island to meet the operational and maintenance needs of home-ported and visiting RAN and allied naval ships;
   c. Future Defence Materiel Organisation requirements and responsibilities for contracted RAN ship repair and maintenance, including the continuing need for Garden Island to be available for short notice emergency Navy dockings;
   d. The suitability of existing Garden Island facilities to support more regular cruise ship visits during peak periods and with the degree of advanced notice sought by the industry;
   e. The economic benefits of enhanced cruise ship access to Sydney Harbour, and the economic contribution of the ongoing Navy presence in Sydney;
   f. Options for alternative berthing, maintenance and support arrangements for naval vessels both within Sydney and other ports which might be required to allow enhanced cruise ship access to Garden Island during peak periods, with estimates of feasibility, costs and timeframes involved;
   g. The costs, benefits and impact of the cruise industry investing in purpose built facilities at Garden Island to enable enhanced use of the island by cruise ships;
   h. Changes to Defence risk profile which would be caused by enhanced cruise ship access to Garden Island, in terms of:
      i. Acquisition and maintenance of naval ships.
      ii. Personnel support.
      iii. Security.
      iv. Operational readiness.
      v. Commonwealth financial and legal liability.

QUESTIONS ON NOTICE
3. The review will be guided by the following:
   a. The Two Ocean Basing policy, which will remain a central tenet of Navy basing and disposition for Navy's larger ships, consistent with strategic guidance.
   c. An understanding of the technical complexity of major naval vessels, and how this might determine the need for operational bases having ready access to a broad industry base with specialised dockyard facilities and a large labour force possessing trades and skills peculiar to naval requirements.
   d. The impact of basing Navy ships in major ports such as Sydney on Navy skilled workforce retention.

4. The review will seek wide input from Commonwealth and State Governments, Sydney and other Port Corporations, defence contractors in the ship repair sector, cruise industry representatives, ports and shipping industry representative bodies, the transport and tourism sectors, and the team appointed by Government to undertake the broader Force Posture Review.

5. The review is to commence as soon as possible with a final report tabled to the Minister for Defence by the end of December 2011.

(e) Timeline
The review was announced by the Minister for Defence on 16 June 2011. In December, the Minister for Defence agreed to extend the submission deadline to 1 February 2012. Dr Hawke submitted the review to the Minister for Defence on 1 February 2012.

(f) Cost per stage
The review did not feature discrete stages.

(g) Anticipated final cost
Approximately $200,000.

(h) Scheduled reporting date, including any preliminary stages and the final report
Dr Hawke submitted the review to the Minister for Defence on 1 February 2012.

(i) Reasons why the work was not conducted by senior executive service members of the department
The Minister for Defence determined the need for an independent review.

(j) Departmental officer who commissioned the review
The review was commissioned by the Minister for Defence.

Review No. 17

(a) Name of the review
Collins Class Submarine Sustainment Business Benchmarking Study (Coles Review)

(b) Individuals, groups and companies conducting the review
Review Team:
Team Leader—Dr John Coles.
Team members—Rear Admiral Fred Scourse RN (Rtd), Mr Arthur Fisher, Commodore Paul Greenfield, RAN (Rtd).

(c) Individuals, groups and companies being paid
BMT Design and Technology Pty. Ltd.
First Marine International

(d) Terms of reference

QUESTIONS ON NOTICE
STUDY INTO THE BUSINESS OF SUSTAINING AUSTRALIA’S STRATEGIC COLLINS CLASS SUBMARINE CAPABILITY

TERMS OF REFERENCE

AUTHORISATION

The Secretary of Defence, Chief of the Defence Force and Secretary of Finance and Deregulation have commissioned this benchmarking study as part of the work program of the Government—ASC Steering Committee overseeing issues relating to Collins Class Submarine (CCSM) sustainment requiring whole-of-government consideration.

PURPOSE

The purpose of these Terms of Reference is to specify the scope of the benchmarking study into the optimal arrangements for CCSM sustainment.

CONTEXT

Established in 1985, ASC Pty Ltd (ASC) was chosen in 1987 to design and build the six CCSMs and contracted in 2003 to deliver submarine through life support, and in 2005 a subsidiary of ASC was awarded the shipbuilder role for the Hobart Class Air Warfare Destroyer (AWD). ASC is therefore a nationally strategic industry asset for Australia, providing critical capability in support of the Royal Australian Navy (RAN).

ASC, as a Government Business Enterprise (GBE), is both owned by the Australian Government, and for CCSMs, is a sole Industry Partner/Supplier to Defence in a monopsonist relationship. These circumstances are unique in comparison to Defence’s other dealings with commercial entities. This uniqueness needs to be recognised and brings significant challenges.

ASC is a proprietary company, incorporated under the Corporations Act 2001, and is prescribed as a GBE under the Commonwealth Authorities and Companies Act 1997. Under this commercial framework ASC is required to operate and price efficiently, earn a commercial rate of return and comply with the Commonwealth’s Competitive Neutrality Policy.

In 2003 Defence established a long term Through Life Support Agreement (TLSA) with ASC for the sustainment of the CCSM. TLSA is essentially a cost-reimbursable, limited performance-incentive contract with annual negotiation of budget and work scope. Defence engages mission system contractors separately and provides materials as Government Furnished Equipment for in-service CCSMs.

