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

SITTING DAYS—2012

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RADIO BROADCASTS
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- BRISBANE 936AM
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- PERTH 585AM
- SYDNEY 630AM

For information regarding frequencies in other locations please visit http://www.abc.net.au/newsradio/listen/frequencies.htm
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
## GILLARD MINISTRY

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<tr>
<td>Minister for Social Inclusion</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
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<tr>
<td>Cabinet Secretary</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
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<td>Treasurer (Deputy Prime Minister)</td>
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<td><strong>Minister for Financial Services and Superannuation</strong></td>
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<tr>
<td>Parliamentary Secretary for Industry and Innovation</td>
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<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
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<td>The Hon Warren Snowdon MP</td>
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Tuesday, 28 February 2012

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

STATEMENT BY THE PRESIDENT

Department of the Senate: Donations to Museum of Australian Democracy

The PRESIDENT (12:31): I wish to advise the Senate that a number of Department of the Senate assets which had been on long-term loan to the Museum of Australian Democracy at Old Parliament House have now been permanently transferred to the museum. These items include regalia formerly worn by the Usher of the Black Rod, the Black Rod's sword and some pieces of furniture. This will ensure that these items are properly curated and preserved for the future.

BILLS

National Radioactive Waste Management Bill 2010

In Committee

Debate resumed.

The CHAIRMAN: Order! The committee is considering the National Radioactive Waste Management Bill 2010. The question is that the bill stand as printed.

Senator LUDLAM (Western Australia) (12:32): The Greens would prefer that the bill not stand as printed in any such form—surprisingly enough! Regarding Greens amendment (2) on sheet 7037 this amendment relates to effectively putting to rest the ambiguity in the bill that the radioactive waste dump that is being contemplated and discussed today could be used for waste of international origin. Senators will be very well aware that Australia does not have a domestic nuclear power program. We have never had such a thing. It is government policy that we will not have such a thing and it is certainly Greens policy that a domestic nuclear power industry would be a pretty dumb idea.

However, there is support within the Labor Party, from members past and present, and there is certainly strong support within the coalition, from members past and present, for an international radioactive waste dump and for a domestic nuclear power industry. Those issues just bubble away below the surface, so my second amendment on sheet 7037 effectively puts it beyond doubt that the purpose of the amendment specifically is to insert 'that is of domestic origin' into the bill.

Senators by now will be grimly aware that the Greens do not support a remote shed-like facility as an emplacement site for Australia’s long-lived intermediate level waste and other radioactive waste materials, so I am not insinuating in proposing this amendment that we support waste of domestic origin going to the site at Muckaty. However, this amendment quite sensibly proposes to put absolutely beyond doubt the idea that we could be importing foreign high-level spent fuel—there would be no ambiguity about whether it is long-lived intermediate level material or not—requiring thermal and radiation shielding from the environment and from living creatures for all time, that we will not be supporting the large-scale transhipment of that material from countries that were foolish enough to go down the civil nuclear power option and then to see the great, empty, vast terra nullius of the Australian inland as an appropriate place to dump that material.

In case senators think that this is an abstract point or that this is perhaps off topic for a domestic waste dump, during the
debate on this bill in the other place the member for Lyons stated very clearly what many have feared: that a national nuclear waste dump would pave the way for Australia to become an international nuclear dumping ground. Let us be really clear about this: such a site does not exist anywhere in the world, and the possibility of such a site opening in Australia will be hugely appealing, potentially to smaller countries in our region such as Taiwan, Japan, and China—the smaller countries, in particular, that have got a domestic nuclear power industry afoot without a clue about what to do with the waste material at the end of life.

Here is what the member for Lyons said when the debate was going on in the other place in the middle of last year. He said;

As part of any plan, taking others' waste could be an industry in itself for us into the future. The argument about making the world a safer place by taking waste is also considerable.

For our own good, we should offer a little patch of Australia—presumably not in Lyons—to store nuclear waste. … in the long term—

that is something of an understatement—

… we might look at storing other people's waste—of course, at a cost.

What a brilliant business plan that is! At a cost we will look after the radioactive waste of other nations that did not bother to come up with a waste disposal plan for, say, the next quarter of a million years—to take us maybe through the next two or three ice ages. It is a very impressive plan!

The proposal has a lengthy history and it also has powerful advocates. Bob Hawke ran it recently at the US-Australia friendship society dinner. Former foreign minister Alexander Downer repeatedly calls for a high-level nuclear waste dump in Australia, most recently saying it would have enormous economic benefits. The business model is pretty clear. Countries around the world like Australia, without a clue as to what to do with this material, presuming that deep geological disposal is the best option—which is a deeply unsafe assumption, if you will pardon the pun—would actually be quite happy to pay a certain amount by negotiation to a country to just take this stuff off their hands. Perhaps it will be a surprise to senators to know that the growth of the domestic nuclear power industry—certainly in the United States and in some parts of Asia—is severely curtailed because the waste is just piling up at the reactor sites. So across the board, right around the world, there is no idea coming from the industry about what to do with this stuff but an assumption that, at the end of the life of this material, it will be dumped down a hole in the ground somewhere.

Here are what we would probably call senior Australian 'elder statesmen'—with tongue in cheek—saying it would be a great idea for this stuff to go to the outback—maybe out to Senator Scullion's electorate, or maybe to mine. I hasten to acknowledge that the Minister for Resources and Energy has said that nuclear waste from other countries will not be placed in a waste dump being created by this legislation. Well, guess what: where that minister is concerned, trust is in pretty short supply. In 2005 Mr Ferguson responded to Bob Hawke's call for Australia to establish a high-level nuclear waste dump by saying:

In scientific terms Bob Hawke is right … Australia internationally could be regarded as a good place to actually bury it deep in the ground. Hugh Morgan said in 2006:

To put together an internationally managed repository would bring great standing in the international community for Australia.
As if being the planet's nuclear toilet will create great standing for us! These people have a genuinely warped idea about sustainable economic development.

On 3 June 2007, the Federal Council of the Liberal Party unanimously endorsed a resolution supporting the establishment of a foreign nuclear waste dump in Australia. I do not know whether Senators Scullion or Kroger, who are here with us this afternoon in the chamber, were present at that meeting. I would be interested to know how that conversation took place. The resolution says:

24: That Federal Council believes that Australia should expand its current nuclear industry to incorporate the entire uranium fuel cycle, the expansion of uranium mining to be combined with nuclear power generation and worldwide nuclear waste storage in the geotechnically stable and remote areas that Australia has to offer.

The head of the World Nuclear Association—a sort of global peak lobby body, if you will, for all facets of the nuclear fuel chain—is one of the many foreign corporate voices calling for Australia to accept the world's nuclear waste. What is the history of that proposal? Actually, it is something that I have a certain amount of familiarity with. One of the things that got me into the antinuclear movement in the late nineties—and I guess eventually into this place—was a corporate video that was leaked to the media in 1999 that revealed the existence of an international consortium called Pangaea Resources, which was secretly lobbying to establish a high-level radioactive waste dump in Australia. This was within a year or two of me getting involved in the antinuclear movement as a wide-eyed kid, and here is this consortium, backed by Swiss expertise and a great deal of money from British Nuclear Fuels, as they were known at the time—from BNFL—to off-load the world's radioactive garbage somewhere else, a long way from them.

Pangaea Resources now calls itself Arius, and it is still lobbying to build a nuclear dump here. Savory Basin in the Pilbara was one of its chosen locations, but it also targeted South Australian and Central Australian locations.

That video—that advertisement—was fascinating, because it leaked well before the company or various policymakers on different sides of politics had their stories straight. It was as if you lifted up a rock and suddenly there were all these things scurrying around. People had not quite worked out what it was that they thought about the idea of a commercial radioactive waste dump, the business model being: 'For 40 years we will conduct the largest shipment of radioactive waste in human history—the high-level spent fuel—in these protected CASTORs. We will put them on railcars. Maybe we will take them inland from Esperance or Port Augusta or something like that. We will take them through a military protected corridor out to a remote site in the Western Australian bush—say, out the back of Laverton—as the mob out at Cosmo Newberry discovered when they got to see the video—and we'll dump it half a kilometre below ground, in some of the most stable, silent, quiet and dry geology on the planet's surface—places that haven't been disturbed in millions and millions of years. Then, 40 years after that, liability passes to the taxpayer. Brilliant!'

Pangaea now calls itself Arius. It is still lobbying to build a nuclear dump here. I think it is very worthwhile keeping an eye on some of the principles of that proposal, because none of them ever went away. The approach taken by Pangaea recognised that no form of engineered barrier could conceivably contain this thermally hot, corrosive, chemically toxic and radioactive material for tens of thousands of years. That is the whole purpose for seeking remote,
stable geology a long way from people. The little video that Pangaea released put it beautifully, and it is rare to see this kind of honesty from the nuclear industry. What the little video showed is these CASTORs placed underground, backfilled and walked away from, and leaking. When the material has burned its way out of the engineered containment that you put it in, you had better have stable geology a long way from population centres, with very low, deep, slow-moving groundwater, an absence of earthquakes and so on. The argument for remote geological storage of this material is that, when the dump leaks, you want to be as far away from it as possible.

That is why the government is having trouble, and why the Howard government had trouble, selling this proposal to people in Tennant Creek. As senators here know, we are not talking about a deep hole in the ground but about a shed-like facility, so this is not a geological store, but we are going to park the long-lived intermediate-level waste on this cattle station for 300 or 400 years while we work out what to do with it, where the hole in the ground should be, whether it should be an international dump and whether it should host waste from Australian civil nuclear power stations in the event that they are ever built. The reason that we want it in Tennant Creek, on the Muckaty block, is that it is a long way from where most of the white people live. That is why this bill is obscene, and why proposals for deep, remote geological storage or temporary parking in shed-like facilities are a terrifically bad idea.

Here is what I think we should do, and in Australia we have some of the best expertise for this kind of work anywhere in the world—people who have been fooling around with synroc for the last 20 or 30 years. We have expertise. In 10 years time or in five years time or—who knows?—maybe tomorrow, the boffins down at Lucas Heights might say, 'Guys, we've worked out how to isolate this stuff. We've done it. We have worked out a form of engineered containment that this toxic and lethal material won't burn its way out of.' That will be a fantastic day. If I am invited—I suspect I will not be, but if I am—I will go down there and help them knock off some champagne, because that is something that the nuclear industry have been promising for 60 years; they certainly have not delivered it to date. A form of engineered containment that this stuff will not leak its way out of will be a great thing. If in the meantime we have parked this stuff in a hole in the ground on somebody else's country in Central Australia, that option is foreclosed; you cannot go back into the hole and get it back. That is the problem that I have with remote geological storage, and it is equally the problem that I have with taking this stuff out in shipping containers, dumping it on a block in Tennant Creek and saying, 'We'll be back in a couple of centuries when we've worked out what the plan is. In the meantime we're employing two local kids as security guards to look after it. Keep the lights on.' It is insane. Minister, I wonder whether you could establish for us what the government's criteria are and why we are pursuing remote centralised storage. I understand why we are pursuing centralised storage. We canvassed some of the arguments yesterday and late last year when the debate kicked off. I understand why you want to gather this material together and why you do not want it in filing cabinets, although why it is there in the first place is a bit of a mystery. I would like the minister to explain, with the help of the advisers who have joined us this afternoon again, why 'remote'? Why in Senator Scullion's electorate? Why does it have to be as far from centres of population as possible?
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (12:45): I just make the point to Senator Ludlam: I intend debating the amendments before the chamber. Senator Ludlam, this debate has been going on for quite a few hours already. You have made it clear that you do not want the bill passed. That is fine. Quite frankly, if it is your intention to just continue to use the time of the Senate for the motive of talking it out, or what have you, then I will move that we report progress at some stage and will look to get the support of the Senate to manage the bill in a more effective way. That is not meant as a threat, but, clearly—Senator Ludlam interjecting—Senator CHRIS EVANS: Senator, if you want to filibuster, you invite me to respond. I am just making it clear that I am trying to be cooperative and positive, but if you intend speaking for days and days, preventing the Senate from getting on with other business and not seriously debating the bill, then we will obviously have to look at other available options. I am happy to answer serious questions and I am happy to deal with your amendments, but equally, so far, in three or four hours, we have dealt with one amendment about the objects of the act and now you again go back to a general discussion: your history in the dispute when you were a wide-eyed boy. All of this is fascinating stuff and if I had more time I would really enjoy it, but this place costs us tens of thousands of dollars to keep open to legislate and we ought to actually focus on doing that. I guess I will not be responding to wide-ranging discussions about your views, which I know are opposed to the bill, and I respect that, but my job is to deal with the legislation on behalf of the government. If we are not going to use the Senate's time effectively—and that is not in any sense to try to limit contributions—then we will have to see how we might manage this better.

In terms of your amendment, it is the case that successive Australian governments have had the policy—and you make it clear that the current minister has reiterated this—that we will not accept other countries' radioactive waste. The government is strongly committed to this policy. I share your concern about the proposition that was floated in Western Australia a few years ago. I was very strongly opposed to that. Of course, one of the major drawbacks to the nuclear industry is the question of waste management and waste disposal. There is no question about that. That is one of the reasons why this government is not supportive of the development of a nuclear industry in Australia. As you know, most of this is medical waste from medical procedures that are important for the health of Australians. This is something we have to deal with and we are trying to deal with it in the best possible way.

We will maintain the current prescription on the acceptance of high-level waste at any facility established for that purpose, so no international radioactive waste will be managed. I am not prepared to support your amendment, because the amendment does not define radioactive waste of domestic origin, whatever that means. We think there is enough protection currently in the Customs (Prohibited Imports) Regulations 1956, in which radioactive waste is a prohibited import, but of course there is ministerial discretion to allow bringing back Australian waste generated using Australian resources, as you are well aware. So we will not be supporting the amendment.

In terms of the argument on 'remote', the simple answer is that the arrangements under this bill provide for a voluntary approach at a suitable site. That is the main criterion. The
fact is that remote sites have been offered. The arguments around getting this sort of development up have been longstanding, very difficult and very contentious. We have gone for a policy that supports seeking a volunteer approach for the site. That is the basis of the bill. As you understand, any offer of a site will then be subject to the EPBC Act, ANSTO and ARPANSA requirements before a site is approved. All of those safeguards will be in place. We are dealing with sites that are made available for this purpose and all those processes will be followed once a site is identified.

The TEMPORARY CHAIRMAN (Senator Parry) (12:50): Senator Ludlam, I just remind you that the second amendment has not been moved yet. I do not know whether you intend to do that or whether you will still ask general questions.

Senator LUDLAM (Western Australia) (12:50): Thanks for the reminder, Chair. I move Greens amendment (2) on sheet 7037:

(2) Clause 4, page 3 (line 1), after “1998”, insert “that is of domestic origin”.

[radioactive waste of domestic origin]

This amendment will have the effect of putting beyond doubt what I take is a genuine assurance from the minister. We probably see eye to eye on many of these issues as Western Australians who went through the same campaign. I appreciate the way the minister has conducted the debate. It has been conducted with a great deal more courtesy, sensitivity and intelligence than was displayed when it was debated in the House. I do not propose to unnecessarily detain the committee's time with these amendments. I took the minister on advice yesterday. We began moving away from general questions and towards specific clauses in the bill, and that is effectively what I took up when we resumed debate this afternoon. We are on the second amendment.

There are a number. I am not going to apologise for that. This is a deeply flawed bill that should not have been debated in the chamber, particularly with a Federal Court hearing on the land tenure itself scheduled for less than a month away. I canvassed these opinions in detail the week before last, in that the government had pulled the bill, to have the good sense and the courtesy to the people that it has put on the front line and targeted, and that we would be resuming this debate. I just want to be very clear: if the Federal Court finds in favour of the land council and the Commonwealth government finds that in fact the land has been ticked through properly and that their obligations under the land rights act have been met and so on, my arguments relating to remote dumping—whether it be in Senator Scullion's electorate, the minister's or mine in South Australia—will stand. The arguments against shoving this stuff out of sight, out of mind will stand no matter what happens, no matter what the fate of the Muckaty site. So the minister is free, as the Manager of Government Business here, to consider his options if he thinks that this is taking too long. But I make no apologies whatsoever for the fact that if this were not such a dodgy and rotten bill it would not need so much surgery. I will be more than happy if the minister wants to report progress—I will even offer to do so myself and adjourn the debate, if that is the way we want to go. I am happy, otherwise, to simply move through the amendments.

The reason—I do not think I digress—that I raised the issue of Pangea, raised the issue of remote dumping, is that this amendment goes directly to the issue of imports of high-level spent fuel from elsewhere. I look forward to Senator Scullion's support when we put this one to vote, because I know he does not want to see his electorate subject—the Territory, of all places, whose economy
relies in a large part on tourism—to spent fuel from nuclear power stations overseas arriving—

Senator Scullion interjecting—

Senator LUDLAM: I trust you are not suggesting that that is of lesser importance, Senator Scullion.

Senator Scullion: I was asking for two seconds, actually.

Senator LUDLAM: You are very welcome to take two seconds. We will in fact have coalition support for this amendment. I take the minister's advice that there are already regulations that exist. Regulations can come and go. That can be eliminated at the stroke of a pen. I think what we need to see here, while we are debating the nation's first radioactive waste dump, is a binding, unambiguous commitment that this will not become a commercial facility for countries who want to get their material out of sight, out of mind and think the Barkly would be a good place to do that. That should not happen on our watch. It is not a Greens thing; it is not a Labor thing. That should not happen on our watch. I think there would be a great deal of community support to put it beyond doubt. If we have to have a national, centralised domestic facility then let it be so.

Let us have the argument in here and in the community about where we think that should be, what kind of form we think it should take. But, if you go out and ask 100 people on the street about importing high-level spent fuel for the next quarter-million years from Taiwan, Japan and maybe Indonesia—if they ever get a reactor program up and running there—you are not going to find a great deal of support for that. And those are the people who put us here in this chamber.

I just want to pause again to note the fact that the reason we talk about remote sites, the reason the industry is so keen on deep geological storage, is that the containment will be breached. It will fail. The industry knows that. So how about we do not accept that premise? How about we take the premise of, 'While we have the stuff on the surface in dry storage close to the sites of production, being watched over by the people who produce it, by the PhDs and the smart folk who thought the production of this stuff would be a good idea, let's continue working on waste isolation'? Maybe it is in rock; maybe it is transmutation; maybe it is something else that we have not thought of yet. The last thing we want to be doing is parking this stuff down a hole in the ground, because then we foreclose those options.

Over three decades, one proposal has followed another to cope with the waste, stemming either from the IAEA itself, from groups of governments, from the EU or from private consortia. All have failed on a combination of legal, political, technical and ethical factors. For example, the Pangea proposal was bounced out of Western Australia. It took us about two years. The company did not have community consent. Their videotape was leaked and they were not ready for it, and neither was the state government. Before you knew it, the conservative Liberal state government had legislation on the books to ban just such a proposal. That was how badly wrong that campaign went.

To borrow from the experience of our neighbours, in 1987 the United States chose a site in Nevada called Yucca Mountain for a deep geological nuclear repository. Despite strong opposition from many quarters, congress passed the proposal in 2002. However, after assessing the difficulties of the site, and after numerous court cases suing to block the project on grounds that the area has earthquake potential and that transporting waste would create a hazard and potential target for terrorists, funding was terminated, effective with the 2011 federal
budget, leaving the United States without a permanent long-term storage solution. I should add that they did not even go down the path, as Pangea was seeking to do in Australia, of choosing an area with very simple stratified geology with a very deep groundwater table; they chose a volcanic mountain with huge rates of groundwater infiltration and occasional volcanic eruptions — eruptions every few thousand years — in an earthquake zone. They thought it would be a great idea to park it there. Then their engineering studies told them that simply was not going to work. But, on the same premise, when the waste has burned its way out of your containment structures you need Yucca Mountain to be your effective container of the waste. I think that solution is just utterly bankrupt. It shows the deep bankruptcy at the heart of the nuclear industry.

Sixty years on, your waste management strategy is to just put it as far away as we can get it from us so that when the containment is breached it is in a desert — unbelievable. The facility in Yucca Mountain was due for completion in 2020. It cost the US $9 billion and 20 years of planning. The US currently has no other plans in the pipeline for dealing with more than approximately 60,000 tonnes of high-level waste. Here in Australia we are talking in terms of the low thousands of cubic metres. In the States they are talking about 60,000 tonnes of the stuff. So the alarm about Australia becoming the world's nuclear waste dump is not unfounded.

In 2006 President Bush launched the Global Nuclear Energy Partnership, which Australia enthusiastically joined. The organisation has now changed its name to the International Framework for Nuclear Energy Cooperation. Early GNET proposals included Australia becoming a one-stop nuclear shop, with financial incentives for Australia storing the world's waste. This GNET proposal was widely reported in the international press and here in Australia, in the Australian, in the Bulletin and on Crikey. When Prime Minister Howard visited Washington in May 2006 he was accompanied by Dr John White, the Chairman of the government's Uranium Industry Framework. White was one of the developers of the UIF, and he was responsible for setting up a UK-US-Australia consortium, the Nuclear Fuel Leasing Group, with three others: David Pentz, Chairman of Pangea Resources — there they are again; Daniel Poneman, principal of the Scowcroft Group; and Mike Simpson, head of business development projects for British Nuclear Fuels, who were also one of the founding partners of the Pangea consortium. The Nuclear Fuel Leasing Group submission to Zygmunt Switkowski's Uranium Mining, Processing and Nuclear Energy review advocated Australia for producing fuel rods and then taking back the waste. In the Australian Financial Review, on 7 June 2006, he was quoted as saying: Australia wins on the mining, enriching and leasing, but makes a long-term fortune on the storage.

A wonderful understatement: a long-term fortune. We could be picking up rents from the storage of nuclear waste into geological periods. If the Neanderthals, who roamed Northern Europe before the last ice age, had developed nuclear power we would still be looking after their waste stockpiles. That is long term, indeed.

This amendment ensures that the national radioactive waste dump does not become what was envisaged by Pangea, by George Bush, by Dr White, by Bob Hawke, by Alexander Downer and, no doubt, by some of your party room and caucus colleagues in this building today. I commend this amendment to the chamber.
Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (13:00): Those listening to this debate may think that the National Radioactive Waste Management Bill is about geological deep storage.

Senator Ludlam interjecting—

Senator SCULLION: I am not suggesting for a moment, Senator Ludlam, that you are saying that, but in isolation the amount of discussion about it shows this needs to be cleared up. We have had debates before in this place on many of these aspects, but I remember that, when the first bill went through, we were quite concerned about how we would specifically ensure that Australian law said, 'You cannot import anyone else's waste into the country.' There are two ways we could do it. We could do it specifically, and I think Senator Ludlam has attempted to do that—I will get to that in a moment—but we believed, after all the legal advice we could get, that it was simply prohibited under the 1956 Customs legislation, and that was sufficient.

The problem with Senator Ludlam's amendment is that it talks about domestic origin. Since Australia is an exporter of uranium, and thus the domestic originator of almost any material that you can find around the world, 'domestic origin' may produce some ambiguity. I am not a lawyer. I am a busted-arse fisherman, so I look to the wiser views of others on this matter. I know that this amendment is well-intentioned to put the question beyond doubt, but from all the advice we have received I know that, right now, it is not possible to import any waste into this country from other sources. It is simply not possible. The Commonwealth legislation puts that beyond doubt. I know Senator Ludlam is trying to add a layer, with the notion that this would somehow put that further beyond doubt. The advice we have is that it will not provide any further certainty in the matter; in fact, it will provide some ambiguity.

This issue is not about deep disposal. This is not being contemplated by the Senate in this country at any time. It was great to hear the history of that, and if it ever happens in the future of any country it would mean significant legislative change in any nation around the world. It is very important to make the point that the Northern Territory relies on tourism and other things, but to make the connection that, if I am not supporting this amendment, I do not care about the Territory or tourism is spurious.

The reason we will not be supporting the amendment is we do not really believe it adds to the legislative protection that you intend to provide.

The TEMPORARY CHAIRMAN (Senator Fawcett) (13:03): The question is that the amendment be agreed to.

The Committee divided. [13:07]

(The Chairman—Senator Parry)

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

AYES

Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Arbib, MV
Boyce, SK
Cameron, DN
Crossin, P
Evans, C
Feeney, D
Fifield, MP
Hogg, JJ
Madigan, JJ
McKenzie, B
Moore, CM

Arbib, MV
Boyce, SK
Cameron, DN
Crossin, P
Evans, C
Feeney, D
Fifield, MP
Hogg, JJ
Madigan, JJ
McKenzie, B
Moore, CM

Boswell, RLD
Brown, CL
Cash, MC
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Gallacher, AM
Lundy, KA
Marshall, GM
McLucas, J
Parry, S
Question negatived.

The CHAIRMAN: Senator Ludlam, do you wish to move further amendments?

Senator LUDLAM (Western Australia) (13:09): I do, Mr Chairman—a great many. As the minister has observed, the debate has been pretty wide-ranging so far. I have focused not just on the detail of the bill but on some matters of great principle, including whether or not this dump will eventually host radioactive waste from overseas. It appears that we have just voted to leave the door open to that eventuality, which I think is a great shame.

I would like to turn now to some of the specifics. In my speech in the second reading debate some time ago, I focused on three groups of amendments. The first group, which we have spent a bit of time debating, are around the principles of the bill, the flawed thinking that underlies it, and some of the reasons why we think this bill cannot be fixed and should be opposed.

The second group of amendments go to some of the detailed procedural issues in the bill, the way that it handles ministerial decision making and the way it handles ministerial discretion. We have made what I think are some fairly sensible proposals to simply return the normal safeguards that apply for siting decisions for any other kind of infrastructure—whether it be a freeway, a car park, a post office or whatever—to siting a facility of this nature.

The third set of amendments go to what the Australian Greens would like to see instead. Because of the nature of this bill, I am 90 per cent opposed to it; most of what is in this bill should just go in the bin. But there is an obligation to the Australian Greens and anyone else who steps up and says, 'We don't think this should happen on the Kunga's land in South Australia, we don't think it should happen at Muckaty and we don't think it should happen at Laverton'—

Senator Boswell: Where should it go?

Senator LUDLAM: Senator Boswell, we are on the same page; it has taken 3½ years, but we are there. Where should it go? There is an obligation upon us to answer the hard questions. Perhaps it should go into Queensland, Senator Boswell, nobody has thought of that for a while.

Senator Boswell: What about South Australia?

Senator LUDLAM: They already tried South Australia and they got kicked out of there. In the whole time the minister has had carriage of this debate, the only thing that has come out of his mouth that I agree with is that this is hard, this is difficult. This has perplexed governments on both sides of the political fence for decades, as the minister observed yesterday. It is politically difficult, the technology and engineering behind it is hard, and nobody has really got it right. There are very few examples you can look to around the world of what should become of this intractable waste. One of the reasons for that is that we should not have produced it in the first place.

Senator Boswell: But we did.

Senator LUDLAM: Senator Boswell interjects again. We have got a 60-year legacy of this material. Fortunately in Australia we have only a few thousand cubic metres, but globally there is a hell of a lot more than that. We did create it. Isn't it interesting that in—
Senator Williams: Boizzie, you’ll get six of the best in a minute!

Senator LUDLAM: No, Senator Boswell is greatly assisting the debate; I do not mind the interjections. Sixty years after we first started producing this material in significant volumes, we are still standing here—as they are in the United States congress, as they are in Westminster and as they are in the Diet in Japan—scratching our heads and going: “What the hell should we do with this stuff? Why do we have so much of it? Should we be producing this much?” For 60 years we have been having that debate. We have been having that debate for less time in Australia, but the one thing we have in common with every jurisdiction in which this debate is being had is the total absence of a plan. The industry set this thing up and started producing this waste and did not have a clue about what to do with it. So we have been handballed this stuff, three generations after that facility was started up, to have the debate now. I agree with Minister Ferguson that is a very difficult and intractable problem that we should never have left ourselves. But here it is.

So the third set of amendments that I propose to move somewhat later in the debate go to what we would like to see happen instead. We have unashamedly cherry-picked from the some of the best examples that we could find from practices around the world where the community was given a voice, where the scientific and engineering community were given a voice and where, just for a brief sheltered moment, politics was set aside and they were not starting from a premise of which politically vulnerable community should host this toxic time capsule until the end of time. We are starting from a premise: we produce this material, we have a legacy, it has to be dealt with; what should we do with it? That is actually all we are asking for here in this debate today: a genuine and honest conversation that does not start from the premise that a cattle station in Senator Scullion’s electorate drew the short straw and, when the music stopped, got left without the chair—to mix metaphors.

I will move Greens amendment (3) on sheet 7037 as follows:

(3) Clause 5, page 6 (lines 9 and 10), omit subclause (4), substitute:

(4) A nomination which does not comply with subsection (2) is invalid and of no effect for any purpose under this Act.

This goes through some of the more nitty-gritty procedural details of exactly what this bill does and exactly the scope of discretion that the minister has given himself. It is good that Senator Boswell is here so we have got representation this afternoon from WA, the Territory and from Queensland. There is no-one from South Australia, which is a bit of a shame—I beg your pardon, Senator Wright is here. So all of the Central Australian states, the so-called remote geology, the safe areas where we can dump the stuff far away from population centres, have representation here and this means something to all of us.

The minister has granted himself total unfettered discretion as far as site location is concerned to trigger the processes that then flow through the ARPANS Act and the EPBC Act. He has given himself total discretion around the location. The people might find themselves targeted, as the Muckaty mob have, and when we have knocked that one over, presumably, there is going to be another community in the firing line. They will discover, when they read this bill, that the minister has granted himself extraordinary discretion, and I will give you one example of what the amendment I have moved seeks to fix.

We have talked at length about the spirit of volunteerism, which sounds like a
wonderful idea. How does the minister take a nomination for a radioactive waste dump? When we knock Muckaty over, maybe it will be a site in Senator Boswell's electorate. Maybe it will be somewhere in Senator Wright's. Here is what we need to know:

(2) A nomination must:

(a) be in writing;

(b) be made to the Minister; and

(c) specify the land nominated ...

(d) contain evidence of all interests in the land; and

(e) if there is a sacred site ... [it should] contain evidence that the persons for whom the site is sacred are satisfied that there is no ... risk.

That implies a degree of consultation has gone on beforehand.

They must contain evidence that the land council—here we go; here is an assumption that this is potentially going to be in a remote area—has consulted with the traditional owners and that the traditional owners understand the nature and effect of the proposed nomination. Why is there an assumption that this is going to be in remote Aboriginal country somewhere. Isn't that interesting?

It says that the TOs need to understand the 'nature and the effect of the proposed nomination and the things that might be done in relation to the land', that TOs 'as a group have consented'—there is an important word; we will hear more about that—and that any Aboriginal community or group that may be affected has adequate opportunity to express its views. To me that actually sounds reasonable; there does not seem a great deal of that that I would disagree with—there might be a couple that I would add. You might talk about state government and you might talk about local government authority. Heaven forbid that they should be left out of the loop. But as far as volunteerism goes, there is a set of criteria to guide the minister. He is not going to accept the piece of paper onto his table unless those things have been ticked off.

Hang on, then it says: failure to comply with these conditions does not invalidate a nomination. So do not waste our time. Here are these fine-sounding principles of consultation but if you violate them on the way into the minister's office, it will not invalidate the nomination. It does not matter. This is the kind of bill we are dealing with here. It is bad when you look at the high-level principle and it is bad when you get down to the detail and the nitty-gritty. Why bother having the procedural standards or these nomination criteria in the first place?

So there are the conditions that outline when the minister may declare that a nomination can be made. Some of this is hypothetical at the moment, because we know they have nailed the Muckaty mob to the map. They have said that this is where this thing is going. We are preserving this nomination that arose in 2006. So at the moment some of these provisions around the volunteer nomination from Senator Boswell's backyard or Senator Wright's or Senator Evans's are a bit academic. But it is important that we get to discuss these provisions now because when the Muckaty nomination falls over, and the advisers at the table know that it will—and that may not be too far away—then these provisions will come to life.

It says that the minister may make a declaration in writing, that the minister must have regard as to whether it is unlikely that a facility will be able to be constructed and operated on Aboriginal land. Why is it an
assumption? Why always the assumption that a remote Aboriginal community has to be the last one without a chair when the music stops? Some of the people probably least qualified have accrued the least benefit from the development of this technology and are dealing with a lot of other issues—things like the intervention. This is the last thing they need.

In terms of his timing, the minister says in the bill that the declaration takes effect from the time specified in the declaration, which must not be earlier than the time the declaration is made—brilliant—and it goes on—and a copy of the declaration must be published in the Gazette within seven days of the declaration being made. So there is some consultation. Who reads the government Gazette? When was the last time anybody in here read one of those? But it says that the minister does not have to make the declaration public within seven days. He does not have to ensure that the public is informed, and the declaration is not invalid if he does not tell anyone about it—if it is a secret. Whoever drafted this bill had maybe spent some time in Eastern Europe or East Germany. Please do not waste our time. Do not write this stuff into the bill about the parameters of consultation and all these box-ticking exercises that have to be done and then drop a clause in there that says that if none of this is done, it does not matter, that nomination can still proceed.

When it comes to approval of nominated land—and no doubt the minister will remind me if he chooses to jump up and respond to some of these remarks—this is just about siting. This is what triggers the EPBC Act. This is what triggers this cascade of processes under the ARPANS Act to make this thing safe. My contention is that you have nailed a spot to a map. You have been unrolled several years to process and potentially put a community through a lot of misery. The siting decision needs to occur with some kind of accountability and oversight, some kind of process that is not written into the bill and then casually violated a few paragraphs later. Everything flows from that initial siting decision. We are well aware that we may then spend several years bogged down in environmental impact assessment processes, which tend in this country to be just a one-way foregone conclusion. But once you have nailed a spot down on a map and told a community that they are it—which is what this minister is going to do with the Muckaty mob—everything flows from that. There need to be some safeguards.

When it comes to the approval of the nominated land the bill says:

(1) … the Minister may—
we will get to absolute discretion in a bit; nonetheless, language like that is remarkable in a piece of legislation—in his or her absolute discretion, approve in writing land …

… … …

(4) An approval takes effect at the time specified in the approval …

(5) A copy of an approval must be published in the Gazette within 7 days of the approval being made.

But failure to tell anyone about it does not invalidate the approval. Large parts of this bill are rubbish and really should not have got past the drafting stage. With regard to formalities relating to the minister's declaration, when a decision by the minister is revoked a copy must be published in the Gazette within seven days but failure to do so does not invalidate the revocation.

What is it that the minister is afraid of? What kind of fear of regular documented transparent due process is being avoided here? Is he afraid of scrutiny? Is he afraid of being held to account? Is he afraid of 500
people turning up at his office and inflating a gigantic white elephant, as happens from time to time at the electorate office in Batman? I think he is afraid of his decisions being reviewed in court.

When governments are transparent in decision making, people tend to have a lot more confidence in them. On the one hand in this government, we have people like John Faulkner working to try and restore trust and integrity in the government and freedom of information laws or whistleblowing protection—wherever on earth that got to—trying to ensure that there is a culture of openness and transparency in government. Senator Evans has been a part of this. We know there are people in government working towards that end. Then on the other hand we have the minister saying, 'As far as this one is concerned, folks, I am going to have complete, total unfettered discretion. It will go where I say it goes and then you can spend the next year or two squabbling through the EPBC Act and through the ARPANS Act.' The Australian Greens oppose clauses 6(5), 8(4), 9(6), 15(2) and 17(6) in the following terms:

(6)Clause 6, page 7 (lines 21 and 22), subclause (5)

(7)Clause 8, page 10 (lines 28 and 29), subclause (4)

(11) Clause 9, page 11 (lines 14 and 15), subclause (6)

(20) Clause 15, page 18 (lines 7 and 8), subclause (2)

(22) Clause 17, page 19 (lines 9 and 10), subclause (6)

The amendments, which have been circulated for months, effectively put a bit of strength and integrity and some teeth into what the minister says. If you read the minister's speech—what he said in the other place or what he said at the occasional press conference—you would think maybe that we were just making this up and that there is finally a spirit of consultation, that this is a genuine repeal bill and that there is going to be some progress. There is not. We have gone to a degree of effort.

None of these amendments is vexatious. They simply attempt to return a certain amount of legal accountability to a minister that, in my view, has gone completely off the rails. This is not a shopping centre car park. This is not a decision about where to site a telecommunications mast or something like that. This is the nation's first long-lived, intermediate-level radioactive waste dump, and the minister with the responsibility and the trust of the community to make that decision needs to have just a faint ghost of accountability and transparency surrounding the decision when it is made. I commend the amendments to the chamber.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:25): Senator Ludlam is not usually a conspiracy theorist, but on this occasion I think he is getting pretty close. These no invalidity clauses are very common in legislation. These are standard provisions that are available to us to put into legislation to ensure that those sorts of technical errors can be dealt with through this no invalidity clause.

I note that the senator himself is a sponsor of a bill that contains those clauses. I am not going to run a conspiracy theory that his Government Investment Funds Amendment (Ethical Investments) Bill is really some communist plot. I think he and Senator Di Natale have actually sought to have the bill
drafted so that it can be effective—exactly what we are doing here. These are provisions that are contained in other bills. This in no way allows a land council to lawfully nominate land without the consent of the traditional owners. This approach has been found in other bills and applied to land other than Aboriginal land. They are there for good reason. There is no way that a decision on a nuclear waste facility would not have the highest amount of public scrutiny, public debate and, quite frankly, recourse to legal action if any of the parties with an interest in the matter felt that the minister was acting inappropriately or that there was some fault with the processes.

We all know that this is contested space. We all know that those issues would be taken up by those with an interest. This provision is in other legislation. It is not unique to Aboriginal land or land dealt with under this bill. It has been used in relation to the Torrens title system and, as I say, it is contained in a bill that Senator Ludlam himself proposes to the Senate. While I understand his concerns, these amendments, quite frankly, just limit the effectiveness of the bill and the government cannot support them. I can assure him that there is no way that these are designed other than to make the legislation effective. They do not at all undermine the proper processes that are contained in the bill.

Senator Chris Evans: Resist the temptation, Senator.

Senator LUDLAM: No, I am afraid I cannot, because I think it is entirely reasonable for people reading a bill such as this, particularly in the instance of the criteria that surround nominations, to think that the failure to comply with conditions around particular nomination for a remote radioactive waste dump on legal technicalities will still be accepted if there is a spelling mistake in the application. I am routinely accused of being a conspiracy theorist, so it is not something that comes as a complete surprise.

Senator Chris Evans: Have you reflected upon that accusation?

Senator LUDLAM: Minister, I think some of these conspiracies are not theories; that is the only sensible response to that. I do not think this is a conspiracy, because there is really only one key actor. This is not about a conspiracy, this is about total ministerial discretion to do as one individual pleases. We do not need to invoke some kind of shadowy conspiracy between ministers of the government or people in the industry, this is simply about the ability of a minister to engage in a box-ticking exercise. I do not think anybody in their right mind believes that it is about a spelling mistake or punctuation that is out of place.