In 2008, in response to an indication by the then Government that ASC would be privatised, Defence sought to renegotiate the TLSA to reflect industry best practice arrangements, including recognition of the need for ASC to undertake incremental improvement and, with increasing levels of maturity, risk transfer and accountability for outcomes.

Since 2009 a range of Collins program reform initiatives have been ongoing including the establishment of the Australian Submarine Program Office, collaboration between the RAN, DMO and ASC, agreement on the Integrated Master Schedule (IMS) and negotiation of a performance-based In-Service Support Contract (ISSC) with ASC. A critical aspect of the ISSC is the establishment of appropriate business arrangements and performance parameters to benchmark CCSM sustainment to ensure the whole-of-government objectives are met.

ASC wishes to identify world best practice goals in order to establish objective benchmarks against which it can demonstrate its improvements and compliance.

Defence wishes to ensure that the required availability of reliable submarines is delivered to the RAN through the CCSM Integrated Master Schedule at an affordable price and represents value for money.

A joint aim of Defence and ASC under the ISSC is to enhance the national submarine sustainment industry through stronger engagement and utilisation of a wider industry base with a best of breed ‘Make – Buy’ approach which aims to provide long term efficiencies and value for money. The key principles aligned to these outcomes and arrangements are captured in an ISSC Heads of Agreement between Defence and ASC now used to guide the detailed contract negotiations.
OBJECTIVES AND SCOPE
4.1 The broad objectives for this review are to determine:

he optimal commercial arrangements between Defence and ASC to support the delivery of efficient and effective CCSM sustainment, which will be used to guide the ongoing development of the ISSC commercial framework;

the appropriate performance goals for sustainment activity, based on world best practice efficiency and effectiveness benchmarks;

options for demonstrating value for money in sustainment activity and the supply chain arrangements;

opportunities for improvements in management arrangements between ASC, DMO and the RAN to achieve an efficient submarine sustainment business;

future infrastructure needs to support the submarine sustainment activity;

measures to be implemented by DMO and the RAN to ensure that ASC is able to operate under a performance-based contract; and

the subsequent priorities for ASC, DMO and the RAN reform to effect greatest improvement, given time, budget and system constraints.

4.2 It is not intended that this review examine or make recommendations regarding ASC's overall governance framework, but rather the commercial and contractual arrangements for submarine sustainment between ASC and DMO.

METHOD OF CONDUCT
This study will be conducted in four phases:

Phase 1 Mobilisation, scoping analysis and planning – It is proposed to engage the review team on a not to exceed time and materials contract arrangement to undertake the development of the detailed statement of work, deliverables, schedule and planning arrangements through initial consultation between the proposed review team, Defence, Finance and Deregulation and ASC. The outcome of this phase will be a detailed and structured scope of work, to be reviewed by the Government—ASC Steering Committee, with an accurate cost and schedule for its execution. This will form the basis of a contract amendment to complete the main body of the review.

Phase 2 Data collection, analysis, option and implementation strategy development and interim recommendations – This phase will be based upon the detailed statement of work, deliverables and schedule developed during Phase 1. A key outcome of this phase will be a framework and industry best practice benchmarks against which DMO, the RAN and ASC performance in delivering CCSM sustainment can be assessed.

Phase 3 Final Report and recommendations – This phase will enable the review team to take feedback and incorporate further clarification to the findings and recommendations based upon the review of the Interim Report by Defence, Finance and Deregulation and ASC.

Phase 4 Follow Up Review, Analysis and Recommendations – This phase will enable the review team to undertake a progress review of the transition to the new ISSC and assessment of performance against the recommended framework and industry best practice benchmarks.

TIMING
The initial phase of the study will commence early in the third quarter 2011 to establish and agree the detailed scope of the tasking, establish the planning framework, team administration and support arrangements.

The main body of work is expected to be conducted during the third and fourth quarter of 2011 with an interim report for consideration by the Government—ASC Steering Committee to be received by December 2011 and final Report for consideration by the Government—ASC Steering Committee by March 2012.

A follow up review will be scheduled for the second and third quarter 2012 to coincide with preparations to transition the ISSC into a more mature and robust performance based arrangement.

SPECIFIC DELIVERABLES
The deliverables from Phase 1 of the review will be a detailed statement of work, outline of proposed deliverables, review schedule, administrative framework and a supporting cost estimate for the conduct of Phase 2, 3 and 4.

7.2 Other deliverables will be specified as a result of the contract amendment to incorporate the outcomes from Phase 1 of the review.

(e) Timeline
- Phase 1 report released by Minister for Defence and Minister for Defence Materiel on 13 December 2012.
- Phase 2 Draft Report will be provided by the Review Team in April 2012.

(f) Cost per stage
- Phase 1—$480,000.
- Phase 2—$2,717,000 (cost contracted to date; Phase 2 is not fully contracted)

(g) Anticipated final cost
Under departmental review

(h) Scheduled reporting date, including any preliminary stages and the final report
Refer to (e) above.

(i) Reasons why the work was not conducted by senior executive service members of the department
The review, commissioned by Secretary of Department of Finance & Deregulation, Secretary of Department of Defence & Chief Defence Force, is intended to be an independent review, which necessitated the engagement of an external expert.

The review is being led by Dr John Coles, an independent expert from BMT Defence Services in the United Kingdom. Dr Coles has more than 30 years experience in the design, acquisition and sustainment of ships and submarines, principally in the United Kingdom. Between 1997 and 2005 he was the Chief Executive of the United Kingdom's Warship Support Agency (previously the Ships Support Agency), which is responsible for the maintenance and repair of all Royal Navy submarines, ships, and auxiliaries. Between 2005 and 2007 Dr Coles was head of the British Future Aircraft Carrier Project.

(j) Departmental officer who commissioned the review
The review was commissioned by Government- ASC Steering Committee, comprising Secretary of Department of Finance & Deregulation, Secretary of Department of Defence & Chief Defence Force.

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**Finance and Deregulation**

(Question No. 1501)

Senator Johnston asked the Minister for Finance and Deregulation, upon notice, on 16 January 2012:

Can a list be provided detailing all external submarine related advisors or consultants employed by:
(a) Deep Blue Tech Pty Ltd; and (b) ASC Pty Ltd, including the value of each contract, for each calendar year from 2009 to 2011 inclusive.

Senator Wong: The answer to the honourable senator's question is as follows:

(a) and (b) No – to do so could harm the Commonwealth and the nation's interests by prejudicing the ability of the companies to engage experts in the future to assist with the resolution of submarine issues and could give other nations insight into Australia's defence preparedness.
Defence
(Question No. 1502)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 16 January 2012:

With reference to the Australian Hydrographic Service:

(1) What was the total number of days spent at sea in 2011 by the Leeuwin Class Hydrographic Ships, including how many:
   (a) of these days related to 'Operation Resolute' (as a number or a percentage of total days at sea); and
   (b) square nautical miles (or a more convenient unit) were surveyed.

(2) What was the total number of days spent at sea in 2011 by the Paluma Class Survey Motor Launches, including how many:
   (a) of these days specified related to 'Operation Resolute' (as a number or a percentage of total days at sea); and
   (b) square nautical miles (or a more convenient unit) were surveyed.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) In 2011, the Leeuwin Class Hydrographic Ships spent 317 days at sea.
   (a) of these days 80.5 per cent related to 'Operation Resolute'; and
   (b) 2476 square nautical miles or 7882 linear nautical miles were surveyed.

(2) In 2011, the Paluma Class Survey Motor Launches spent 408 days at sea.
   (a) of these days none related to 'Operation Resolute'; and
   (b) 668 square nautical miles or 9459 linear nautical miles were surveyed.

Long Service Leave
(Question No. 1504)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 16 January 2012:

(1) How are Long Service Leave (LSL) entitlements protected under the Fair Work Act 2009.
(2) Did the Prime Minister, as the workplace relations spokeswoman, promise to have a new legislated regime for LSL entitlements by June 2009; if so, to what stage has this progressed.

Senator Arbrib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) The Fair Work Act 2009 provided a new a legislated entitlement to long service leave. Long service leave forms part of the National Employment Standards (NES). In general terms, under the NES employees are entitled to long service leave in accordance with their applicable pre-modernised award. If an employee's pre-modernised award does not contain an entitlement to long service leave, their leave entitlements are determined by the applicable state or territory long service leave legislation.

(2) The existing long service leave NES is a transitional entitlement pending the development of a uniform national long service leave standard. To my knowledge, there was no commitment to achieve this measure by June 2009. The Government is continuing to work with states and territories to reach agreement on a national long service leave standard. Given the diverse range of long service leave provisions in state and territory legislation, reaching agreement is a complex task.
Sport  
(Question No. 1505)

Senator Bernardi asked the Minister for Sport, upon notice, on 16 January 2012:

(1) Since 24 November 2007, on how many occasions has responsibility for the Sport portfolio been transferred between departments, and what was the total cost of each transfer.

(2) What is the anticipated cost to transfer the Sport portfolio from within the Department of the Prime Minister and Cabinet to the Department of Regional Australia, Local Government, Arts and Sport, and will this cost be met from existing departmental resources.

(3) How many public servants will be required to work from a new office location as result of the transfer in (2), and what is the anticipated total cost to relocate the staff.

(4) Is the transfer of the portfolio expected to deliver demonstrable improvements in productivity.

(5) What is the purpose of this transfer of the Sport portfolio.

Senator Arbib: The answer to the honourable senator's question is as follows:

(1): Since 24 November 2007, the Sport Portfolio has transferred three times: from the Department of Communication, Information Technology and the Arts (DCITA) to the Department of Health and Ageing (DoHA) on 3 December 2007; from DoHA to the Department of the Prime Minister and Cabinet (PM&C) on 14 December 2010; and lastly, from PM&C to the Department of Regional Australia, Local Government, Arts and Sport (DRALGAS) on 14 December 2011. The Office for Sport does not have records of the costs associated with its transfer between departments.

(2): There are no estimates of the costs associated with the current transfer of the sport portfolio. Any additional costs will be met from existing departmental resources.

(3): As at 30 January 2012, two staff members in the Office for Sport have been required to physically relocate as a result of the move from PM&C to DRALGAS. The total cost was $3,630 including GST.