What it means is that if a nomination comes through that is technically dodgy but politically feasible it can be accepted, and this chain of events and series of processes can unfold. People can spend years, as Diane and many others in Tennant Creek have, reaping the consequences of an initial dodgy decision. It is the contention of the applicants to the Federal Court action that the initial decision around the nomination of the
Muckaty site—something that Senator Scullion has had a degree of experience in and has been involved in since before I came along—and the initial nomination of that land were wrong. The right procedures were not followed under the Aboriginal Land Rights Act all those years ago, in 2006 when the nomination first came forward. That goes to the series of amendments that the Senate just chose to vote down. This is not about spelling mistakes; this is about people's lives being put on hold for up to six years while the parliament stumbles through a series of processes, while the courts work through their processes, while the campaign to support them gets on its feet. If the original nomination had been at least through the very limited guidelines that applied at the time through the Howard-era legislation, we could have saved these people that misery.

Shortly I will move a set of amendments that ensures that any nomination complies with the Aboriginal Land Rights Act. Of course, in the Territory there is a unique setup and things apply somewhat differently to how they do in the rest of the country. These amendments effectively go to fulfilling a promise that was made by the Labor Party. The 2005 act ensured that a decision by the minister to approve a nomination or declare a facility did not require a finding that voluntary informed consent—there is that word again—under the Aboriginal Land Rights Act was provided, that there were no rights to be heard on this issue by affected parties and that such a decision was not reviewable by the courts on that basis. In 2006, the time when the opposition by local traditional owners to the impending Muckaty nomination was becoming obvious, further amendments were passed. At the time I was working for Senator Siewert, and I remember it very well. We had already had—in that same infamous fortnight—WorkChoices, Welfare to Work and the introduction of voluntary student unionism passed through here along with terror laws. In that period of a matter of hours at most—perhaps Senator Scullion remembers exactly how long—the 2005 Radioactive Waste Management Act was rammed through this place, against the opposition of the Australian Greens, the Democrats and, I believe, the Labor Party.

It was rammed through here because the Howard government knew that at the time they had the numbers. I suspect they did not even read the committee reports. They would not have read most of the evidence that came through from witnesses who said this was procedurally wrong, wrong from a land rights perspective and wrong from a human rights perspective. In late 2006 amendments were passed, about a year after the 2005 act got up. These amendments effectively clarified the role of the land councils in forwarding nominations. I do not think it is breaching confidence to say that at the time the Muckaty nomination was afoot, the government needed clarity to make sure that it would be uncontested, that people who had been left outside the loop and have eventually had to find their recourse through the courts could not fight the thing. And so it was clarified in the parliament.

Those amendments, among other things, ensured that the act of the nomination itself,
in addition to the minister's decisions about such nominations, could not be subject to procedural fairness or legal challenge on the basis of absence of voluntary informed consent. The Commonwealth Radioactive Waste Management Act, which is still in force, simply overrode the land rights act. There is no nicer way of putting it than that. This was one of the aspects which was fiercely objected to by the Labor Party. Perhaps later in the debate I can quote Senator Crossin, Senator Carr or a number of other Labor Party spokesmen who beat the hell out of Senator Scullion and his party at the time for putting these amendments up. They then turned around after the election and cut and pasted the damn thing and carried straight on with what the Howard government had been doing. It is beyond hypocrisy. It is through hypocrisy and out the other side. I am not sure what the word is for such behaviour, but that is what we have been witnessing for years and years.

Procedures that required informed consent from all affected groups and peoples were deleted and decision-making processes in the land rights act were avoided. In March 2007 we found those strong and principled media statements coming from Senator Carr, from Senator Crossin, from Warren Snowdon. Here is what they committed the federal Labor Party to doing. They committed the federal Labor Party to ensure that any proposal for the siting of nuclear waste facilities on Aboriginal land in the Northern Territory would adhere to the requirements that exist under the Aboriginal Land Rights Act of the Northern Territory. How much things have changed since then. When in opposition Senator Crossin said, 'These lands in the Northern Territory are connected to Indigenous people through their spirituality, so it is not exactly our land, I don't believe, to play around with.' Of course she was right.

The proposed dump site near Tennant Creek in the Northern Territory, which is the only option currently under consideration, is immediately adjacent to a sacred Milwayi men's site known as Kurrakurraja. I do not know whether senators have taken the time to look at some of the maps. People have obviously been walking the country for tens of thousands of years, but in very recent times anthropologists have taken the time to sit down with and speak to some of the old people and map where the sacred sites lie. To Western eyes these things look like dots and rectangles—straight lines on maps—that are then keyed to a database of what some of the senior people have told anthropologists over time. I do not think it is contested that there is a sacred men's site on the rectangle that is marked out for the Muckaty nomination. I think what is contested is who the appropriate people are to speak for that site, but it is not contested that sites are there. We tend to imagine these things as lines on maps or dots on the ground, but the landscape itself was alive. As far as these people are concerned, you cannot just chop rectangles out of it and not expect people's obligations and responsibilities to be disrupted. That is where we come undone with proposals such as this.

The Aboriginal Land Rights Act says:

The Land Council is precluded from taking any action in any matter in connection with the land unless it is satisfied that the traditional Aboriginal owners of that land understand the nature and purpose of the proposed action and, as a group, consent to it.

And:

The Land Council, in turn, is required to have regard to the interests of, and shall consult with, the traditional Aboriginal owners of the land and any other Aboriginals interested in the land.

It sounds pretty clear. Compared to what we ended up with with native title and the divisive and disastrous make-up of the
Native Title Act, the land rights act looks pretty progressive. That is perhaps one mistake that the Howard government made when they charged in after telling people there would be no dump in the Northern Territory. There was this strange sleight of hand where it was going to be on an offshore island somehow during the 2007 election. Right after that election, somehow it was in the Northern Territory on one of three Defence sites. That miscalculation was that they believed that the Defence sites simply overrode the land rights act, and obviously that is not the case with the Muckaty nomination. Their other obligation is to ensure that the Aboriginal community or group that may be affected by the proposed action has been consulted and has adequate opportunity to express its views to the land council.

Minister, I might put this question to you now—I believe you might have taken it on notice yesterday. Can you provide for us in whatever degree of detail you or the advisers are able what consultation this minister—we obviously will not hold you responsible for the previous minister—has undertaken, including site visits if there were any beyond what you provided us with yesterday, to the people who believe that all three of those obligations under the land rights act are breached by the Muckaty nomination?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:40): I am not sure I can add much to the answer I gave yesterday. I understand the minister has not met with the litigants, but I can seek some further advice. I am not able to help you in the sense of who the minister has met with more specifically. I made it clear about the visit yesterday and I think the advice is that he has not met with the litigants. I am quite upfront about that.

In responding to the amendment which I think you are moving, the answer is that we agree with you but do not think putting it in the bill is appropriate because of the duplication argument. But I am going to get some further advice on that. The proposed amendment suggests that the land council can potentially make a fraudulent nomination. We believe that the rules of nomination under clause 5 already expressly state that a land council must comply with the Aboriginal Land Rights (Northern Territory) Act 1976 when it nominates a site. They are consistent with the functions of land councils and land dealings under the Aboriginal Land Rights (Northern Territory) Act, so we say what you are seeking to do already applies and to place it in this bill can cause potential confusion because it is already contained in other legislation.

I have asked for further advice on whether there is a strong reason why we should not include it, because we do not have a policy difference. It is just a technical question. The early advice was that they thought it was not wise to put it in both bills. But, if you like, when we get to this we might defer that particular one. We are not arguing about the principle, as far as I understand it; it is just a question about whether or not it makes sense and whether our legal advice about duplication is that it does not make sense. I will come back to the chamber on that. If our legal advice is that it is going to cause us difficulty, we will vote against your amendment. If it is that there is no difficulty, we are happy to support it in broad terms. I think Senator Scullion will also make up his own mind about the opposition. Our argument is that the Aboriginal Land Rights (Northern Territory) Act covers the concerns you have already.

Senator LUDLAM (Western Australia) (13:43): I must admit I did not think this debate was going to throw up anything new
at all, but I have been surprised. If the minister is proposing that I delay moving and voting on that amendment for the time being while he seeks that advice, I am certainly happy to do so. I think what you have told us is consistent with the advice you had yesterday: that the minister has not visited Tennant Creek and has not met with the litigants. In terms of the named applicants it is my understanding—this is obviously not a dispute that I am a party to—that there are only a small number of individuals. My question goes more generally. Since late 2007, when the minister took up this portfolio, has he met with anybody at all who disagrees with the Muckaty nomination whether or not they are party to the legal dispute?

Senator Chris Evans: I am sorry, Senator Ludlam, I was speaking to the advisers and I got distracted.

Senator LUDLAM: The minister is simply dealing with the cards that have been dealt by a minister across in the other place who probably would not be giving me nearly the time of day that you are, so I will repeat the question. Recognising that the number of named applicants to the dispute in the Federal Court is relatively small, they are there representing a much larger number of people. You have told us the minister has not met with the litigants themselves. In the entire time that he has held this portfolio, since late 2007, has he met with anybody at all who opposes the radioactive waste dump at Muckaty?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (13:45): I know Minister Ferguson meets with lots of people. I cannot, obviously, answer as to whether he has met with anyone who opposes it; I suspect he would have, just in the course of his normal travels. But, if you are asking whether they are associated with the action in support of the applicants, I do not know the answer. Quite frankly, I am not sure I am going to be able to get to that sort of answer. I think you are trying to make a point, which I understand.

We gave you a clear answer yesterday about him not having visited and met with those opposed to the proposition. As to whether I can get him to trawl through his diary to see whether he has ever met anyone who is opposed to the proposition is, quite frankly, probably stretching the friendship a bit. I suspect he may tell me to mind my own business and you to mind your own business. And I am not sure how relevant it is to the debate. If the minister has anything to add I will come back to you, but I think the answer is probably that we should move on because I am not sure we are going to go to the trouble of trawling through his diary or his recollection. I think you have made your point.

Senator LUDLAM (Western Australia) (13:46): I thank the minister for that. The point that I am making, just to make it absolutely clear so that we can proceed, is that the minister only speaks with people who agree with him. He has refused to meet with me on a number of occasions, although I did manage to buttonhole him at Alice Springs airport on one occasion—which was quite a memorable few moments. I have quite a good rapport with one of his advisers, who is here and who has given me the time occasionally to explain the minister's views and the tactics that have been chosen. We agree to disagree on most things. But the minister himself has never chosen to do so and to understand that on probably the most important and central aspect of this I actually agree with him, that this is a formidably difficult public policy challenge and that we stand ready, as we will do later in this
debate, to propose a way forward. That way forward effectively cuts the knot and gets everybody in this chamber on the same page so that we can move ahead with an approach that is neither coercive nor anticipates that a vulnerable community that needs a road upgrade and a school will put their hand out for 12 million bucks to host a facility such as this.

The minister yesterday seemed to be hinting that there was no choice between those two options. I beg to differ. I think there is a great deal of ground we could occupy between coercion and some kind of bribe—some tiny amount of money for a politically vulnerable community in a remote part of the country to take this facility, this shed-like structure, in exchange for a cheque that would amount to a few tens of thousand dollars a year for the next several centuries, which is what we are contemplating today.

In relation to undertaking consultations under the land rights act and the processes of gaining consent under the land rights act, if I understand it correctly the minister is seeking advice that we may have consent for this amendment. I am not sure where that would leave Senator Scullion, as he has not spoken on this amendment yet, but we may in fact have at least one small point of agreement through the process of this debate.

Senator Chris Evans: Perhaps we should just move on and come back to it.

Senator LUDLAM: I will, Minister. We will park these amendments for the time being and come back to them.

I will speak briefly to the fifth set of amendments. Amendment (8) on sheet 737 relates to criteria guiding the minister in his decision making. This goes back to a degree to some of the comments I was making earlier about the fact that a decision as important as this is going to have consequences for the local community at least stretching for a couple of years and potentially, if all the boxes are ticked at the end of this process, stretching for hundreds of years—well beyond the life of this parliament—and so you would want a few criteria to guide the minister in his or her decision making before they actually put a pin in the map.

It is difficult to recall a piece of legislation that vests so much control in the hands of a single minister, so let us be specific. The decision as to whether the Muckaty nomination proceeds is entirely in the hands of the minister. No rights of appeal apply. If you go through the bill looking for periods of consultation, who he has got to talk to, time lines whereby a decision will fall out of his office, there is nothing there. There are no written criteria against which the minister is to judge the suitability of the Muckaty site—he just gets to make it up.

I acknowledge that at Muckaty there has been a deal of work done. There have been geotechnical surveys and I understand there has been work done on seismicity, on the flooding potential of the site and on the flora and fauna. There has been work done over the last few decades on the extraordinarily long history of Aboriginal occupation of that area. But the minister does not have to even read any of that. There are no criteria guiding the minister's decision. If this bill passes into law—I will be doing what I can to prevent that from happening, but if it does—the minister, if he chose to, could on the following day announced that Muckaty is the site. Nobody would have any rights of appeal, there would be no judicial review and there would be no appeals to procedural fairness. There would be nothing at all to allow us to go back and say, 'Did the minister check off against the responsibilities that the act sets upon him?' because the act sets none upon him. That is something that we can fix this afternoon. If I am on a bit of a
roll, as I appear to have been with my last amendment, and this amendment is potentially in the same space and we are making some progress, then that is something that we can fix. We can set some criteria by which the minister can be judged and then can be judicially reviewable. The body language in the chamber suggests that is not going to happen, but I will persevere.

As I said, no written criteria exist. No time line exists on which the minister is required to consider evidence or make a decision. We could have a decision fall out of this process tomorrow or we could get a decision in 10 years—not reviewable. There needs to be no statement of reasons for the decision required by the minister. He will not even need to tell us. It could be a one-line press release that says, 'It is going to be at Muckaty,' and that would let Dr Larsson at ARPANSA get on with his job and the folk who will have carriage of the environmental impact assessment get on with their job. Nobody will be able to bang on a minister's door and say: 'Why is it at Muckaty? Have you been up there? Oh, you haven't? Well, if you had you might have known that occasionally it floods, that occasionally there are earthquakes and that there are people who will fight you until the end to make sure it does not go there.' And there is no obligation to publish a list or a summary of submissions received.

So, as processes go, that is why this bill is reasonably slender. There is not a great deal in it to read, because nothing at all constrains the minister's total discretion. Perhaps I will be written off as a conspiracy theorist but if I am misreading the bill, if there are all these processes and clauses in there that guide ministerial discretion on nailing the site somewhere in the country, then please point that out for me.

Sections 8(1) and 13(2) confer further absolute discretion on the minister to make key approvals and declarations without being required to take any criteria or other matters into account in approving a state nomination or selecting a site. Setting aside the obvious contention the Aboriginal people have brought to the table about whether the nomination was proper or not, this is a set-up. Why is this a set-up? In a year or two the environmental impact assessment will come back saying, 'Guess what, Minister—it's an earthquake zone,' or 'A couple of times a year you can't get in there because it floods, it's a flood plain; let's not put our shed-like facility on the flood plain.' That is the kind of thing that could be avoided now if anything remotely existed to guide the minister's discretion. What is happening instead is that effectively a political nomination is being kicked through an open goal, because there is nothing in this bill that would prevent it from happening.

The amendments that we are proposing, for which I am looking forward to the unanimous support of the Senate—and I will not call a division if it is obvious that I have the support of one side of the chamber—provide that, before the minister makes a decision, the secretary of the department must publish on the department's website a notice setting out the nature of the decision and inviting persons to make submissions to the minister about the decision within 42 days after the notice is published. He will need to send each stakeholder a notice. This is all stuff that should have been in the bill. It should not have fallen to the Australian Greens to fix this piece of legislation, but we are happy to do so. Under the amendments, each stakeholder would be sent a notice which set out the nature of the decision so that they would know what it was and which invited stakeholders to make submissions to the minister about the decision within 42
days of the date of the notice. A copy of each submission received under the section would be published on the department's website. In making the decision, the minister would have to 'have regard to the submissions in relation to the decision received under subsection 2' and 'actively consult stakeholders'. I suspect that when the minister saw that line that was the deal breaker, that was when it all started to go sideways. There will be no active consultation of stakeholders under this minister, I suspect. I still think it is a good amendment.

The amendments provide that 'in making a decision the minister must have regard, but is not limited, to the following criteria'. The first is existing infrastructure. Can we get the stuff there on rail cars? Are the roads decent? Are there washouts? Are trains going to be knocked off the tracks? This happened in the Northern Territory late last year. The minister will also have to have regard to things like seismology and hydrology. For example, is the site an area of active seismic activity? If you check a map, Australia is not the most seismically active continent on earth; it is probably the least seismically active continent on earth. But guess what? The dart that they have thrown at the board, which landed at Muckaty, happens to have landed on an active seismic zone. No volcanic activity has been recorded there as far as I am aware of, as the minister suggested yesterday, but it is an earthquake zone.

Senator Crossin interjecting—

Senator LUDLAM: I suspect it was, Senator Crossin.

Senator Crossin interjecting—

Senator LUDLAM: I stand corrected and thank you for preventing me from verballing the minister. But earthquakes do happen up there, not just in anecdotal evidence or recent memory—the maps tell the tale. There are not too many places where you get active earthquake activity, but they happen to have chosen one of them for the nation's first national radioactive waste dump.

Hydrology is another matter that would need to be considered. As I mentioned briefly yesterday sometimes you cannot get into the site because it floods out. It does not sound like a particularly good place to park long-lived, intermediate-level waste for several hundred years. Community consent is something that I will speak at great length about as the debate proceeds, because that is the key factor that has been missing. If the minister thinks that he can get a signature on a piece of paper based on documentation that even the family members who are named in it cannot see—that counts as community consent—then he has a severe challenge on his hands. That challenge, in this instance, has stretched from the front yard of his office, where people routinely congregate to make their feelings known, to the Federal Court, to the front lines up at Muckaty and right into this parliament. There is no community consent, and that is a precondition around the world for managing this material. Without consent there will be no dump.

International best practice is something that I will speak of as we proceed through the debate, because I have tried to give that term—which is bandied around in here far too frequently—some teeth, and tried to define what we would mean by international best practice by actually studying how other countries are grappling with this issue. The minister, of course, can specify other additional criteria if he so chooses.

The amendments state:

(5) The Minister may, by legislative instrument, specify additional criteria in relation to a decision for the purposes of paragraph (4)(f),
but must not apply those criteria in making a decision until either:

(a) the period for the disallowance of the instrument has expired in each House of the Parliament; or

(b) the instrument has been approved by resolution of each House.

That is reasonably clear. The minister can add to the matters to which he or she must give regard but obviously cannot subtract from them. These are things that must be given regard before a nomination can proceed onto his desk. The amendments also state that the minister must cause a report to be prepared setting out his reasons for making a decision and the minister must cause a copy of each report prepared under subsection 6 to be presented to each house of the parliament at least 28 days before the decision to which the report relates takes effect.

So there it is, essentially, in black and white. I spoke before about criteria to guide the minister and the fact that there is total and unfettered discretion written by the minister into this bill, so that his hand is completely unguided in making a decision relating to nomination for a site. We can give those commitments some teeth. When he says he will consult, I hope that he and his representatives in this place will support this amendments, because they give those commitments some teeth, some criteria by which not only the minister can be guided but the community can be reasonably sure when they are published, and when that material is made public, that we will know the reason for a decision having been made in the first place, whether or not it is at Muckaty, whether it is to park the waste or leave it where it is, or whether it is for a remote facility in Western Australia or Queensland. The most important thing in trying to help the government in this instance come up with a successful proposal is that it must be founded on actual consent.

Progress reported.

DISTINGUISHED VISITORS

The PRESIDENT (14:00): Order! I draw to the attention of honourable senators the presence in the gallery of a delegation from India led by his Excellency Mr Sharad Pawar, Minister of Agriculture and Food Processing Industries in the government of India. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

I also draw to the attention of honourable senators the presence in the gallery of the Australian Political Exchange Council's 20th delegation from the Philippines. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Gillard Government

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:01): My question is directed to Senator Evans, the Minister representing the Prime Minister. I refer the minister to the Prime Minister's press conference yesterday and, in particular, to her statement, 'The political drama is over.' Can the minister explain how the political drama is over when absolutely nothing has changed? The faceless men are still in charge, relationships across the government are still broken, the carbon tax is still in place, the cost of living is still going up and the boats keep on coming. Is this not just the same bad Labor government with the same bad policies led by the same untruthworthy Prime Minister?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:02):
Senator Brandis continues in the vein that the opposition struck yesterday, and it seems to me that they should have got over it yesterday. The best the opposition can do is again to seek to try to muckrake and make cheap political points. Aren't you interested in jobs? Aren't you interested in the economy? Aren't you interested in education? Aren't you interested in health?

Senator Brandis: Mr President, I rise on a point of order. On the question of direct relevance: I know the minister has only been going for 25 seconds, but you have ruled before that ritualised abuse of the opposition is not relevant. The fact that the opposition chooses to call attention to the fact that the government is falling apart before our eyes is surely something which is entitled to a directly relevant response.

Senator CHRIS EVANS: I rise in support of ritualised abuse of the opposition—I think it has a lot to commend it! The question from Senator Brandis was wide-ranging political drivel, and I suspect he will get a response in a similar vein.

The PRESIDENT: Senator Brandis, you are quite correct: 25 seconds have been taken up answer in the question. The question is wide-ranging—

Senator Ian Macdonald: He hasn't gone anywhere near it; he's just abused the opposition.

The PRESIDENT: Order! I do not need your interruption. The question has been asked of the minister, and I have ruled that there is no point of order. The minister has one minute and 35 seconds remaining.

Senator CHRIS EVANS: In representing the Prime Minister and the education minister in this place, I expected to get serious questions about the Gonski report—a serious policy issue confronting Australia of how we fund and support schools, how we educate our children and how we ensure that they get the best chance in life. But do I hear a question about the Gonski report? No. Do I hear a question about tertiary education, about skills, about science and research? No. What I get is political rhetoric from Senator Brandis.

The tactics committee spent all morning writing this list of rhetorical abuse and criticism of the government when I think the Australian people are more interested in issues to do with the education of their children and issues to do with the health of their families. They are interested in jobs, the economy and the government's plans to continue to grow our economy and create opportunities. I think the Australian people will look at these sorts of questions and say: 'What's happened the Liberal Party? Why have they so lost the plot that they think this sort of political nonsense is of any interest to us?' They want to know what the government is doing and why we are focused on the economy, jobs, health and education. I suggest that the opposition ask some serious questions of the government if they take their role seriously.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:06): Mr President, I ask a supplementary question. I refer the minister to the resignation of Senator Arbib from the ministry and from the Senate yesterday. Given the standard set by Senator Arbib yesterday—that only by resigning would he 'heal' the Labor Party—should Senator Conroy, Senator Feeney, Senator Farrell and the other faceless men who were part of the coup against Mr Rudd resign as well, or is retribution against those with the honesty to question the Prime Minister's leadership part of the Labor Party's twisted definition of healing?

Government senators interjecting—

The PRESIDENT: Order! Order!
**Senator CHRIS EVANS:** As I pointed out yesterday, Senator Brandis was famous for calling the former Prime Minister Mr Howard a lying rodent. He is also well known for plotting against Mr Abbott's succession to the leadership of the Liberal Party. Senator Conroy was wrong—Senator Brandis never made cabinet, and I hope he never does.

I am deeply saddened at Minister Abib's resignation. He has served this government very well. He has been a huge contributor. He is passionate about issues such as Indigenous employment, homelessness—and sport, I might add. He has made a tremendous contribution to this Labor government. He is a very capable young man. I urged him not to go but he has, for his own reasons—he has made those public—chosen to stand down. It is a loss to the Labor Party and to the Senate but I wish him well.

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (14:08): Mr President, I ask a further supplementary question. If the Prime Minister was confident to test her support with her Labor colleagues yesterday, why is she not confident to test her support with the Australian people so that she can end the poison, once and for all, and restore stable and competent government to Australia?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:08): The Prime Minister has the support of her party and this government will go to the election in the second half of next year and seek re-election. I am confident, as we implement our policies such as the carbon price and the mining tax, that we will get the support of the Australian people for another term, because we stand for something. We have a program and we have policies. And we also budget for our policies. We do not have a $70 billion black hole. We have policies that will benefit the Australian people and we will take those policies to the people in the normal course of events.

**Broadband**

**Senator SINGH** (Tasmania) (14:09): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Given that the ACCC has approved Telstra's structural separation undertaking, can the minister advise the Senate what this means for telecommunications industry reform?

**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 everyone in the telecommunications industry knows, Telstra's vertical integration has been the single greatest barrier to healthy competition in this sector. Today's approval by the ACCC implements the Gillard government's decision to structurally separate Telstra. It is a reform that previous governments have failed to undertake—first under the Hawke government, when it decided to merge Telecom Australian with OTC in the early nineties, and then compounded by the Howard government, when they privatised Telstra as the dominant vertically integrated wholesale and retail provider—until today.
These decisions have contributed to two decades of market failure in the telecommunications industry—a point made by the ACCC just last week. The ACCC said:

Telstra retains a dominant position in both retail and wholesale markets—

and—

despite the deployment of competitive infrastructure in some geographic areas over the past decade, on a national basis, competition for the supply of wholesale ADSL services is not effective.

This was the competitive environment that we inherited. The structural separation of Telstra is a watershed reform that will pave the way for competition in fixed-line telecommunication services for the first time in Australian history. It is a reform I have previously described as the Holy Grail of microeconomic reform in the telco sector. It is a reform that Telstra shareholders have voted for overwhelmingly, and it is one the industry had been crying out for.

Senator Brandis: A renationalised state monopoly.

Senator CONROY: And you have just announced today, you fool, that you are buying the copper! You just announced you are buying the copper.

The PRESIDENT: Senator Conroy, that should be withdrawn.

Senator CONROY: My apologies, Mr President; I withdraw.

The PRESIDENT: You need to resume your seat; your time has expired.

Senator SINGH (Tasmania) (14:12): Mr President, I ask a supplementary question. Can the minister inform the Senate what the ACCC’s decision means for Australian consumers and businesses.

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 National Broadband Network is the vehicle to enable the full structural separation of Telstra. The ACCC decision paves the way for the decommissioning of Telstra's copper network and the progressive migration of customers onto the NBN—unlike those opposite, whose spokesperson today blogged that he is going to direct NBN Co. to buy the copper network. Talk about renationalising! You are ordering NBN to buy it back—to buy back the copper. Read his blog today!

Opposition senators interjecting—

Senator CONROY: That is right, yes. Has it been to shadow cabinet?

The PRESIDENT: Senator Conroy, address comments to the chair.

Senator CONROY: My apologies, Mr President. The NBN, Mr President, will be the first open-access, wholesale-only platform for the delivery of telecommunications services in Australia. It will level the playing field for all service providers. (Time expired)

Senator SINGH (Tasmania) (14:13): Mr President, I ask a further supplementary question. Can the minister advise the Senate of any other broadband plans that could critically impact on rolling out the NBN to families and businesses 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) (14:13): There are now 35 service providers who have signed up to deliver services over the NBN, providing broadband plans beginning from as little as $29.95 a month—just under 30 bucks a
month! All those claims from those opposite—that prices were going up; that prices were going to be higher; that services were going to be poorer—have all been exposed as absolute rubbish.

There is only one party that is guaranteeing universal prices—and that is the Labor Party, the Labor government. Under the coalition, families and businesses in the bush will pay more and get less service. The coalition have even committed to abolishing the cross-subsidy for those that live in the bush—treatling rural and regional Australians like second-class citizens by offering them a voucher. *(Time expired)*

**DISTINGUISHED VISITORS**

The PRESIDENT: I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Solomon Islands, led by the Hon. Selwyn Riumana. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Carbon Pricing**

Senator CORMANN (Western Australia) *(14:15)*: My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Does the minister agree with statements by the Minister for Resources and Energy, Mr Ferguson, reported in the *Sydney Morning Herald* yesterday that, 'There is a lot of concern in industry about the carbon price the government have locked in, given where Europe is,' and that this could be 'to our disadvantage as a nation'? Is the government considering any changes to the carbon tax to ensure it is not to our disadvantage as a nation?

Senator WONG (South Australia—Minister for Finance and Deregulation) *(14:15)*: I welcome a question on climate change. I have been wondering when the tactics committee would finally let Senator Birmingham ask this question, but apparently Senator Cormann pulled rank.

Opposition senators interjecting—

The PRESIDENT: Senator Wong, just address the question.

Senator WONG: I do welcome the question and I am pleased to be fought over. I am asked about what would disadvantage Australia, and I make the point that continued uncertainty when it comes to carbon pricing would disadvantage this country. It would continue to delay that move by investors to invest in clean energy, to invest in low-pollution ways of doing business. We on this side have our eyes firmly fixed on the future. We understand that you cannot be a first-rate economy unless you are also a clean energy economy—something John Howard understood but something the current Liberal Party have forgotten.

It is the case that our policy does include a price floor which acts as a safety valve for investors in low-emissions technology by establishing a minimum price for the first few years of a flexible price period. But I also make this point: if the opposition are so concerned about the level of a carbon price, perhaps they would like to tell us and the Australian people why they support a policy which would impose a carbon price over double what the government is proposing. Treasury analysis says your policy will cost more than double per tonne of carbon than what the government is proposing. You come in here and you talk about a carbon price—you say you worry about it—but you are busy seeking, should you win government, to implement a policy which would cost business more and Australian families more. *(Time expired)*
Senator CORMANN (Western Australia) (14:18): Mr President, I ask a supplementary question. Why is the government so intent on pressing ahead with the world's largest and most complex carbon tax, which would make Australia's most environmentally efficient businesses less competitive than their highest emitting competitors overseas while costing local jobs and be 'to our disadvantage as a nation', to quote the Minister for Resources and Energy, Mr Ferguson?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:18): What would make this economy less competitive is if Mr Abbott were able to implement his policy, which involves Australian working families paying higher taxes, giving it to big polluters and hoping that this might reduce emissions. That is what would make our economy less competitive. We have been very, very clear about the importance of supporting competitiveness and jobs. Our package has been put together with that very much in mind. Apart from the assistance under the Jobs and Competitiveness package, one of the ways in which that is done is by ensuring we enable international linking. It is extraordinary that those on the other side no longer believe in international trade when it comes to carbon. Senator Sinodinos, who in his maiden speech in here said he was—

(Time expired)

Senator CORMANN (Western Australia) (14:19): Mr President, I ask a further supplementary question. If, contrary to Minister Ferguson, Minister Wong and the Gillard government are so confident that imposing the world's largest carbon tax is doing the right thing by families, businesses and our economy, why will the government not let the Australian people pass judgment on that great big new tax before forcing Australians to bear the cost of it and exposing our nation to international disadvantage?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:20): We are a Labor government and we always seek to do the right thing by Australian families. Remember, Mr President, it was those opposite who implemented Work Choices and who are seeking to take back the family tax benefit increases that are part of the carbon package. It is those opposite who are seeking to take back the increases to the disability support pension, the increases to the age pension, also part of the clean energy package. It is those opposite who are saying to Australians, 'We want you to pay more to reduce emissions.' That is the message from the opposition: 'We want you to pay at least double the cost of what the government is putting forward and we will ask you to do it without assistance.' So do not come into this chamber, Senator Cormann, and lecture us about families. You are the ones who want to make sure working families pay more and you are saying to those high emitting companies, 'We want you to pay less.' They are the same priorities that see you wanting to give a tax break to wealthy miners over Australian families. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT: I note the presence in the gallery of former senator Michael Forshaw. Welcome, Senator Forshaw, to question time once again.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Dental Health

Senator DI NATALE (Victoria) (14:21): My question is to the Minister representing the Minister for Health, Senator Ludwig. The report by the National Advisory Council on
Dental Health was released, interestingly, at 5 pm yesterday. The report by some of the foremost experts on dental and public health highlights the shocking state of dental health in this country. The report advocates a transition to a Commonwealth funded, universal dental scheme. Will the government commit to this goal of universal, Medicare funded dental care for all Australians?

Senator Ludwig (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:22): I thank Senator Di Natale for his continuing interest in dental health—I did have the opportunity of seeing his press release this morning. The government has committed to publicly funded dental care which is targeted at those Australians who can least afford to pay for dental care themselves.

To provide the government with options, as Senator Di Natale has outlined, we established the National Advisory Council on Dental Health. Minister Plibersek received the report late last week. The report raises questions and points to challenges which would need to be resolved in order to deliver a publicly funded dental scheme. This is also about dealing with priorities—about how we spend our money and how we ensure we get value for money. Any scheme would have to be managed in a fiscally responsible way and be phased in over a period of time. It would also need to be targeted at those Australians who can least afford to pay for oral health care themselves, account for gaps in existing private and public dental services, and address workforce and infrastructure constraints. There is also the issue of existing Commonwealth funding of dental care—any new scheme would have to be established after the closure of the chronic disease dental scheme. I am sure the Greens would support that, but those opposite are not so helpful in that regard.

As a first step towards delivering on its commitment, the Gillard government have said that we will direct $165 million over three years to a means tested, targeted scheme. Those opposite—(Time expired)

Senator Di Natale (Victoria) (14:24): Mr President, I ask a supplementary question. Senator Ludwig would be pleased to know that the report did present several near-term, targeted options for advancing the publicly funded dental care of all children and low-income adults. So will the government commit to immediate action and follow the council's recommendation that these specific groups be funded over the forward estimates as a stepping stone towards universal coverage?

Senator Ludwig (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:24): I thank Senator Di Natale for his supplementary question. The government has taken the first step. As a first step towards delivering on its commitment, the Gillard government have said that we will direct $165 million over three years to a means tested and targeted scheme. When you look at what those opposite are proposing—and I am sure the Greens would agree with this—Mr Abbot's aspiration for a dental care scheme is laughable. When the Leader of the Opposition told the Press Club his scheme would cost $4 billion, Mr Shane Fryer, President of the Australian Dental Association, said it would cost triple that amount. He told the Financial Review:

He’s not within coo-ee on the costing.

Yet more spending promises from those opposite to add to the $70 billion crater they are creating—their $70 billion black hole. In the meantime—(Time expired)
Senator DI NATALE (Victoria) (14:25): Mr President, I ask a further supplementary question. I would appreciate it if the minister would commit to the specific funding identified in the council's report rather than being sidetracked by other promises. I ask him again: will the government, in this year's budget, commit to funding the dental services recommended by the National Advisory Council on Dental Health?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:26): I thank Senator Di Natale for his further supplementary question. One of the hurdles to the funding challenge we have is those opposite. I am sure the Greens understand that. We need first to close the chronic disease dental scheme, a scheme which is poorly targeted and unable to deliver. The CDS, while providing services to some, it is recognised, is not well targeted towards providing assistance in accessing dental services to those Australians most in financial need. If those opposite were to come on board and close that scheme down, it may provide us with the opportunity to look at how we could—

Senator Di Natale: On a point of order, Mr President: I raise the issue of relevance. I specifically asked about the government's response to the report of the National Advisory Council on Dental Health, which identified a specific funding amount to be committed in this year's budget. Just a simple yes or no will do.

The PRESIDENT: I cannot tell the minister how to answer the question. The minister has 18 seconds remaining and I draw his attention to the question.

Senator LUDWIG: I will take that part of the question on notice to see whether Minister Plibersek can add any additional comment. It is acknowledged that she did receive the report late last week. The report did raise, as I think Senator Di Natale mentioned, a range of challenges. But what this government has done is put forward—

(Time expired)

Australian Defence Force Academy

Senator JOHNSTON (Western Australia) (14:27): My question is to the Minister representing the Minister for Defence, Senator Carr. I refer the minister to the decision of the Minister for Defence to abuse his statutory powers in removing Commodore Kafer from his position at ADFA. Under what statutory authority did the minister have the power to remove this highly respected commandant?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (14:28): This is a matter which has been the subject of ongoing inquiry. The minister took the view that it was appropriate, in the circumstances, that there be a change in administrative arrangements, and on his own authority he chose to take the actions that he did.

Senator JOHNSTON (Western Australia) (14:29): Mr President, I ask a supplementary question. The minister has had the Kirkham report into this matter since December last year. Why has the minister sat on this report for more than two months?

Senator CARR: The minister is giving this issue very careful consideration.

Opposition senators interjecting—

The PRESIDENT: Order! Senator Carr is entitled to be heard in silence.

Senator CARR: There are a number of privacy and legal issues which need to be addressed and it would be premature to
discuss the timing of the arrangements of any possible release of the report.

Senator JOHNSTON (Western Australia) (14:30): Mr President, I ask a further supplementary question. The highly respected Australian Defence Association have publicly said that Minister Smith has put his personal party leadership ambitions ahead of proper ministerial supervision of Australia's defence efforts. They have not said this lightly. When will this uninterested minister reinstate the highly competent and respected officer to his rightful position, as the Kirkham report is known to have recommended?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (14:30): I think that the political comment that you have made, Senator, is a matter for your judgment. It has no bearing whatsoever on the minister's consideration of these issues. I have indicated to you that the minister is considering these questions very carefully, that there are a number of privacy and legal issues that need to be addressed and that it would be premature to release the report. As to any other speculation you may choose to articulate, it is completely irrelevant to the consideration of these matters in the terms that I have outlined.

Economy

Senator MARK BISHOP (Western Australia) (14:31): My question is to the minister representing the Treasurer, Senator Wong. Can the minister outline to the Senate how the government has supported Australian jobs and delivered ongoing economic growth? How will the government keep delivering for working people into the future?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:31): Making the right economic choices for today and for the future is the core business of government and that is what this government is focused on. First, when it comes to the global financial crisis, we made the choice to support jobs, to support small businesses and to ensure the economy kept growing. As a result of that, we know that 200,000 Australians who would have been on the unemployment queues remained employed. We are also looking to the future when it comes to our skills package, ensuring that more Australians have the opportunity to get the skills they need, not just for jobs today but for jobs for the future.

Of course, today, as my colleague Senator Conroy has also spoken of, we are proceeding with the investment in the National Broadband Network, an investment that is about the economy of the future. Unlike those opposite, who seem to want to spend money to renationalise a copper network—something that is uncosted; I am not sure if Mr Turnbull's proposition actually went to the ERC, which now has Senator Sinodinos on it—we understand that you need a 21st century technology to be a first-rate economy. That is what we are going to be delivering with the National Broadband Network.