(4) The Office for Sport will continue to deliver against its performance indicator of delivering improved opportunities for community participation in sport and recreation, and excellence in high-performance athletes, including through investment in sport infrastructure and events, research and international cooperation.

(5) These new arrangements will ensure there is an appropriate focus on the arts and sport in regional as well as non-regional Australia, while also recognising the strong linkages with local government in the delivery of community sports.

James Price Point  
(Question No. 1506)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 16 January 2012:

With reference to the Browse Basin liquefied natural gas (LNG) precinct (James Price Point) and the strategic assessment under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act):

(1) Given that Woodside Petroleum Ltd has announced it is seeking to delay the final investment decision until 2013 at the earliest, and the Western Australian Supreme Court has found the proponent does not have secure tenure at the site, will the Minister:

(a) place the strategic assessment on hold; if not, why not; and
(b) expand the assessment process to consider alternative sites; if not, why not.

(2) Is the Minister aware of a recent Main Roads Western Australia announcement that AECOM Australia Pty Ltd has been selected as the preferred proponent in a joint venture with Brierty Ltd for the construction of the Browse Basin LNG precinct access road.

(3) Is the Minister aware that AECOM was engaged by both the Western Australian Department of State Development and Main Roads Western Australia as environmental consultant for flora and fauna surveys as part of the Commonwealth and state environmental impact assessment processes, for both the gas hub and the access road to James Price Point.

(4) Is the Minister concerned that the 'targeted survey' conducted by AECOM for threatened bilbies in the vicinity of the proposed road failed to find any bilbies, while a volunteer citizen science project run by the local community found and filmed colonies of bilbies in the vicinity of the gas hub and the proposed road.

(5) In line with the EPBC Act, will the Minister require a reassessment of the proposed James Price Point access road that is not reliant on environmental information provided by a company with a commercial interest in the project being approved; if not, why not.

(6) In relation to the answer to question on notice no. 1427, does the Minister accept that the requirement for the establishment of a scientific peer review panel for the strategic assessment is in fact contained in the report Browse LNG Precinct: Scope of the Strategic Assessment, and not in the Strategic Assessment Terms of Reference document.

(7) Is the Minister aware that this scoping report, a key part of the strategic assessment process under the Western Australian Environmental Protection Act and the EPBC Act, states on page 180 that, 'Given the significant environment and the scale and complexity of the proposal, there is required a high level of confidence of the technical work underpinning the Strategic Assessment. As such there is an intention to undertake ongoing reviews of the strategic assessment process and of all deliverables and outputs. Arrangements for Peer review, including the establishment of a Peer Review Panel consisting of members from government and non-government sectors are to be advised'.

(8) Will the Minister request that the Peer Review Panel be instigated to undertake a peer review of all the scientific studies and documentation relied on by the proponent; if not, why not.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) (a) The strategic assessment and Plan for the Browse LNG Precinct will be considered after it is submitted by the West Australian Government, the lead proponent. Once finalised and submitted the Minister will determine whether the proponent has adequately addressed all relevant matters.

The EPBC Act does not contain provisions to place strategic assessments 'on hold'.

(b) The terms of reference for the strategic assessment report require an analysis of economically and technically feasible options outside the Kimberley.

(2) Yes.

(3) Yes.

(4) On 26 May 2011, a delegate from the Australian Government Department of Sustainability, Environment, Water, Population and Communities determined, under the EPBC Act, that the proposal to build an access road to James Price Point was not a controlled action, if carried out in a particular manner. This decision requires Main Roads Western Australia to ensure measures are in place to minimise impacts on the Greater Bilby during road construction. In October 2011 the department received an ecological report prepared on behalf of two groups (the Goolarabooloo and the 'Broome No Gas Community') regarding the presence of Greater Bilby in the James Price Point area. The
department has considered this new information, however, it does not alter the department's view regarding the likely significance of the works undertaken to date.

(5) The Minister is satisfied there are adequate measures in place to minimise impacts on the Greater Bilby during the construction of the access road to James Price Point.

(6) and (7) Yes. There is a proposal to establish a peer review panel outlined in the Browse LNG Precinct: Scope of the Strategic Assessment report prepared by the WA Government in 2010. However, preparation of a scoping report is not a requirement under the EPBC Act strategic assessment process.

(8) Once the strategic assessment and plan is finalised and submitted to the Minister for consideration, the Minister will determine whether the proponent has adequately addressed all relevant matters and, if necessary, whether any independent peer review is required.

**Employment and Workplace Relations**

(Question No. 1507)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 16 January 2012:

With reference to the review of the Fair Work Act 2009:

(1) How much is each member of the review panel being paid to participate.

(2) What secretariat support has been provided.

(3) What advice was sought from the Office of Best Practice Regulation (OBPR) prior to the announcement of the details of the review.

(4) Does the department consider the post-implementation review to be in conformity with the requirements of the OBPR.

(5) When were the: (a) draft terms of reference; and (b) shortlist of people or bodies under consideration to conduct the review, first sent to the Minister's office by the department.

(6) Was the Productivity Commission on the shortlist of people or bodies considered to conduct the review; if not, why not.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) Each Panel member of the Fair Work Act Review (Review) is being paid $550 per hour (including GST) for a maximum of eight hours a day. The appointments are part-time and Panel members will be remunerated for actual time worked, not for each day of the Review period.