As a result of the decisions the government has made to date, we have seen over 760,000 jobs being created since November 2007. We understand on this side the dignity of work and the importance of pay and good working conditions that go with jobs. We understand what this means for working families right around this country. We understand the importance of supporting jobs, not only through the global financial crisis but also as our economy changes as the global economy changes. Unlike those opposite, we look to the future. Unfortunately, what we have in those opposite is a party led by a man whose only answer is no. You cannot build the future by saying no.
Senator MARK BISHOP (Western Australia) (14:33): Mr President, I ask a supplementary question. Can the minister outline to the Senate the challenges facing the Australian economy and how the government is managing these challenges?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:33): It is true that the task of ensuring Australia's economic strength is ongoing, but, as the Prime Minister has said, the nation is strong enough to bend the current transformations we are seeing in the economy to our own advantage. That is why the government is acting—acting to ensure that the benefits of the resources boom are spread to all Australians and are harnessed to ensure the prosperity of the nation, something opposed by those opposite. Those opposite would rather see wealthy miners pay less tax and small businesses pay more. That is why we on this side are investing in infrastructure, doubling the roads budget and committing more in urban public transport since 2007 than was invested by all previous governments since Federation. That is why we are investing some $3 billion in skills and training, to support labour force participation today and to give more Australians the tools to participate in tomorrow's economy. These are all decisions about the future prosperity of the nation. (Time expired)

Senator BACK (Western Australia) (14:36): My question is to the minister representing the Minister for Employment and Workplace Relations, Senator Arbib. I refer to the government's bill to abolish the Australian Building and Construction Commission that has received a late, last minute, Greens inspired government amendment. Given the police, ASIC and the Fair Work Ombudsman all have the power to investigate and proceed with charges or fines, regardless of whether parties in dispute have settled or made a sweetheart deal, can the minister name any agency or enforcement body other than Labor's new building and construction industry inspectorate that cannot investigate and bring charges in relation to matters that have been settled between the parties? I ask the minister: why should Labor's new inspectorate be curtailed in its investigative and its enforcement powers in such an unprecedented way?
Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:37): I thank Senator Back for the question and for his interest in industrial relations. I am very happy to answer this because the Labor Party is a party that has stood up for workers time and time again. We are the party that abolished Work Choices. We are the party that abolished AWAs. We made a commitment to the Australian people that we would abolish the ABCC and set up a part of Fair Work Australia to undertake those activities. We have kept our commitment to the Australian people. It will be a tough cop on the beat and will be focused on the sector as a whole. It will be a tough cop on the beat but, at the same time, it will enshrine rights for workers.

Senator Back: A point of order on relevance, Mr President. It was not a rant. The question simply was: can the minister name any agency or enforcement body other than the new building and construction industry inspectorate that cannot investigate? He has got nowhere near trying to answer the question.

The PRESIDENT: There is no point of order at this stage. I am listening to the minister's answer.

Senator ARBIB: From Senator Back's second question, his motivation has become clear. This is just another Liberal attempt to go back to their glory days of Work Choices, the glory days when workers' rights were stripped away. You hate this because you know you lost an election on it, but this is the case: the Liberal Party will always stand with the big bosses over the workers. You stripped away the protections of workers, you put in place AWA contracts to drive down wages and, the truth is, you want to go back to the old days because, in the end, that is all you know. Senator Sinodinos, come on down and join the front bench because you were part of it. You were one of the architects of Work Choices. You were one of the people who came up with this policy which was repudiated by the Australian people. We are very proud—(Time expired)

Honourable senators interjecting—

Senator BACK (Western Australia) (14:40): Mr President, I ask a supplementary question. Won't the government's amendment, which neuters the powers of the inspectorate, simply permit intimidation and payoffs in return for immunity from the law? What does the minister say to individual workers and contractors, who will be worse off in disputes between big business or big unions?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:40): The question was broader than what Senator Back has just outlined. The government has kept its commitment to the Australian people and to workers by announcing this new body. As Senator McEwen said, we believe in fairness for Australian workers and fairness for workers in the construction industry.

Honourable senators interjecting—

The PRESIDENT: Order!

Senator ARBIB: We have taken the concerns of employers seriously. They have been factored into the considerations and the consultation undertaken by Minister Shorten. We stand by the new body and believe the new body has the powers necessary to undertake the job to provide a tough cop on the beat and, at the same time, look at broader breaches that take place inside the industry. (Time expired)
The PRESIDENT: Order! Senator Back, you are entitled to be heard when there is silence on both sides. You are getting as much interference from your side as from the other side, which is not fair for the questioner.

Senator BACK (Western Australia) (14:42): Mr President I ask a further supplementary question. Given the Senate committee inquiry into this bill was finalised prior to the government's last-minute amendment, will the government now agree to the committee investigating the impact of these last-minute changes?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:42): I am happy to take that on notice and seek the views of the minister. As everyone in this chamber knows, I am only representing the minister. I am very happy to put that back to him. At the same time, as I have said, we stand by the formation of the new body. We believe the new body will provide a tough cop on the beat but, at the same time, a tough cop on the beat that looks reasonably and moderately at all breaches, not just breaches by union members or workers, but also breaches by employers. We believe in an industrial relations system that is balanced and fair with unions, workers and business working together, unlike those Liberal Party and Nationals senators opposite who, in the end, move the pendulum one way— all the way over to the employers. Work Choices should never be forgotten by the Australian people. If Senator Abetz, Senator Brandis and obviously now Senator Back ever get back in, you know what they will attempt to do: bring back Work Choices. (Time expired)

Indigenous Suicide

Senator WRIGHT (South Australia) (14:43): My question is to Senator Ludwig representing both the Minister for Indigenous Health and the Minister for Mental Health and Ageing. My question relates to the government's response to the tragic incidence of youth suicide in Indigenous communities. This has recently been highlighted by the Northern Territory inquiry into youth suicide. Unfortunately, this problem is not a new phenomenon. In June 2010 the Senate Community Affairs References Committee report The hidden toll: suicide in Australia acknowledged these issues. In September 2011 the government appointed a new advisory group to develop a specific suicide prevention strategy for Indigenous communities. I am asking about the progress of the work of the new Indigenous suicide prevention advisory group and, in particular, when will the specific Indigenous suicide prevention strategy be publicly available? What is the proposed time line for the roll out of that strategy? How will it be funded?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:44): I thank Senator Wright for her question. Ministers Butler, Snowdon and Plibersek have all been working cooperatively and continuously on this issue and, can I say, just as a point of reflection, this government and I am sure all in this chamber remain concerned about the reported higher rates of suicide among Aboriginal and Torres Strait Islander people. It is a tragedy for any person to take their own life and it deeply affects their family and their community. That is why this government set up the advisory committee. Suicide prevention remains a priority for this government. That is why in September 2011 we announced the establishment of the Aboriginal and Torres Strait Islander Suicide Prevention Advisory Group to inform on the development of Australia's first National Aboriginal and
Torres Strait Islander Suicide Prevention Strategy.

The development of the strategy will no doubt involve extensive consultation with communities across Australia including those in the Northern Territory and areas of remote Queensland. We understand that the Select Committee on Youth Suicide in the Northern Territory will be reporting soon and the government will carefully consider the outcomes of their inquiry. The government does continue to work closely with state and territory governments to ensure that responses are well coordinated. The government recently redoubled its efforts in suicide prevention including $6 million being allocated to tackle Indigenous suicide as part of the broader $22.6 million community led suicide prevention activity funding. (Time expired)

Senator WRIGHT (South Australia) (14:46): Mr President, I have a supplementary question. I do note that unfortunately the minister did not provide answers to when the strategy will be available, the proposed timeline for the rollout or, indeed, how it is to be funded. If it is not possible for him to give those answers now, I would ask that they be taken on notice.

I am also interested in knowing whether the government has undertaken any systematic evaluations of suicide prevention efforts in Indigenous communities. Has it implemented any specific programs that identify and address suicide clusters in Indigenous communities, particularly in relation to youth suicide? If so, what is the scope and funding of those programs?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:47): I thank Senator Wright. That is a quite detailed multipart question. I will work through some of the detail and part of it I will take on notice to see if I can provide more information from the responsible minister. But in terms of some of the specific issues, I will go to the funding provided to 13 specific Indigenous community based projects including the Yiriman Project in the Kimberley region in WA, and the Train the Trainer program and Suicide Story Training Project in the Central Desert area of the Northern Territory. All of these add to the assistance provided and underpin some of the work that the state, Territory and Commonwealth governments do in this region. Access to Allied Psychological Service Programs received a $206 million increase in the 2011 budget over five years including $36.5 million for Indigenous-specific mental health services. (Time expired)

Senator WRIGHT (South Australia) (14:48): I have a further supplementary question, and I thank the minister for being prepared to take my question on notice. Is the government funding or supporting any suicide prevention strategies that are initiated by, or based on consultation with, specific Indigenous communities and which draw on the traditional knowledge and wisdom of elders? Furthermore, are these initiatives, if any, implemented through locally controlled partnerships?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:49): I thank Senator Wright. It is a very specific question. I will put it in this context: the department has contributed—and this is just one program; but I think it highlights in part the issue—$175,330 to Queensland Health to fund a specific prevention officer as part of a regional Suicide Prevention Strategy for the Mount Isa Health Services District that
includes Doomadgee, Mount Isa, Mornington Island and Dajarra. This whole-of-government strategy is aimed at developing local capacity and focuses on prevention, awareness and early education. The StandBy bereavement response team are also working with the Doomadgee community at the request of the community members and is part of the rollout of the National Partnership Agreement on Remote Indigenous Housing. The Australian and Queensland governments are committed to supporting employment opportunities for local Indigenous people. I think that just gives a short overview of some of the more specific on-the-ground work. (Time expired)

Small Business

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:50): My question is to the Minister for Small Business and very recently promoted Manager of Government Business in the Senate, and as this is my first question to him in that new promoted role I would like to congratulate him on his promotion. I refer the minister to the comments of Mr Dominic Greco, head of the Convenience and Mixed Business Association who is reported in last weekend's Australian Financial Review as saying, 'Right now small business feels extremely neglected,' and noting the minister's interest in business. Given that the Rudd-Gillard government has had four ministers for small business in less than five years—and with the announcement yesterday of this minister's imminent resignation, which we are all terribly disappointed about, it brings the total to five in less than five years—when will the government get its act together and provide a consistent and stable policy foundation for the 2.7 million small businesses in Australia?

Senator ARBIB (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:51): I thank Senator Joyce for the question. It is great to see finally the Liberal Party or the National Party here asking a question on small business, actually coming to the Senate chamber and asking a question about policy, and I am very happy to answer it. Yesterday I outlined some of the work that Labor is doing on small business. The stimulus package was all about small business and all those tradesmen and tradeswomen, those jobs on those construction sites, all the multiplier effects to those other small businesses—the takeaway shops, the petrol stations, the supermarkets—and guess what: Senator Joyce voted against it. He voted against the stimulus package. Is it a surprise that the National Party voted against small business? No, it is not. Is it a surprise that every Liberal Party senator came in and voted against small business? No, it is not. This is the modern coalition. The coalition that used to be so committed to small business has walked away from small business. Not only did they oppose the stimulus package but also they have opposed tax cuts for small business. Let us just get this straight. The Liberal Party and the National Party oppose tax cuts for small business that will come out of the MRRT, the minerals resource rent tax, on 1 July this year.

If Senator Joyce has any commitment to small business, he will come into this chamber, he will support the minerals resource rent tax and he will provide a tax cut for small business; otherwise, anything he says on small business has no credibility whatsoever. The Liberal Party and the National Party have walked away from their traditional constituency. They have no idea anymore what it takes to run a small business. They have no idea what it takes in terms of cash flow. The accelerated
depreciation allowance will provide assets for small businesses up to a $6,500 write-off. Guess what—the Liberals are voting against it. The Nationals are voting against it. This is the modern Liberal Party. *(Time expired)*

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (14:53): Mr President, for a man with such passion it is such a shame to see him go. For my supplementary question, I refer the minister to the fact that most small businesses would not benefit from the government's planned cut in the company tax rate, given that most of them are not companies. How much of the government's $10.6 billion that it expects to raise from the mining tax over the forward estimates will be spent to assist small businesses, and will this be limited to only incorporated small businesses?

**Senator ARBIB** (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:54): Thank you, Senator, for the question. I also thank you for the compliment. I really do appreciate that. I am passionate about small business, as is everyone on this side of the chamber because we understand its importance to the economy. There are 720,000 businesses—

*Opposition senators interjecting—*

**Senator ARBIB:** Please let me answer this because they want the answer. There are 720,000 businesses that are incorporated in this country and they will benefit from the tax cut. But, at the same time as that, every business will benefit from the depreciation allowance; every business will benefit from the assets that they undertake.

*Opposition senators interjecting—*

**Senator ARBIB:** Yes, they will. At the same time as that, businesses that undertake their payments through PAYG will benefit from a tripling of the tax threshold. They will get the tax cut as well. The Liberals have walked away from small business. *(Time expired)*

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (14:55): So recently promoted, so passionate, yet leaving—it is such a shame. As a further supplementary question, I refer to the fact that over the past year more than 10,000 small businesses have collapsed, an increase of over nine per cent from the previous year. The carbon tax will place increased pressure on small businesses this year in an already tough economic environment. How much of the government's $9 billion in industry assistance allocated under its clean energy package will specifically go to small businesses?

**Senator ARBIB** (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of Government Business in the Senate) (14:56): If the National Party and the Liberal Party want to do something for small business, then they should vote to give them a tax cut. It is amazing that the modern Liberal Party are opposing tax cuts for small business. Peter Costello would be absolutely ashamed of the modern Liberal Party and National Party. They have walked away from giving a tax cut to small business.

**Senator Joyce:** Mr President, a point of order on relevance: we have asked how much of the $9 billion in industry assistance allocated under its clean energy package will go to small businesses. That is very specific and can we get a specific answer?

**The PRESIDENT:** I draw the attention of the minister to the question. The minister now has 38 seconds remaining. The minister should address the question.

**Senator ARBIB** (New South Wales—Assistant Treasurer, Minister for Small Business, Minister for Sport and Manager of...
Government Business in the Senate) (14:56): Thank you, Mr President. Through the clean energy package, there will be a trebling in the tax-free threshold which will assist small business to pay PAYG. If Senator Joyce wants to do something for small business, what about tax cuts, how about the depreciation allowance or how about they actually support the manufacturing programs in the auto industry that we have put in place? How about you support that, because not only will workers directly benefit but all those automotive small businesses will also benefit? But guess what—Mr Abbott has already ruled it out. You have walked away from small business—the Liberal Party has, the National Party has. Do not even pretend. (Time expired)

Food and Grocery Industry
Senator GALLACHER (South Australia) (14:57): My question is to the Minister for Manufacturing and Minister for Defence Materiel, Senator Carr. Can the minister respond to the claims today of the Australian Food and Grocery Council that supermarket practices are putting iconic local brands at risk?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (14:58): I thank Senator Gallacher for his question and his concern about the future of the food industry in the current retail environment. Coles and Woolworths are amongst the most profitable supermarket chains in the world. While they employ many thousands of Australians, they have been very effective in the way in which they have operated. These two companies now control about 80 per cent of the supermarket retail sales. So we have a strong interest in ensuring that consumer options remain open, just as we have a strong interest in ensuring that the capabilities of our manufacturers are maintained. I have genuine concerns about the way in which our supermarket chains are treating our local suppliers. I continue to receive complaints from manufacturers about the way in which contract negotiations are conducted and contract terms are applied.

There are many ways in which these problems could be fixed, but there is absolutely no doubt in my mind of the consequences of doing nothing. We just have to look at what Heinz have been saying. Heinz have already shut a factory in Victoria and have restructured two others. Its chief executive in Pittsburgh, William Johnson, singled out Australia in November as having ‘the worst operating environment that the company faces anywhere in the world’. Our supermarkets are increasingly using their home brands, they are increasingly eroding brand loyalty and they are forcing suppliers to operate on wafer thin margins. If a company the size of Heinz feels under pressure, imagine the position of many small and medium-size companies. Those companies employ hundreds of thousands of Australians, and imagine how they feel in those negotiations.

Complaints that I have received suggest to me that this is more than just a question of robust capitalism at work. It is critical that supermarkets operate on a fair and reasonable basis with their local suppliers. I welcome the Food And Grocery Council’s statement. (Time expired)

Senator GALLACHER (South Australia) (15:00): Mr President, I have a supplementary question. Can the minister inform the Senate what action the government is taking to ensure local food manufacturers get a fair go?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (15:00): I have referred the reports that I have received to the Australian Competition and Consumer Commission for
a full and thorough investigation. Let me make this very clear: this is not a rehash of the 2008 process. As Chairman Rod Sims pointed out just last week, the issues on the table today have only come to light in the past six to nine months. We have seen an escalation in the amount of pressure being mounted on our suppliers. There are opportunities now for suppliers to speak up. We require their assistance in making sure that evidence of their claims is produced. Mr Sims has nominated this matter as a question of priority for this year. He has urged suppliers to bring their concerns forward now. I back that call on behalf of the government. The ACCC can protect whistleblowers. It can investigate and report on these matters in a way that does not compromise individuals. (Time expired)

Senator GALLACHER (South Australia) (15:01): Mr President, I have a further supplementary question. Can the minister advise what options could be considered to tackle the food industry's concerns?

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Material) (15:01): I will be raising this matter next week with the Food Processing Industry Strategy Group that we have established. I do not want to pre-empt the outcomes of the ACCC inquiry. But while that work proceeds, we are actively looking at measures that we can take to encourage fair practice. We have played this role before. You can see, for instance, what we are doing within the resources sector, where we have brought major project proponents together with local manufacturers to work out areas in which their interests align. We have opportunities to follow that same approach in the food manufacturing sector. We want to talk about a code of conduct. We want to talk about how we can harness the $150 million allocated to the food industry in the carbon price package. We want to talk to workers in the industry, and the AMWU is here at the moment to discuss these matters with a range of politicians. We want to talk about programs that can boost the performance of local firms. We want to talk about a supermarket ombudsman. (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Water

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) (15:02): On Monday, 27 February 2012 during question time, Senator Brown asked me a question as the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities concerning protection for the wild rivers in south-west Queensland.

Senator Brown asked whether in the event of a change of government in Queensland, resulting in repeal of Wild Rivers declarations in the Cooper Basin, the minister would ‘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?’ I seek leave to incorporate an answer to this question.

Leave granted.

The answer read as follows—

The Environmental Protection and Biodiversity Conservation Act 1999 (the EPBC Act) provides protection to matters of national environmental significance. The Wild Rivers Act 2005 is
Queensland legislation and operates independently from the EPBC Act.

**Australian Federal Police**

Senator **LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:03): On Thursday, 9 February I provided additional information to the Senate in response to a question without notice from Senator Milne on Tuesday, 7 February. I have since been advised by the Attorney-General, the Hon. Nicola Roxon, that additional information I provided on her behalf in the Senate on 9 February was incorrect. The Attorney-General now advises only one letter from the Attorney-General has been released under FOI. The other letter is still subject to and pending an FOI request.

**QUESTIONS WITHOUT NOTICE:**

**TAKE NOTE OF ANSWERS**

**Gillard Government**

**Small Business**

Senator **RONALDSON** (Victoria) (15:03): 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 Assistant Treasurer (Senator Arbib) to questions without notice asked by Senator Brandis and the Leader of The Nationals in the Senate (Senator Joyce) today relating to the Labor Government and to small business.

In doing so, I reflect on the day after the events of yesterday. I think the one thing that sent the message home was an email I got at about nine o'clock last night which I am quite happy to show those opposite without the name and address on it. The email is from someone who has supported the Australian Labor Party for 40 years and refuses to do so ever again. I took the liberty of ringing this man last night to talk about it. I will show the email to those opposite, because they do not believe me and will want to see it. This person quite clearly says that this is a dysfunctional, deceptive, dishonourable and economically disastrous government that he will no longer support.

I want to put the email in the context of what happened yesterday and the build-up to yesterday. I will repeat the comments that I know those opposite have been told over the last three weeks. The public are sick and tired of the Australian Labor Party worrying more about their own jobs, particularly the Prime Minister and Mr Rudd, than they worry about the jobs of Australian workers. When some 25,000 Victorian manufacturing workers' jobs are at risk this year, including those at Alcoa in Geelong covering the seat Corangamite, the self-indulgence and the damage done to the political process over the last two weeks will continue for many years. Those opposite know that the wounds of the last two days are covered in tissue paper and not gauze. Those wounds will open up sooner rather than later. No-one in the community and no-one opposite believes that this is the end of the Labor Party's leadership problems. Coming with that is a repeat of the dysfunctionality of this government that we will see again. Nothing has changed from yesterday.

I put into context some of the comments that were made in the run-up to this debilitating leadership dispute, particularly from Victorian backbencher Darren Cheeseman, the member for Corangamite, who told the *Sunday Age* that many rank-and-file MPs concluded that Ms Gillard's leadership was now 'terminal'. Julia Gillard cannot take us to an election. She will decimate the party if she does.

He went on to say:

There's no doubt about it, Julia Gillard can't take the party forward. The community has made its mind up on her.
I think it is in the best interests she should resign.
Further, he said:
Certainly it would be interest-of-party for Julia to stand down and allow Cabinet to select a strong candidate.

Mr Cheeseman knows something more than I do: I thought it was your caucus that chose the leader. But here we have from Mr Cheeseman himself confirmation that the faceless men who run cabinet are indeed the ones who are putting prime ministers in and out. Out of the mouths of babes, the likes of Mr Cheeseman. I want to talk briefly about some of the issues that are still confronting this government. I want to talk about Craig Thomson. I want to talk about New South Wales Police investigations. I want to talk about some comments that Mr Thomson made on 15 February. Mr Thomson repeated a statement:

… I have done nothing wrong. I have fully cooperated with the investigations and I look forward to them concluding. I note that the only investigation to have already concluded, that of the New South Wales Police, did not find any wrongdoing by me.

And yet what happened over the weekend? What was reported in the Australian on 25 February? I will read from the article:

NSW police are closing in on alleged corruption involving Labor MP Craig Thomson and Health Services Union boss Michael Williamson, raiding the premises of graphic designer John Gilleland who is claimed to have secretly provided the pair with credit cards.

So on 15 February we have this man saying it had been concluded and New South Wales Police could find no wrong, and here they are a week and a half later making raids which directly involve Mr Thomson.

This government is completely dysfunctional. This government does not deserve to govern for another day. This government must go to the people and let the people decide who is best placed to run this country. They have a clear difference: hope, reward and opportunity or complete dysfunction. I know which one I will choose. (Time expired)

Senator STERLE (Western Australia) (15:08): I rise to take note of questions directed to Minister Arbib and Minister Evans. I could go the low road like Senator Ronaldson, but I would like to be above that. I think to myself that it is absolutely unbelievable that all this lot on that side can do is go the low road.

Maybe I have misled. Maybe I will take a minute to talk about the incompetence and two-facedness of senators on that side of the chamber. I think it has only been four years since we on this side began sitting through the three or four leadership changes on that side. You heard certain senators screaming out, ‘What about Mr Costello?’ If Mr Costello was that great, I do not know why he never stood and had a crack. But then it was all about Mr Nelson and how fantastic Mr Nelson was. How long did Mr Nelson last before he was taken out by Mr Turnbull by one or two votes? How long did Mr Turnbull take? Do not go away, Senator Ronaldson—he was your mate. He probably still is your mate. He is probably a very decent bloke. I think he was taken out within about a year when he tried to pull the low road about a certain ute in Mr Rudd’s campaign. So he exited. At that stage there was a competition between Mr Abbott; Mr Hockey, who was all over the place on where he stood on climate change; and Mr Turnbull. I think Mr Abbott won by one vote. But here we go: it is only the Labor Party they want to talk about.

I would love to hear that side over there stand and talk about what they will do. For the last four or five years all I have heard from the Liberal Party—not from the doormats but from the Liberal Party—is
what they will not do. I know they have a $70 billion black hole, but we went through an election in 2010 and it was all about what they would not do. There was no vision. Regardless of how the cards fell, Australia gave us a hung parliament. Whether we like it or not and whether that side of the chamber likes it or not, we were given a hung parliament.

I tip my hat to the Prime Minister: she has done an absolutely magnificent job not only forming government and negotiating with independents and the minor parties but also putting through under her leadership no less than 269 pieces of legislation. But what do we hear from that side? They only go the negative. Everything is no. I have a little bit of gratuitous advice: why don't you just take your eyes off the polls in the newspapers? Instead of letting the fourth estate do all your campaigning, why don't you lead the charge and tell us what you are going to do for this great nation? How are you going to better the lives of future Australians? It is deafening.

Senator Sinodinos: Just wait.

Senator STERLE: It would be remiss of me to miss this opportunity. I heard that you, Senator Sinodinos, have been promoted to the finance committee. To be really honest with you, I heard a collective 'Whew!' coming out of the red halls up here when they heard that. They thought to themselves, 'Thank goodness—someone with a brain!' I have not seen you operate in the Senate too much, but I have no doubt your credibility is extremely high. But I tell you what: you do not need the other three. Do the party a favour and give them something else to do, like checking out the gardens. You get on with it. I know that I speak from the majority of Australians looking forward to hearing something positive come out of that side on what they are going to do at the next election.

But I really did want to go to the small business opportunities that this government has provided. I got to see Senator Joyce, the Leader of the Nationals in the Senate, which he forgot about last night—he was reminded by Senator Evans that he was the Leader of the Nationals in the Senate—struggle through the most ridiculous set of questions about what the Labor Party is doing for small business and to see Minister Arbib completely wipe the floor with and embarrass that side of the chamber on a ridiculous question. We have done so much for small business, not least the Building the Education Revolution of $16.2 billion. I have done some 50 BERs where small business people were rewarded with not only keeping their job but keeping the jobs of their employees. On that, thank you very much.

Senator McKENZIE (Victoria) (15:13): I rise to take note of answers given to questions asked by Senator Joyce and Senator Brandis. What a farce. What an absolute embarrassment. From the answers given today, the Gillard government would have us believe that everything is fine—that they are all happy little vegemites over there—but at its core it is still the same government, a government which has just gone through quite an embarrassing public confessional. It is the same government that oversaw the failed policy implementation across so many areas. There was biosecurity. I am glad Senator Sterle mentioned the BER. There was pink batts, GroceryWatch and Fuelwatch. Time does not allow me to list all the areas of failed policy implementation by the Rudd-Gillard government, but one of particular interest to me is the Murray-Darling Basin Plan, which is just going on and on providing uncertainty across the southern basin in particular.

This government knifed Kevin Rudd for his incompetence as Prime Minister, and Labor wants Australians to believe that a few
hours of peace will actually make up for 4½ years of division and dysfunction. As for how we are proceeding today, Steve Gibbons, the member for Bendigo in north-central Victoria—who, we might remember, sent out that wonderful tweet about the 'psycho Rudd'—is quoted in the local press as saying he makes his own decisions and is 'not accountable to anyone—you moron!' This is how he is responding to constituents, to real Australians who have real concerns about how this government is treating them and their country. The government does not listen. It fails to deliver. It does not understand that we live in a democracy.

Over and over this week and last week we have heard from ALP ministers and backbenchers outlining exactly why this government has failed to deliver good governance. It is a grocery list of projects mismanaged by both the Gillard government and the Rudd government—and we heard it from them. There are no better people to speak about it, I guess, than the people who have actually lived it. The Australian people are tired of a government which fails to listen to them, fails to lead and fails to deliver. Good government is about good policy, not about getting a good headline. And, for the record, rarely does a good headline in the seat of Melbourne—taken from Labor by the Greens at the last election—make a very good headline in Manangatang. I will just give you that heads-up!

The policy needs for regional Australia are unique, and this government fails to get it, over and over and over again. On that issue, I would like to turn my attention to one of those policies, the Murray-Darling Basin Plan. Minister Burke promised in November 2011, after hearing quite a significant level of angst in regional communities, to halt water buybacks in the southern basin prior to 2013. Communities and industry had been telling the government over and over again to stop it, and the message was the same in Shepparton, in Swan Hill, in Deniliquen and in Mildura, yet the minister announced this week that he will be recommencing those buybacks in the southern basin. This government fails on all levels to listen and to deliver. Last week in Swan Hill farmers and irrigators made very clear the negative impact that water buybacks have on irrigators left in the system, but this government does not listen.

Senator Wong berated the coalition during question time for not standing up for families. Where is the ALP in standing up for families living and working in the Murray-Darling Basin? I would like to see that. Where is the government support for workers being laid off in the small businesses in towns and suburbs right across the country—not just in the car manufacturing industry, Senator Arbib, but in tourism, in food processing and in manufacturing? Where is the ALP in supporting those families? I will tell you where: nowhere.

Regional Australia has lost confidence in this government. Small business has lost confidence in this government. And 30 per cent of the government has lost confidence in this government. No wonder the Australian public has lost confidence. Australia is a great country with a terrible government, and Australians know it. Stop the farce, take us to an election and let the people have a say, rather than subjecting us to another 18 months of failure and mismanagement in policy implementation.

Senator URQUHART (Tasmania) (15:18): I rise to take note of answers to questions given by Ministers Evans and Arbib, and in doing so I want to highlight and talk about some of this Labor government's many achievements. It is a
government that is delivering and is getting on with the business of reform. This Gillard Labor government has implemented many reforms to assist working Australians to harness the opportunities of our time right across our great country.

We are doing this through pricing carbon and using all the money that is raised to support households, to support jobs in trade-exposed industries and to invest in clean energy programs—this against a rabid opposition who want to scrap the cheapest way to combat carbon emissions, to take money from health and education and to give subsidies to big polluters. We are introducing the mining resources rent tax, which will give all Australians a fair share of the mining boom—a tax which industry is prepared to pay, a tax that those opposite want to send back to those making superprofits instead of providing better infrastructure for all Australians, increased superannuation for working Australians and a lower company tax rate to businesses who are not in the fast lane of the mining boom.

Just today Labor delivered again, with the ACCC giving the final seal on the National Broadband Network. With ACCC approval of the structural separation of Telstra, for the first time in Australia's history telco providers will compete on a level playing field, and, from that, consumers will benefit. They will benefit from the competition as service providers compete fiercely to give customers the best and most innovative services at the best price. Telstra was structured and sold by the Howard government in a way that was bad for consumers, bad for competition and bad for the economy. They did not sell Telstra for the benefit of Australians; they did it for ideological reasons. Today the ACCC has ticked off on this Labor government righting another one of those wrongs of the Howard government. It means that we are well on the way to delivering the National Broadband Network, giving all Australians access to high-speed, high-quality telecommunications at uniform prices regardless of where they live.

Connection to the National Broadband Network means our children will have better access to the very best education services and those who are ill will have access from their living rooms to the best specialists. It means that local businesses will have greater opportunities to reach new customers anywhere in the world, and in an instant. Businesses with offices across the country and the world will have better access to videoconferencing and private networks, saving time and boosting productivity. Across Tasmania, people in Smithton, Scottsdale and Midway Point are connecting to the NBN and people in another dozen locations will have access in the coming months.

Part of being a responsible government is recognising that some communities are doing it tough because of the structural changes that our economy is going through. Senator McKenzie just asked what the Labor government is doing. Labor is helping Tasmanian communities diversify their economic base, helping regions that were hit hard by the global financial crisis and are now being hit by the downturn in the forestry industry. Earlier this month Labor announced funding for the $1.5 million Harcus River Road infrastructure project and the $4.25 million AgriTas Trade College in the Circular Head region of Tasmania, an area that has been hit hard by the downturn in some of the industries in that area. The Harcus River Road project will allow for the conversion of up to 27 farms from lower value beef production to higher value dairy production. This will immediately provide construction work for the many displaced forest workers and has the potential to create
135 new on-farm jobs once these upgrades are completed. As skills development is so crucial to our agricultural industry, the AgriTas college will deliver 200 full qualifications and 400 short course places per year. This will equip Tasmanians with the skills they need to work in and benefit from the jobs available from growth in the dairy sector and agriculture more broadly. It will also provide a boost to the local economy as people relocate for a period of time while studying.

We are tackling the reform of disability services in this country. Many have felt that the situation had been impossible before, but Labor can and will deliver on it. Already, thousands of Australian families have benefited from Labor's Paid Parental Leave scheme, which helps families look after their newborn babies. Labor is getting on and making the tough choices to keep the economy strong. (Time expired)

Senator SINODINOS (New South Wales) (15:23): Yesterday was not a great day for Australia and certainly not a great day for the once great Australian Labor Party. The choice they made yesterday was a choice not to make a new start. It was a choice to look backwards, a choice to stay in their comfort zone. They will pay the price for that at the next election because, as a result of yesterday, nothing has changed. It is business as usual, and with business as usual you get the same results. That is why it is a sad day for Australia, and that is why it is a sad day for the electoral prospects of the Australian Labor Party.

I have risen today to take note of answers given by Senators Evans and Arbib to questions asked by my colleagues Senators Brandis and Joyce. I listened very closely to what Senator Evans had to say. He was asked about the cost of living and the impact of the carbon tax, but he refused to discuss the issue. They talk airily about tax cuts and benefit increases, but they do not tell us that it is quite possible that the inflationary impact of this tax will actually be higher than they have already estimated because this is a cascading tax. It is a tax which cascades through the system. Unlike the GST, where you get input tax credits back at various stages of production, this one cascades through to the final consumer. There has been no discussion and no modelling of that as far as we can tell.

It was disappointing that Senator Evans would not address the cost of living implications of the carbon tax, because if there is one issue that is burning Labor in the Australian community it is their desire to pursue this tax based on a broken promise and introduced as a result of a deal with the Independents and the Greens after the last election. That is the sad thing about this. They have not done this with conviction. They have done it as a result of a deal in order to stay in power by a Prime Minister who urged her predecessor, Kevin Rudd, to drop the emissions trading scheme. Indeed, it appears, according to Maxine McKew, quoted on the weekend, that Maxine McKew virtually shirt fronted the then Prime Minister and said, 'If you don't do this, there will be diabolical consequences.' That is the extent of conviction on this great issue of the day to do with climate change.

The reason the conviction is important is that in politics the thing we have to offer the electorate is hope and, in return, we gain trust that we will abide by our word and abide by our promises. Labor have abrogated that trust. They have broken those promises and are paying the cost of that today, whether it is in the polls that we see out there or in the ructions within the party itself. But, as I said yesterday, they agreed that they were going to go forward with the same
policies and the same faces—they will get the same results.

That is why there are many in the community—not only in business, but business are particularly impacted by the uncertainty created by the government's miasma of policies—who are calling for an early election. That is an opportunity for this government to renew its mandate or for a new majority government to come in and provide strong leadership for a stronger economy, a stronger infrastructure and ultimately a stronger society. That is what we are about on this side of the house. We are about hope, reward and opportunity.

Sadly, Senator Evans, in his question, did nothing to give us hope that the other side would do anything that would be of use to the Australian community in the period ahead.

In the time left to me I want to briefly talk about the response by Minister Arbib. Again, there was nothing on the great burden of regulation on small business; nothing about the impact of the industrial relations system, the award modernisation system, on small business; and nothing about the question that my colleague Senator Back raised around the gutting of the Australian Building and Construction Commission and the impact that that will have, not so much on the big end of town when it comes to construction but on the subcontractors and the small business people who feed off those large contracts. They will be at the tail end of this process and they will be the ones who will suffer from the intimidation in the building and construction industry. This is the state of Labor today—a state of deals done behind closed doors with other parties in this place and with their union paymasters. As a result of yesterday, none of that has changed.

I wish to conclude by quoting something that Maxine McKew said on the weekend about Julia Gillard and Mark Arbib. She said:

What I have never understood is why Gillard, one of the government's better communicators at the time, and someone who had taken a lead role in the 2007 election campaign … was not prepared to take on the rhetorical challenge in government—

of selling climate change—

In the end she showed precious little conviction and instead took to heart the focus-group anxieties being peddled by Arbib.

That is that nature of the Prime Minister and the senator who is leading—(Time expired)

Question agreed to.

Indigenous Suicide

Senator WRIGHT (South Australia) (15:29): I move:

That the Senate take note of the answer given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to a question without notice asked by Senator Wright today relating to Indigenous youth suicide.

We know that Indigenous communities experience disproportionate and unacceptable rates of youth suicide, and we also know that these rates have been increasing over the past 30 years. At present, suicide rates among young Indigenous males are approximately three times higher than those of the non-Indigenous population, and the suicide rates experienced by young Indigenous women are approximately five times those of non-Indigenous young women. The incidence of Indigenous youth suicide has recently been highlighted by the Northern Territory inquiry into youth suicide and was previously recognised by the 2010 Senate Standing Committee on Community Affairs report *The hidden toll: suicide in Australia*. Sadly, this tragic phenomenon has recently been increasingly reported in the media, with accounts of Indigenous girls as young as 11 committing suicide in the
Northern Territory. In my own state of South Australia I was deeply saddened to hear the news earlier this year that a young Indigenous girl aged only nine had taken her own life. It beggars belief that she really understood the consequences of what she was doing at that time.

The situation is horrific and calls for an urgent response, as we understand that we have a whole generation at risk. However, our response must be carefully considered and developed on the basis of extensive informed consultation with those most affected and with those who are most expert about their own circumstances. As Suicide Prevention Australia has cautioned, the risk factors for suicide in Indigenous communities cannot be assumed to be the same or to have the same correlations as for non-Indigenous communities. For example, the link between mental illness and suicide is less evident in Indigenous communities than the general population, with other factors such as alienation, grief, social disadvantage, sexual assault, family violence, unemployment, lack of meaningful engagement and substance abuse compounded by social, cultural and historical factors contributing to increased risk.

It is vital that any response to Indigenous youth suicide effectively takes into account the complexity of this issue, and the absolute importance of community involvement in developing and delivering programs in response. Indeed, such programs should be locally initiated, accountable and culturally appropriate, taking into account the norms, values and traditions and structures of the specific Indigenous communities involved. Unfortunately, our history is dotted with examples of well-meaning but ultimately futile—or worse, damaging—interventions that have not been developed or owned by the communities affected. A very recent and ongoing intervention comes to mind in that regard.

An adequate and effective response to the endemic levels of youth suicide in Indigenous communities must be a priority for our governments. As the Aboriginal peak organisations of the Northern Territory say, if societies are to be judged on how they treat their elders then surely the converse is true; we should be judged also on how successful we are at protecting the lives of our young people, our future. It is with great interest that I will be awaiting and then considering the strategy developed by the Indigenous Suicide Prevention Advisory Group.

Question agreed to.

COMMITTEES

Education, Employment and Workplace Relations Legislation Committee
Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:33): 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 on Wednesday, 29 February 2012, from 1.50 pm.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:

General business notice of motion no. 27 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2010, postponed till 20 March 2012.
Presentation

Senator Cormann to move:

That the provisions of the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 13 March 2012.

Senator Cash, Senator Kroger and Senator Boyce to move:

That the Senate—

(a) notes that 8 March is International Women's Day (IWD) and that the theme for IWD 2012 is 'Empower Rural Women – End Hunger and Poverty';

(b) acknowledges the work that UN Women, the United Nations (UN) organisation dedicated to gender equality and the empowerment of women, undertakes to improve the conditions of women, both domestically and internationally;

(c) notes the statement made by Kofi Annan, former UN Secretary-General on International Women's Day 2005 that 'study after study has taught us that there is no tool for development more effective than the empowerment of women. No other policy is as likely to raise economic productivity, or to reduce infant and maternal mortality. No other policy is as sure to improve nutrition and promote health – including the prevention of HIV/AIDS. No other policy is as powerful in increasing the chances of education for the next generation';

(d) acknowledges:

(i) that despite the many rights and privileges Australian women enjoy, there remain challenges that we must strive to overcome, and

(ii) that rural women with disabilities are particularly at risk;

(e) notes, with concern, that in Australia, violence against women is still far too common, with Australian Bureau of Statistics data continuing to show that 1 in 3 women have experienced physical violence since the age of 15; and

(f) recognises that Australians have a fundamental obligation to speak out and protect the human rights of women, both in Australia and overseas.

Senator McKenzie to move:

That the Senate—

(a) notes the presence of the Women for a Living Basin delegation in Canberra on Wednesday, 29 February 2012, representing women and families from Murray Darling Basin (MDB) communities in southern New South Wales;

(b) recognises:

(i) the widespread concern that the draft Basin Plan is having on MDB communities, and

(ii) that these concerns include mental stress, job and business uncertainty, loss of skills, bank pressure, impact on land prices and equity, families relocating and pressure on schools;

(c) supports:

(i) the call for more comprehensive consultation in all MDB communities by the Murray-Darling Basin Authority (MDBA) than allowed for by the number of meetings held so far,

(ii) the call for the MDBA to publicly release details of planned consultation meetings weeks in advance to allow communities to plan ahead so that they can attend,

(iii) deeply held community concerns at the MDBA's decision to hold consultation meetings during various harvests making it difficult for farmers to attend,

(iv) the call on the Parliament by communities, such as those represented by the Women for a Living Basin, to recognise the importance of MDB communities and their long-term survival, sustainability and certainty,

(v) the call to ensure the final plan does not lead to significant economic impact in terms of loss of jobs, skills and the impact on families,

(vi) the call by MDB communities to ensure a final basin plan balances the needs of communities with those of the environment, and
(vii) the call on the Government to listen to, not ignore, community and farmer concerns about non-strategic water buybacks, with preference for irrigation infrastructure upgrades instead to achieve water savings; and

(d) condemns the Government for breaking its promise to freeze buybacks in the southern MDB until 2013.

Senator Ludlam to move:
That the Senate notes that Australian citizen Julian Assange has been recognised as a journalist by the:

(a) Queen's Bench Division of the British High Court ruling of 2 November 2011;

(b) Australian Walkley Award for Most Outstanding Contribution to Journalism 2011;

(c) Martha Gellhorn Prize for Journalism 2011;

(d) Italian International Piero Passetti Journalism Prize of the National Union of Italian Journalists 2011;

(e) Spanish José Couso Press Freedom Award 2011;

(f) Spanish Voice of the West Freedom of Expression Award 2011; and

(g) Amnesty International UK Media Award 2009.

Senator Abetz to move:
That the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, as passed by the House of Representatives on 16 February 2012, be referred to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 8 May 2012.

Senator Bob Brown to move:
That the Senate—

(a) notes:

(i) the public protests in Malaysia against the establishment of a rare earth processing plant by the Australian company Lynas Corporation Ltd,

(ii) the protests are supported by the Malaysian Opposition leader Anwar Ibrahim, and

(iii) the concerns of the protestors include the radioactive by-product that will be produced by the plant and disposed of in Malaysia, the lack of benefit to the local communities particularly given the 12 year tax break granted to the project and the threat from the plant to the local environment, including the Balok River; and

(b) calls on the Australian Government to report to the Senate by Thursday, 1 March 2012 on what assistance has been provided to Lynas Corporation Ltd and what due diligence has or will be done on Lynas Corporation Ltd.

COMMITTEES
Meeting
Reporting Date
Senator McEWEN (South Australia—Government Whip in the Senate) (15:35): I move:
That:

(a) the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 March 2012, from 4.15 pm.

(b) the Joint Standing Committee on Treaties be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 28 February 2012, from 8 pm, followed by a private briefing.

(c) the Legal and Constitutional Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 March 2012, from 4 pm, to take evidence for the committee’s inquiry into the provisions of the Access to Justice (Federal Jurisdiction) Amendment Bill 2011.

(d) the time for the presentation of reports of the Legal and Constitutional Affairs Legislation Committee be extended as follows:

(a) Crimes Amendment (Fairness for Minors) Bill 2011—to 4 April 2012;

(b) Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012—to 4 April 2012; and
(c) Marriage Equality Amendment Bill 2010—to 6 June 2012.

(e) the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 28 February 2012, from 4 pm, followed by an in camera hearing.

(f) the time for the presentation of reports of the Community Affairs Legislation Committee be extended as follows:

(a) provisions of the Personally Controlled Electronic Health Records Bill 2011 and a related bill—to 13 March 2012; and

(b) 2011-12 additional estimates—to 29 March 2012; and

(g) the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 March 2012, from 10.30 am.

Question agreed to.

COMMITTEES

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:36): I move:

That the Joint Standing Committee on Treaties be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 28 February 2012, from 8 pm, followed by a private briefing.

Question agreed to.

Australia's Immigration Detention Network Committee

Meeting

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:37): At the request of Senator Hanson-Young, I move:

That the Joint Select Committee on Australia's Immigration Detention Network be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 29 February 2012, from 5.30 pm.

Question agreed to.

DOCUMENTS

Inspector-General of Intelligence and Security

Order for the Production of Documents

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (15:37): I move:

That there be laid on the table by 13 March 2012, by the Minister representing the Prime Minister (Senator Evans), the report undertaken by the Inspector-General of Intelligence and Security into the actions of the relevant Australian agencies in relation to the arrest and detention overseas of Mr Mamdouh Habib.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Brown be agreed to.

The Senate divided. [15:42]

(The Deputy President—Senator Parry)

Ayes ................. 10
Noes ................. 32
Majority ............. 22

AYES

Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Arbib, MV
Bilyk, CL
Bushby, DC
Colbeck, R
Crossin, P
Eggleston, A
Feeney, D
Fisher, M
Gallacher, AM
Kroger, H
Madigan, JJ
McEwen, A (teller)
McLucas, J
Parry, S
Stephens, U

Back, CJ
Brown, CL
Cameron, DN
Collins, JMA
Edwards, S
Farrell, D
Fifield, MP
Furner, ML
Joyce, B
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Pratt, LC
Sterle, G
MOTIONS

Higher Education

Senator RHIANNON (New South Wales) (15:44): I move:

That the Senate—

(a) notes that:

(i) the quality of our higher education contributes to Australia’s social well-being and builds the skills and knowledge vital to our economic development and our place within the competitive global economy,

(ii) demand for higher education graduates is expected to be stronger than overall employment growth over the next decade,

(iii) Australian universities are being asked to significantly expand at a time when their income is increasingly uncertain, and when their dependence on international student fees to subsidise teaching and research is severely compromised with diminishing overseas student enrolments,

(iv) decades of decline in public university funding has driven up student to staff ratios, increased staff workloads and dated infrastructure,

(v) in Australia average base funding per student declined in real terms from 1994 to 2003, and had only increased in 2010 to the same level as in 1994, whilst the real value of the Commonwealth contribution per student remains well below the 1994 level,

(vi) in 2008 Australia’s expenditure on tertiary education was 0.7 per cent of gross domestic product (GDP), which equalled the Slovak Republic, fell well short of the Organisation for Economic Co operation and Development (OECD) 1 per cent average, and was lower than 25 out of 30 countries which spent more than Australia,

(vii) the 2011 Lomax-Smith Higher education base funding review stated it believed ‘an increased level of investment per student would be required to improve the quality of higher education teaching’ and to ‘maximise the sector’s potential to contribute to national productivity and economic growth’, and

(viii) the 2008 Bradley Review of Australian higher education recommended that the Australian Government increase the base funding for teaching and learning in higher education by 10 per cent; and

(b) calls on the Government to:

(i) immediately increase base funding for public universities by a minimum of 10 per cent in the 2012-13 federal budget,

(ii) position Australia ahead of the OECD average for public investment in higher education by steadily increasing investment from the current 0.7 per cent of GDP to beyond the OECD average of 1 per cent of GDP, to take Australia’s ranking from the bottom to the top of the OECD countries, and

(iii) not increase student contributions in proportion to any increases in government base funding.

The DEPUTY PRESIDENT: The question is that the motion moved by Senator Rhiannon be agreed to:

The Senate divided. [15:45]

(The Deputy President—Senator Parry)

Ayes ......................10
Noes ......................32
Majority .................22

AYES

Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Arbib, MV
Bilyk, CL
Bushby, DC
Colbeck, R
Crossin, P
Eggleston, A

Back, CJ
Brown, CL
Cameron, DN
Collins, JMA
Edwards, S
Farrell, D
Question negatived.

MATTERS OF PUBLIC IMPORTANCE

The DEPUTY PRESIDENT (15:48): 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 failure of the Gillard Government to run an honest, transparent and accountable administration

Is the proposal supported?

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

Gillard Government

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:48): It is obvious that we have to have this discussion and it will go on. The Labor Party, and the Greens to support them, have said that we are going into a period of stability. I have been fascinated by this announcement, this epiphany of stability. It is only in recent memory that we have had the free character assessments given by Wayne Swan about his state colleague and person from his alumni at Nambour high, Kevin Rudd, and the free character assessments dished out by Senator Conroy and Minister Burke, and there were the return serves by Mr Cameron and Mr Ferguson, and then we had Mr Albanese, who just did not know what to say. He did not know what the story was, so he said something about fighting Tories—it made no sense at all—but it was obviously a highly emotional event for him.

It is fascinating that when we are talking about stability, we are referring to a crowd that said that their government was chaotic and that it lacked discipline, method and purpose. The grand architect of this chaotic, ill-disciplined, methodless, purposeless government was the Hon. Mr Kevin Rudd. What did they do with this person? They made him the foreign minister. Of course, those are the greatest credentials for that office. What you do when you are looking for stability, when you are doing the right job for Australia, is give that person the representation of our nation in every way, shape or form in the highest meetings throughout Australia. Of course, it makes so much sense! That is obviously the reflection of a government that has the capacity of stability!

I had a week away during the floods. Before I left, I remember looking across the chamber and, correct me if I am wrong, Senator Ludwig was there—he was the Leader of Government Business in the Senate—and Senator Arbib was there. When I came back, Senator Arbib was there and Senator Ludwig was there. I do not know what happened. In the middle of the night, there was a change—a bit of a promotion. Obviously, Senator Arbib had been lobbying for a job and he got one. He bumped off Joe. But now Senator Ludwig is there and Senator Arbib is there, but Senator Arbib is going out there—he is leaving. What will we have then? We could have Senator Ludwig going there, but we have Senator Carr there, but he is going back there. We have Senator Conroy there and he is generally around at Senator Cameron's throat, but he will be there and talking to the person there. It is
going to make so much sense! Senator Penny Wong is there and there. She has been all around the place. She has been in the Finance ministry. So, of course we have stability! In the other place, we have Minister McClelland. He is there, but he is going back there. Then we have Mr Ferguson. He is there. He might stay there, but he will probably go back down this way a fair bit, I would say. It is obviously stable! It is like the Rock of Gibraltar! It is completely under control! There is nothing to see here, nothing to worry about—everything is under control! All the deck chairs are arranged on the Titanic and it is going straight ahead.

It is all going to come unstuck. We know that, because this is just a purposeless, methodless, ill-disciplined government. Last week we had an absolutely perfect character assessment of the Labor Party by Kevin Rudd. Then we had a perfect assessment of Kevin Rudd by Julia Gillard and about 15 other people.

What else is in this stable ship? What have we got? We have the carbon tax—because of course the people who cannot even get their own ship together are going to cool the planet. That would make sense! That is obviously on the cards! In fact I could feel the chill as I came down here. It was decidedly cold—cold and nasty. It was very cold and very nasty. And it is getting chillier by the moment. There are some rooms here where it is virtually freezing and there are some where it is red hot. There are a lot of climatic themes happening around this building at the moment and they are going to keep happening for quite a while. The carbon tax is on and the Australian people are sitting back, scratching their heads, saying: 'Is this what should be running my nation or is this some extension of John Cleese's latest tour of Australia? Has he created a whole retinue of comic characters acting as the Australian government, giving us Monty Python's flying parliament?' It is beyond belief.

Then we have the debt. While this complete soap opera is happening in the foreground, in the background our debt is just racing through the roof. You should go to the Australian Office of Financial Management website and go to the front page—it is on the front page because you have to be completely transparent to the people overseas who are buying our bonds. There you will find that last week we extended our debt by $2.3 billion—enough to buy around 5,000 houses in regional towns or the outer suburbs. There is nothing to worry about there! The week before, we extended our debt by $3.3 billion—enough to buy close to 7,000 houses, or you could buy a couple of towns. That was how much we extended our debt in one week. The week before that, they extended our debt by in excess of $2 billion. We are now $229.7 billion in debt and we are heading towards our limit. We have a limit at $250 billion. The way we are going, we will get there very soon. They will be able to tick that box. They will have actually reached a target: our debt ceiling. What are we going to do? If they do not extend the limit, the public service will shut down. This is the chaos which is absolutely manifest in the government.

Obviously the person who is completely, totally and utterly incompetent is our current Treasurer. He is completely and utterly out of his depth—

**Senator Feeney:** He is the best Treasurer in the world!

**Senator Joyce:** The Treasurer of the millennium! My suggestion to the Labor Party has always been: if you are going to change the sheets, change both of them. If you are getting rid of Gillard, make sure you take Swan with you as well. You have to make sure you clear this up.
Drilling down through this debt issue, we are actually going to smack up against the limit—we are coming against the ceiling. They will probably try to sneak through an extension of the debt limit. They always say, 'Don't worry; it is net debt.' But they can never actually explain the net debt. They can never explain how they get the net debt figure. We know what the gross figure is, but what they are going to take off the gross figure to get back to the net debt is a mystery. It is hidden in one of those rooms. It is obviously in the capable hands of Mr Wayne Maxwell Swan, the person who told us, when he extended the debt ceiling to $200 billion, that that extension was because China was going to go into recession. China never missed a beat, but our debt certainly went into hyperspace.

Whilst these people are running up this debt, whilst they are completely and utterly out of control—a complete and utter fiasco—they are building themselves a little telephone company. Because what we want is another telephone company! It is all right because they are borrowing all the money! Ultimately we will end up with about another $50 billion worth of borrowing. They will say, 'Oh, but some of it is a lease.' But you have to pay money for the lease. There will be $27 billion in borrowings up front—but it will work its way out and they have longterm leases and so on, they tell us.

Then, on top of all that, we have the clean energy fund of $10 billion. It is just so simple—obviously we need the Greens to be managing $10 billion, because they are such great economic managers! They have been doing such a splendid job, and it makes sense that Bob Brown deserves $10 billion! He is going to have $10 billion to splurge around the economy. This is what the Australian people are seeing at the same time as our democratic process is being dragged through the mud. The honour of office has been completely and utterly sullied. It has been a fiasco.

Think of this show as the nation's local accountancy practice. We have had the vision in the last week of them throwing the staplers at one another, of them kicking over the photocopiers, of them yelling and hurling abuse and of every staff member picking the side of a partner and joining in the fray. Then they look at the Australian people and say, 'We want your business.' 'No,' the Australian people say, 'we just want you out of town.' The Australian people are going to take their business somewhere else. They have to because, if we continue on this way, Australia will go out the back door.

Tell me one thing about this government which actually suggests competence. So help me—the Prime Minister lauds, as her greatest achievement, the carbon tax. That is your crucifix, not your achievement. That is the most absurd thing. That is the thing the Australian people have the most passionate dislike for. Yet, to show how completely and utterly out of touch they are, they say that the carbon tax is the Labor Party's greatest achievement. (Time expired)

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (15:58): Needless to say, I rise to reject the terms of this matter of public importance and to reject the remarks that have been made in support of it. It really does take some gall—gall of a very high order indeed—for those opposite to come in here and lecture this government about honesty, transparency and accountability. But then, as was said yesterday in question time, the audacity of the Liberal-National Party coalition is breathtaking. The Liberal and National parties, under the leadership of Mr Abbott, are currently engaged in one of the greatest policy swindles this parliament has ever been witness to. Is it honest, transparent or
accountable for Mr Abbott to run around Australia promising a cornucopia of government spending to every interest group in the land? Any interest group that comes onto his radar screen is immediately the recipient of a commitment, a promise. Is it transparent or accountable to say that Mr Abbott's government will repeal the carbon price, the mining tax and the means testing of the private health insurance rebate, increase government spending in various areas and yet somehow bring in a budget surplus?

Not for much longer will this opposition be able to get away with this pea and thimble trick that it is trying to perpetrate in this Senate and across the country. Now that the focus will return to the Abbott-Gillard contest, this is policy nonsense the Liberal Party must start facing up to. Senators opposite cannot go on much longer opposing every revenue measure that this government introduces, opposing every spending reduction that this government implements and pandering to every interest group and lobbyist that offers them a donation, and still hope to retain any credibility as we head towards the next election.

This month we saw an outstanding example of this opposition's idea of honesty, transparency and accountability as we watched Mr Hockey trying to wriggle out of his admission, late last year, that a coalition government would have to find $70 billion in spending cuts over the forward estimates in order to make its budget balance. This is what Mr Hockey had to say:

I will tell you what we are doing. We are going through the budget, line by line and item by item. The government will spend—Liberal or Labor—will spend $1,500 billion over the next four years. It is a massive amount of money. Therefore finding 50, 60 or 70 billion is about identifying waste and identifying areas where you do not need to proceed with programs.

In other words, Mr Hockey said that a coalition government will cut between $50 billion and $70 billion out of the budget over the forward estimates. On 8 February Mr Hockey was interviewed by Linda Mottram on the ABC. This is how he dodged and wriggled from under his own figures:

Mottram: You said the number $70 billion. There is no resiling from that.
Hockey: And 60—or 50. I mean I …
Mottram: Yeah, 50, 60, 70—okay, so which one is real?
Hockey: Okay, I shouldn't have said any because it was part of a debate and now it’s been taken as a statement of fact.
Mottram: Were you plucking it out of the air though?
Hockey: Well, it was offered to me—I mean, you’ve got to read the full transcript.

There is plenty of honesty, transparency and accountability right there. The brains trust of the economic team hiding inside the Liberal Party, no doubt deep in a bunker somewhere, are avoiding all the scrutiny, accountability and honesty that is required of them.

But wait, because there is more. On 11 February the devious internal workings of the Liberal Party frontbench were revealed by none other than that well-known leftie Mr Andrew Bolt, who wrote the following:

Shadow Treasurer Joe Hockey has been whacked around the head this week for denying he ever admitted a Coalition government would have to slash existing programs by $70 billion to meet its own spending commitments …

How the figure got into the public domain and became an albatross around Hockey's neck is an interesting story …

In August last year, as the Coalition’s expenditure review committee looked for potential savings, there was a leak.

A news report claimed that documents from the so-called 'razor gang' revealed a warning by Hockey that $70 billion needed to be found.
In fact, well-placed sources say, the documents did not contain an overall savings target at all. Hockey provided it to shadow ministers when he spoke to them in person.

And—here’s the devious bit—he gave each of his colleagues a different figure. The reason? So that if there was a leak he would know where it came from.

The $70 billion leak immediately pinged the leaker. But it also left Hockey with the problem that now plagues him.

'I've never said $70 billion,' Hockey told a radio interviewer on Wednesday. But he did say it—to one member of the shadow cabinet.

Then we are: the shadow Treasurer, one of the most senior members of the opposition frontbench and, at least on my own account, a constant source of entertainment, has admitted that he set a trap for his frontbench colleagues to find out which one of them was undermining him by leaking to the media. 'A cunning plan, Baldrick,' one might say.

How is it that this performance of a ramshackle opposition goes to notions of transparency, accountability and honesty? Of course, it does not, because this opposition is absolutely resolved to creep into power without any scrutiny. It is creeping into power, having promised everything that it needs to promise to all those whom it runs across in the course of its work, without ever having to be called to account. The shadow budget is a work of fiction. One can only imagine the musings of the opposition razor gang as they sit through their fantasy budget meetings and imagine their fantasy cuts. This is typical of the standard that this irresponsible, reckless and clueless opposition has set. That standard was set by its leader, who has admitted that he only tells the truth when he feels like it. This opposition's senior members cannot even be honest with one another about what their spending plans are—perhaps they do not understand them from one meeting to the next. This opposition simply cannot be trusted to tell the Australian people about its plans to cut spending.

The opposition realistically puts forward the proposition that it will return the proceeds and the revenue streams from the minerals resource rent tax, a truly remarkable proposition. Lindsay Tanner famously dubbed the mining interests' campaign against the tax the 'billionaire liberation front', and I cannot help but imagine the moment when the Liberal Party hands back a cheque to the billionaire liberation front. No doubt, as the opposition wanders back to Canberra and tries to explain this glaring chasm in its budget, it will at least draw some sustenance from the fact that it has returned $11 billion to the people in this country who least need it.

But wait, because there is more. This opposition is positively fascinated by the proposition of returning vast sums of money to those Australians who least need it, and nowhere is that plainer than with its plans for the carbon tax. There we see the opposition's honesty and transparency on full display. This opposition intends, quite literally, to on the one hand say to Australian business: 'Do not buy the permits. Do not invest in the permits,' to promote sovereign risk, to do some of the most destructive things that policymakers can do to business confidence in this country, and on the other hand offer a policy prescription in this country which says that the proceeds of the carbon tax will be returned to the greatest polluters. How is it, one might very well ask, that the Liberal Party is going to meet its targets to abate carbon—targets that are the same as those of the government—yet literally promotes carbon pollution by returning the proceeds of the carbon tax to the big polluters? The Liberal Party says it has the answer to this puzzle, and that answer is Tony Abbott's direct action plan. In the direct action plan
we can see the fruit of years and years and decades and decades of Liberal Party thinking. For all the gobbledygook that the Liberal Party likes to speak of—individual choice, individual rights, individual freedoms—we can see that, when the rubber hits the road, Tony Abbott has reached for an eastern bloc soviet style scheme that would have Santamaria himself turning in his grave. It is literally a multibillion-dollar plan to abate carbon emissions in this country by coming up with big government spending programs.

We have the Labor Party on the one hand having a fixed price scheme moving to an open trading system. The Labor Party’s proposition to this country is to let us have a carbon market, let the forces of supply and demand drive innovation, let the forces of supply and demand and the marketplace liberate Australian entrepreneurialism so it can help find the solutions that this country so desperately needs. Where does the dead hand against capitalism come from? It comes from where it is perhaps least expected—the Liberal and National parties. Their dead hand is very literally proposing—(Time expired)

Senator BACK (Western Australia) (16:08): It is amazing to be lectured by the Labor Party on economic responsibility—I am reminded of Dracula and the blood bank! If Senator Feeney and any of his colleagues in the cabinet or on the front bench had any business acumen—and they have none; all 22 of them they have a maximum of eight years—would they know that the best predictor of future behaviour and performance is past behaviour. I think back to the $96 billion—as Senator Feeney leaves—that Treasurer Costello paid back. We not only paid back the $96 billion but also saved $6 billion a year in interest. What sort of a challenge have we got next time? We have upwards of $220 billion of debt that is going to cost well in excess of $100 billion in interest alone without paying back the principal.

This is a Labor government that came in on the promise of honesty, transparency and accountability. I remember Prime Minister Gillard saying 'let the sunshine in'. It was the former Prime Minister, and recently foreign minister, who said only last week, 'Julia has lost the trust of the Australian people and we must change her or we will end up in opposition.' The former Attorney-General said:

... I don't think we have a realistic prospect of being re-elected under Julia Gillard ... I don't think we have captured the attention or the support of the broader Australian community, and obviously if we want to win an election, they have to listen to us, they have to trust us, they have to have empathy with us ...

How true. The best and only way to test that in a democracy is to go back to the people and let the people decide whether we have seen honesty, transparency and accountability from this Gillard led government.

Let me start a long litany. The mining resource rent tax: where was the accountability, transparency and honesty when now Prime Minister Gillard negotiated with three multinational overseas companies—BHP, Rio and Xstrata—and left all the Australian mid- and small-cap miners out of that equation? Where was the accountability when my colleague Senator Cormann asked repeatedly for the financial modelling that shows the government was actually going to make any funds out of it? They have flatly refused to present those figures. We had a lecture from Senator Feeney about the carbon tax. Honesty, transparency and accountability—only two quotes will suffice. Prime Minister Gillard said, 'There will be no carbon tax under any government I lead.' And days before the 2010 election the world's best Treasurer,
Wayne Swan, said: 'Well, certainly what we rejected is this hysterical allegation that somehow we are moving towards a carbon tax from the Liberals in their advertising. We certainly reject that—and I reject every assertion made by Senator Feeney in his condemnation of the coalition.

If time permitted I could move to how Ms Gillard is going to move to the trade exposed, emissions intensive industries of this country when they are decimated by their competitors. How are they going to explain to import competitive companies here in Australia how the carbon tax is going to drive them into an uncompetitive situation? How are they going to explain to our exporters how they are going to fare when they are exporting into markets where their competitors do not have a carbon tax around their necks? How are they going to explain it to households? That simply has not come to the fore with this openness, transparency and honesty in government.

I turn now to a more serious, in some ways, instance of a lack of honesty and accountability, and that is the question of government grants. We learnt only recently, as a result of an Australian audit, that Ms Gillard, when she was Minister for Education, on more than three occasions approved grants to schools in her electorate and other electorates in defiance of the recommendations of her department and failed to comply with then Prime Minister Rudd's requirement that she report her decision to the then finance minister Lindsay Tanner.

As one who has run his own businesses I make the point that, in government trading entities and government departments, excellence or rot starts at the top—and do we not see evidence of that here now. In that audit, there were no fewer than 33 cases where ministers failed to alert the finance minister to the fact that they had made grants in their own electorates—and in 11 of those 33 cases, that was against the advice of their departments. That is the calibre, the honesty, the transparency of this government. I turn to the government's recent record on regional grants, the responsibility for which lies with Mr Crean's portfolio. The Australian National Audit Office examination indicates that some $200 million has recently been allocated to seats held by Labor and Independent members in regional Australia. Isn't that interesting, when Labor holds less than 30 per cent of seats in regional areas? So the rot starts at the top and then disappears down into the organisation.

I could go on for ages about Senator Conroy and the NBN, but just briefly I will focus on the Australia Network. For those of us who have spent much time overseas in the last decade, as I have, that station—which is broadcast by the ABC—is an embarrassment. Fortunately, the Australia Network was put out to tender on a $223 million contract. The advisory committee recommended that the contract go to Sky, but Senator Conroy said, 'No, I don't want that; go through and examine it again.' However, his own audit team came up with the same conclusion, and unfortunately that got leaked. What did Senator Conroy do in this climate of alleged transparency, accountability and honesty? Far from pulling the contract and giving it to the party that legitimately won it, he attacked the leak.

I go to the matter of the answering of questions on notice in Senate estimates. Prior to this last round of estimates 75 per cent of questions were outstanding by departments, including broadband and communications and health and ageing. One hundred per cent—the perfect record; or the imperfect record—of questions were outstanding from immigration, infrastructure and transport and AusAID. Yet the Australian community is
asked to believe that this is evidence of the light shining in—evidence of honesty, transparency and accountability.

Then there are the super funds, in which $1.3 trillion are invested. The portfolio responsible for them is controlled by Minister Shorten, and he is hiding from scrutiny the fact that there is very little accountability by fund managers. Super funds are not obliged by law to disclose detailed investment outcomes or senior executive and board remuneration. Unlike public companies, they are not even required to provide members with a full set of audited accounts. What has Mr Shorten been doing? He has been trying to reverse what could be a miscarriage of justice in these matters. Which are the super funds that are most at fault and most at risk? You do not have to go too far to find out. They are led by MTAA.

I turn finally to the debacle that has been the investigation of Mr Craig Thomson by Fair Work Australia. It has been four years, and there has not yet been any advice to the wider community. In fact, in Senate estimates the other day we were told by the person responsible that the report might not be released, even though Mr Thompson himself is on the record as saying that he would like to see this information come out so that the due process of the law can be dealt with. Here are some comments from members of the public about the matter. One person said, 'What is the point of this organisation if it simply covers up union corruption. Isn't it supposed to protect workers? Another one said, 'Why are they hiding this? Have their political masters told them to? 'A further comment was, 'Totally weird—if he's innocent, say so; if the report is not published, he must be guilty.' That is the level of confidence that the Australian community now has in this Labor government. The only way to see a restoration of honesty, transparency and accountability is to hold a general election.

(Time expired)

Senator FAULKNER (New South Wales) (16:19): Today's matter of public importance debate is yet another exercise in political desperation from the opposition, who have scraped the bottom of the political barrel and decided to debate the issue of government standards. It is a very courageous move from the Liberal Party to initiate a debate on honesty, transparency and accountability given their absolutely lamentable record in these areas.

Let us look at the facts. Let us look at just some of the achievements of the Labor government since it was elected. Just three days after the Rudd government was sworn into office, a tough new code of ministerial conduct—the government's Standards of ministerial ethics—was released. The code requires ministers and parliamentary secretaries to conduct themselves to a higher standard of conduct than has been expected of them in the past. The standards are underpinned by the principal that ministers and parliamentary secretaries must act with due regard for integrity, fairness, accountability, responsibility and the public interest. The code means that it is no longer possible for ministers after their retirement or resignation to transition to lobbying or conducting businesses in an area where they have had ministerial responsibility until an 18 month cooling-off period has passed. This is very different to Mr Howard's nonstandards in that area. For the first time, a code of conduct for ministerial staff was introduced to codify the role of the staff of members of parliament and to ensure high standards. The code of conduct for ministerial staff sets out the standards that ministerial staff are expected to meet in the performance of their duties. The importance of the role of ministerial staff in providing advice and assistance to ministers in the
performance of their functions is well recognised and accepted. Their closeness to the most significant decisions of government is a privilege that carries with it an obligation to act at all times with integrity and with an awareness of the expectation of the Australian community that the highest standards of conduct will be observed. We now have a MOP staff annual report that provides updates on staff costs, staffing levels and changes in staffing arrangements.

The government introduced a new lobbying code of conduct and register of lobbyists. Within one year of coming to office in 2007 it established the lobbying code of conduct and a public lobbyist register. The lobbyist register allows ministers and their staff to know who is engaged in lobbying and whose interests are being promoted.

The code includes a prohibition on lobbying activities for former ministers and parliamentary secretaries, and former senior ministerial staff as well as former members of the public service and Defence Force. The code has gone further in promoting integrity and transparency in the way third-party lobbyists and government representatives interact. Lobbyists who represent third parties must be on the register before they can begin to lobby the government.

The government introduced important public service reforms such as merit based selection for the employment of heads of government agencies to which the Public Service Act applies. Performance pay for departmental secretaries and senior statutory officers was removed. And, of course, this Labor government has been responsible for major reform of the Commonwealth Freedom of Information Act. It has worked hard to promote a pro-disclosure culture across the government.

These reforms have been critically important, in my view, in promoting more open and transparent government. We abolished conclusive certificates—a provision of the old FOI Act. That was used by the former Howard government to prevent the release of information that it found to be politically sensitive. FOI application fees have been abolished. The range of exemptions has been narrowed. We have created an Office of the Australian Information Commissioner. Shorter access periods for government records are now in place.

These amendments to the FOI Act have resulted in a much more transparent culture across the Public Service. I for one believe that they have been very significant, very positive reforms, and I am personally proud that I have been an advocate for them.

Now, perhaps, we might focus some attention on the record of the Howard government on honesty, transparency and accountability so that in the unlikely event that anyone is listening to this debate they might compare and contrast the records of the current government and its Liberal Party predecessor. Let's go for a trip down memory lane: travel rorts, balaclavas on the waterfront, and Mr Stan Howard and National Textiles. What about Mr Peter Reith and the Telecard affair? What about 'children overboard' or, if you like, 'truth overboard'. 'Truth overboard' is something that has gone into the political lingo as a result of the outrageous behaviour of the Howard government.

What about the $300 million 'wheat for weapons' scandal? What about the lies about Iraq and the weapons of mass destruction? What about the abuse of government advertising that became the hallmark of the Howard government? What about all the ministerial resignations? We could start with
poor old former senator Jim Short and his subsequent reward appointment to the European Bank. We could mention the resignations of Parliamentary Secretary Gibson and Minister Prosser. We could talk about Minister Jull. We could talk about Minister Sharp or Minister McGauran, if you want. We could talk about former senator Warwick Parer, who was the minister for resources, who owned an $8 million interest in a resources company—a share in a coalmine.

What about Peter Reith becoming a consultant for the defence company Tenex just after he resigned as the defence minister, not to mentioned the Telecard affair? What about Dr Michael Wooldridge, as health minister signing a $5 million deal for the RCGP and, shortly after, getting a $300,000-a-year consultancy for the college?

What about the Federation Fund scandal? What about the MRI scandal? What about the use of Kirribilli House—as I dubbed it, 'party central'—by Mr Howard and his cronies for Liberal Party fund raisers and knees-ups for the Liberal Party? So do not come in here with your hypocrisy and dare try and debate issues of honesty, accountability and transparency.

Senator Brandis interjecting—

Senator FAULKNER: Your record is a disgrace. You were absolutely right, Senator Brandis, to call Mr Howard a lying rodent.

Senator FAWCETT (South Australia) (16:29): I just want to take this opportunity to note the fine contributions that Senator Faulkner has made over many years to government. That speech really lets him down. That very grubby party-political comment takes away from the great contributions that he has made in the past to good government. It is no surprise that he is currently sitting on the back bench, as opposed to being part of the current government. I do recognise his good work, but I wish that kind of contribution had not been made. It adds nothing to his reputation.

The MPI today talks about honesty, transparency and accountability. I know that Senator Arbib is keen that we engage in a round of party political bashing, but I do not need to do that because the Labor Party itself has done quite a good job in highlighting the fact that people cannot actually trust the things the Prime Minister is saying. We just need to look at the carbon tax or the comments of the former Minister for Foreign Affairs that he was a 'happy little vegemite'. We could go on and on. We could look at the efficacy of their programs such as school halls and pink batts, what was transparent and what was not, how well it was managed and why it was not reported up front; but, to be honest, the public knows that, so it is not going to add a lot to the debate.

I would like to look at the impact of those characteristics of the government—the fact that their honesty is suspect, they are not transparent and they are not held accountable—in a far more important area, which is national security. As you read various commentators or you look at the world stage or at headlines around the world, the events of last week have done considerable damage to Australia's position in the world and have done considerable damage to our relationships with key international stakeholders. Even processes that the Labor Party has held dear and that the coalition has been prepared to support, such as looking at a temporary seat on the Security Council, have been set back by the affairs of last week, which were caused by the internal focus of the Labor Party. If we go back in the history of the government, we also see the dysfunction that we are talking about has been previously reported but that the lessons do not appear to have been learned. Both sides of politics quite happily
stand up and say that national security is one of the most important roles for government. When Prime Minister Gillard first took over the role of leading this country, she was accused of having a scandalous disregard for national security, because instead of attending meetings of the national security committee of cabinet she found other things to do and would send her bodyguard on her behalf. That never came to light until leaks within the ALP started to prompt other people who had been involved in the process to reveal details.

That transparency—that difference between what is said and what is done—is at the heart of the dysfunction of this government, and it affects really important areas such as national security. Even senior Labor ministers conceded that the animosity between the Prime Minister and Mr Rudd was killing their election campaign and causing them not to manage as they should. The ABC reported that even Mr Rudd had shown a casual disregard for the national security committee and at times had sent his chief of staff, 31-year-old Alistair Jordan, to deputise for him. Former senior public servants described Mr Rudd's and Ms Gillard's attendance records as very odd and very, very unusual. Compare that with Prime Minister John Howard, who attended all but one national security committee meeting of cabinet. Under his prime ministership, only senior ministerial staff were allowed into that meeting—a completely different approach to national security.

As of August last year, there were some six senior positions unfilled in the defence and national security bureaucracy. Even the position of National Security Adviser was vacant from last August. There was not a lot of transparency around that from the government and it was only after considerable media coverage that, very quietly, the position was filled. An internal memo announced it; there was no public announcement. That is in stark contrast to that which accompanied the then Prime Minister Rudd's appointment—again, a lack of transparency. Senior officials looking at the treatment of that appointment within the national security structure of government said, 'It looks like they're killing off the job by neglect.' It is one of the most important and key roles of government, yet they are killing it off by neglect.

Mr Michael Carmody, the CEO of the Australian Customs and Border Protection Service, said in the 2010-11 Customs annual report that Customs was struggling to maintain current operations given the devastating budget cuts that the agency had received. Some $34 million was slashed from Custom's Passenger Facilitation program, Critical Area Surveillance was cut by $20.8 million and cargo inspection was cut by $58.1 million. On the one hand, you have the rhetoric but, on the other hand, you have what is done. What we see is a lack of transparency, a lack of accountability and a lack of honesty between the government and the Australian people over things far more critical than the pink batts or the school halls that people love to put in the headlines. This is national security; these are things that really matter.

Prime Minister Rudd and later Prime Minister Gillard both said that they would be supporting Defence, whose budgets have had bipartisan support over many years—figures such as three per cent real growth, 2.2 per cent real growth in the budget out to 2030 and 2½ per cent fixed indexation. But then look at what they did. In 2009 there was $8.8 billion in deferrals and $1½ million in absorbed measures. In 2010 there was no reinstatement of the cuts, despite the economic recovery, and there was a further $1.1 billion in absorbed measures. As of 2011, there is $1.3 billion of investment
delayed. Talking around the fact that this government supports defence and our national security, what they are actually doing is completely different. Where is the honesty, where is the transparency and where is the accountability in how this government is approaching national defence? The real issue is that there is a sting in the tail. If you look at forecasts to meet Defence's capability program between 2012-13 and 2016-17, you will see there needs to be a 107 per cent increase in defence spending to get back on that capability curve.

Senator Johnston: Shocking.

Senator FAWCETT: 'Shockling,' Senator Johnston says, and that is absolutely correct. Where is the honesty, transparency and accountability in the government towards our national security? On the one hand, they say nice things but, on the other hand, they put us in a position where there is an almost unachievable recovery path to provide the capability that our Defence Force needs. Lastly I would like to come to the issue of leadership. Minister Smith, as the Minister for Defence, has not shown the kind of openness and transparency in leadership that is required to provide the guidance that the department needs. We have just got to look at the recent reports around the Kirkham report and how he has handled that issue. Today in question time when Senator Johnston asked the Minister representing the Minister for Defence, Senator Carr, about this, the response we got was, 'We haven't released that report because there are sensitive legal issues.' If that is the case, why did the minister decide at the time that he could leap in, boots and all, and reach down—like the chair of the board beneath the CEO—to actually try to run the organisation? The Defence Act actually appoints statutory authorities to run the Defence organisation, and it is a gross breach of his duty for the minister to try to reach beneath that, to effect outcomes which have obviously now had unintended consequences. He is too embarrassed to be transparent enough to allow the Kirkham report to surface so that he can be held to account for the things that he has done during his leadership of that portfolio. Honesty, transparency and accountability: this government has not covered itself in glory in many aspects across different portfolio areas; but in the area that is perhaps the most costly and has the most significant long-term implications, the Gillard government has been found extremely wanting.