(2) The Department of Education, Employment and Workplace Relations is providing secretariat support for the Panel.

(3) The department sought advice from the Office of Best Practice Regulation (OBPR) regarding the requirements of a post-implementation review (PIR). The terms of reference for the Review were assessed by the OBPR as meeting those requirements.

(4) Yes, as the OBPR has advised the department that it considers the Review to be in conformity with its requirements for a PIR.

(5) Draft terms of reference and individuals who might be considered to conduct the Review were initially provided to the office of the former Minister for Tertiary Education, Skills, Jobs and Workplace Relations on 19 October 2011.

(6) The department did not identify the Productivity Commission as a potential organisation to undertake the Review. This is because it was considered important that the person or persons undertaking the Review have a practical knowledge and appreciation of contemporary workplace relations issues and practices.
G20 Summit
(Question No. 1508)

Senator Humphries asked the Minister representing the Prime Minister, upon notice, on 16 January 2012:

With reference to a text message sent by the Member for Fraser:

(1) Did the Prime Minister receive a text message from the Member for Fraser in November 2011 lobbying Canberra to host the G20 Summit; if so, did the Prime Minister respond and did the response indicate support or otherwise for the proposal.

(2) Is it standard practice for members of parliament to make representations to the Prime Minister by text message.

Senator Chris Evans: The Prime Minister has provided the following answer to the honourable senator’s question:

(1) The Member for Fraser is a strong advocate for his electorate and the Australian Capital Territory, including in relation to host city arrangements for the G20 meeting in 2014. The disclosure of specific communications between members and senators and the Prime Minister in the answer to a question on notice could tend to diminish the capacity of members and senators to properly discharge their parliamentary duties. As indicated in the Prime Minister’s media statement issued on 4 November 2011, “Australia to host G20 in 2014”, a decision on G20 host city arrangements will be made in due course.

(2) Members and senators communicate with the Prime Minister using a variety of means.

Australian Electoral Commission
(Question No. 1510)

Senator Abetz asked the Minister representing the Special Minister of State, upon notice, on 16 January 2012:

With reference to the Australian Electoral Commission and the 2007 federal election:

(1) How many cases of multiple voting were detected for the seat of McEwen, and of that number how many:

(a) cases were due to administrative error; and
(b) people were spoken to in order to determine this figure.

(2) How many people admitted to multiple voting, and what action, if any, was taken against them.

Senator Wong: The Special Minister of State has provided the following answer to the honourable senator’s question:

(1) Following the 2007 election, the names of 134 electors enrolled in the Division of McEwen were found to be marked off a certified list more than once.

(a) 122:

- 107 were matched to a response received from an apparent non-voter.
- 3 were due to other official error.
- in 12 cases the elector denied voting more than once and there was no other evidence to indicate either official error or multiple voting.

(b) All 134 electors whose name had been marked off more than once certified list were sent an enquiry letter, by express post. Reminder letters were sent to 29 electors, also by express post. 130...
replies were received, 1 elector was found to be deceased after polling day and 3 electors did not respond.

(2) 8. After consideration of their responses and review by the AEC's Chief Legal Officer all eight were issued with a warning letter.

Special Minister of State
(Question No. 1511)

Senator Abetz asked the Minister representing the Special Minister of State, upon notice, on 16 January 2012:

With reference to the answer to question on notice no. 1202 (Senate Hansard, 2 November 2011, p. 8060):

(1) For individuals identified as possibly having voted more than once, how many are believed to have voted: (a) twice; (b) 3 times; (c) 4 times; (d) 5 times; (e) 6 times; (f) 7 times; (g) 8 times; (h) 9 times; (i) 10 times; and (j) more than 10 times.

(2) (a) What is the highest number of multiple voting activities by one individual; (b) how were their actions followed up; and (c) did they receive a police warning.

(3) For each voter that was issued with a police warning, how many times had they multiple voted.

(4) How many: (a) males; and (b) females, are believed to have multiple voted.

(5) Can a list be provided detailing how many multiple voters were aged: (a) 18 to 25, in yearly increments; (b) 26 to 75, in ten yearly increments; and (c) 76 and over.

Senator Wong: The Special Minister of State has provided the following answer to the honourable senator's question:

(1) Following investigation of certified list marks from the 2010 election the names of 16,210 electors were found to be marked off a certified list more than once. Of that number:

(a) 16,107 were marked twice.
(b) 77 were marked 3 times.
(c) 16 were marked 4 times.
(d) 6 were marked 5 times.
(e) 1 was marked 6 times.
(f) 0 were marked 7 times.
(g) 1 was marked 8 times.
(h) 1 was marked 9 times.
(i) 1 was marked 10 times.
(j) 0 were marked more than 10 times.

(2) (a) The highest number of marks recorded against one individual's name was 10.
(b) The elector that was marked 10 times was investigated, including being interviewed, by the AFP. As a result of that investigation the AFP advised that, as there was no corroborative evidence available to the commission of an offence, no further action would be taken.

(c) No.

(3) 3 official cautions were issued to electors that had been marked 3, 2 and 2 times respectively.