Senator FURNER (Queensland) (16:39): It is absolutely easy to stand here this afternoon and refute the claims of those opposite—that our government is unable to run an honest, transparent and accountable administration. You only need to look back on our record since we have been in government, since 2007, and to look at some of our achievements and identify those matters and the transparency with which we have delivered them.

Let us start with Work Choices. We promised to get rid of Work Choices and we did. Everyone should be reminded about that insidious policy that those opposite delivered, which made four million workers lose basic protections and which made more than a million workers suffer real pay cuts of up to $90 a week. This is something that those opposite are proud of and that they want to reintroduce should they ever form government again. Around 2.8 million workers lost legal protection against unfair sackings—sackings that I saw as a union official before I started my career here.

Let us not forget the Australian workplace agreements that cut penalty rates, overtime, public holidays, shift allowances and rest breaks. Women and casuals were the worst-
affected by Australian workplace agreements—which Mr Tony Abbott says were ‘one of the greatest achievements of the Howard government’ and ‘not all bad’. They were so bad that, before they came into government, they were not even prepared to have the debate on their grand plan of Work Choices.

During the global financial crisis, the quick thinking of the Labor government saw an investment of $42 billion for our Nation Building Economic Stimulus Plan. It created jobs and prevented our nation from going into recession. We should not forget that those opposite opposed that stimulus package. They opposed people being secure in their employment. They opposed infrastructure rebuilds and facilities around our nation. We saw investment in schools under the Building the Education Revolution, with more than 9,500 schools nationally receiving new facilities such as science and language centres, multipurpose halls, outdoor covered learning centres, resource centres—and the list goes on. As a duty senator for five electorates in the state of Queensland—Longman, Dickson, Brisbane, Forde and Wright—I get around and see a lot of openings of these facilities and I have a great opportunity to receive the gratitude from principals, teachers, parents and students who are so proud that our government has invested in education. This is an area that was neglected under the coalition during their term. There has been around 100 per cent positivity about our great investment from the people in those communities. Last week, I attended eight Building the Education Revolution openings throughout my five duty seats.

Opposition senators interjecting—

Senator FURNER: I cannot imagine you have been to one, because you do not have any faith in it. You are embarrassed by the fact that we are doing something good in education—something you were not ever, ever able to achieve.

The ACTING DEPUTY PRESIDENT (Senator Boyce): Senator Furner, ignore the interjections.

Senator FURNER: I am sorry, through the chair. Just last week I opened eight facilities in a whole variety of locations. On Friday I was up at Murphys Creek, and that was a pretty solemn occasion. It was an eerie experience to be up in Murphys Creek at that opening.

Senator Johnston interjecting—

Senator FURNER: You can laugh at that, Senator Johnston. That is a disgrace, laughing at a town that lost people in their community, and you are using that as an opportunity to make fun of Murphys Creek. What a disgrace. What an absolute disgrace you are.

Following that, we went to Mount Alford and later on in the afternoon we went into other areas of the electorate of Wright. One of the schools I visited was the Bribie Island State High School. That school received a new science and language centre, where they are able to carry out experiments and even learn foreign languages. The school has an arrangement with the University of the Sunshine Coast, where students are able to begin learning Indonesian online, with access to lectures and lecturers.

At other schools I have seen huge halls which can now fit whole student bodies into the one area. For some schools, this has been the first time they have been able to address all the students. I would like to acknowledge some opposition colleagues from the House of Representatives who have come along to those BER openings. There is the member for Longman, Wyatt Roy; the member for Wright, Scott Buchholz; and the member for Forde, Bert Van Manen. Picture this: you go
along to these openings, and here you have the member for Longman, the member for Forde or the member for Wright. You have this huge conga line of wannabes—disingenuous groupies, as I refer to them. They turn up for something they opposed, the BER, but no doubt they turn up for the photo opportunities. This is hypocrisy at its greatest. What stark hypocrisy to see these disingenuous people turning up at school hall openings that they opposed. Once again, we see a huge conga line of disingenuous LNP members from the House of Representatives turning up for the chance at a photo opportunity at school openings. And I am not trying to make fun of young Wyatt Roy, but young Wyatt Roy at some of the openings—

The ACTING DEPUTY PRESIDENT: Senator, please use the member's correct title.

Senator FURNER: Mr Wyatt Roy—he is a mister. Mr Wyatt Roy turns up at some of these openings and he is about the same height as some of the students. Sometimes the teachers put their arm around him and try to usher him back into class because they think he is part of the student group at these schools. That is what happens if you go along to attend the opening of these halls when you do not believe in it and you are there for the photo opportunity. What more do you expect?

This $16.2 billion program not only provided schools with facilities they never thought they would get; it also kept many people in jobs. Many, many contractors and construction workers have come to these openings and indicated their thanks to the government for keeping them in employment as well.

We have also been transparent with the BER through the government's establishment of the Building the Education Revolution Implementation Taskforce in 2010 to examine the program, and its report was released to the public. Our economic stimulus plan also invests in our roads, railways and ports. We have injected $37 billion and there will be even more when the minerals resource rent tax goes through.

When the coalition was in government, our nation ranked 20th of the 25 OECD countries for investment into infrastructure as a proportion of national income. One of our election commitments was to promote a pro-disclosure culture across the government by building a stronger legislative foundation for openness and transparency. Reforming Australia’s freedom of information laws was a key component of that commitment, and an improved FOI regime commenced on 1 November 2010. The reforms also established the Office of the Australian Information Commissioner. The Information Commissioner, supported by the Privacy Commissioner and a new freedom of information commissioner, is a specialist independent monitor with the ability to review FOI decisions and investigate complaints. The commissioner will also work with agencies to develop best practice standards in the areas of FOI and privacy and to monitor compliance. Labor is committed to improving transparency across government and increasing trust in our democratic institutions.

Another area that we are reforming is health. Under the national health reform, we are working to transform the health system to be more efficient, accountable and transparent. In 2014-15 the federal government will increase its contribution to efficient growth funding to 45 per cent and then 50 per cent in 2017-18.

Returning to the nature of this matter of public importance, I want to reflect on a headline in the *Sydney Morning Herald* dated 18 May 2010. The headline is 'Read
my lying lips: Abbott admits you can't believe everything he says'. In an interview on the 7.30 Report he admitted, on air, to Kerry—what was his name?

Senator Bilyk: Kerry O'Brien.

Senator FURNER: Kerry O'Brien—in part:

... sometimes, in the heat of discussion, you go a little bit further than you would if it was an absolutely calm, considered, prepared, scripted remark, which is one of the reasons why the statements that need to be taken absolutely as gospel truth is those carefully prepared scripted remarks.

These are the comments of a confessed liar, someone who has admitted on air—

Senator Brandis: Madam Acting Deputy President, I rise on a point of order. The statement that came from the senator is itself an untruth, but the point is that you cannot in this chamber refer to a member of this parliament by that term.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Brandis. Senator Furner, you should withdraw that comment.

Senator FURNER: I am only referring to the actual headline: 'Read my lying lips'—

Senator Brandis: On a point of order, Madam Acting Deputy President, the senator, although he has not been here for very long, should know that he cannot reflect on your ruling, nor can he hide behind a quotation mark to make an unparliamentary remark. He should withdraw without equivocation and apologise to the chamber.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Brandis. Senator Furner, I ask you to withdraw the comment.

Senator FURNER: I do withdraw that comment. Once again, they are not my words; it is a headline in the Sydney Morning Herald, based on an interview between Kerry O'Brien and Mr Tony Abbott. As Mr Abbott said:

... which is one of the reasons why the statements that need to be taken absolutely as gospel truth is those carefully prepared scripted remarks.

I do not know what that means and I do not know what the public thought of that, but certainly after that interview there was a poll. I know the opposition get excited by polls. The poll asked the question: will Tony Abbott's admission devalue everything he says in the lead-up to the election? The overwhelming majority of respondents, 68 per cent, said yes, while 32 per cent said no.

The ACTING DEPUTY PRESIDENT: Order! The time for the discussion has expired.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Australian Defence Force Academy

Senator CARR (Victoria—Minister for Manufacturing and Minister for Defence Materiel) (16:50): by leave—Madam Acting Deputy President, I wish to take this opportunity to clarify the answer that I gave.

The Minister for Defence made a statement on 11 April 2011 regarding the ADF Skype incident. He announced the independent inquiry under the relevant defence regulations into the management of the Australian Defence Force Academy and the aftermath of the incident. He made that statement on his own authority.

I want to clarify this in particular. Any suggestion that might have arisen from that answer that the minister himself had removed Commodore Kafer from his position in the ADF is untrue. The minister did not remove Commodore Kafer from his
position in the ADF. As the minister stated publicly in that statement on 11 April 2011, Commodore Kafer was directed by the Vice Chief of the Defence Force to take leave from the ADF, effectively from 10 April 2011. This decision was made by Commodore Kafer's commanding officer, then Vice Chief of the Defence Force, now Chief of the Defence Force, in Commodore Kafer's best interests, in the best interests of the ADF, in the best interests of the Australian Defence Force Academy and in the best interests of Defence. Commodore Kafer has been assigned to other duties during the inquiry process.

Senator JOHNSTON (Western Australia) (16:52): by leave—in contrast to many of his colleagues in the Gillard government, Senator Carr has the respect and reverence for this chamber to come in and to correct the record. I think it is important he did that. I want to compliment him for doing that and I thank him for that. This is a very sorry set of circumstances where a good man has been stood aside for some 12 months now with this report languishing not on his desk but on the Minister for Defence's desk. I thank him for coming into the chamber and correcting the record.

DOCUMENTS

Kurdish Society of Victoria

Tabling

The ACTING DEPUTY PRESIDENT (Senator Boyce) (16:52): I present a response from Victorian Minister for Police and Emergency Services (Mr Ryan) to a resolution of the Senate of 15 September 2011 concerning the Kurdish community.

DELEGATION REPORTS

Australian Parliamentary Delegation to the Parliamentary Assembly of the Council of Europe

Australian Parliamentary Delegation to the NATO Parliamentary Assembly

Senator PRATT (Western Australia) (16:53): by leave—I present the report of the Australian parliamentary delegation to the 57th annual session of the Parliamentary Assembly of the Council of Europe, held in Strasbourg, and the NATO Parliamentary Assembly held in Bucharest, from 3 to 9 October 2011.

Australian Parliamentary Delegation to the Asia Pacific Parliamentary Forum

Senator BILYK (Tasmania) (16:54): by leave—I present the report of the Australian parliamentary delegation to the 20th annual meeting of the Asia Pacific Parliamentary Forum held in Tokyo, from 8 to 12 January 2012. I seek leave to move a motion to take note of the document.

Leave granted.

Senator BILYK: I move:

That the Senate take note of the document.

Senator BILYK: For the information of senators, it gives me great pleasure to present the report of the Australian parliamentary delegation to the 20th annual meeting of the Asia Pacific Parliamentary Forum, commonly known as the APPF, which was held in Tokyo from 8 to 12 January 2012. The other participating members of the Australian delegation were the delegation leader and member for Page, Ms Janelle Saffin, the deputy leader of the delegation and member for Mallee, Mr John Forrest, and Senator Chris Back from Western Australia.
The APPF was established at its first annual meeting in Tokyo in January 1993. In 1991, prior to the establishment of APPF, Canberra was host to one of two preparatory meetings. Australia in general has a long history of involvement with the APPF. The declaration adopted at the first annual meeting, known as the Tokyo declaration, outlined the objectives and organisational aspects of the APPF. It provided for the APPF to be open to all national parliamentarians in the Asia Pacific region, particularly from the Association of Southeast Asian Nations and the Asia-Pacific Economic Cooperation group members and members of the South Pacific Forum, who have an active interest in promoting dialogue among parliamentarians in the region and who accept the objectives and principles of the APPF.

Those objectives are to seek to provide opportunities for national parliamentarians of sovereign states of the Asia Pacific region, particularly in the Association of Southeast Asian Nations and the Asia-Pacific Economic Cooperation group members and members of the South Pacific Forum, who have an active interest in promoting dialogue among parliamentarians in the region and who accept the objectives and principles of the APPF.

The APPF is very relevant to Australia given the importance to our nation of the issues addressed at the forum and the significance of the participating countries to our economic and strategic interests. The 20th annual meeting was highly successful with 326 delegates attending from 20 member countries and one observer country. The Australian delegation proposed six resolutions on the subjects of promoting cultural, education and personal exchanges in the Asia-Pacific region; strengthening peace and security in the region; the global economic situation; food security; energy security; and cooperation in disaster risk reduction and disaster preparedness. Of course, the last matter had particular significance for the host country, Japan, given the meeting was held against the backdrop of the recent earthquake and tsunami, which devastated much of Japan less than two years ago. The final joint communiqué of the meeting included 13 resolutions, six of which were on the subjects of the resolutions proposed by Australia. It is important to note here that all the resolutions must be by consensus, which encourages negotiation and discussion to reach resolutions.

The Australian delegation leader, Ms Saffin, addressed the meeting on strengthening peace and security in the region. She referred to some of Australia's work in the ASEAN Regional Forum and to the recently established ASEAN Defence Ministers' Meeting-Plus. Ms Saffin represented the delegation in two working groups: strengthening peace and security in the region and the new Tokyo declaration. Mr Forrest spoke on disaster risk reduction and disaster preparedness. He referred to the number and scale of natural disasters and their increasing impact in recent years, and referred to work being done by Australia to reduce or mitigate the impact of natural disasters. Mr Forrest also represented the delegation at the working group on disaster management and nuclear safety. Senator Back addressed the plenary on food security about the critical role that Australia has to play in increasing food production to achieve the Millennium Development Goal of reducing hunger by half. I know Senator Back will be speaking...
after me, so I am sure he will expand on that. I addressed the plenary on promoting cultural, educational and personal exchanges, providing an overview of Australia's work in the Asia-Pacific region in this area. I also participated in the working group based around cultural education and personal exchanges. Along with Mr Forrest, I also represented the delegation at the meetings of the drafting committee including discussions on behalf of the Australian delegation with Indonesian delegates in relation to the proposed resolution on the Middle East peace process.

I wish here to reiterate a point that I made in my plenary address, that the APPF meetings and other parliamentary forums provide the opportunity for valuable exchanges among national parliamentarians which can help to foster regional and international dialogue and cooperation. I would like to thank the Prime Minister of Japan, His Excellency Mr Yoshihiko Noda, and the Chief Cabinet Secretary, Mr Osamu Fujimara, for meeting with the delegates and for the efficiency, warmth and hospitality which all delegates received. I would like to thank the Department of Foreign Affairs and Trade and the Parliamentary Library for their wonderful assistance with comprehensive briefing materials. I would also like to thank for their advice and support the International Community Relations Office and the Ambassador to Japan, His Excellency Mr Bruce Miller, and the wonderful staff at the embassy there. Thanks also go to the liaison officer from the Japanese parliament, Ms Kaori Tanaka.

A special thanks must go to the House of Representatives Serjeant-at-Arms, Ms Robyn McClelland, who provided invaluable support while accompanying the delegation as the delegation secretary. She put in many hours of work to make sure that all went smoothly and efficiently for us before, during and since the forum. Finally, I would really like to thank my fellow delegates, Ms Page, Mr Forrest and Senator Back for their participation.

I believe that all delegates at the forum now have a greater knowledge of Japan and the importance and strength of the bilateral relationship. I think we all know each other better. It was a very cooperative approach by all members in making sure that Australia was represented so well. So despite the cut and thrust of parliament, a lot of work goes on, often unseen by the public, where there is very effective cooperation across party lines, and parliamentary delegations such as this one are a great example of that. I believe the Australian delegation did a very good job of representing the Australian parliament to the APPF and it was an honour and privilege to participate. I commend the report to the Senate. I know that Senator Back wants to speak so I will leave him some time.

Senator BACK (Western Australia) (17:02): I rise to endorse the comments of my colleague Senator Bilyk in thanking people both here in this place, in Australia and in Japan, for the excellence of their organisation, particularly Ms Robyn McClelland, and in Tokyo, the ambassador and embassy staff. I would like to endorse further the comments of Senator Bilyk, because they relate to the issues associated with the earthquake and the tsunami which occurred in Japan, and to advise the Senate that Australia and the US were the only two countries whose militaries were actually able to participate in the recovery phase, such is the trust and faith in which Australia and the US are held by Japan. It was far more than a token effort. The RAAF were very, very active in the movement of heavy equipment throughout that exercise, and certainly the delegation members went away feeling very proud of the contribution that Australia had made.
With Mr Forrest, I had the opportunity to talk a little bit about the response and recovery phase following a major international disaster of that type. Once again, the experience that we in Australia have is such that we can contribute significantly throughout the Asia-Pacific region when it comes to things like quality of communication, ease and speed of response and movement throughout the affected areas—often at a time when the host country is really feeling the pinch of the disaster, which in that case was befalling them.

In the few minutes available I would also like to affirm, as Senator Bilyk was kind enough to mention, the fact that I did give a paper on food security in the Asia-Pacific region about some of the challenges associated with that. We were told that whilst we in Australia have an average age of farmers, husband-and-wife combined, of 61 years, that in Japan the average age for farmers is now 66 years. So it begs the question, as we move to a population in the Asia-Pacific region by 2050 of an extra 1.9 billion people: what are the opportunities for Australian agriculture and the food logistics chain? It also identifies the challenges that we are going to have, and I will speak more on food security.

One of the concerns I do have is the fact that all four of us—and indeed the secretariat—were new to this task of the Asia Pacific Parliamentary Forum and therefore none of us could build on the experience of earlier delegations. I would make a recommendation that at least one member of each delegation—and going forward, I believe that next year it is in Vladivostok in Russia—should have had the experience of having participated previously in an Asia Pacific Forum. These forums are so valuable, with the goodwill generated, the bonhomie, and the discussion around the table both formal and informal. They were of enormous benefit to us all. I compliment my colleagues. I believe that Australia acquitted itself very, very well. We were highly respected in the committee stages, in the discussions that went on and in the plenary sessions.

Finally I would like to acknowledge particularly, as Senator Bilyk has done, the Honourable Bruce Miller, the Australian Ambassador. He is obviously very highly respected. We were there at a time when some people had managed to get themselves onto a Japanese vessel, and the fact that he was able to deal with our group and that he was able to share so much very interesting information while at the same time deal with that particular matter, not only stood him in good stead but his relationship with the Japanese government, I believe, acquitted the outcome of that particular event. So I join Senator Bilyk in commending this report to the Senate and I hope that others into the future have as much benefit as we did in participating.

Question agreed to.

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.

Details of the documents also appear at the end of today’s Hansard.

BILLS
Higher Education Support Amendment (VET FEE-HELP and Other Measures) Bill 2011
Returned from the House of Representatives

Message received from the House of Representatives returning the Higher Education Support Amendment (VET FEE-
HELP) and Other Measures) Bill 2011

Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012

First Reading

Bill received from the House of Representatives.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:07): I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:08): I table a revised explanatory memorandum relating to the bill 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—

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT (TRANSITION TO FAIR WORK) BILL 2012

Today I introduce the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012.

The building and construction industry remains a critical sector of our economy, with immediate and direct impact on jobs, growth and productivity. This was particularly so during the global economic recession, during which the Government's Nation Building and Jobs Plan ensured that the Australian economy remained one of the strongest in the developed world.

The construction industry is imperative for Australia's future success. How we build our key national infrastructure, hospitals and schools. This Government understands and recognises the importance of the industry – and those who work within it.

The Government also committed to consult extensively with industry stakeholders to ensure the transition to the new arrangements would be orderly and effective.

On this basis, the former Minister appointed retired Federal Court Judge, the Hon. Murray Wilcox QC to consult and report on matters related to the creation of the building inspectorate. Mr Wilcox consulted widely with industry and delivered his report to the Government on 31 March 2009.

This Bill honours the Government's commitments and gives effect to the principal recommendations in Mr Wilcox's report.

Description of the Bill

The principal object of the Bill recognises the Government's intention to provide a balanced framework for cooperative and productive workplace relations for the building and construction industry.

A key objective of this Bill is compliance with workplace relations law by all building industry participants, including employers, employees and their respective associations.

This Bill aims to provide fairness in the industry by ensuring information, advice and assistance is available to all building industry participants in connection with their rights and responsibilities under relevant laws.

The Bill provides effective means for investigating and enforcing relevant workplace laws while balancing the rights of building industry participants through the provision of appropriate safeguards in relation to the use of the building inspectorate's enforcement powers.

The Bill contains an amendment – passed by the House of Representatives—that will prevent the Director, or an inspector of the Fair Work Building Industry Inspectorate from commencing or continuing civil proceedings in a court where the matter of the subject of the hearings is reasonably and appropriately settled and
discontinued by the parties, other than the inspectorate.

This will ensure that building industry participants are not subject to multiple proceedings in relation to matters that have already been the subject of discontinued litigation, and that the resources of the Fair Work Building Industry Inspectorate are appropriately targeted to matters which remain unresolved.

The Government notes that there are strong protections against coercion by parties in the Fair Work Act. Federal and State laws also provide important safeguards against interference with the administration of justice in matters before the courts.

**ABCC to be replaced**

The Government believes that the Australian Building and Construction Commission (ABCC) needs to be replaced with a new body that is part of the mainstream Fair Work system. This new regulator will operate in accordance with community expectations of a fair and just workplace relations system.

The Government understands that the industry contains unique challenges for both employers and employees, and as a result we have always supported a strong building industry regulator to ensure lawful conduct by all parties.

This Bill gives effect to the Government's election commitment to abolish the ABCC and transfer its responsibilities to a specialist Fair Work building inspectorate. The Bill provides that the new building inspectorate will ensure compliance with general workplace relations laws, as prescribed in the Fair Work Act 2009, by all building industry participants.

**The Fair Work Building Industry Inspectorate**

The Government made a commitment to the Australian people that it would replace the ABCC with a new body to provide a balanced framework for cooperative and productive workplace relations in the building and construction industry.

This new body will be the Fair Work Building Industry Inspectorate.

The new Fair Work Building Industry Inspectorate will be headed by an independent director appointed by the minister. The director will manage the operations of the Inspectorate and will not be subject to oversight or control by other statutory office holders.

This model gives best effect to Mr Wilcox's recommendation that the director have 'operational autonomy' and reflects various stakeholder consultations on this point.

Consistent with Mr Wilcox's recommendations, the Bill also creates an advisory board consisting of industry stakeholders to make recommendations to the director on the policies and priorities of the building inspectorate.

**Scope and penalties**

The building inspectorate will be charged with enforcing the building industry's compliance with the general law as prescribed in the Fair Work Act. In particular, and as recommended by Mr Wilcox, the Bill removes:

- higher penalties for building industry participants for breaches of industrial law; and
- the broader circumstances under which industrial action attracts penalties.

Consistent with Mr Wilcox's recommendations, the definition of 'building work' has also been amended to remove its coverage of off-site work; thereby focusing the scope of the inspectorate's operations to work on sites.

**The retention of coercive examination powers**

While building participants will be subject to the same penalties as other workers, Mr Wilcox recommended that the need to retain the existing coercive examination powers was proven.

The Bill retains coercive powers for 3 years, at which time the powers will sunset – subject to a review of their operation.

The significant safeguards associated with the use of the powers also included in the Bill are:

- the use of the powers is dependent on a presidential member of the Administrative Appeals Tribunal being satisfied a case has been made for their use;
persons required to attend an interview may be represented by a lawyer of their choice and their right to claim legal privilege and public interest immunity will be recognised;

persons required to attend an interview will be reimbursed for their reasonable expenses;

all interviews are to be videotaped and undertaken by the director or an SES employee;

the Commonwealth Ombudsman will monitor and review all interviews and provide reports to the parliament on the exercise of this power; and

the powers will be subject to a three year sunset clause.

Relevantly, in his report Mr Wilcox says:

... I am confident the safeguards I have recommended, if implemented, will minimise the unnecessary use, and potential for misuse, of the power; without impeding, or significantly delaying, investigations ...

The Government agrees with this assessment.

**Independent Assessor**

The Bill creates the office of the Independent Assessor—Special Building Industry Powers, who may, on application from stakeholders, make a determination that the coercive interrogation powers will not apply to a particular project or projects.

In determining whether to 'switch off' the coercive powers for particular projects, the Independent Assessor must be satisfied that it would:

- be appropriate to make the determination, having regard to the objects of the act, and
- not be contrary to the public interest to make such a determination.

In the event that a project where the coercive powers have been switched off experiences industrial unlawfulness the Independent Assessor may revoke his or her original decision; thereby switching the powers back on. Additionally, the director of the Fair Work Building Industry Inspectorate can request that the Independent Assessor reconsider their decision at any time based on changes in circumstances on a specific project.

These 'switch off' provisions ensure that the powers are focused where they are needed most. The Government is determined to encourage lawful behaviour and a change in the industry's culture. These arrangements provide the industry with the opportunity to demonstrate that the requisite lawful culture is in place and that the coercive examination powers are not required.

**Conclusion**

The Government's position on the ABCC has been clear for a long period of time.

Prior to the 2007 and 2010 elections, Labor made a commitment to the Australian people that it would replace the ABCC with a new body; to provide a balanced framework for cooperative and productive workplace relations in the building and construction industry – a body that is part of our Fair Work system. This Bill honours those commitments.

The Government has consistently stated that anyone who breaks a law should feel the full force of the law. The Government will not tolerate an environment in which people choose which laws to obey and which ones to ignore. This goes for all industry participants.

The Government understands that the industry contains unique challenges for both employers and employees, and as a result we have always supported a strong building industry regulator to ensure lawful conduct by all participants and a strong set of compliance arrangements for the building industry. This Bill honours those commitments.

The Government committed to a review of building industry regulation and we committed to introduce safeguards for the use of coercive examination powers to achieve the balance required to ensure compliance with the law and the fair treatment of individuals. This Bill honours that commitment.

I commend the Bill to the Senate.

Debate adjourned.
Senator LUDLAM (Western Australia) (17:09): I was going to offer the minister the call first, although I see he is consulting with his advisers. When we reported progress before question time he had advised me out of left field on my amendment (4)—requirements for nominations and amendments relating to the way that this bill interacts with the Aboriginal Land Rights Act—that there was a possibility that the government might support the Greens amendment. I will pick up the thread there if that is not the case, but I thought I might give the minister the floor to just advise us as to whether there is an update.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:10): I reluctantly have to advise the senator that the legal advice we received is that putting it in both acts would be very complicated and lead to potential litigation difficulties, so we cannot agree to the amendment. The practical effect is in terms of the rights established by the Northern Territory legislation, but our legal advice is that it would be counter-productive and cause difficulties if it were to be inserted as proposed in your amendment. My advice is that what you want to do will be achieved, but we cannot agree to be the amendment.

Senator LUDLAM (Western Australia) (17:11): I thank the minister. That being the case, it probably makes sense to backtrack a bit from where we were earlier and move back to Greens amendment (4). I seek leave to move amendments (4), (5) and (12) on sheet 7037 together.

Leave granted.

Senator LUDLAM: I move:

(4) Page 6 (after line 11), after clause 5, insert:

5A Requirements for nomination by a Land Council

A nomination made under section 5, or taken to have been made under section 5, is of no effect for any purpose under this Act unless:

(a) the Land Council, in nominating the land as a potential site, has complied with the Aboriginal Land Rights (Northern Territory) Act 1976; and

(b) the nomination of the land as a potential site was made by the Land Council subject to its powers and obligations under the Aboriginal Land Rights (Northern Territory) Act 1976.

[additional requirements for continuing nominations]

(5) Page 6 (after line 11), after clause 5, insert:

5B Application of Schedule 2 to nomination by a Land Council

(1) Despite subitem 1(1) of Schedule 2, a nomination under section 3A of the old radioactive waste law which does not comply with subsection 5(2) is invalid and of no effect for any purpose under this Act.

(2) In this section:

 commence time means the time at which item 1 of Schedule 1 commences.

 old radioactive waste law means the Commonwealth Radioactive Waste Management Act 2005 as in force immediately before the commencement time.

[additional requirements for continuing nominations]

(12) Page 11 (after line 16), after clause 9, insert:

9A Requirements for approval

An approval under section 9, or taken to have been made under section 9, of land nominated by a Land Council is of no effect for any purpose under this Act unless:

(a) the Land Council, in nominating the land as a potential site, has complied with the Aboriginal Land Rights (Northern Territory) Act 1976; and

(b) the nomination of the land as a potential site was made by the Land Council subject to its
powers and obligations under the Aboriginal Land Rights (Northern Territory) Act 1976.

[nominations must comply with Land Rights Act]

I suppose I should not express great surprise that the government has sought legal advice and has probably been told by the minister in the other place to get stuffed and that there will be no tampering with his bill. I will continue my remarks in support of these amendments in the hope that perhaps Senator Scullion, who has been listening in on the entire debate since it began, will exercise his balance of power role in the chamber and advise his colleagues to vote for these important amendments.

In undertaking the kinds of consultations and the processes of gaining consent, not just for a project like this but for any project, a land council is under a procedural fairness duty at law to give Aboriginal people whose rights, interests or legitimate expectations are affected an opportunity to be heard. That is part (a). Part (b) is to be free from bias. These requirements are normally enforceable under the Aboriginal Land Rights (Northern Territory) Act to stop the land council doing something in breach of those requirements, except where the action has already resulted in Aboriginal land being transferred to another party without that party procuring it with fraud.

Procedural fairness is not some kind of nicety. It is not something that you add as an afterthought and it is certainly not something that you would pull out of a piece of legislation such as this. It is vital to ensuring that the right decision or outcome is actually reached. In this case, that means that the right Aboriginal people under the meaning of the Aboriginal Land Rights (Northern Territory) Act consented to the nomination. The act provides that basic protection and, up to a point, it has worked in the Territory.

It has certainly worked more effectively than the native title framework has worked.

In this instance, the Northern Land Council was under a statutory obligation to assist the applicants in pursuing their claim to be recognised as the traditional Aboriginal owners of the land in question. In particular, it was obliged to arrange for legal assistance for them at the expense of the Northern Land Council. The capacity of the applicants to look after themselves was seriously eroded by their lack of legal and anthropological assistance. These issues were matters of the gravest concern to the parties involved. They involved questions going to the spiritual responsibility of competing claimants and they are questions which arose in the framework of a unique piece of legislation. The issues of fact and of law were extremely complex. The duty of procedural fairness is critical to ensuring that consent is actually given to an acquisition of land. Normally this is a legally enforceable obligation until the point at which land is transferred without fraud. By virtue, however, of the 2005 act and the 2010 bill this was unenforceable at all times prior to land being transferred to the Commonwealth, particularly after a nomination was made.

I recognise, and presumably the minister will remind us, that under the Aboriginal land rights act the term 'traditional owner' gets thrown around pretty loosely in some instances by people who are not familiar with the term. It is a term in common currency that has a very specific and formal legal definition under the land rights act. The problem that we have in this instance is akin to something I remarked on earlier in the debate, that the mining industry, governments or a particular department wanting to host a toxic waste facility will turn up, draw a rectangle on the ground and then go looking for the right person to speak
to for that rectangle on a map under the terms of the land rights act.

What has happened in the instance of Muckaty is that people have stood up and said that they are the right people. As a whitefella from a long way away, I am not qualified to adjudicate in their cause. They said that they were the right people to make that nomination, and the Northern Land Council has in turn said that the nomination was received in good order and it was transferred to the minister's desk—the previous minister who handed it on to Minister Ferguson. This has sidelined a huge number of people who consider themselves as legitimate traditional owners under the formal meaning of the land rights act, in that they have obligations or responsibility for country that will be directly impacted by the imposition of this facility.

That does not necessarily mean that they were born within the rectangle that we put on the map. It does not necessarily mean that they have spent their whole lives giving evidence to anthropologists to put those views on the whitefella's legal record. But it does mean that they have a genuine grievance in that, as we have discovered in the course of this debate, they do not believe that the land was correctly forwarded to the Northern Land Council and then on to the minister. In fact, they dispute intensely that the person who has put the nomination forward is the person with the sole responsibility and sole ability to put forward land that they will not get back because of the use for which it was forwarded. Nobody is ever going to be able to occupy that country in the same way again, because it is going to be surrounded with barbed wire—as you would hope for a facility of this kind—and the access corridor is going to have some kind of similar restriction. There will be severe restrictions to movements of people on and off that country. They will never get it back.

I think there are clauses in the bill that provide for the return of the land after a couple of hundred years. It is comic in a dark kind of way that their descendants in a couple of dozen generations will be able to return. Presumably the shed-like structure will be removed if it has not been converted into an international high-level waste dump in line with some of the more unhinged contributions made in the House of Representatives. They will get the land back, the shed will be taken away, but the ticking in the low-level material which is currently hosted and guarded at Lucas Heights will have faded to approximately background. That material will no longer kill you or give you cancer. It will have faded away through 10 half-lives of the longest-lived isotope to material that can be safely handled.

However, that is not the material in question. Even though the government and the opposition talk about it a lot—the gloves, the lab components, the bits and pieces, the spent sources and engineering stuff—that is not the concern. The concern is what would have happened to the several hundred or thousand cubic metres of long-lived intermediate-level waste that is being left there in the interim and for which there is no final disposal option? I think that is the real question here: will they get their land back in 300 years or will they not? The duty of procedural fairness which this amendment goes to is critical in ensuring that consent is given to an acquisition of land. Normally this is a legally enforceable obligation until the point at which land is transferred without fraud.

The 2010 bill and the 2005 act are not designed to give information to traditional owners about what the land would be used for as they do not generate any information
about the project. The regime is not a land-use approval regime and it is not tied to one. It does not require details of a proposed land use to be proposed for consideration, and approval of that land use does not need to be constrained to the scope of the proposal. Rather it is simply what we are debating today, a regime for excluding state and territory laws and for quite aggressively, in my view, acquiring property rights. Land owners therefore have no concrete details of what is proposed, no ability to constrain their approval to details which are given and on which they base their decision and no critical information about the proposal. For example, this is different to mining proposals under the Aboriginal land rights act, where the miner is under obligation to provide a high standard of information and go into specific details of the site proposal and environmental impact. In addition, the proponents are tied to the statement, as if they do not accord with it the mining title may be cancelled. Those sorts of provisions do not exist in this bill. They exist if you are taking out a mining tenement to fossick for gold or whatnot; they do not exist in the case of a national radioactive waste dump.

I would like to make a few brief comments about compliance with a declaration of Indigenous rights before I put a question to the minister. As is evident, none of the provisions of the 2010 bill for the Aboriginal land rights act accord with a declaration of Indigenous rights adopted by the Australian government, particularly articles 10, 29 and 32. Article 10 states that:

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 29 states that:

States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

Article 32 states that:

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

My contention is that the legislation that is before us this afternoon runs directly counter to those articles, those obligations to which Australia is a signatory. I am proud that we are a signatory, but in this instance we are trying to impose a facility on a community where free, prior and informed consent was not sought and was not granted, and that is why this has turned into such a fierce campaign.

As evidenced by the Muckaty nomination by the Aboriginal people, they are being forcibly removed from the nominated site without their prior informed consent and there have been no effective mechanisms for just and fair redress due to the exclusion of judicial and merits reviews. The Commonwealth has used inducements of cash—not very much but inducements nonetheless—for essential services to undermine the freedom of decisions by Aboriginal people. Minister, my question to you is whether any advice was sought by any
office of the Commonwealth, particularly the minister's, as to whether this proposal violated those articles of the Declaration on the Rights of Indigenous Peoples that I have just read into the record.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:23): I understand that as part of the consultation on the bill FaHCSIA was consulted about the UN Declaration on the Rights of Indigenous People and they provided some advice about the application to Australia and to our handling of the bill. As you know, Australia has not ratified the declaration but supported it. We think we operate consistent with those principles. But the department did consult with FaHCSIA about the applicability and consistency with the declaration.

Senator LUDLAM (Western Australia) (17:24): I thank the minister for that answer. Will the minister table the advice that was provided?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:24): What I have in front of me is not really advice. It is a set of dot points which I think would be known to the senator. They go to the questions of what the UN declaration does and government support. It is not a piece of legal advice, as it were; it is really just noting the various things that impact. But I will get that checked. I do not think it is actually advice in the way we think about it; it just provided information to the department about the applicability of the declaration. I will check. I do not think there is anything that will be a problem, but I do not want to misrepresent it. It is information to inform the process. I will take that on notice. If people are happy to table it, I will table it.

Senator LUDLAM (Western Australia) (17:25): I understand that the government is now proposing a new act in relation to this issue after adopting the declaration. I think it is under an obligation to ensure that the process we are debating this afternoon accords with the declaration. I have just read into the *Hansard* record three specific articles to which, in my view, this bill runs directly counter. It simply violates them. It does not offer that process of free, prior and informed consent because, of course, if it did, you would not have people from neighbouring areas from that region—people who claim very strong connection to that country—fighting you in courts, fighting you outside the minister's office, turning up here in parliament seeking meetings, banging on the door, not having their phone calls returned and not having their correspondence replied to. The fact is that you have not offered the affected community any free, prior and informed consent.

Late last year, at the end of a budget estimates hearing, Mr Hill from the Northern Land Council advised us that he also had not visited Tennant Creek and met with the affected parties. You confirmed for us yesterday and again this afternoon that the minister and the Australian government have not either. The people trying to force this project into that region have not had the courage to go look the affected parties—the ones on the front line—in the eye. That is in direct violation of the spirit, the intent and the letter of that instrument. I think most Australians would be proud to know that we have indeed signed that declaration.

I understand that you are taking advice on whether or not the document that you read from before is something that could be put into the *Hansard* record. I also ask you to
take on notice whether you have any advice at all, legal or otherwise, on whether the specific articles of the declaration that I read into the record are in direct and total contradiction to the terms of this legislation.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:27): I can be clear with the senator about that. Our advice is that the legislation does not contradict the principles contained in the UN Declaration on the Rights of Indigenous Peoples. We do not think there is any contest between those principles and the act. I remind the senator that the sorts of the things he has been talking about are required of the land councils as part of their statutory obligations to consult with and speak to people prior to gaining consent. It is similar to the discussion we have had before. So we think it is consistent with the principles in the UN declaration but also that there are requirements on the land councils to ensure the consultation and gaining of consent as part of their statutory function.

Senator LUDLAM (Western Australia) (17:29): It is interesting that again the government has sought to simply wash its hands of the dodgy and rather dark process that underlies the original nomination that you strongly condemned when you were in opposition, sheeting it home to the Northern Land Council and saying: 'That's their dirty laundry. Their process is their business. They have their obligations, and we simply accept what pops through the post box.' It is absolutely unacceptable. In 2006, in evidence to the Senate Standing Committee on Employment, Workplace Relations and Education, Mr Ron Levy, who is the NLC principal legal officer and who gave evidence to our committee late last year in the budget estimates hearing that I referred to before, put this into the record:

It is unlawful for a land council to nominate land as a waste facility unless it first has the consent of traditional owners.

So far so good. He said:

Your question, as I understood it originally, was: can a land council lawfully nominate land without the consent of the traditional owners? The answer is no.

So far so good. He went on:

The question as you now put it is: if the land council was to do that unlawfully, would it be validated? The answer to that question—in common with how the land rights act has operated for over 30 years and in common with, for example, how the Torrens title system operates regarding the real property—is yes.

It gets back to the issue before of the minister somewhat dismissively saying: 'That's just about spelling mistakes and stuff. That happens in legislation all the time. We will establish a set of criteria. Then there will be a clause in there that says that if any of these criteria are violated, it does not matter for the purpose of the nomination.'

That is why people are contesting this issue everywhere from the Federal Court to Minister Ferguson's doorstep in the electorate of Batman, where he is becoming more and more unpopular by the year. That is exactly the clause in the bill that they have zoomed in on and their legal counsel have zoomed in on and said, 'Just a moment.' First of all, they believe that the nomination was actually put up unlawfully. They have real problems with the terms of this legislation and with the way that the land rights act has been interpreted before, but I suspect the minister is going to tell me that there is long precedent for this kind of behaviour: that we can go through notional processes of consultation, tick all the boxes and then be told that, if any of the boxes were not ticked or if anything turns out to have been dodgy or if people were left out of the process or if cheques were written out to the wrong
people, no matter how dodgy the process was, there is a clause in the act that says it does not matter, that the nomination can proceed. That is why people are so concerned about this.

We were told by the government and we were certainly given reason to believe by the Labor Party when they were in opposition that there would be a different approach. This is not a different approach. This is a continuation of the approach of terra nullius that says there is empty land out there. Julie Bishop, when she was federal science minister, referred to it as the middle of nowhere. She put it like this:

All the sites in the NT are well away from houses. There are three sites—

and now we can add a fourth—

that are currently being considered and they are former defence sites so they are some distance from any form of civilisation.

Tell Mitch that, tell Dianne Stokes that—

that their block is some distance away from any form of civilisation and can therefore host this material, which will still kill you in a quarter of a million years, in a shed surrounded by barbed wire and two security guards. What kind of civilisation is it exactly that is promoting that kind of approach?

Senator Nigel Scullion, since he is still here and is taking part in the debate occasionally, said, 'Territorians don't like having this sort of stuff shoved down our throats because we are not a state.' Well, then, bring on statehood. If it takes being a state, if it helped the South Australians kick this project out of their backyard with the support of the Rann government, local government authorities, media organisations, the broader community and, most importantly, the kungas, the senior Aboriginal women who led that campaign—

then bring on statehood. We have not yet heard Senator Scullion on that.

Earlier I quoted Alexander Downer, the former Minister for Foreign Affairs, proposing that what we should really have is high-level radioactive waste, spent fuel from commercial power plants all over the world, coming into Australia. Here is what he said:

I'd rather have that low-level waste out at—well it will be in the Northern Territory now. I would rather have it in the Northern Territory than in Mount Barker just down the road from my electorate office.

That, senators, sums up this entire debate. They want the technology as long as it is nowhere near them, as long as somebody else is picking up the tab. The people I have met with, because I have taken the time to go to Tennant Creek and to spend a bit of time in the Barkly region and in Darwin and Alice Springs, say that that approach is not appropriate. If it is unsafe in Sydney, it is not going to get any safer in a shed or a shed-like facility in the Barkly region.

These reminders of the way people from both sides of politics have handled this debate for decades tell us the reason we keep failing, the reason we keep running up against community opposition. People are saying: 'Wait a minute. You weren't straight with us. You weren't clear with us about the nature of this material, about how long it is lethal and about your reasons for getting it out of your backyard and into ours.' This game of toxic pass-the-parcel simply has to end.

I hoped I would be able to draw out from Senator Scullion his views on the amendments. Minister, you gave us advice earlier that there are at least some people behind the scenes who think the proposal is reasonably sensible. You have since been given legal advice that it is not going to be possible to do so or that you would rather not do it. I commend these amendments to the chamber. I hope that we hear some voice from the opposition—after all, Senator...
Scullion, it is a senator from Western Australia who is trying to prevent this stuff going into your backyard. I hope you will take the opportunity now to stand up and explain why you think that this is a good idea, that we do not at the very least embed the basic objectives of the land rights act into this Commonwealth bill.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (17:35): Just briefly, Senator Ludlam, we will not be supporting these amendments. We think that the Aboriginal land rights act in itself is probably one of the most comprehensive processes run by the land councils to find those matters of free, prior and informed consent that you referred to. But this is not about the Northern Land Council; it specifically applies to land councils, and this is an insertion in there. You said that being a land council meant that it had to actually be in the Northern Territory or somewhere remote. But New South Wales has a heap of land councils, and whether you are in a piece of land in Melbourne or in South Australia and, presumably, it is not already occupied then it is extremely likely you are going to have to go through the processes within the state or territory to ascertain free, prior and informed consent. It is not only the Northern Territory land councils. But we agree with the advice that has been provided to the government with regard to the amendments, that being mentioned in two pieces of legislation is unhelpful, and we will not be supporting the amendments.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:36): I was impressed by Senator Ludlam's amendment and the reasons for it. I listened carefully to what Senator Scullion had to say and, in view of that, I do not understand why he objects to this amendment. The amendment from Senator Ludlam requires that a nomination made under section 5 of the act—if it becomes an act or taken to have been made—is of no effect unless the land council, in nominating the land as a potential site for a nuclear waste dump, has complied with the Aboriginal Land Rights (Northern Territory) Act 1976. I would have thought that Senator Scullion would want to make sure that Territory law was being heeded, albeit the nomination of the land as a potential site was made by the land council subject to its powers and obligations under the Aboriginal Land Rights (Northern Territory) Act 1976. It simply ensures that compliance with Territory law is made. The question to the minister is: is that the case? I ask that specifically of the minister. I did listen carefully to his answer previously, but is the committee to understand that his advice—legal advice, of course—is that the nomination of the land as a potential site, which was made by the land council subject to its powers and obligations, is fully in accordance with the Aboriginal Land Rights (Northern Territory) Act 1976 or will be? That is the question, not generally whether rights are being upheld but whether the act is being complied with. If there is legal advice, would the minister care to share it with the committee?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:39): As I explained earlier, we think the amendment moved by Senator Ludlam is unnecessary because the effect is the same, but we have had advice that we ought not seek to reflect it in the bill as it is now. It is obvious that people have to comply with the Aboriginal Land Rights (Northern Territory) Act because it is the law; it already exists. While I understand what Senator Ludlam is seeking to do, we say that that is already required and that, although we cannot support it going
into the act, we do not have a policy difference here in the sense that the act has to be complied with. I did not quite understand all of the construction of your question but the rules of nomination expressly state that a land council must comply with the Aboriginal Land Rights (Northern Territory) Act. So we think the amendment is unnecessary, but we actually think we are at one in a policy sense and that the bill as drafted will ensure compliance with that act.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:40): So the minister is saying that he agrees with the amendment, like the opposition spokesperson who also agrees with the amendment, but is not going to support it on the basis that the Territory law would have to be abided by anyway and effectively this is redundant. But it is right at the core of the matter that Senator Ludlam has brought up. The question back to the minister is: if this has no effect, and the minister's advice is that the Territory law would have to be upheld anyway then why not accept the amendment, writing it into federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law that state law on this matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law that state law on this matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account? Why not put it under the authority of this federal law—that state law on this particular matter be a process to ensure that landowners' wishes are properly taken into account?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:42): I think there is a misunderstanding. The Aboriginal Land Rights (Northern Territory) Act is a Commonwealth law. It is an act of this parliament, and those provisions are decisions of this parliament. It is not a question of Territory law versus Commonwealth law. What I am saying to you is that this is the law. It is the current law of the land as enacted by this parliament. Our advice is that to try to include the same provisions in a separate bill is not advisable as it can create a set of legal complications. As I say, in a policy sense, we are in agreement, but our advice is to not accept the amendment because we think it would do damage to the intent. But the provisions you are seeking to uphold are provisions of Commonwealth law already passed by existing law agreed to by this parliament. We have an act that does that already, and we are seeking to amend another act to restate that. Our advice is that we should not do that. The policy intent is reflected in the Aboriginal Land Rights (Northern Territory) Act, which is an act of this parliament.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:43): I am aware of that, but the Aboriginal Land Rights (Northern Territory) Act 1976 specifically applies to the Territory. It is not an acceptable argument from the minister that therefore it is redundant to put in the application of that act to ensure that the act is referred to into this piece of legislation. Whether the adviser agrees with that or not, it is common in law to make sure that anybody reading the law does so in companionship with another law. That is what Senator Ludlam is proposing to be done here. What I have not heard from the minister is why it should not be there. He says there are complications. Well, what are they?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:44): Senator, in good faith I undertook to Senator Ludlam to get further advice because my inclination was to accept the amendment, given that we were at one on the policy
intent. Having sought that advice in the break between us dealing with this bill, the legal advice is that we ought not to do it—that it would create difficulties in terms of legal interpretation and potentially lead to litigation. That is the advice I got. On the basis of that advice, the government has made the decision not to support the amendments.

There is no policy argument here. Our view is that the intent that Senator Ludlam's amendments represent is already the law of the land. We will not be agreeing to the amendments, but I cannot add anything further to that. That is the advice we have got. If there were a policy difference I would attempt to resolve that, but there is not. I cannot say it any other way. We have been around the traps on this for a while. We are not going to accept the amendments, but I do not think Senator Ludlam's endeavours or policy purpose is at all damaged by that decision. I do not think the defeat of his amendments will do any damage to the intent he had in moving the amendments.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:45): Just to follow up on that, could the minister give the Committee, in the absence of the advice that he has being given to the committee, an example of where citing the land rights act of 1976 in this way in this legislation could lead to litigation?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:46): As it is hypothetical, the answer is no—I cannot give you an example of what might occur in a practical sense. All I can do is tell you the advice I received. We are not going to support the amendments. We can continue to debate them, but we are not going to support them. I have endeavoured to get that advice, to accommodate Senator Ludlam if I could. The advice is that I should not. So I will not. And I cannot take it any further than that.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (17:47): Perhaps, Senator Brown, I can assist. First of all, I am not sure if you were in the Senate but I have commended, as I think the government has, Senator Ludlam on the motive for this—to ensure that we are making sure that the consent process, which is laid down under section 77A of the Aboriginal Land Rights (Northern Territory) Act 1976, is adhered to. Could I just point you to this legislation before us under Division 1—Nomination by a Land Council, section (f)(iii) where it says:

... the traditional Aboriginal owners as a group have consented to the proposed nomination being made (that consent as a group being determined in accordance with section 77A of the Aboriginal Land Rights (Northern Territory) Act 1976) ... and goes on, in (iv), to say:

... any Aboriginal community or group that may be affected by the proposed nomination has been consulted and has had adequate opportunity to express its view to the Land Council.

I would submit that this is, in this piece of legislation, almost identical—certainly in intent to ensure that it is absolutely clear that any nomination, in terms of the free, prior and informed consent, is actually already dealt with in the legislation that we are looking at today.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:48): I thank Senator Scullion for that. He has given a very clear example of where federal legislation leads to a citing of territory legislation to ensure there is consistency. But here we have the minister saying, 'Don't have federal legislation citing other federal legislation to deal with consistency'—and I am not going to labour this any further, but the minister has said that it could lead to
litigation. When you say you are going to oppose an amendment on the basis that litigation might arise from that amendment, then you ought to be able to say how or where or why. But the minister is failing to do that and that is the whole problem with the defence he has given for opposing this piece of legislation. There is no defence. There is no manifest litigation that will arise from it. It is a commonsense amendment that Senator Ludlam has put in here. It makes the reading of the act, and the process of somebody who is wanting to determine what this act is about, much more consistent and logical. All we are getting from the government and the opposition is that they agree with the amendment but will oppose it, and I cannot see much logic in that.

The TEMPORARY CHAIRMAN (Senator Fisher): Then, in that case, the question is that the amendments moved by Senator Ludlam be agreed to. Those in favour—

Senator Ludlam: Chair—

The TEMPORARY CHAIRMAN: Senator Ludlam, before I put the question?

Senator LUDLAM (Western Australia) (17:50): Thanks, Chair, I appreciate that. I will just make some closing remarks on these amendments. I thank Senator Brown for his contribution and also Senator Scullion, and Senator Evans for at least indicating that the spirit of the amendment is supported if not the letter. The reason that this amendment is before us is that what we have here is a proposal being experienced not hypothetically, not in the abstract—a proposal which stands in absolute, clear, stark violation of the principle of free, prior and informed consent, on the table and embedded in this bill. The people fighting this proposal in the Federal Court and out the front of the minister's office did not offer their consent. They were not given advanced warning. And they were not free to make that decision. That is the problem that we have here. And maybe it is redundant to say, 'The proposal that is before us should at least make an attempt to be compliant with the provisions of the Aboriginal land rights act. But maybe it will give some comfort to the next people who find themselves in the firing line after the Muckaty proposal falls over, because quite clearly this proposal does not—otherwise you would not be getting the heat that you are getting. This minister is finding himself in the same hot water as the previous minister because he is pursuing the same strategy of a ram-raid—a land rights ram-raid. There is no free, prior and informed consent here at all.

So I thank all participants in the debate on this amendment for at least acknowledging that it would be nice if the act were in concurrence with the Aboriginal land rights act. But the fact is that we have a stark violation of the principles and, in my view, the letter of that act before us now. That is why this particular proposal is so hard-fought. In South Australia, they do not have an Aboriginal land rights act. Nonetheless, we saw the same government strategy of just booting the door down and then trying to explain its actions afterwards as being somehow consultative. We have changed the language in this instance. Now it is based on the principle of volunteerism: 'After we kick the door down you will be discovered to have volunteered for radioactive waste.' It is not good enough. This proposal is going to fall over no matter what the outcome is in the Federal Court because the bigger picture here is that we should not continually be seeking coercively to dump this material in a shed—as former minister Julie Bishop put it—'a long way from civilisation'. It demeans us as a civilisation if, when we get to that place in the middle of nowhere, in that land of terra nullius we find people who are
telling us that they do not want the stuff on their block. They do not understand how it is that if it is unsafe in Sydney, somehow transporting it thousands of kilometres and taking it to Tennant Creek will magically make it safe. I commend these amendments to the Senate.

The TEMPORARY CHAIRMAN (Senator Fisher) (17:52): The question is that Senator Ludlam's amendments (4), (5) and (12) on sheet 7037 be agreed to.

The Committee divided [17:57]

(The Temporary Chairman—Senator Fisher)

Ayes................. 9
Noes................ 35
Majority............. 26

AYES
Brown, RJ
Di Natale, R
Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Siewert, R (teller)
Waters, LJ
Wright, PL

NOES
Abetz, E
Back, CJ
Bilyk, CL
Birmingham, SJ
Boyce, SK
Brown, CL
Bushby, DC (teller)
Colbeck, R
Collins, JMA
Cormann, M
Crossin, P
Edwards, S
Evans, C
Farrell, D
Feneley, D
Fifield, MP
Fisher, M
Gallacher, AM
Lundy, KA
Madigan, JJ
Marshall, GM
McEwen, A
McKenzie, B
McLucas, J
Moore, CM
Parry, S
Payne, MA
Polley, H
Pratt, LC
Scullion, NG
Singh, LM
Stephens, U
Sterle, G
Thistlethwaite, M
Urquhart, AE

Question negatived
Progress reported.

Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.

Senator WRIGHT (South Australia) (18:02): I rise to continue speaking on the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011. We agree with legal and human rights organisations that the bill should go further in protecting the rights of those who are the subject of request for extradition or those whose rights are impacted by a request for mutual assistance. Accordingly, although I will not be moving amendments today in relation to all of the concerns raised by those organisations, I consider that some amendments are particularly important in order to achieve the right balance between international cooperation for effective law enforcement and fundamental protections of human rights.

The Greens have distilled those concerns into five key areas, and they are: firstly, expanding the existing grounds for refusing an extradition or mutual assistance request to include 'cruel, inhuman or degrading treatment or punishment'; secondly, expanding the existing grounds for refusing an extradition or mutual assistance request to include discrimination on the basis of gender identity; thirdly, removing the presumption against bail in the Extradition Act; fourthly, removing the discretion of the Attorney-General to provide mutual assistance in circumstances where the death penalty could apply; and, finally, maintaining double jeopardy as a mandatory ground of refusal for mutual assistance.

I would like to thank Minister Clare and his office for their efforts in recent weeks to address our concerns via amendments to the
explanatory memorandum. However, unfortunately, despite good faith negotiations and a number of agreed changes, the amendments made to the explanatory memorandum do not adequately address our concerns to the point where it would be unnecessary for me to move the amendments I will be moving today. Thank you.

Senator THISTLETHWAITE (New South Wales) (18:04): Australia's extradition laws are about making sure that justice is served at home as well as abroad. They are about ensuring that Australia is not a place for refuge for those accused of a crime in another country and not a place of solace for those hoping to escape another legal system. But Australia's extradition and mutual assistance in criminal matters laws must remain relevant to the times. Our laws must ensure that the government and policing communities are a step ahead of advances and new techniques in criminal activity. This Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011 seeks to streamline and modernise the process for extradition and, importantly, ensure that the legislative regime in Australia does keep pace with advances in criminal activity throughout the world. It ensures that Australian authorities can offer a comprehensive range of assistance to our international criminal justice partners, subject to appropriate safeguards.

Australia's current extradition and mutual assistance legislation was developed more than 20 years ago and since then Australia has evolved and the world has changed. New ways for criminals to organise and conduct illicit business have emerged. The evolution of the internet, powerful personal computers and mobile phones means that Australia must change its laws to ensure its protection and to ensure the protection of Australian citizens. This bill provides Australian law enforcement agencies with relevant tools to protect us all.

In 2006 a discussion paper was released for public consultation that proposed fundamental reforms to Australia's international crime cooperation laws and procedures, including in the areas of extradition and mutual assistance. This bill has evolved out of that review and drafts of the bill were released for public consultation in 2009 and again in January this year. Through this process, the Law Council of Australia welcomed several key changes to the legislation. These include: expansion of the existing grounds for refusing an extradition request to include discrimination on the basis of a person's sex or sexual orientation; expansion of the existing grounds for refusing a mutual assistance request to include discrimination on the basis of a person's sexual orientation; extension of the availability of bail in extradition proceedings; expansion of the circumstances in which a person may be prosecuted in Australia in lieu of extradition; inclusion of an express prohibition on providing mutual assistance where it may expose the person to torture; as well as improvements in how the risk of torture is considered in extradition determinations.

The bill also ensures the expansion of the death penalty grounds for refusal in mutual assistance requests to cover situations where a suspect has been arrested and detained but not charged. Importantly, there has been expansion of the grounds to refuse to cover mutual assistance requests which relate to all stages of the investigation, prosecution and sentencing of a person.

The Law Council is right to acknowledge these positive additions to our extradition and mutual assistance laws. These amendments will be made to the Mutual Assistance in Criminal Matters Act to
increase the range of law enforcement tools available to assist foreign countries with their investigations and prosecutions, to strengthen the protections against providing assistance where there is a death penalty or torture concern in the requesting country and to streamline existing processes for providing certain forms of assistance.

Mutual assistance with international policing agencies allows Australia to help our overseas partners prevent crime in their backyards and ensures that criminal activity is not being conducted in Australia against other nations. International police-to-police interaction is necessary for many operational requirements of agencies engaged in cross-border operations, including: to locate, restrain, forfeit and share the proceeds of crime; the mutual taking of evidence and the production of documents and other articles; joint operations in relation to search and seizure; and arrangements for persons to give evidence or assist investigations.

Amendments to the Crimes Act, the Mutual Assistance in Criminal Matters Act, the Telecommunications Act and the Surveillance Devices Act seek to increase the range of law enforcement tools available to assist foreign countries with their investigations and prosecutions. The bill will also streamline the process of sharing covert communication materials obtained in Australian investigations and includes a range of safeguards to ensure that information is provided to foreign countries only in appropriate circumstances.

The bill makes important amendments to streamline extradition. Often the process for extradition can take a long time—in many cases, several months—even if the person has consented to extradition. It is currently a complicated four-step process where each step is subject to separate judicial review. This bill will allow a person who consents to be extradited to waive the process, subject to certain safeguards. In these cases, if a magistrate is satisfied that the person understands the consequences of waiving the extradition process and the minister is satisfied that the person will not be subject to torture or to the death penalty, the person may be surrendered to a foreign country. The bill also specifies that a magistrate and the minister must consider extradition objections earlier as part of this process.

The bill makes changes allowing any person to be prosecuted where Australia has refused extradition. This means that, if a person is accused of a crime but cannot be extradited, he or she will still face justice in Australia. This tough action ensures that criminals do not do the crime and then escape doing the time. Additionally, the current legislation requires that a person deemed eligible for surrender must be placed in prison. The bill makes amendments to allow for special circumstances to justify bail in the later stages of the extradition process.

Importantly, the bill increases protections where there are concerns that torture may take place in the country requesting extradition and creates additional protections where there is a person who may be punished on the basis of sex or sexual orientation. This addition complements the legislation's current general discretion provisions for the minister to refuse to extradite on the basis of gender inequality and related health and humanitarian considerations.

Australia's extradition and mutual assistance in criminal matters laws must ensure that justice is served not only here but abroad. The changes contained in this bill ensure that justice is served for those accused of criminal activities abroad. They ensure that in our ever-changing world criminals cannot escape the law no matter where they
commit the crime. Australia's laws must remain relevant, they must maintain the ability to keep up with technology and they must be able to stay one step ahead of criminals who would use that technology against us all. This bill is designed to respond to and to produce rapid changes in our international community to provide an appropriate basis for international cooperation against crime. I commend the bill to the Senate.

Senator JACINTA COLLINS
(Victoria—Parliamentary Secretary for School Education and Workplace Relations)
(18:13): I thank senators for their contributions to this debate on the Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011. When a person commits an offence in one country and then flee to another, it is vital that countries cooperate to ensure that that person is brought to justice. People who commit serious crimes should not be able to evade prosecution by crossing international borders. Similarly, where evidence related to an offence is located in one country and the alleged offender is located in another, it is in the common interest to ensure that this evidence can be accessed and transferred for the purposes of investigation and prosecution. When Australia's current extradition and mutual assistance legislation was drafted over 20 years ago, it would have been difficult to foresee and plan for the massive changes in communications, technology and travel that have revolutionised the way we live and conduct business. This bill before the Senate today is an important update to these legislative schemes. The amendments to the mutual assistance legislation will extend the range of assistance Australian authorities can offer to their international counterparts. This will include allowing domestic law enforcement agencies to carry out forensic procedures and undertake surveillance for the purposes of assisting foreign law enforcement authorities in their investigations and prosecutions. But it is important to emphasise that, while the range of assistance that can be provided to foreign countries will be expanded, the new powers will be subject to the same rigorous safeguards that would apply to a domestic investigation. This will ensure that the privacy and human rights of individuals are appropriately protected. In addition, the existing protections set out in the Mutual Assistance in Criminal Matters Act, including grounds of refusal, will apply to the new powers. Further amendments will also be made to strengthen legislative safeguards relating to situations where there are concerns about the death penalty, torture or discrimination.

The bill will also make important reforms to Australia's extradition legislation. It will expedite the extradition process by removing duplications in decision making, by reducing the time it takes to progress an extension request and by potentially reducing the amount of time a person is required to spend in extradition custody. The amendments will extend the availability of bail and will introduce important safeguards to ensure that a person cannot be extradited in situations which would discriminate against them on the basis of their sex or sexual orientation. Steps will also be taken to ensure Australia does not become a safe haven for criminals by allowing Australian authorities to prosecute a person in Australia when it is not possible or appropriate to extradite them.

The bill has been the subject of extensive public consultation, with exposure drafts released for comment in 2009 and again in 2011. The bill has also been subject to extensive parliamentary scrutiny after it was referred for inquiry by the House of Representatives Standing Committee on
Social Policy and Legal Affairs. I note that the committee has made a number of recommendations to the government on the bill, and the majority of these have been accepted. I am satisfied that the measures in this bill have been thoroughly considered and the bill strikes the correct balance between ensuring Australian authorities have the powers they need to effectively cooperate in bringing international criminals to justice and protecting the rights of the accused. 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 WRIGHT (South Australia) (18:18): by leave—I move Greens amendments (1), (2), (3), (16) and (18) together:

(1) Schedule 2, item 24, page 16 (after line 33), after paragraph 15B(3)(a), insert:

(aa) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

(2) Schedule 2, item 29, page 18 (after line 6), after paragraph 25(2)(ba), insert:

(bb) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

(3) Schedule 2, item 30, page 18 (after line 16), after paragraph 25(3)(a), insert:

(aa) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

(16) Schedule 2, page 39 (after line 28), after item 104, insert:

104A

After paragraph 22(3)(b)

Insert: (ba) the Attorney-General does not have substantial grounds for believing that, if the person were surrendered to the extradition country, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; and

(18) Schedule 3, item 6, page 45 (after line 24), after paragraph 8(1)(ca), insert:

(cb) there are substantial grounds for believing that, if the request was granted, the person would be in danger of being subjected to cruel, inhuman or degrading treatment or punishment; or

The effect of these amendments would be to expand the existing grounds for refusing an extradition or mutual assistance request to include cruel, inhuman or degrading treatment or punishment. The bill as it stands does extend existing safeguards relating to torture. In the case of extradition, the existing anti-torture provisions are being brought into line with Australia's non-refoulement obligations under the Convention against Torture and, in the case of mutual assistance, there will now be for the first time an express prohibition on providing such assistance where, as a result, a person may be subjected to torture. These amendments are welcomed by the Australian Greens.

Let us consider, though, that the full name of the convention against torture is in fact the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Similarly, article 7 of the International Covenant on Civil and Political Rights provides:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Australia has been a party to both of these treaties for over 20 years. In fact, Australia
has been a party to the ICCPR for over 30 years. In submissions made to the House Standing Committee on Social Policy and Legal Affairs in relation to this bill, the Law Council of Australia, the Australian Human Rights Commission, the Australian Lawyers Alliance and the Human Rights Law Centre were in unanimous agreement that, in order for Australia to fully discharge its international human rights obligations, cruel, inhuman or degrading treatment or punishment should be added as a mandatory ground of refusal to both the Extradition Act and the Mutual Assistance in Criminal Matters Act.

The minister's office has assured us that concerns about such treatment can be addressed through the Attorney-General's general discretion to refuse extradition or assistance. However, as highlighted by the House committee report, if this ground of refusal is not legislated for, there is no statutory obligation on the Attorney-General to turn her mind to these matters. There will be no guarantee that the prospect of such treatment would receive active consideration in any particular extradition or mutual assistance case. The minister's office has also indicated that, in the government's opinion, the scope of the phrase 'cruel, inhuman or degrading treatment or punishment' is unclear under current international jurisprudence and would therefore introduce an unacceptable level of uncertainty into Australia's extradition and mutual assistance regimes. The Australian Greens do not accept that incorporating 'cruel, inhuman or degrading treatment or punishment' into the bill would present an impossible legal quagmire. Australia is obliged to give good-faith effect to the treaties it signs. I note that giving legal effect to the term was not proved an insurmountable obstacle to the great number of countries who have incorporated a prohibition on such treatment into their national or regional bills of rights. The New Zealand Bill of Rights Act includes such a prohibition, as does the European Convention on Human Rights. Further, the Australian government itself has legislatively used and defined the term as recently as last year in the Migration Amendment (Complementary Protection) Act 2011, the provisions of which are now incorporated into the Migration Act 1958. The purpose of this 2011 piece of migration legislation was to better meet Australia's human rights obligations with respect to non-refoulement under international law. Under the Migration Act, the phrase 'cruel, inhuman or degrading treatment' is already incorporated into the aggravated offence of people-smuggling. Identification tests must not be carried out in a 'cruel, inhuman or degrading' manner.

As of 14 February 2012, when the Migration Amendment (Complementary Protection) Act 2011 came into force, the Australian government was obliged to consider whether a non-citizen they are seeking to deport will be subject to cruel, inhuman or degrading treatment or punishment in the receiving country when deciding whether or not to grant that person a protection visa. These new migration laws seem to me to be directly relevant to Australia's non-refoulement obligations as embodied in the Extradition Act. And they also directly contradict the government's argument that the scope of the phrase 'cruel, inhuman or degrading treatment or punishment' is too uncertain to be given legal effect.

My last point on this group of amendments is this: in May 2009 the United Nations Human Rights Committee recommended that Australia should take urgent and adequate measures to ensure that nobody is returned to a country where there are substantial grounds to believe they are at risk of being arbitrarily deprived of their life,
being tortured or being subjected to other cruel, inhuman or degrading treatment or punishment. This applies equally to those who are the subject of an extradition request and those who have sought but been denied refugee status in this country. I commend the amendments to the chamber.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:24): It has been clearly conveyed to the Greens but, just to put it beyond doubt, the government does not support incorporating 'cruel, inhumane or degrading treatment or punishment' as a mandatory ground for refusing extradition or mutual assistance. You have summarised the position of the Commonwealth.

'Cruel, inhumane or degrading treatment or punishment' is not defined in the Convention Against Torture. The scope of the phrase is unclear under current international jurisprudence. Concerns about dealing with the substance of the matter and concerns about cruel, inhumane or degrading treatment or punishment can be addressed through the minister's general discretion to refuse extradition or mutual assistance. The government has undertaken to table an addendum to the explanatory memorandum to the bill, which will make it clear that it is at the minister's general discretion to refuse extradition or mutual assistance. The effect of these amendments will be to expand the existing grounds for refusing an extradition or mutual assistance request to include discrimination on the basis of gender identity. The bill, as it stands, does include discrimination on the basis of sex or sexual orientation. It also adds discrimination on the basis of sexual orientation as an additional ground for refusing a mutual assistance request. The Australian Greens have welcomed these amendments. However, the bill, in its current form, does not extend these protections to discrimination on the basis of gender identity. It is no secret that during the 2010 election campaign the Australian Labor Party made a commitment to introduce new protections from discrimination on the basis of gender identity into Commonwealth antidiscrimination laws. The government has since confirmed to us that it is firmly opposed to discrimination against a person...
on the basis of their gender identity and proposes to introduce gender identity discrimination protections as part of its broader antidiscrimination harmonisation and consolidation project.

Again, Minister Clare's office has assured us that concerns about discrimination on the basis of gender identity can be addressed through the Attorney-General's general discretion to refuse extradition or assistance. But this provides no guarantee that the Attorney-General will turn her—or his in the future—mind to these matters in any particular case or, indeed, that any future Attorney-General would be minded to consider these matters. Minister Clare's office has also indicated that the consolidation project may include consequential amendments to other laws such as the extradition and mutual assistance acts. I emphasise the use of the word 'may' in that sentence; it is not a guarantee. The Australian Greens firmly support the strengthening of Australia's equality laws in order to bring about a fairer, healthier and more inclusive society, and it has long been a policy position of the Australian Greens that freedom of sexuality and gender identity are fundamental human rights. On this basis, I commend the amendments to the chamber.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:29): Again, it would be no surprise to find that the arguments that you have put have summarised the government's position quite aptly. We do not agree with the amendments for the reasons that you have highlighted. It is best in this instance. There is no definition within federal antidiscrimination law of 'gender identity'. Including that term would pre-empt the government dealing with new protections from discrimination on the basis of sexual orientation and gender identity, which will be implemented as part of the Attorney-General's Department consolidation of federal antidiscrimination law project.

The Attorney-General is the process of seeking views from the community on a definition of 'gender identity' and I would not want the government to be in a position of pre-empting that process. It is a sensible way of dealing with it. Post that, it can be dealt with as consequential amendments to legislation where the issue is settled through and after consultation. It is in the government's view more appropriate to introduce gender identity discrimination protections as part of that consolidation project, which may include, as I have indicated, consequential amendments to other laws and not only the extradition and mutual assistance acts, rather than, in this instance, introducing a term undefined in a piecemeal way in this legislation.

Can I say though that the government stand firmly on the side of opposing discrimination against a person on the basis of their gender identity. The second reading speech on the bill notes that discrimination against a person on the basis of their gender identity would be a ground for refusing extradition under the minister's general discretion. On that basis, the inclusion of the explicit ground for refusing extradition or assistance in circumstances where there is discrimination against a person because of their sex or sexual orientation will complement the minister's existing general discretion to refuse extradition. For those reasons, we do not support your amendments.

Question negatived.

Senator WRIGHT (South Australia) (18:32): By leave—I move amendments (6) through to (15) on sheet 7189 together:
(6) Schedule 2, page 30 (before line 22), before item 63 in Division 8, insert:
62A Subsection 15(2)
Omit "", subject to subsection (6),".
62B Subsection 15(5)
Omit "", subject to subsection (6),".
62C Subsection 15(6)
Repeal the subsection.

(7) Schedule 2, item 67, page 32 (line 4), omit ", subject to subsection (3),".

(8) Schedule 2, item 68, page 32 (line 10), omit "(subject to subsection (3))".

(9) Schedule 2, item 69, page 32 (lines 17 and 18), omit subsection 18(3).

(10)Schedule 2, item 70, page 32 (lines 27 and 28), omit "(subject to subsection (9A))".

(11)Schedule 2, item 72, page 33 (lines 6 to 8), omit subsection 19(9A).

(12)Schedule 2, item 74, page 33 (lines 21 and 22), omit "(subject to subsection (2B))".

(13)Schedule 2, item 74, page 33 (lines 27 to 29), omit subsection 21(2B).

(14)Schedule 2, item 84, page 35 (lines 28 and 29), omit ", subject to subsection (3),".

(15)Schedule 2, item 84, page 36 (lines 1 and 2), omit subsection 49C(3).

The effect of these amendments will be to remove the presumption against bail in the Extradition Act. The bill, as it stands, does extend the availability of bail to the later stages of the extradition process. Currently, once a person is found eligible for surrender by a magistrate, they must be remanded in custody to wait for a final surrender determination by the Attorney-General. The bill, if passed in its current form, will instead allow a person to be remanded on bail in 'special circumstances'. This reflects the existing presumption against bail in the earlier stages of extradition proceedings. Even in these early stages, bail is only granted if special circumstances justifying a grant of bail can be shown.

Whilst the Australian Greens welcome the possibility of bail being granted in the latter stages of extradition proceedings, we do not support the continuation of a statutory presumption against bail. Our amendments would remove the presumption against bail in all extradition proceedings and by doing so restore the common-law presumption in favour of bail. The department attempts to justify the persistence of the presumption against bail by referring to the serious flight risk posed by persons in extradition matters, and I note that this was raised by Senator Brandis in his speech in the second reading debate as well. In response, the House Standing Committee on Social Policy and Legal Affairs said in its report:

… the Explanatory Memorandum to the Bill and the evidence provided by the Attorney-General’s Department fail to provide adequate justification on this point.

The House committee report also went on to say:
The Committee is concerned that this statutory presumption against bail unnecessarily restricts the judge in the exercise of his or her judicial discretion to determine whether a person should be remanded in custody or on bail, having regard to the individual circumstances of the case and the interests of justice.

The Committee considers that the Extradition Act could continue to operate effectively if there was no statutory presumption in favour of or against bail. It should rightly be the role of the judiciary to determine the merits and risks of bail in each and every case.

The Law Council of Australia and the Human Rights Law Centre have also expressed serious reservations about these provisions. The Law Council pointed to the unnecessarily harsh effect of these laws, given the extensive period of time—sometimes years—it can take to complete the extradition process. The Human Rights Law Centre submitted that the current position in relation to bail is manifestly incompatible.
with the prohibition against arbitrary detention in article 9 of the ICCPR, which requires that any detention be reasonable, necessary, proportionate and subject to judicial review.

I note that there is no statutory presumption against bail in the extradition legislation of Canada, New Zealand or the United Kingdom. As I said in my introductory comments, the significant social and economic costs of crime do not warrant undue encroachment on fundamental legal principles or universal human rights. The presumption against bail in the current Extradition Act, repeated in this bill, is an unnecessary blunt legislative tool which, in my view, reflects a lack of faith in Australia’s judicial system on the part of the Australian government. It should be left to the judiciary to determine whether remand in custody is appropriate, necessary and proportionate in light of the seriousness of the charge, the risk of flight and the likely length of time to be spent in custody including time already spent. On this basis I commend the amendments to the chamber.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:36): Again, it would come as no surprise that the government does not support the Greens amendments in this regard. It does not support removing the current presumption against bail. The current presumption against bail for persons sought for extradition is appropriate. I think that in some part the issue around flight risk may or may not have been underestimated by the Greens in their argument for withdrawing that. But, if you look at the House report, I think that it is quite clear there at 2.59, where it says:

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—

I will add an emphasis here—

Australia’s international obligations to secure the return of alleged offenders to face justice in the requesting country.

So there is that extra requirement about our international standing. I think the emphasis should not be lost. It continues:

The High Court in United Mexican States v Cabal has 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.

For those reasons, the view of the Commonwealth is to continue to maintain the amendment as provided for in the legislation. If a person who has been remanded on bail disappears in the middle of extradition proceedings, it can, as I think I have emphasised, do more than just jeopardise Australia’s ability to extradite the person; it would impede Australia’s treaty obligations to return that person to the requesting country, and ultimately it could also lead to a state of impunity where a person can disappear and continue to evade law enforcement authorities.

Bail, of course, can be granted in special circumstances—for cases such as poor health—and in those instances it would seem appropriate to leave that to the discretion of the magistrates or the courts more broadly. The courts, in my view, have shown their willingness to grant bail when these circumstances arise. For these reasons, the government considers that the current presumption that bail should be granted only in special circumstances is appropriate and should be maintained.

Question negatived.