(4) Of the 1,458 electors who admitted to multiple voting:

(a) 676 were male; and
(b) 782 were female.
(5) Of the 1,458 electors who admitted to multiple voting:
   (a) 19 were age 18;
   (b) 23 were age 19;
   (c) 12 were age 20;
   (d) 22 were age 21;
   (e) 24 were age 22;
   (f) 23 were age 23;
   (g) 23 were age 24;
   (h) 16 were age 25;
   (i) 175 were age 26 – 35;
   (j) 263 were age 36 – 45;
   (k) 227 were age 46 – 55;
   (l) 147 were age 56 – 65;
   (m) 141 were age 66 – 75; and
   (n) 343 were age 76 and over.

Defence
(Reverse No. 1514)

Senator Waters asked the Minister representing the Minister for Defence, upon notice, on 16 January 2011:

(1) Is the defence radar on Turkey Hill, Acland intended to be moved for the stage 3 expansion of the New Acland Coal Mine (Environment Protection and Biodiversity Conservation Act 1999 referral no. 2007/3423); if so, will this be at the expense of the taxpayer.

(2) Do army helicopters transiting from the nearby Oakey base avoid the existing New Acland Coal Mine to escape dust damage to engines.

(3) Does the stage 3 expansion of the New Acland Coal Mine have any other implications for national defence operations in the area.

Senator Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) The Defence outer marker beacon located on Turkey Hill is integral to the Instrument Landing System used by aircraft landing at the Army Aviation Centre, Swartz Barracks, Oakey. Defence is in discussions with New Acland Coal Pty Ltd regarding its requirement to access the site at Turkey Hill, however, an agreement has not been reached at this time. If the beacon is to be relocated in support of the Stage 3 expansion, the costs associated would be borne by New Acland Coal Pty Ltd.

(2) Army helicopters currently avoid the mine site to avoid the:
   (a) risk of dust damage to engines;
   (b) impact of white light on night vision flying; and
   (c) risk associated with blasting operations to low flying aircraft.

(3) The development of the stage 3 expansion of the New Acland Coal Mine will require Defence to realign its flight paths to avoid the mine site. Other than this, Defence does not see any other implications for national defence operations in the area.
Queensland Floods Recovery (Question No. 1515)

Senator Humphries asked the Minister Assisting on Queensland Floods Recovery, upon notice, on 18 January 2012:

With reference to the Queensland floods recovery efforts:

(1) What delegated responsibilities have the Attorney-General or other ministers given to the Minister regarding disaster management or recovery.

(2) How many decisions, listed by month, has the Minister made as the Minister Assisting on Queensland Flood Recovery.

(3) How many representations has the Minister made to other ministers or the non-government sector in this role.

(4) What is the Minister's greatest achievement in this role.

(5) How many media releases have been made by the Minister regarding the Queensland floods recovery, and on what dates were they made.

Senator Ludwig: The answer to the honourable senator's question is as follows:

(1) The Prime Minister appointed me to the role of Minister Assisting the Attorney-General on Queensland Floods Recovery on 5 January 2011, in addition to my responsibilities as the Minister for Agriculture, Fisheries and Forestry. (The title of this role was changed to Minister Assisting on Queensland Flood Recovery, by the Prime Minister on 14 December 2011.)

In this role, I was delegated specific responsibility at a Commonwealth level for overseeing community recovery from widespread flooding in Queensland and subsequently damage from Tropical Cyclone Yasi which occurred in February 2011, and ensuring the Australian Government was providing all necessary assistance. This responsibility included the coordination and oversight of Commonwealth Ministerial involvement in Queensland flood recovery and reconstruction, and working with the Queensland Government and local councils to ensure Commonwealth support was delivered effectively.

(2) I make decisions on a day to day basis through administrative functions, as well as a member of various Cabinet committees. Cabinet committee responsibilities held by me are: National Disaster Recovery Cabinet Committee, Regional Australia and Regional Development Committee, and Australian Government member on the Disaster Recovery Cabinet Committee (Queensland Cabinet)

(3) I have made twenty-four written representations to Ministers and one to the non-government sector.

(4) The Australian Government has consistently said it is standing shoulder-to-shoulder with Queenslanders as they work to recover and rebuild after the devastating floods and tropical cyclones over 2010-11.

Across the State, $756 million in reconstruction projects are completed, a further $1,965 million worth of projects are in market (under construction or out to tender), and there are $834 million of projects that will soon be released to market.

The Government provided emergency payments that significantly supported individuals, business and local government, committed a total of $5.65 billion to recovery and the reconstruction, quickly provided an advance payment of $2.2 billion so that Queensland could get rebuilding underway quickly, provided an advance payment of $50 million under the Tropical Cyclone Yasi recovery package, and on 7 February 2012 advanced a further $1.9 billion to Queensland, bringing the total advanced to $4.1 billion, or approximately 80 per cent of the total.
Urgent grants were made to 673,000 Queenslanders, totalling $775 million, through the Australian Government Disaster Recovery Payment, and nearly 60,000 workers were assisted with funds totalling $69.5 million through the Australian Government's Disaster Income Recovery Subsidy.

A contribution of $11 million was made to the Queensland Premier's Disaster Relief Appeal, and the Prime Minister's Business Taskforce was created to mobilise business efforts across Australia.

A total of $206 million was provided to the $315 million Queensland Local Council Package, a joint initiative with the Queensland Government to help local governments repair utilities so that disaster-affected communities had water and sewerage facilities, transport infrastructure and employment support. $6 million to help Queensland's vital tourism industry and $4.2 million towards an $8.4 million funding pool for high-priority environmental recovery work came from this package.

Small businesses, primary producers and not-for-profit organisations have been assisted with recovery through concessional loans and cleanup and recovery grants:

Category B: Concessional interest rate loans (up to $250,000):
- 48 loans to small business, totaling $6.55 million
- 134 loans to primary producers, totaling $18.07 million

Category C: Cleanup and Recovery Grants (up to $25,000):
- 340 grants to not-for-profits, totaling $3.57 million
- 2,685 grants to small businesses, totaling $62.16 million
- 4,394 grants to primary producers, totaling $107.18 million.

Category D: concessional interest rate loans (up to $600,000):
- 3 loans provided to not-for-profits, totaling $1.71 million
- 43 loans provided to businesses, totaling $15.71 million

More than 4,900 workers were helped through grants totalling $49.3 million through the Queensland Natural Disaster Jobs and Skills Package; 613 employers hit by Cyclone Yasi were given $22 million through the Wage Assistance grants to help them give continued employment to 4,700 staff; and $6.9 million from the Rural Resilience Fund provided 325 jobs in Operation Cleanup.

In terms of mental health, more than 3,800 Queenslanders suffering grief and trauma were helped through increased mental health services, provided at a total cost of just under $88 million. Almost 3,000 more have received assistance through the financial counselling service to help manage their financial recovery.

(5) I have released 82 media releases, regarding the Queensland disaster recovery, on the following dates:
- January 2011: 4th, 18th (2), 19th
- February 2011: 16th, 18th, 23rd, 26th
- March 2011: 2nd, 22nd, 24th, 25th
- April 2011: 1st, 6th (3), 8th, 15th, 27th, 30th
- May 2011: 4th, 6th, 10th, 24th (30), 27th
- June 2011: 7th (2), 9th, 14th (2), 28th
- July 2011: 28th
- August 2011: 5th, 9th, 19th (2), 28th (2), 29th, 31st
- September 2011: 14th, 15th, 21st, 28th
- October 2011: 7th, 27th
November 2011: 2nd, 3rd, 9th (2), 10th
December 2011: 22nd

**Prime Minister**

(Question No. 1518)

**Senator Abetz** asked the Minister representing the Prime Minister, upon notice, on 19 January 2012:

What have been the precise dates of the Prime Minister's: (a) weekly; and (b) ad hoc, meetings with the Leader of the Australian Greens, Senator Brown, since the signing of the Labor-Greens agreement.

**Senator Chris Evans:** The Prime Minister has provided the following answer to the honourable senator's question:

The Prime Minister has met the Leader of the Australian Greens, and other members of the parliamentary cross-benches, on a regular basis during the current Parliament.

**Immigration and Citizenship**

(Question No. 1519)

**Senator Abetz** asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 19 January 2012:

With reference to remarks made by the sentencing judge on the conviction of the individuals charged with plotting an attack on the Holsworthy army base, in particular, that 'they also had an expressed hatred of Australian people and non-Muslims who they repeatedly referred to as "infidels":

1. Were the individuals convicted of this offence Australian citizens; if so, were they Australian citizens by virtue of: (a) birth; or (b) a citizenship ceremony.

2. If the convicted individuals were Australian citizens by virtue of a citizenship ceremony, what research into their antecedents was undertaken to determine their suitability for Australian citizenship.

3. Given the outcome of this prosecution and the apparent views of those convicted, is the department considering any changes to its methodologies for determining the suitability of individuals for Australian citizenship.

**Senator Ludwig:** The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

1. Two of the individuals convicted are Australian citizens—one by birth; one by conferral. The third individual is the holder of a provisional partner visa. The person who acquired Australian citizenship by conferral arrived in Australia as a child and resided continually in Australia up until the time he acquired citizenship.

2. Australian citizenship legislation requires that a person be of good character to be approved for Australian citizenship by conferral. The arrangements for checking this criterion are based on:

   - inclusion of character-related questions in the application form;
   - checks against the Migrant Alert List (MAL);
   - checks against a national database of criminal records;
   - as appropriate, clients who have lived outside Australia since turning 18 may be required to provide overseas penal clearance certificates for those countries in which they have resided.

In relation to the individual who was an Australian citizen by conferral:

- he declared no relevant criminal or character-related behaviour (and there is no evidence that this was incorrect);
• he was not recorded on MAL;
• he did not have a criminal record; and
• no overseas penal clearance certificate was required as he was under the age of 18 at time of application.

(3) This case does not suggest a need to alter methodologies for assessing suitability for Australian citizenship. The individual acquired Australian citizenship as a child many years before the criminal activity occurred in 2009.

Emergency Alert Telephone Warning System
(Question No. 1520)

Senator Humphries asked the Minister representing the Minister for Emergency Management, upon notice, on 20 January 2012:

With reference to the upgrade of the national Emergency Alert telephone warning system indicated in the media release, 'National phone warning system gets upgrade thanks to Commonwealth and Victorian Governments', dated 13 January 2012:

(1) How will existing emergency alert warning systems that provide information to registered numbers be affected by the implementation of the upgraded system.