Senator WRIGHT (South Australia) (18:39): by leave—I move Greens
amendments (19) and (22) on sheet 7189 together:
(19) Schedule 3, item 10, page 46 (lines 12 and 13), omit the item, substitute:
10 Paragraph 8(1)(f)
Repeal the paragraph, substitute:
(f) the request relates to the investigation, prosecution or punishment of a person for an offence in a case where:
(i) the person has been acquitted or pardoned by a competent tribunal or authority in the foreign country, or in Australia or another country; or
(ii) the person has undergone the punishment provided by the law of the foreign country, or of Australia or another country;
in respect of that offence or of another offence constituted by the same act or omission as that offence.
(22) Schedule 3, item 14, page 47 (lines 1 to 19), omit the item, substitute:
14 Paragraph 8(2)(b)
Repeal the paragraph, substitute:
(b) both of the following subparagraphs are satisfied:
(i) the request relates to a foreign order in relation to an offence;
(ii) an act or omission constituting the offence, had the act or omission occurred in Australia, would not have constituted an offence against Australian law at the time at which the request was received; or
The effect of these amendments will be to maintain double jeopardy as a mandatory ground of refusal for mutual assistance. When speaking on this bill in the House, Brendan O'Connor, who was at that time the Minister for Home Affairs and Minister for Justice, said that under this bill there will be no devolution of the protections and safeguards afforded under the existing extradition and mutual assistance regimes. With respect to double jeopardy, that is not the case. Under existing mutual assistance laws, double jeopardy is a mandatory ground for refusal. The bill proposes to lessen this protection and replace it with a discretionary ground for refusal. The explanatory memorandum states that this will:
... enable the provision of assistance in appropriate exceptional cases such as where there is fresh evidence that was not available at the original trial, or where there are other circumstances accepted in Australia as being exceptions to the double jeopardy principle.
This change was highlighted as a potential item of concern by the Senate Standing Committee for the Scrutiny of Bills. It is also opposed by the Law Council of Australia, the Australian Lawyers Alliance and the Human Rights Law Centre.
Back in 2007, COAG agreed on a national double jeopardy law reform model, but actually 'agreed' is probably too strong a word, because both Victoria and the ACT reserved their position. Not all jurisdictions have gone on to implement these reforms, so I cannot accept the argument that the minister should have the discretion to provide assistance in circumstances accepted in Australia as being an exception to the double jeopardy principle. There is no such unanimous position. In those jurisdictions where reforms have been progressed, Greens MPs have been vocal in their concern that these double jeopardy reforms are simply another manifestation of the 'tough on crime' race to the bottom which is unfortunately seen so often in the states and territories.
In any event, the COAG reforms contain a large number of safeguards which the Australian government does not propose to incorporate into the Mutual Assistance in Criminal Matters Act. Take, for example, the South Australian double jeopardy reform laws enacted back in 2008. This act, the Criminal Law Consolidation (Double Jeopardy) Amendment Act, runs to 12 pages, the vast majority of which is dedicated to introducing legislative safeguards which strictly circumscribe the circumstances in
which the double jeopardy principle can be departed from. Contrast that with the government's proposed reforms in this bill, which are limited to just one provision granting the minister a wide discretion to abandon the double jeopardy principle but with no in-built legislative safeguards to temper that discretion.

Reassurances in the explanatory memorandum that the discretion will be used only in exceptional circumstances are not enough. Strong and explicit legislative safeguards are absolutely essential if the centuries-old rule of law relating to double jeopardy is to be watered down. The rule against double jeopardy is a longstanding principle of fair trial rights specifically designed to protect individuals from potential state oppression and harassment. Unless there are some limits to the criminal justice process, it can be used as an instrument of tyranny by the executive. The principle that a verdict of acquittal is final is one of the most important safeguards circumscribing the prosecution process.

The Australian Greens do not accept that a case has been successfully made for the dilution of the double jeopardy protections in our mutual assistance regime. The Australian Greens do, however, support the proposal to amend the double jeopardy ground for refusal such that a request for assistance can be refused whether the person has previously been acquitted, pardoned or punished in respect of the offence or conduct not only in the requesting country but also in Australia or a third country. We also support the proposal to extend the operation of the double jeopardy ground for refusal to the investigation and punishment stages of a case. For this reason, our amendments do not just maintain the status quo; rather, they insert an amended mandatory ground for refusal which addresses my last two mentioned areas of reform. On this basis I move amendments (19) and (22) circulated by the Australian Greens and I commend them to the chamber.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (18:44): The government does not support retaining the mandatory double jeopardy ground for refusing assistance. The bill will make the double jeopardy ground for refusal a discretionary rather than a mandatory ground for refusal as there may be exceptional circumstances where it is appropriate to provide assistance, notwithstanding double jeopardy concerns. For example, this includes where there is fresh and compelling evidence that was not available at the original trial, such as new DNA evidence or evidence obtained through technological developments or where there are other circumstances accepted in Australia as being exceptions to the double jeopardy principle. It may also be appropriate to provide assistance if there are doubts about legitimacy of the original trial and there is a fresh trial in a third country.

In recent years most Australian jurisdictions—I think it has been acknowledged—have also amended their criminal law to provide for exceptions to the double jeopardy rule in exceptional circumstances; for example, as Senator Wright outlined, where fresh and compelling new evidence emerges. This amendment does not gavel with the rule as such; it provides a discretion to the minister. This amendment will ensure that Australia is able to provide assistance in these exceptional cases and reflects the evolving jurisprudence on double jeopardy.

Question agreed to.

Senator WRIGHT (South Australia) (18:46): by leave—I move Greens
amendments (20) and (21) on sheet 7189 together:

(20) Schedule 3, item 11, page 46 (lines 16 to 27), omit subsection 8(1A), substitute:
(1A) A request by a foreign country for assistance under this Act must be refused if it relates to the investigation, prosecution or punishment of a person for an offence in respect of which the death penalty may be imposed in the foreign country, unless the Attorney-General is of the opinion that the assistance requested should be granted because it is likely to show that the person is not guilty of the offence.

(21) Schedule 3, page 46 (after line 27), after item 11, insert:

11A Subsection 8(1B)
Repeal the subsection.

The effect of these amendments would be to remove the discretion of the Attorney-General to provide mutual assistance in circumstances where the death penalty could apply unless that assistance were to be exculpatory in nature. The bill as it stands purports to expand the mandatory death penalty ground for refusing a mutual assistance request to cover situations where a suspect has been arrested and detained on suspicion of having committed a death penalty offence but has not yet been charged.

The Australian Greens welcome the move to extend the death penalty ground for refusal to cover mutual assistance requests which relate to all stages of the investigation, prosecution and punishment of a person, although in our circulated amendment (20) we achieve this using slightly different wording to that adopted by the government in its proposed amendment. We do this to bring the wording used in the death penalty ground for refusal in line with the other mandatory grounds for refusal contained in the mutual assistance act.

The government's wording is not our key objection, however. Our key concern is that the death penalty ground for refusal is not really mandatory at all because the Attorney-General retains an unfettered discretion to provide assistance in cases where the death penalty might be imposed 'having regard to the special circumstances of the case'. This issue was highlighted with concern by the Senate Standing Committee for the Scrutiny of Bills. The retention of such a discretion is also unanimously and stridently opposed by the Law Council of Australia, the Australian Human Rights Commission, the Australian Lawyers Alliance and the Human Rights Law Centre. Opposition to the death penalty is a longstanding and fundamental policy position of the Australian Greens. As a nation, Australia has committed itself to opposing the death penalty by becoming a party to the second optional protocol on the ICCPR aiming at the abolition of the death penalty.

Reassurances in the explanatory memorandum about the circumstances in which the discretion will be used are not sufficient safeguards to justify the retention of this discretion. This is a recurring theme in the amendments I have moved today. We are talking about the potential denial of the most fundamental of human rights: the right to life. If the Australian government only proposes to provide such assistance where it may assist a defendant to meet the charges that he or she faces or where an appropriate undertaking has been received, then these circumstances should be legislated as express exceptions to the otherwise mandatory ground for refusal. This is what our amendment achieves. The Attorney-General will only be able to provide mutual assistance in death penalty cases if she or he is satisfied that the assistance will be likely to show that the person is not guilty of the offence. On this basis, I have moved amendments (20) and (21) on the sheet circulated by the Australian Greens and commend them to the chamber.
Progress reported.

DOCUMENTS

Commonwealth Grants Commission

Senator CASH (Western Australia) (18:51): I rise to speak on the Commonwealth Grants Commission's Report on GST revenue sharing relativities—2011 update and move:

That the Senate take note of the document.

Just two weeks ago I rose in this place as a senator for Western Australia and addressed the current outdated and inequitable formula which the Commonwealth Grants Commission continues to use to determine GST sharing relativities. My comments were well and truly well timed because WA has just received a slap in the face from the Commonwealth Grants Commission following its recommendation that almost $600 million be slashed from WA's GST share for 2013-14. The Commonwealth Grants Commission 2012 update has reduced WA's share of the GST to a mere 55c in the dollar. Based on the Commonwealth Grants Commission's recommendation, one may well ask: where are the incentives for states to develop their economies and, in turn, be rewarded for their ability to implement economic reforms?

There would appear to be none whatsoever.

The CGC's announcement further confirms what Western Australians know to be true: the current system unfairly penalises Western Australia for our economic success, and is so transparently inequitable as to be unsustainable in the longer term. It was bad enough that WA received just 68c for every dollar in 2010; now in 2012 we have been reduced to receiving a mere 55c. This is not only the lowest of any state; it is the largest drop in GST share in the history of the GST grants process. The irony of this is that previous WA Treasury forecasts indicated that, if the downward trend in GST revenue to WA were to continue, WA's share would drop to an unsustainable 33c in the dollar by 2014-15. That would appear to have been a conservative estimate because, based on the proposed 2012 Commonwealth Grants Commission cuts, WA Treasury preliminary modelling is now predicting that the WA share of GST grants will fall to as low as 27c in 2015-16. That is clearly unfair, unsustainable and unacceptable.

All WA asks in relation to its share of GST is for the Commonwealth Grants Commission to recognise the significant upfront financial outlays required to be met by the state to encourage and support some of the biggest mineral developments in Australia. In return for this support WA would be able to continue to provide the infrastructure required to encourage the development of additional export projects, infrastructure that needs to be established well before the first shipments of mineral commodities are exported to overseas markets and well before any mineral royalty is paid to the state. Withholding this grant funding is forcing Western Australia into an overreliance on debt and borrowing to fund infrastructure and services. Based on our full population share of the GST, a 55 cent share will cost WA about $2.4 billion each year. There is something very wrong with a system that penalises success and economic reform.

I accept that Western Australia is part of a federation and that the more prosperous states have a responsibility and a role to play in protecting the interests and supporting the reasonable needs of the less financially advantaged states. However, I also support the WA government's repeated calls for the federal government to recognise the inequitable distribution of GST funding to WA and to recognise the need for the federal government to understand and identify with
the cost pressures being placed on the WA government in providing infrastructure to support our massive mineral export projects. What is good for WA is good for Australia. When you stimulate the WA economy you stimulate the national economy, and that has flow-on benefits for all Australians. WA Premier Colin Barnett is correct when he says:

I think every West Australian knows we are just being duffed out of Canberra. It's a disgrace what's happening.

... there basically is no commonwealth-state financial relationship”.

We need a Commonwealth Grants Commission formula that rewards best performance and embraces the principles and concepts of competition and productivity. That is the only way to deliver the national economic and social outcomes required for us to continue to prosper as a nation.

Senator Ryan (Victoria) (18:56): I rise to support the motion moved by Senator Cash with respect to the Commonwealth Grants Commission Report on GST revenue sharing relativities: 2012 update. I can say, as a former student in this area, that horizontal fiscal equalisation is without a doubt one of the most complex areas of public policy in Australia. Indeed, it has been observed that Australia's fiscal equalisation arrangements are some of the most complex of any such federation.

The history of horizontal fiscal equalisation is a similarly complex one. It is as old as the Federation itself but took on a substantial role with the formation of the CGC in 1933. As well as ensuring an equitable level of access to government services around the nation and reflecting the different costs of providing these, one of the historic justifications was to compensate those states without a large manufacturing base for the cost of the protection regime that was in place in Australia for many decades. It is this last fact that has profoundly changed over the last 30 years. Farmers, for example, no longer have to bear the cost of extensive tariffs, quotas and other modes of protection that were directed at supporting the south-eastern states.

While I understand the anxiety caused by the recent trend and the quite radical fall in GST payments to the state of Western Australia, I point out that Victorians can welcome them to the club of net funders. In fact, my home state of Victoria has consistently been the most significant contributor to the fiscal equalisation program. Over the past few years this has continued to be significant. While Victoria will see its share rise to 22.5 per cent next financial year, it is still worse off than it was before the cut of 0.9 per cent in the current year.

Victoria has historically been a donor state through the fiscal equalisation program. Its share of GST has consistently been in the low 90s, although early last decade its share fell to below 85c in the dollar. This is despite the fact that its population was growing at record rates and in absolute terms at one of the highest rates in the country. The real issue at hand with this program is the incentives provided to the states. I note that one of the reasons listed in the current report for Victoria's lower expense base, compared with the other states, is that a smaller proportion of its students attend government schools. I see it as perverse that providing choice in education to one's constituents results in financial penalty for a state government. Importantly, questions have been raised by experts such as Neil Warren about the incentive to address disadvantage for governments that are net recipients. When these funds are untied and continued extra funding is dependent on disadvantaged economic conditions, is the incentive strong
enough to address these? In the end, this would reduce extra payments.

No one is arguing against some equalisation of GST revenues in order to ensure all Australians have access to a specified level of services, but the lack of predictability of these relativities and the degree to which they reward underperformance is of increasing concern. My home state last year effectively received a $2.5 billion cut in forecast revenues, owing to the recalculation of relativities. In a constitutional regime that effectively prohibits many efficient state own-source taxes, this lack of predictability is a serious problem for budget formulation. Last year the Labor Treasurer of Queensland complained, despite being a substantial net recipient in budgetary terms. He has to hold a record for squandering an inherited legacy of being debt free at the same time as undergoing a major resource boom, yet having the gall to complain.

This issue of resources is becoming increasingly critical. The introduction of the MRRT represents a real and significant threat to the remaining financial independence of the states. Apart from the outrageous threats from this government to seek to punish states that exercise their legal right and, indeed, their duty to collect royalties from mining resources, the MRRT threatens to weaken the financial position of all states. At the moment, royalty revenue of the states is considered when calculating funding relativities. Indeed, that is at the core of the Western Australian complaint. The reality is that all states eventually directly benefit from an increase in Western Australian royalties. This is done by reducing funding relativities to the resource states. In short, a royalty increase in one of the resource states is effectively redistributed to the non-mining states through these relativities.

The Commonwealth is seeking, through the MRRT, to remove this growth tax and this funding pool from all states. In typical Labor fashion it seeks to shrink the pie. All Victorians will be worse off if the resource states are no longer able to increase royalties, as these funds will no longer become available to all state budgets through the GST redistribution process—they will then become Commonwealth revenues. This is the real agenda of the MRRT: to remove the royalty revenues from the realm of the states, where their use is determined by state priorities, governments and even elections, and to increase the funds available solely for the Commonwealth to use as it sees fit.

Senator IAN MACDONALD (Queensland) (19:01): This is an important document and, as both the previous speakers have mentioned, it is certainly an arrangement which has served Australia well over many years. In prefacing what I have to say, I acknowledge that, in the fifties and sixties, what we now call the rust bucket states of New South Wales, Victoria and South Australia supported the more remote states, like Queensland and Western Australia, and that was under the same arrangement. As this report says, the distribution of GST revenue among the states for 2012-13 is meant to give each state the same capacity to deliver services, to acquire infrastructure and to hold financial assets. It says that it does that using unchanged methods but with updated and more recent data.

What Senator Cash says about Western Australia deserves considerable consideration. Western Australia has become a boom state because of the energy and activity of Western Australians and, particularly, their government. I note in passing that most of the wealth of Western Australia comes from the north, as indeed does most of the wealth of Australia, or if it
does not now it will in the not too distant future. My own state of Queensland is very similar to Western Australia in that it has big revenues from mining activities which have, in the last few years, assisted the southern, 'less fortunate' states. We know the southern states get lots of subsidies for manufacturing industries—subsidies that are not repeated for the tourism industry, which is a significant industry in my state of Queensland, and yet it is suffering a crisis without much government support.

This year's report from the Commonwealth Grants Commission indicates that Queensland is again a recipient state. The summary of the report says:

Queensland has experienced a smaller improvement in fiscal capacity over recent years. However recent data show that the slowdown in its property market and the impact of natural disasters are now reducing its fiscal capacity.

That is, its capacity to provide the same level of services as other states. The Grants Commission is, of course, non-political. It could not say in its report that one of the other reasons Queensland is doing so badly is that the government of Queensland is, for all intents and purposes, broke. Senator Ryan mentioned this briefly in passing. It is a government which has now run up debt that exceeds the enormous amount of debt that the Keating Labor government left to the Australian public and to the Howard government to pay off. In Queensland we now have a massive government debt of over $90 billion and, as Senator Ryan quite rightly said, this is at a time when Queensland has been earning unheard of revenues from the mining boom in our state.

The Grants Commission could not sheet the blame home, and it very nicely said that it was a slowdown in the property market and the impact of natural disasters. Both of those aspects are true, but I suggest to you, Mr Acting Deputy President, and my colleagues in the Senate that the greater reason for Queensland's slowdown is incompetent government. Queensland has a Treasurer who simply does not understand. Queensland has lost its AAA credit rating and it is now in a position where it has to accept welfare from states like Victoria and New South Wales. We have problems in Queensland, and I think all Queenslanders now recognise that the only way to fix the financial and other problems we are experiencing is to get rid of a tired, old Labor government with no new ideas, no energy, no enthusiasm and no idea. This report from the Grants Commission is an interesting document, and one which all senators would do well to consider further.

Senator EGGLESTON (Western Australia) (19:06): The distribution of GST, as has been said, is very inequitable at the moment. Western Australia is carrying the Australian economy with its enormous resource projects. Oil and gas, iron ore and magnetite projects are boosting our export income and balancing our budget, and it is really because of Western Australia that Australia is seen by the rest of the world as having a very strong economy. It is those exports, mostly to North-East Asia, that have made the Australian economy resistant to the vicissitudes which have rocked the world in the last two or three years—the global financial crisis and the problems that are occurring in western Europe at the moment. All sorts of people have predicted that the problems in western Europe may result in a recession not unlike the 1930s depression because there are features which are very similar to those which prevailed at the time of the 1930s depression.

Western Australia occupies a third of the Australian continent—an enormous area of country, a million square miles in the old coinage. Because of that, we have a particular need to have sufficient funds to
provide infrastructure. We have in Western Australia what I call ‘the three long lonely roads’—the Great Northern Highway, the North West Coastal Highway and the east-west highway, or Eyre Highway as it is known. All of these are not particularly good roads. There is also a need for ports such as Oakajee and other infrastructure to maintain the mining industry and minerals boom in Western Australia.

The GST was set up as a dedicated tax by the Howard government to provide an income stream to the states. That is an important thing to remember. The states, you will recall, had the power of income taxation until the Second World War, and it was handed over to the federal government as an emergency measure for the duration of the war. The GST was set up by the Howard government as a means of providing a stream of funding to the states for them to finance the services for which they were responsible.

To see Western Australia reduced to a share of 55 per cent of its GST defies the rationale for the GST in the beginning. It means that Western Australia simply does not have the funding to build the infrastructure that is needed to maintain the mining boom, which, as I said, is the basis of the success of the Australia economy. The Western Australian Premier, Colin Barnett, wants a floor of, I think, 75 per cent of GST to be established so that, when the Grants Commission redistributes the GST, the absolute maximum—or minimum—amount of a state's GST which can be redistributed is 25 per cent, and each state would have returned to it 75 per cent of the GST generated within its jurisdiction. I believe that is a very sensible, fair and rational approach to horizontal financial equalisation through the GST.

The GST, as I have said several times already, was designed to be a dedicated income stream for the states. It is an absolute abuse of the concept, undermining the principle upon which this tax was established, for a state like Western Australia to find that its share of the GST generated in Western Australia is only 55 per cent—and, as Senator Cash said, there are predictions that it may get down to as low as 25 per cent. We all know that Western Australia was a reluctant joiner of the Federation. Certainly we benefited during the times when Western Australia was, as Sir Charles Court used to say, a mendicant state. But that is not the situation anymore. Western Australia does not object to contributing, but we think it should be on a fair and rational basis and the state should receive a fair share of its GST. I seek leave to continue my remarks later.

Leave granted.

Debate adjourned.
flow of boats coming into Australia from Indonesia containing people who are, quite frankly, jumping the immigration queue to get into Australia. I always make this point: I, and I think I can speak for most senators, welcome immigration into Australia, but we must have immigration that is orderly. And I often make the point that there are people living in squalid refugee camps right around the world waiting their turn to get to the promised land which is Australia. But, when 'boat people' come into Australia out of order, it means that people who have been waiting their turn for so long have to wait yet another year to have their chance of getting into Australia. This is what concerns me most about the breaches of our borders by what are, in fact, illegal maritime arrivals—I think that is the latest terminology for people who come in without proper papers, without proper order and without any regulation. Mr Acting Deputy President Marshall, as you know, this huge influx of illegal maritime arrivals happens because the current government simply cannot put into place the policies necessary to stop the boats, and the Australian Customs and Border Protection Service, whose report we are dealing with today, do a major part of the role of trying to collect the illegal maritime arrivals and take them to Christmas Island, and they spend much of their time doing that sort of work which, quite frankly, was not their original purpose.

We know how we can send the Australian Customs and Border Protection people back to what I might call their regular jobs, and that is to stop the boats. And you can stop the boats by making it clear that people who come to Australia by that means go to Nauru, get a temporary protection visa and are dealt with in accordance with the general rules of entry into Australia. They are not queue-jumping those who have been waiting in squalid refugee camps around the world.

I have spoken to the customs and border protection people on the Bay class patrol boats. They do a fabulous job. They never complain. As is appropriate for people in government employ, they never criticise the actions of the government of the day, because they are very professional. But if you get them down the pub later on and have a chat to them, you will know that they are as disturbed as the rest of Australia by this unregulated influx of illegal maritime arrivals into our country.

Can I conclude where I started: the people who make up our Customs and Border Protection Service are fabulous people; they are great Australians and they do a great job for Australia. I know they are uncomfortable with the role that they have to play in trying to accommodate the Gillard government's inability to control its borders, but they do that because that is their job. They are very professional and deserve, as always, the support of this parliament. I seek leave to continue my remarks later.

Leave granted.

Debate adjourned.

Consideration

The following order of the day relating to government documents was considered:


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall) (19:17): Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Mining

Senator MARK BISHOP (Western Australia) (19:17): On 8 February last, I
spoke in this place about the dramatic challenges facing Australia as a result of the so-called mining boom. I drew attention to a report by Port Jackson Partners which detailed the enormous growth in the mining industry in this country. The report looked at implications for Australia's economy and the necessary workforce—I note in passing the strong support given to those findings by inference by Treasury Secretary Dr Parkinson and by Mr Gary Banks of the Productivity Commission, particularly in the context of Australia's place in the world and the overall strength of our economy—the threat being our failure to grasp the opportunities now presented.

In summary, the points so well articulated by these people, supported by voluminous and detailed evidence, are as follows. There is a massive shift in the world economy from Europe to the developing world, especially in manufacturing. That is notwithstanding the current conditions of recession and decline in Europe. The growth of the middle class in Asia in particular has only just begun, with massive potential. The continuing growth in the economies of China and India will continue unabated. Demand for Australian raw materials will continue to grow rapidly. And, despite growing competition from South Africa and South America, and reducing prices, volumes of exports from Australia will continue to increase. The nature of this new demand is such that there is no pause or end in sight—that is, the massive growth in demand and income from mining is now a permanent part of our economic framework, and we should stop hedging about the likelihood of any return to the old boom-and-bust paradigm which has been a feature of the mining industry for so long, or so long associated with it.

In that context the analysis continues consistently to draw attention to these opportunities. More importantly, it points to the need to allow our economy to adjust, and to facilitate the necessary change as a matter of urgency. This is in an economic climate of continuing strong growth, low debt, strong currency and low interest rates, not to mention terms of trade which are the highest in over 140 years. It acknowledges the reality of long-term trends, around the Western world at least, of continuing decline in agriculture and manufacturing industries, with the critical point that to try and prop them up with continuing subsidies is both wasteful and myopic, especially in light of the other challenges and opportunities knocking on our door.

More specifically, it must be emphasised that these new opportunities and growth areas are not directly in the mining industry itself. They are already occurring and growing rapidly in support industries: engineering, construction, high tech equipment, processing and analysis, accountancy, transport, communications, infrastructure development, finance and so on—that is, traditional service industries but with a rapidly shifting focus of support to the mining industry as feeders in particular.

The risk is that the shift will be impeded by interference, or by failure to actively facilitate that change. Regardless of the emotions and romantic notions surrounding the old industries and trades, this shift, while inevitable, is not new. As Mr Banks pointed out, employment in manufacturing since 2005 has decreased by 59,000, but in mining it has increased by over 100,000. The critical point, however, is that employment in the services sector grew by 1½ million people in the same period. This growth in part reinforces the point about the broader impact of the dramatic growth in mining and mining investment. The problem is that the realisation and the shift in action and policy are not happening fast enough. Skills shortages remain one of the big show
stoppers. The other is the serious lack of capital, made worse by the GFC. The best example of how all this fits together is my home state of Western Australia. I am indebted to the analysis of KPMG in their reports on Australia’s infrastructure and resource industry needs, and of similar work by the Bureau of Agricultural and Resource Economics.

With respect to the workforce, unemployment in Western Australia is currently 25 per cent lower than the national figure at just over four per cent. However, other economic indicators are just as impressive. Average economic growth is averaging over 5½ per cent, but after the GFC it is likely to stabilise at a little over four per cent. Employment in the mining industry has grown from 26,500 to over 10,000 in the last 10 years. Investment is growing at an annual rate of 20 per cent and is almost 30 per cent of the national total. The value of Western Australian exports has doubled over the last five years. The output from mining and gas continues to grow. For example, iron ore production is up almost nine per cent and for LNG it is over eight per cent. It is estimated that in 2010 in excess of $217 billion was invested in new projects or projects in the pipeline. Further, in the September quarter last year, exploration increased by seven per cent to a value of almost $500 million.

This growth in capital investment, however, is not so much in minerals but in energy and infrastructure. These new projects include: the Wheatstone LNG project valued at $29 billion, the new Shell oil and gas project at Browse Basin valued at $12 billion, the Fortescue iron ore project Solomon Hub in the Pilbara valued at almost $3 billion, the Anketell port project valued at $3.1 billion, not to mention the massive Gorgon project costing $43 billion. In all there are around 40 projects located in areas as diverse as the North West Shelf, the Pilbara and across to the Darling Range.

The demands for both capital and skilled labour for all of these projects are obvious. It is estimated, for example, that Western Australia will need 488,000 extra workers between 2010 and 2020 across all industries. Of this growth, only 16 per cent is for the mining industry itself, the other 84 per cent being largely for the service sector. But there is a growing need for higher skills training and tertiary qualifications. The question though is: where does all of this skilled and necessary labour come from?

Migration is one part answer, and so is transfer from other states. This is already happening, but not fast enough. Commonwealth government programs such as the half a billion dollar national development fund will also help, as will the $1½ billion allocated by the Commonwealth for vocational training. State efforts should not be overlooked, and neither should the not insignificant efforts of individual and particular companies. But as KPMG point out, the real issue in the economic restructuring task we are facing now is workforce mobility. That is not to say that everyone shed from employment in the east should pack up their bags and head across the Nullarbor to Western Australia. But it does mean that employment is shifting rapidly to service industries away from traditional manufacturing. The point is not about impeding this shift by continuing to support the marginal, but is about cushioning the blow and facilitating the transition, as we always have. For Western Australia, the simple fact is that infrastructure construction is lagging way behind including for housing, communications, and urban facilities, not to mention ports, rail tracks, pipelines and processing plants. That requires skilled people but also massive and urgent infrastructure investment.
As Engineers Australia and the Business Council of Australia continually tell us, this situation is getting worse. The simple point continually made by all expert commentators is that investment must go to those projects yielding the highest economic and social returns. For us that includes the needs of Indigenous people, where at last change is taking place as they are being trained and put to work with enormous potential for their own future growth and welfare. Those companies active in fostering that employment must be congratulated. I also congratulate my colleague Minister Martin Ferguson for his tireless and ongoing efforts. I simply hope that before long opinion leaders, and the media in particular, seize the facts about the transformation struggling to get underway. From that might grow a stronger understanding and flexibility within the community which welcomes the change instead of looking for life rafts.

**Human Trafficking**

**Senator CASH** (Western Australia) (19:27): As the opposition spokesperson for the status of women, I rise this evening to address an issue that is unfortunately gaining prominence in Australia. That issue is sex trafficking, the trafficking of women for use as sex slaves. While most decent Australians are appalled at the idea that in 2012 a person can be trafficked for use as a sex slave, the issue of sex trafficking is just not on the radar of most ordinary Australians.

It is however a booming trade, as evidenced by the statement from the director of the United Nations Office on Drugs and Crime who has said:

Human trafficking is a booming international trade, making billions of dollars at the expense of millions of victims, many of them children, who are robbed of their dignity and freedom.

The reality is that Australia is a destination country for this deplorable trade. We are a destination country for women who are trafficked from Asia, in particular from China, Thailand and Korea.

While it is recognised that some of these women travel to Australia under the impression they will be working in the legal sex trade, many come here under a student visa believing that they will be studying and attending college or university classes or working in other professions—as their visa conditions would dictate. It is only when they reach Australia that their fate becomes known to them—that is, they have been trafficked here for use as a sex slave. They are told that now they are in Australia they must work to pay off so-called debts that they have incurred for their successful passage to Australia.

As set out on the Department of Families, Housing, Community Services and Indigenous Affairs website, while there is little reliable data about the nature and extent of people trafficking, there is a general consensus that trafficking in persons affects almost every country in the world. Australia is not immune. The nature of people trafficking varies from region to region. Its most visible form involves trafficking in women and children for sexual exploitation. But around the world men, women and children are trafficked for a wide range of other purposes, including forced labour in industries such as hospitality, construction, forestry, mining or agriculture, domestic and sweatshop labour, illicit adoption, street begging, forced recruitment into militia or the armed forces, and the harvesting of body organs.

According to the United States Department of State, the women who have been trafficked to Australia for sex are also often exploited as involuntary domestic workers. It was reported in the *West Australian* last month in an article by Angela...
Pownall, that Australian Federal Police have launched an operation to rescue people trafficked into Western Australia for sex, forced and servile marriage, and forced labour. And as recently as last month, Federal Police in Sydney arrested a 42-year-old man on suspicion of human trafficking and conducting a business for the purposes of sexual servitude. As reported in the Sydney Morning Herald in an article by Rachel Olding:

A 42-year-old Chinese-Cantonese man allegedly trafficked the young women from Thailand to work at his brothel in Guildford in Sydney's west. The Australian Federal Police will allege the women were told they were travelling to Australia on student visas but upon arrival had their passports confiscated and were taken to the brothel where they were held against their will.

Sex trafficking is a deplorable crime. In their best-selling 2009 book Half the Sky, Pulitzer Prize winners Nicholas Kristof and Sheryl WuDunn outline the horrific reality of life for women who have been trafficked in Asia. An 'essential part of the brothel business model is to break the spirit of girls, through humiliation, rape, threats and violence,' they say. For most girls, the first time they are forced to have sex with a client, they are not compliant and they try to resist. This will result in drugging with alcohol or morphine, with daily beatings, with physical maiming including eye-gouging, and with repeated forced behaviour designed to denigrate and wreck their self-esteem. Children are inevitably born into the brothel environments, and those children are kept by the owners of the brothels as slave labour. The swap to sex slavery occurs for the girls at puberty, while there are cases of boys themselves being forced to have sex with other prostitutes, or receive the same brutal daily beatings the women do.

World-leading medical journal the Lancet has estimated that one million children globally are forced into prostitution every year, and the number may be as high as 10 million. Because of the grey lines between sex working by choice and by force, and the obvious underground nature of the industry, it is difficult to say exactly how many women are kept as sex slaves at any one time. In 1990, Nobel Prize-winning economist Amartya Sen, who developed a gauge for gender inequality, said that at any one time more than 100 million people across the world were 'missing' due to trafficking or other factors.

While the individual cases may not be characterised by the same brutality, whilst the volume of women and children trafficked may not be as high, the ugly reality is that sex trafficking exists in Australia. And as Australians, people who live in what is considered to be the luckiest nation on earth, we have an obligation to do everything within our power to bring a halt to this sickening contravention of human rights.

Whilst there is little reliable data about the extent of people trafficking in Australia, we know that unlike Europe and Asia, where instances of brutality can be far worse and the problem inter-generational and often ingrained, sex trafficking in Australia has not yet got a serious foothold. The Anti-People Trafficking Interdepartmental Committee has reported that all identified suspected victims of people trafficking, including sex trafficking, have entered Australia on valid visas, with evidence of visa fraud presenting later. We are therefore in a unique position when it comes to human trafficking. Unlike Europe and Asia, Australia's borders are clearly geographically defined and it is difficult to cross to Australian shores without being detected. This is why Australian governments must continue to take action to put an end to sex trafficking in Australia.
The coalition has a strong record in this area. In 2003, when Senator Amanda Vanstone was Minister for Immigration and Multicultural Affairs, the Howard government announced the national Action Plan to Eradicate Trafficking in Persons, a major $20 million package of anti-trafficking measures targeting sex trafficking in particular. This work was continued under the leadership of former Prime Minister Kevin Rudd, with several whole-of-government anti-trafficking measures, including the first National Roundtable on People Trafficking which was held in June 2008.

In 2008, the first person to be found guilty by a jury of holding sex slaves, 44-year-old Melbourne woman Wei Tan, was sentenced to 10 years imprisonment. In this case, five Thai women were brought into Australia on the basis that they would work legally in the sex trade. However, once they were in the country they were told they had to pay off debts of $45,000 by performing sexual acts for no pay. Statistics in the federal Trafficking in Persons report show that some assistance is getting through to the victims, with 80 clients helped through the Support for Victims of People Trafficking Program. Twenty-nine of these were unfortunately new clients. Australian Federal Police have undertaken 305 investigations into people trafficking since 2004, with 45 of these in the previous financial year. Nearly 70 per cent of these were related to sex trafficking, and $5 million in criminal proceeds have been recovered through these investigations. Twenty-eight suspected victims of people trafficking and 14 of their family members were granted visas by the Department of Immigration and Citizenship in the last financial year, which is twice the number of the previous year. So there has been some progress in this area.

I would also like to use this opportunity to highlight a project in my home state of Western Australia which seeks to help women who have been trafficked to Australia as sex slaves. Project Jenny is a not-for-profit which is currently seeking charity status. Once established, it will be the first safe-house in Western Australia for trafficked women. Run by Chanteya Macphail, whose own sister was taken, and presumably trafficked, at a very young age in Thailand, Project Jenny will provide an escape route and support services, including training and advocacy, for victims of trafficking. Ms Macphail is a passionate advocate in the empowerment of women and believes rightly that core issues of poverty and education must be addressed in order to combat trafficking, which is a symptom of these broader problems. I commend Ms Macphail for her work and hope that Project Jenny comes to light and can assist these women who are victims of sex trafficking.

Mental Health

Senator WRIGHT (South Australia) (19:37): Before I took my seat in the Senate last year I worked in the mental health division of the Guardianship Board of South Australia for over 10 years. It was challenging work, and over that time I had the opportunity to glimpse the lives and experiences of people who were battling significant bouts of mental illness. Often these people were experiencing psychosis.

To many—maybe most—in the general public, the term ‘psychotic’ conjures up frightening and threatening images because of its careless use by Hollywood, in popular fiction, in journalism and in common, if misguided, everyday speech. In fact, psychosis is most threatening and frightening to the person experiencing it. It can bring with it distressing distortions of thinking, perceptions and emotions. Common
symptoms are delusions and hallucinations. Violence is by no means common, but confusion, fear and anguish on the part of the person undergoing a psychotic episode may well be.

Through my work I had the opportunity to hear firsthand from people about what it was like to have the condition, and I learnt a great deal. Then, in the last week before the Senate rose for the Christmas break, I attended the launch of the impressive People living with psychotic illness: a SANE response study. Commissioned by the government and partnered by national non-government organisation SANE Australia, which has been working on behalf of people with mental illness for 25 years, it was the largest national survey of its kind ever conducted in Australia and one of the most detailed undertaken anywhere in the world. The report, spanning more than 150 pages, shines a penetrating light on what life is like for the many Australians who have been living with a psychotic illness in the past year. Illnesses like schizophrenia, schizoaffective disorder, bipolar affective disorder and depression with psychotic symptoms may all involve a psychotic element. Interviewed were 1,825 people with psychotic illness, together with many more who provide care for them, including staff in mental health services and non-government organisations, and GPs.

While the data is illuminating, it is also insights from people like Sandy Jeffs which can help to bring the statistics to life. For over 30 years Sandy has been living with schizophrenia. She calls those among us who live with a psychotic illness the 'invisible minority'.

The study puts the number of adult Australians with a psychotic illness who are in contact with public mental health services in a year at 64,000. That is around one in 200, but there are estimates that the real number, which includes those who receive private services or whose illness is undiagnosed, at 25 to 50 per cent higher. By any measure, a large number of Australians conduct their lives in the shadow of this kind of illness.

As to the effects of this illness, Sandy Jeffs, in an interview for ABC's 7.30, was eloquent:

It just shatters your soul, it shatters who you are.

The study's findings tell a compelling story as to why psychotic illnesses leave people shattered. Ninety per cent of people with a psychotic illness report a deterioration in their ability to function in their daily life. Of these, one in three have significant difficulty in looking after themselves and nearly one in five have trouble completing a task as simple as cleaning up their room.

The survey covered many aspects of daily functioning and identity, including income, education, housing, employment, family contact, social participation, safety, health and medication. The statistics in relation to physical health are alarming. People living with a psychotic illness are far more likely to harm themselves and to attempt suicide than the general population. Around half have attempted suicide at some time. This is over 10 times the rate of the general population. Rates of smoking, obesity and chronic conditions such as asthma, heart and circulatory conditions and chronic back pain are also higher than in the general population. One in four is at high risk of cardiovascular disease.

The prevalence of smoking among people with a psychotic illness is a particular concern. Thanks to various measures over the last several decades including curbing advertising, increasing the price of tobacco and the quit-smoking campaigns, the overall number of Australian smokers has been reduced to 25 per cent. By contrast, two-
thirds of people with a psychotic illness—66 per cent—are smokers. And, unlike the incidence of smoking in the general population, this number has not changed in 10 years. Clearly, current, general strategies to reduce the smoking rate among people with a psychotic illness are not working and more needs to be done urgently to focus on their special needs. Research is needed to identify what it is about the condition itself or the circumstances in which people with psychosis live that makes them so vulnerable to an addiction which other Australians are successfully overcoming.

Unemployment and poor finances are also common. People living with psychotic illness are at a very high risk of unemployment and homelessness. Only 21.5 per cent are in work, and government pensions are the main income source for 85 per cent of people. One in eight had experienced homelessness in the previous year. Employment for people with psychosis not only provides income but also offers a meaningful and valued role in the community. Programs to help find work, manage work and retain work are crucial. So, too, are programs to provide supported accommodation and affordable housing and to assist people out of homelessness.

But perhaps the most debilitating aspect of psychosis revealed by this study is its corrosive effect on social functioning. Sandy Jeffs spoke eloquently of her experience in an article she wrote for online health blog Croakey in response to the release of the report:

I have a constant struggle to just live with the illness. It is a mental battle every day, not only to get out of bed, but to keep myself motivated and engaged with the wider world because of the paranoia and intrusive hallucinations.