(2) Will there be any periods of operational outage during the system upgrade; if so, for how long.

(3) Is there a means of adjusting the radius of the physical emergency zone for alerts on an ad hoc basis.

(4) What methods will be adopted by the Federal Government to ensure each state and territory has the required training and abilities to operate the upgraded system.

(5) How much funding is being provided by the: (a) Federal Government; and (b) Victorian Government.

Senator Ludwig: Minister for Emergency Management has provided the following answer to the honourable senator's question.

(1) A significant enhancement to the existing national telephone-based emergency warning system (Emergency Alert and Western Australia's StateAlert) will be delivered through the location based capability.

The existing system sends warning messages to landlines and to mobile phones based on the customer's registered service address. The enhancement will enable emergency services agencies to send SMS warning messages to mobile phones based on the last known location of the handset.

The upgraded system will enable state and territory emergency services agencies to elect to send warnings to mobile phones based on the registered service address and/or based on the last known location of the mobile handset. Sending the SMS warning message to the last known location or the registered service address, or both, will be an operational decision in each case.

Negotiations with telecommunications carriers are being led by Victoria. The Victorian Government (on behalf of all states and territories) has signed a contract with Telstra Corporation to deliver this enhancement. It is understood that Telstra has committed to Victoria to deliver location based SMS warnings to mobile telephones on their network in time for the next disaster season (November 2012).

Negotiations with the other telecommunications carriers, Optus and Vodafone Hutchison Australia, are ongoing.

(2) The Emergency Alert system is designed with full redundancy and the project schedule is designed to minimise any operational impact.
(3) Emergency Alert has an intuitive and sophisticated drawing tool which is used to define the geographic boundaries of the emergency warning message area on a detailed map (for example, a region, town, street, block or shopping centre) by drawing a polygon.

Using the drawing tool, the polygon can be created using a variety of techniques to increase or decrease its size or create a customised shape through nominating desired boundary points.

(4) Primary responsibility for the protection of life, property and the environment rests with the states and territories in their capacity as first responders. Emergency Alert is a state and territory capability and as such states and territories manage the operation of the capability. Accordingly, the Commonwealth will not issue guidelines to the state and territory emergency services agencies for training and/or the operation of Emergency Alert and StateAlert prior to the location based capability enhancement being implemented.

Victoria holds the Head Agreement with the service provider for Emergency Alert, Telstra. The Victorian Department of Justice has issued a Recommended Use Guide and developed National Telephony Warning System Guidelines in consultation with jurisdictional users of Emergency Alert. The Recommended Use Guide is part of theEmergency Alert Training Manual and will be updated with the necessary information prior to the implementation of the location based capability. This information will continue to be available via the Help Tab on Emergency Alert's live environment and training website.

We understand that further training will be made available by Victoria to all states and territories ahead of the implementation of the location based enhancement. The training for the use of the system is based on the 'Train the Trainer' model. Each jurisdiction will provide the appropriate number of suitably qualified trainers to participate in the 'Train the Trainer' program who will in turn then train their jurisdiction's users. Telstra as the Service Provider of the Emergency Alert system (which will include the user interface for the location based enhancement) has been contracted to run multiple 'Train the Trainer' sessions.

Qualified users will also continue to have access to a separate stand alone training environment, the Emergency Alert Service Desk, Victorian Government project team and good practice learnings.

(5) Funding to establish the location based capability for telephone-based emergency warnings has not been announced, so as to not prejudice ongoing negotiations with the telecommunications carriers.

It is stressed that while the upcoming upgrade to the Emergency Alert and StateAlert systems is an important addition to emergency warning systems capabilities, telephone-based emergency warnings are only one means for emergency services agencies to warn the community.

Communities should not rely solely on receiving a telephone-based emergency warning. Once a decision to warn communities in an emergency has been made, emergency services agencies will determine what method will be used—for example radio, web, or television—and whether a telephone alert needs to be issued.

Pontville Immigration Detention Centre

(Question No. 1521)

Senator Abetz asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 24 January 2012:

With reference to the Pontville Immigration Detention Centre:

(1) Can a list be provided detailing how many: (a) television sets; and (b) DVD players and other related devices, have been supplied to the detention centre, including their cost.

(2) How many of these items have been broken, damaged or otherwise interfered with requiring repairs or replacement, stating which, and advising the total repair bill to date and the total replacement cost to date.
Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator’s question:

(1) There are 22 combination television/DVD units located at the Pontville Immigration Detention Centre. These units are rented by the Detention Services Provider at a total cost of $3,806 per month.

(2) No television/DVD units have been broken or damaged, therefore no costs have been incurred for repairs or replacement.

Immigration and Citizenship
(Question No. 1528)

Senator Bob Brown asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 2 February 2012:

With reference to the answer provided to question on notice no. 1211 (Senate Hansard, 2 November 2011, p. 8072), what was the ‘new or improved technology or business skills’ introduced to Australia by Ta Ann Tasmania Pty Ltd.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator’s question:

It is a long-standing practice of the Government to consider commercial information provided to the Government by employers to be confidential. The Government does not disclose information about the commercial affairs of sponsors as this could adversely affect their business and prejudice the future supply of information to the Government.