Ms Jeffs describes a large number of people with a psychotic illness as living 'invisible lives in a silent hell'.

We humans are social beings, and it is the findings about the social isolation and loneliness faced by people living with psychotic illnesses that paint perhaps the most poignant picture in this report. We all know the value of personal relationships in our lives. They help define who we are and assure us we are valued. It is comforting to know that there will be people there to support us when things are tough and bleak. Nearly one-quarter of the people surveyed in the study reported feeling socially isolated and lonely. One in eight had no friends at all, and a similar number said they had nobody they could confide in. The picture is similarly bleak when it comes to intimate relationships. While around two-thirds of Australians have a partner, this is true of less than one in five people with a psychotic illness. In the case of males, the proportion is closer to one in 10.

Social contact is vital to human life. In the case of a person with a psychotic illness, friendships and relationships can act as one of the key foundations for recovery. At the launch of the report in Canberra, recovery mentor from SANE Australia, David Braniff, spoke about what a difference the support of friends and family made to his recovery after he was diagnosed with schizophrenia at 25.

To conclude, this study makes hard reading. But, despite the often savage impact of psychosis on so many aspects of health and functioning, let us acknowledge, as the authors of the report do, that 'in the face of disability, disadvantage, stigma and social isolation, people with psychotic disorder display resilience and tenacity'. Despite some improvements since the first survey in 1998, the report starkly highlights that improvements in funding, health programs, treatment and community services are still urgently needed. But for the large minority of Australians—around one in 200 of us—who are living with a psychotic illness, small
things can also make a difference. Reducing stigma and misunderstanding through increased public awareness and caring is crucial. This is something that each one of us can actually offer in our everyday lives. In David Braniff's own words:

'Because so much of the pain and disadvantage is social, it shows that the whole community has a greater potential to assist than it may have previously thought.'

I look forward to the day when the description 'psychotic' evokes not Hitchcockian images but understanding and acceptance and an outstretched hand.

**Anglesea Barracks**

**Senator BILYK (Tasmania) (19:47):** On 2 December 1811, Governor Macquarie selected a small green hill just outside Hobart town as the site to build new barracks for the colony's soldiers. Named after the Marquess of Anglesey, the first buildings of Anglesea Barracks were constructed in 1814 and the complex now contains an architecturally rich combination of colonial, Georgian, Regency, Federation and later buildings. The barracks have a proud place in the history of Hobart and Tasmania. I note that my Tasmanian Senate colleague Senator Carol Brown is in the chamber tonight and I know she has had a long involvement with Anglesea Barracks and the people there.

Now the oldest continuously used barracks in Australia, Anglesea Barracks celebrated its 200th anniversary on 2 December last year. In the 200 years since its founding, Anglesea Barracks has become not only a prominent landmark in the city of Hobart but a symbol of the service of Tasmanian men and women to Australia and to their fellow Tasmanians in peacekeeping and peace-making operations right around the world. Tasmanians are proud to serve their country and Tasmania provides more recruits to the ADF per head of population than any other state.

For longer than Australia has been a nation, soldiers from the barracks have fought in wars around the globe. The gardens of the barracks contain memorials to those that have fallen in these conflicts—in colonial wars from the 19th century, the Maori wars, the Crimean War, the Boer War and modern conflicts like World War I and World War II. As well, there is the Anglesea Barracks Peacekeeping Memorial, which opened last year and recognises all those that have served in peacekeeping or peace-making operations since 1947.

The anniversary celebrations, named Anglesea 200, comprised three main events held over 2 and 3 December 2011. On the evening of 2 December, St David's Cathedral in Hobart hosted a multi-denominational memorial service presided over by the Dean of Hobart, the Very Reverend Richard Humphrey; the Director-General Chaplaincy, Royal Australian Navy, Chaplain Stuart Hall; the Principal Chaplain, Army, Geoff Webb; and the Director-General Chaplaincy, Air Force, Chaplain Murray Earl. It provided an opportunity for all in attendance to reflect on the service and sacrifice of those that have served at the barracks. His Excellency the Governor of Tasmania, Peter Underwood, and his wife, Mrs Frances Underwood, were in attendance. I was there representing the Prime Minister, Julia Gillard. We were joined by the Chief of the Defence Force, General David Hurley; the Deputy Chief of Army, Major General Jeffery Sengelman; the host of Anglesea 200, Major-General Greg Melick; Commander, Combat Support Group, Air Commodore Christopher 'Noddy' Sawade; and Colonel Michael Romalis.

The next day, Saturday, 3 December, was open day, allowing members of the public to
tour the Anglesea Barracks site. The event received overwhelming support from the people of Tasmania, with around 5,000 attending. It was a very wet and miserable day, so it was great to see so many people interested in coming to the event. These Tasmanians wished to explore not only the history of the site but also the contemporary relationship that the Australian defence forces have with Hobart and Tasmania. They wanted to experience and gain a better understanding of what it is like to be a member of the Australian defence forces.

Again, I was pleased to represent the Prime Minister of Australia, Julia Gillard, who was unfortunately unable to attend this special occasion. I received, in her place, a general salute from the Australian Federation Guard.

This open day showcased the best of the Defence Force. Highlights of the day included a display by Navy helicopters, an aerobatic display by the Roulettes, a performance by the Australian Defence Force band and a precision drill by the Australian Federation Guard. The Australian Federation Guard received the Governor-General, Quentin Bryce AC, with a royal salute, following which she inspected the guard. The Governor-General and Mr Bryce also met defence personnel and their families while viewing the Anglesea Barracks open day military and historic displays.

During the open day I had the opportunity to be shown a Bushmaster protected mobility vehicle. Made in Australia, the Bushmaster can carry nine infantry personnel plus an additional passenger. Fully air-conditioned, it can carry food and water for up to three days. I was pleased to hear that this high-tech military equipment, currently deployed in Afghanistan, is produced in Australia for Australians. Recently, Parliamentary Secretary for Defence Senator David Feeney announced:

This Government will ensure that all Reserve Armoured Corps will receive Bushmaster Protected Mobility Vehicles to provide protected transport for our troops.

This is just another way the Gillard government is helping to support and train our Defence Force personnel.

As part of the 200th anniversary of the barracks, a book detailing the history of the barracks, *Barrack Hill: A History of Anglesea Barracks 1811-2011*, has been produced. Published by the Department of Defence and co-authored by John Lennox and John Wadsley, the book not only explores the development of the barracks buildings through word and images but also reveals the previously untold stories of many of the occupiers of the barracks through its history. The 260-page book is hard covered and has over 180 images. Proceeds from the sale of the book are used to support the valuable work of Legacy and the Australian Army Museum Tasmania. For my parliamentary colleagues, especially those in Tasmania, copies of the book can be purchased from the Australian Army Museum Tasmania, Anglesea Barracks, Hobart.

On Saturday evening, an official reception was held to mark the anniversary and to honour those organisations and individuals involved. Once again, the Governor-General was in attendance, highlighting just what a significant place the barracks have played in our national history. I would like to use this evening to thank and congratulate a number of people for their involvement in this wonderful event. Firstly, I would like to thank Colonel Michael Romalis, who acted as my guide for the event. Colonel Romalis is the President of the Tasmanian branch of the Australian Peacekeeper and Peacemaker Veterans Association, which I have spoken about previously in a speech to the Senate. Colonel Romalis showed me around the
barracks site and ensured that I was in the correct place at the correct time, and I thank him for that. His knowledge of Anglesea Barracks and of the Australian Defence Force generally was of great assistance as we toured the site, and he was able to answer with ease the questions that I asked.

The host of Anglesea 200, Major General Aziz Gregory—Greg—Melick, also needs to be thanked. Major General Melick has had a long and very distinguished history with the armed forces. In the 2011 Australia Day Honours list, he was awarded Officer of the Order of Australia in the Military Division for distinguished service as Commander 8th Brigade, Head of Reserve and Employer Support Division, and as Head of Cadet, Reserve and Employer Support Division, Australian Defence Force. His dedication to the Defence Force over a number of decades is something that I feel should be admired and recognised.

Also, Lieutenant Colonel Helen Macpherson, the Project Director of Anglesea 200, needs to be thanked for her hard work in putting together the celebrations. The fact that the celebrations were enjoyed by so many thousands of people is a credit to her hard work and dedication to the project, especially, as I said, considering the weather on the day.

A final thank you needs to go to all of those who worked at the various displays through the day, demonstrating the equipment, directing visitors, cleaning the site afterwards and selling the books. Numerous people were involved and they all need to be thanked.

Anglesea Barracks has served as the heart of the Defence Force in Tasmania, as I said, for 200 years. The men and women who have served there have done Australia proud, both at home and around the globe. Hopefully, Anglesea Barracks will continue to serve the people of Tasmania and the Australian Defence Force proudly for the next 200 years to come.

Ovarian Cancer

Senator FISHER (South Australia) (19:56): This month is Ovarian Cancer Awareness Month, and tomorrow is Teal Ribbon Day, a day to raise money for and awareness of ovarian cancer. Today is also five years to the day that a former senator, the late Jeannie Ferris, made her final contribution to the Senate. Her final contribution was a question to the then minister about gynaecological cancer funding, a cause for which she had fought long and hard. At that time—and I see nods from those of you who worked very hard with Jeannie at the time and continue to work hard on this issue—everybody thought and hoped that the late Senator Ferris would be a survivor of ovarian cancer. About two months after her final contribution in the Senate, ovarian cancer took out the late Senator Jeannie Ferris, but it did not take out or stamp out the achievements of her hard work or the achievements of the many others who worked with her and continue to work on this issue to this day.

The day before Jeannie made her final contribution to the Senate, when speaking to the government's response to the Senate Community Affairs References Committee inquiry into gynaecological cancers, entitled Breaking the silence, Jeannie said:

More than anything, this report is an indication that when there was a serious women's health issue and all of us realised that all of our women—never mind what they might do every three years at the ballot box—wanted it dealt with and wanted expert advice and wanted to have a voice, we all got together.

Jeannie was instrumental in getting everybody together. Thanks to the community affairs committee inquiry and Jeannie's then colleagues, some of whom
remain in the chamber, people whose lives have been touched by gynaecological cancers got a voice in this chamber and more broadly. Of course, gynaecological cancers are not just about women. They touch families, they touch communities and they touch everybody ultimately.

Jeannie was very proud of a couple of things that she managed to do before she tootled off. When the Pharmaceutical Benefits Advisory Committee rejected an application for a government subsidy to make Gardasil, the cervical cancer vaccine, available to two million girls and young women, she organised for a letter to be signed by 22 of her then 24 female Senate colleagues which called on the then Minister for Health and Ageing, Tony Abbott, to review his decision, and—hey presto!—the government soon announced that Gardasil would be listed on the PBS.

The other thing of which Jeannie was understandably proud was the $1 million funding that she managed probably to wrestle from, again, health and ageing minister Tony Abbott to establish a new centre for gynaecological cancer. That was in response to the community affairs report *Breaking the silence*. What are the facts of ovarian cancer? It is the ninth most common cancer diagnosed in Australian women. It is the second most commonly diagnosed gynaecological cancer. Almost 1,500 women are expected to be diagnosed with it in Australia in 2015, and about half of those—that is, about 800 women—die of it each year. One in 79 women will be diagnosed with it before they reach the age of 85. The good news is that the five-year relative survival rate for Australian women has increased significantly from about 33 per cent in 1982-87 to about 40 per cent in 2003-06.

The symptoms are seemingly innocuous, so the ovarian cancer campaign is all about K.I.S.S. With ovarian cancer, that certainly does not stand for 'keep it simple stupid'; it stands for 'know the important symptoms and signs'. These include abdominal or pelvic pain, increased abdominal size or persistent abdominal bloating, needing to urinate often or urgently and difficulty eating or feeling full quickly. Many of these symptoms are experienced by many of us from time to time, but Ovarian Cancer Australia have produced a symptoms diary in which they encourage women to write down their symptoms if they are concerned that they are experiencing many of these symptoms on a regular basis and then to take the diary to their medical practitioner.

It is well known that, happily, most women with these symptoms do not have ovarian cancer. But, if there is no clear reason for the symptoms, its possibility must be considered. The cruel history of this disease is that it is a silent killer—it is not easily detected and it is often detected far too late. That is probably the cruel twist in the disease that resulted in former Senator Ferris being taken from us. There is no detection test, so it is a pretty good idea for women to know the risks. However, recent research has found that only about one-third of women can identify the most common risk factors. Between five and 10 per cent of ovarian cancer sufferers can trace it to a family history, but less than one per cent of women know that they need to look for family history on dad's side as well as mum's side.

The really bad news—which, particularly with cancers, is not uncommon—is that one of the greatest risk factors in disease is age. We cannot do a lot about it—because, happily, we are living longer—but the older we get the higher the risk becomes. About 80 per cent of cases occur in women who are 50 years of age or older. The other factors that
can increase women's risks, and these are often risk factors for other illnesses, include:
having had no or few full-time pregnancies—that is, never having been pregnant or rarely having carried to term;
ever having taken the pill or oral contraceptives; smoking, eating a high-fat diet; and being overweight or obese.

We can do far more work to get the message out to the community, but it is encouraging to note that the work continues to be done and that we have come some way in the past five years. For example, on the day of Senator Ferris's final contribution to the Senate five years ago it was Ovarian Cancer Week, but it is now Ovarian Cancer Month. We have reached many milestones since Jeannie's passing, and of that the late Jeannie Ferris would surely be proud.

World War II

Senator McEWEN (South Australia—Government Whip in the Senate) (20:04):
This year we are acknowledging the 70th anniversary of many significant events that occurred in our region during World War II. Many Australian troops and civilians died or were injured in those events, which included the fall of Singapore, the bombing of Darwin, the sinking of the HMAS Yarra and the HMAS Perth—the anniversary of which is today—the invasion of Rabaul and the battles of the Kokoda Track. These all occurred in 1942.

In 1988, then Labor Prime Minister Bob Hawke said of 1942:
It was the turning point in the making of modern Australia. In the fire of that tremendous crisis were forged all the elements which have shaped our national life and destiny, to this day.

... ... ...
Above all, 1942 was the year in which Australians first achieved a genuine sense of national identity and national unity.

The increased interest in our engagement in World War II, and especially in our engagement in the Pacific region, is evident in the well-attended remembrance services and other events around the country. At these events, we hear about the many instances of bravery, selflessness and mateship which, as Prime Minister Hawke said, gave us a genuine sense of national identity.

Another event we remember this year is the 70th anniversary of the sinking of the SS Vyner Brooke off the coast of Bangka Island near Sumatra and the subsequent massacre by Japanese soldiers of the survivors, including 21 Australian nurses. This dreadful incident occurred on 16 February 1942. The SS Vyner Brooke had left Singapore for Batavia on 14 February—just prior to the Commonwealth surrender on the following day—with a view to, hopefully, making it to Australia. On board were civilian and military evacuees from Singapore and the 65 nurses who had been caring for Australian wounded as part of the 2/13th Australian General Hospital. It is not known exactly how many people were on the ship, but estimates including the crew suggest that there were around 250, many of whom were civilian women and children.

Off the coast of south-east Sumatra in the Bangka Strait, the Vyner Brooke was bombed by the Japanese. The nurses on board, under the extraordinary leadership of matrons Olive Paschke and Irene Drummond, had been caring for the passengers during the voyage and had made the decision that, should the ship be attacked, they would not leave the ship until all passengers had been assisted off it. As the ship sank the nurses helped those that they could to leave the ship. At the same time, they witnessed horrific injuries and many dead.
Survivors, including at least 22 of the Australian nurses, eventually made it to shore on Bangka Island. They were joined there by other survivors from the *Vyner Brooke* and from other ships that had suffered the same fate. It is believed some 70 ships were bombed and sunk in the Bangka Strait within a 48-hour period at around the same time.

Bangka Island was occupied by the Japanese and, with no food, water or hope of rescue, the 100 or so people who had survived the shipwrecks surrendered to the Japanese. Most of them were then murdered, with the men being taken away from the women and then shot. The surviving nurses were then ordered to walk into the sea off Radji Beach and were also gunned down. Of those nurses, only one survived, Vivian Bullwinkel, whose resilience meant she also endured internment as a prisoner of war and was able eventually to tell the story of the Bangka nurses.

While the horrible story of Bangka Island is relatively well known, not so well known is the fact that the events of that day have been remembered in South Australia at a ceremony that has been held every year since 1955. Indeed, I was disappointed to see on the Parliamentary Library website's FlagPost section, which conveniently lists the various military events of 1942 and the planned 70th memorial services, that under the explanation of the Bangka Island incident it says there are no known events planned to commemorate its 70th anniversary. This, of course, is not the fault of the library; I am sure many events this year are organised on a local basis and will not get national recognition. It does not diminish their importance.

The Bangka Day memorial service is held each year on the Sunday closest to 16 February at the South Australian Women’s Memorial Playing Fields at St Marys in Adelaide's southern suburbs. Both the longevity of the ceremony and the fact that those playing fields exist is testament to a number of people who, back in the 1950s, were determined to see sporting facilities for women established in Adelaide and who were determined to remember the sacrifice of the Bangka nurses.

Once the plans for the sporting grounds were in train, it was decided to use the establishment of the grounds as an opportunity to have a permanent reminder of the contribution women made to our Army, Navy and Air Force in World War I and World War II. Special emphasis was given to remembering the women nurses who died at Bangka and, over the years, the annual memorial service has always paid tribute to the Bangka nurses and other women who have served, and died, in our defence forces.

The story of the South Australian Women's Memorial Playing Fields is a classic example of a small number of people who have a vision to meet a community need and then work hard to bring their plans to fruition. As I said, in the early 1950s a group of representatives from women's sporting organisations and from girls schools decided a dedicated facility was needed that would be suitable for developing women's participation in sport and for holding national and local competitions.

The then premier, Sir Thomas Playford, made available eight hectares of land at St Marys, and the community groups set about clearing the land to create the ovals and courts that are still used today. The first sports played there were tennis, softball, cricket and hockey. Establishing those grounds was an expensive exercise and the committee worked hard to raise money through functions like balls and fiestas, and through donations, for the initial
establishment of this very valuable contribution to the Adelaide community.

The South Australian Women's Memorial Playing Fields Trust was established in 1967, and it worked hard to manage and maintain the grounds until the late 1980s when, because of financial pressures, the state department responsible for recreation and sport leased the site and, some years later, on-leased it to the South Australian Cricket Association so that women's cricket in South Australia had a home.

The trust continues to oversee the memorial aspect of the site and organises the Bangka Day memorial service there each year. The service is held at the May Mills Pavilion, named after one of the founders of the fields. May Mills OBE is a very interesting women. She was a teacher and sports mistress at Unley High School, alma mater of our own Prime Minister. She was the first woman to present a paper to the Royal Geographical Society, a President of the Teacher's Union, a candidate in state elections for the Country Liberal Party and the first woman in South Australia to get a drivers licence.

The annual memorial service is attended by hundreds of ex-service personnel, representatives of all the services, community leaders, nursing organisations, family and friends of the Bangka nurses and their descendants, representatives of sporting organisations and Mrs Liz Scarce, wife of the Governor of South Australia and the patron of the trust.

Each year a guest speaker addresses the audience with some aspect of the Bangka story. This year a very moving address was given by Mr Ian Shaw, whose book *On Radji Beach* is a comprehensive account of the story of the Bangka nurses. I am indebted to him for the material for this speech.

The South Australian Women's Memorial Playing Fields Trust and supporters of the fields are always concerned about funding for the site and about the protection of the site itself which, as Adelaide has grown, has ceased to be on what was considered, in 1955, to be the outskirts of Adelaide and is now well and truly in the middle of an area undergoing significant residential and commercial development.

In South Australia we are very proud of the South Australian Women's Memorial Playing Fields and the Bangka Day memorial services that are held there. It is always a pleasure to drive past or visit the fields and see young women playing soccer, cricket or other sports there on a weekend. It is a living memorial to a group of truly extraordinary women whose sacrifice should always be remembered. The site should be afforded whatever protections governments and local authorities can provide.

**Australian Public Service**

Senator HUMPHRIES (Australian Capital Territory) (20:13): I want to contribute to the Senate's adjournment debate tonight by raising an issue which affects a large number of hard-working and dedicated public servants, in this city particularly. In the distractions which have been provided by the government in the course of this week it might have been easy to overlook issues of this kind but they are very important and I suspect that the end of this story is very far from us at this point in time.

I am referring, of course, to the future of public servants and the way in which government—small G—will be dealing with those public servants and their futures in the coming years.

Senator Polley interjecting—

Senator HUMPHRIES: Believe me, Senator Polley, I will have plenty to say that you can respond to. I am very happy to have
your views on what I have to say. Before the election in 2007 the Labor opposition was very quick to reassure public servants that they would be safe under a Labor government. Senator Lundy said:

The overall impact on jobs in Canberra will be insignificant under a Labor Government as Labor will be just rearranging priorities …

What reassuring words they are. At the time the then leader of the Labor Party, one Mr Kevin Rudd, talked about taking a meataxe to the Public Service, but other signals from other members of the government were somewhat more reassuring. In November 2007 a Labor government was elected.

Moving forward to 2010, the government, seeking re-election, again reassured the people of the ACT and public servants in particular that their jobs were safe under a Labor government. They had to do this because during the intervening three years the government, despite its promise to leave the efficiency dividend untouched, had in fact increased it from 1¼ to 3¼ per cent over a period of 12 months. They gave assurances that people's jobs were 'secure' under a Labor government. In April 2011 with the weight of the government's excessive spending beginning to bear down on Australia's financial system and its budgetary arrangements, we found the first cracks began appearing. The efficiency dividend was increased from 1¼ per cent to 1½ per cent. Would this have an impact on jobs in the Public Service? Not according to the member for Fraser, who said:

This is a modest change. The efficiency dividend has been in place for a long time and I'm confident that it shouldn't lead to job losses.

In the mid-year economic financial statement late last year, the government further broke its promises by increasing the efficiency dividend from 1½ per cent to four per cent, again in breach of its commitments made at the previous election. The untruth of what was going to follow was again perpetuated. Labor members repeated the assertion that there would not be job cuts under this mounting trimming policy of the Labor government. Within a few days of the announcement of the increase of the efficiency dividend, the Department of Health and Ageing put out a call to employees to accept voluntary redundancies. They were taking them from anywhere in the department; they needed redundancies and they needed them fast. Agencies began to scramble to deal with what was obviously an enormous burden coming down onto the Public Service.

I indicated that I would take the following questions to the most recent round of Senate estimates hearings. What is the effect of this increase in the efficiency dividend? What will it mean particularly in terms of jobs? Could the commitment made by the local Labor members to the people of the ACT that their jobs would be safe— notwithstanding the broken promises with respect to the efficiency dividend—be a promise they could keep? The lessons of that questioning of departments was salutary. I could not get to every committee and every agency, but everywhere I went, every agency I asked—with only one exception—was prepared to confirm that job losses were very much in the offing. The Australian Crime Commission outlined its burden from the increased efficiency dividend: $2.2 million approximately for each of this coming financial year and the out years. With 67 per cent of resources in that agency tied up in staffing, the Chief Executive, Mr Lawler, said:

…the reality is that for the commission … there have been very significant cuts to supplier budgets, already to the tune of in excess of 50 per cent against some line items. This leaves us in a position where, in all probability, depending on
how the budget falls, there will be staffing reductions, yes.

The Australian Federal Police detailed how almost $100 million would have to be found from its budget over the coming four financial years. Commissioner Negus said:

Yes, there will be staff reductions. It is a matter of trying to limit those on the front line of the organisation … but there will be some staff losses accordingly …

The Director of Public Prosecutions said:

The staffing establishment is reducing by natural attrition.

… … …

To account for this measure and to account for a restrictive budgetary environment generally, I can see that we will have to continue doing that.

The Human Rights Commission was quite plaintive in their comments about how hard the increased efficiency dividend would impact on their operations. The Hon. Catherine Branson said:

My expectation is that it will result in both some staffing losses and in some program work having to be dropped.

The Department of Parliamentary Services, a department not far from the hearts of this chamber, made very clear through its acting head, Mr Kenny:

Yes, it is around 60 per cent, so it would be difficult to absorb all of that within the non-staff side of things.

It is the clearest statement that you can have that there will have to be job cuts. Ms Leonard from the Office of the Australian Information Commissioner said:

We will be looking at all our options there and attempting to manage that through attrition.

Senator BOYCE: But it will mean staff reductions, a reduction in staff numbers, at least?

Ms Leonard: Yes.

The Australian Rail Track Corporation repeated the same claim, and so it went on and on for every agency.

We were told there would be no job losses under this increased efficiency dividend and almost every agency said that it had to happen. With agencies having variously 50 per cent to 80 per cent of their costs tied up in staff and with several years of increased efficiency dividends having already been dealt with—things like travel, consultancies and stationery requirements already having been dealt with—and the hollow logs raided, it is not surprising that today those agencies are saying, 'We cannot make these cuts without losing jobs.' I am not going to be a hypocrite and pretend that job losses are not in the offing under whichever party wins the next federal election. My party has made it quite clear that we consider the excessive and wasteful spending of this government to be unsustainable and we consider the balancing of the budget to be the highest priority for Australians. In particular we want to do something about the billions of dollars which Australians are spending every year simply servicing debt that this government has run up. For those reasons, we will attack the cost of government, and that will have implications for the size of the Public Service. But the difference between this coalition and the Labor government that now sits on the government benches is that we went to the last election saying—honestly but to our detriment—that we would lose Public Service positions. We even gave a figure for how many we expected to lose under the implementation of our balanced budget policies. We said that and we took a hit from that in terms of our vote in seats like the ACT and Eden-Monaro, but we stood by our approach that we should be honest and up-front with the Australian people.

The Australian Labor Party did not take the same approach. It said: 'You can trust us. Your jobs are safe under us. Public servants, come home to the Labor Party. You'll be all right.' And today their promises, like so
many other promises made by this government in so many areas, have turned out to be nothing more than shallow, insincere statements. The same charade presents itself for the coming election, but the record will show that this government cannot be trusted on such questions.

**Ovarian Cancer**

**Senator POLLEY** (Tasmania—Deputy Government Whip in the Senate) (20:23): I rise tonight to join with a colleague from the other side in relation to ovarian cancer. I spoke on this issue earlier this month, because February is Ovarian Cancer Awareness Month. As I said at that time, it is not an issue we should focus on only during the month of February. As we know, there are a number of people here in this chamber who have been directly affected by ovarian cancer, and a former senator put a lot of effort into making the awareness of ovarian cancer foremost in our minds. So I would just like to put it on my record again tonight.

There will be a breakfast tomorrow morning that people ought to be mindful of, not only for the women in this chamber and the women here listening to this debate but for the general community. I would just like to put that on my record and concur with the senators who spoke on this earlier this evening. Once again, I encourage women to look out for the signs and to use the ovarian cancer diary that is available to download off the website. I commend the people making the public and our families very aware of this important month.

**Havel, Mr Vaclav**

**Senator FAULKNER** (New South Wales) (20:25): Tonight I want to pay tribute to the life and work of Vaclav Havel, playwright, activist, prisoner, president. Havel died on 18 December 2011, of course during our parliament summer recess. Havel had a belligerent interest in the truth, an abiding sense of justice and a lifelong commitment to freedom. His struggle against communism and the sacrifices he made in this cause remind us how fortunate we are to live in one of the world's oldest and most stable democracies. In a time when, too often, public intellectuals are dismissed as meddling elitists, Havel reminds us of the crucial role they play in public life.

Havel was born in Prague in 1936. In Stalinist Europe his wealthy heritage stopped him from entering college, and so it was in the theatre that Havel first made his mark. He worked initially at the avant-garde Balustrade, where his first play *The Garden Party* was staged in 1963. Already in this play we get a sense of young Havel's frustration with the communist regime's relationship with the truth, as the characters in the play argue over the relative sizes of large dance floor A and small dance floor C. He would go on to write 20 more plays—all politically relevant, many critically acclaimed. Havel's suspicion of the regime was confirmed during the Prague Spring, when in 1968 Soviet tanks rolled into Wenceslas Square to crush the tentative reform movement of Alexander Dubcek. As spring ended and Czechoslovakia really entered a long and repressive winter, Havel through his plays, his essays and his letters began a long, sometimes lonely but always determined battle against totalitarianism.

In 1975 he wrote an open letter addressed to then party leader Husak criticising the Czechoslovakian government. In 1977 Havel, along with fellow dissidents, published the Charter 77 manifesto calling on the regime to honour its human rights obligations. In 1978 he, along with others, established the Committee to Defend the Unjustly Persecuted to help those harassed by the state. In the same year he published his now famous essay 'The power of the powerless', where he argued that
Czechoslovakia was ruled by a regime that 'touches people at every step and is captive to its own lies'. Commenting about this period he said:

Order has been established. At the price of a paralysis of the spirit, a deadening of the heart, and devastation of life.

Havel had a way with words, but he would pay dearly for his eloquence. In 1971 his works were banned and removed from public libraries and schools. For his involvement in the Charter 77 movement, Havel was arrested and imprisoned for five months. He would be arrested again in 1979 for helping establish the Committee for the Defence of the Unjustly Persecuted. This time he was given a 4½ year sentence. During this period the secret police were a constant and menacing presence. His country home had its very own guard tower. Friends, family and fellow activists were fined and arrested. Some were killed. Despite these trials, Havel remained dedicated to his cause, animated not by ideology but by his conscience. In his own words he continued to criticise the government:

... not because it happens to be a Communist government, but because it is bad. I am not on the side of any establishment, nor am I a professional campaigner against any establishment—I merely take the side of truth against lies, the side of sense against nonsense, the side of justice against injustice.

In 1989 he would be arrested again for joining a student demonstration. But, as the spirit of Gorbachev's glasnost overwhelmed eastern Europe, Czechoslovakia's long winter was about to end. In November 1989, students took to the streets in Prague and what would later be dubbed the Velvet Revolution took hold across the country. And so, without violence, and with little retribution, one-party rule was overthrown.

Havel was the revolution's natural but reluctant leader. Shy and self-effacing, he became its figurehead—not out of desire but because the times and, indeed, the people demanded it. Havel would go on to serve as President of post-communist Czechoslovakia. During his presidency he oversaw the peaceful transition to democracy, greater integration with Europe and entry into NATO.

He was a leader of immense moral authority. He called for the renewal of society through, to quote him, 'the rehabilitation of values like trust, openness, responsibility, solidarity, love'. But the force of his character could not keep his young nation united. Despite his wishes, the country divided into the Czech and Slovak republics in 1993. He would serve again as President of the Czech Republic until his retirement in 2002.

Havel was a national leader of international standing. His courageous pursuit of human rights was recognised with the United States Presidential Medal of Freedom, the Philadelphia Liberty Medal and Amnesty International's Ambassador of Conscience Award, along with a raft of other distinctions.

Like Solzhenitsyn, we can make the mistake of thinking that Havel's was a lone voice crying in the wilderness. The reality was nobler still. He had the courage to speak the truth to the powerful, and the capacity to give voice to the voiceless. In doing so he truly gave power to the powerless.

**Western Australia: Infrastructure**

**Building the Education Revolution Program**

*Senator PRATT* (Western Australia) *(20:35)*: This evening I am delighted to rise to talk about the Gillard government's important investments in Western Australian infrastructure. It is particularly significant because a growing and booming state like
WA, with a lot going on, really needs these critically important investments. The Gillard government is thinking carefully about the investments that need to be made.

A few weeks ago I had the pleasure of representing the Minister for Infrastructure and Transport, the Hon. Anthony Albanese, at an event to celebrate the commencement of the works on Perth City Link. The project is quite exciting and involves the sinking of approximately 300 metres of the city section of Perth's railway line, just west of the main Perth railway station. It is a great project in Perth because for too long our city has been divided by the central railway station and the railway line. The Gillard government is in fact paying the lion's share of the funding towards the project, or about $236 million. The state government is putting up nearly $100 million and the City of Perth has put together about $25 million.

I am really excited about this project because, when it is finished, we will be able connect Northbridge with the Perth central business district. For too many years, we have crossed the horseshoe bridge along the pedestrian walkway at the West Perth end and our city has been much the poorer for its division. We have had to travel around the city in order to cross it. By sinking the railway line, some 50,000 square metres of land will be freed up for urban development in our growing city. It is really going to transform the central part of Perth and make it, I think, more accessible and interesting for everyone. It will be easier to move around and there will be a lot more economic and social activity in our city centre. There will be new retail, food, commercial and residential facilities.

It is something that I think Perth has always needed so I am really pleased that the Gillard government is contributing the funds to this very important project. This is an idea that has been talked about for a very, very long time, and finally the work has commenced. I was very pleased to be able to put the ticket from the train that I caught to the commencement of works celebration into a little time capsule that will be opened in some 30 years time to celebrate and acknowledge the work on the sinking of our railway. The funding from the federal government means that this important project is now well on its way to becoming a reality.

The Gillard Labor government has a vision for Perth as modern and vibrant. It is a vision for a terrific metropolis befitting our status not only as the capital of the west but also as a growing and important city in the region. This project is typical of the federal government's historic decision to invest federal funding in modernising and extending our nation's public transport infrastructure. It is a national first—never before has a Commonwealth government invested in public transport infrastructure. Indeed, we have already committed more to this task than did all of our predecessors since Federation combined.

The federal Labor government is also investing in other important projects in Perth, including the upgrades of roads around the airport and nearby industrial estates, about $350 million; the widening of the Great Eastern Highway from Kooyong Road to Tonkin, about $280 million; and the upgrade of the interchange between the Great Eastern Highway and the Roe Highway. These are all critically important investments in infrastructure because our city is going gangbusters; people are moving there in droves. There is a lot of coming and going and we really need to plan and grow for the future.

I am very proud, as a representative of WA in the Gillard government, that we are increasing to an unprecedented $3.7 billion our contribution, through the six-year—to
2013-14—Nation Building Program, to nation-building projects in my home state. This is because our government has a vision for WA and for Perth and are committed in particular to giving back to the hardworking people of Western Australia. This is in stark contrast to those opposite who I do not think have expressed a strong vision for WA. They have no plan to deal with our growing population and the demands placed on our infrastructure. That is because they have never had a commitment or a plan to make our cities more liveable.

Under the Howard government, Australia ranked 20th out of 25 OECD countries when it came to investing in public infrastructure as a proportion of national income. Public investment in the nation's infrastructure as a proportion of national income in fact fell by close to 20 per cent. A lack of investment cut almost one per cent off the annual growth of the nation. More than $2 billion was slashed from federal roads, and rail in this nation fared little better. I am very pleased to say that this Labor government cares about providing for Western Australia and the nation's future by investing in the infrastructure that we so desperately need.

As you would be aware, as has been highlighted in other debates today, one of the other important ways we have invested in infrastructure around the country is through the Building the Education Revolution program. I was very pleased last week to attend the Burbridge School in Koondoola for their BER opening. I was very pleased to meet with students and Ms Helen Macri, the principal of Burbridge, as well as Joanne Kriziotis, the deputy principal, and many members of the school community. What is special in terms of Burbridge is that the BER funding there was used to build what the school needed. Burbridge is a school for students with physical and intellectual disabilities, so it was great to see that they were able to build an independent living area. Critically, the school had been without a library. I find it quite shocking that any school in this country should be without a library. There is no reason why students with physical and intellectual disabilities should not have access to such facilities. But for too long students at this school did not. The school now has a library, so students can check books out. Parents can read to students at home, and there is a place that students can be read to within the school. It is particularly significant that for the first time Burbridge primary school has a library and an independent living centre, along with a fantastic undercover play and activity area. It is fantastic to see the impact the BER funding has had on schools around Western Australia, including in Perth's northern suburbs and in remote regions.

I was just reflecting with the principals from the Australian Primary Principals Association this evening that capital works funding like this does not come around every day. It is a once-in-a-generation opportunity for many of these schools. I have been delighted this evening to be able to talk about what a fantastic impact these investments have had on both government and private schools in Western Australia. There is not a bad story among them. They are all absolutely stoked with the facilities.

Ultimately, as I experienced at Burbridge, it is not about the bricks and mortar. It is not about the new buildings, the assembly halls and the classrooms. This investment in infrastructure for schools is about creating an environment in this country where we can shape young lives for the better, where our kids get the best chance they can for the future. That is what investment in all kinds of infrastructure around the country is about. It is not about the bricks and mortar, the bridges and the roads; it is actually about making life in local communities easier and
better, improving our quality of life, so that we can get on with working, get on with learning and get on with living. I am very pleased and proud that they are the kinds of investments that the Gillard government is making.

Trade Unions

Senator URQUHART (Tasmania) (20:45): I rise to lend my support to the many thousands of men and women across the world who last week took part in the 2012 Global Days of Action for Trade Union Freedom in Mexico. The week of 19 to 25 February commemorates the sixth anniversary of the explosion at the Pasta de Conchos mine in Mexico where 65 workers were killed. The mine is owned by the Mexican company Grupo Mexico, which is in turn owned by the second richest man in Mexico, German Larrea. The bodies of 63 of the men are still buried underground, and the government of Mexico has held no-one to account for this tragedy. Working conditions at the mine were so bad that the general secretary of Los Mineros, the Mexican miners and metalworkers union, Napoleon Gomez Urrutia, called it 'industrial homicide'.

The first day of action was held on 19 February 2006 and involved a symbolic and emotional wake from 2 am until 12 pm in the central square in Mexico City. As a reminder that they have yet to receive a decent burial, 63 wooden crosses, each with the name of one of those who died, were placed alongside the helmets of the dead miners, while candles lit the scene. Those present called on the government and on Grupo Mexico to recover the remains of those who died and reminded them that this is technically possible. It is now six years since the miners were killed and to this day bereaved families still await proper compensation and recovery of the bodies for the funerals.

Miners, the local community, the Mexican National Human Rights Commission and the investigatory committee of the Chamber of Deputies echo the call of the Los Mineros general secretary and believe that Grupo Mexico's illegal safety violations killed the 65 miners, and note a pattern of irregularities in the inspection of labour standards. The United Nations International Labour Organisation has also recommended that 'adequate sanctions be imposed on those responsible' for this disaster.

Participants in these days of action demanded that the Mexican government respect the ILO's recommendation to hold those responsible for the Pasta de Conchos explosion accountable, and that adequate sanctions be applied. They also demanded that the Mexican government: abolish systemic violations of workers' freedom of association, including employer-dominated 'protection contracts' and interference in union elections; end the use of force—by the state or private parties—to repress workers' legitimate demands for democratic unions, better wages and working conditions, and good health and safety conditions; end the campaign of political persecution against Los Mineros; and respect the ILO's recommendations on protection unionism, engage in good faith social dialogue with independent and democratic unions and seek out legislative measures to end the practice of protection contracts.

The demands mirror those of the 2011 days of action where over 50,000 activists held massive mobilisations worldwide, and they are particularly necessary because of the steep deterioration in the rights of Mexican workers, particularly their right to collectively organise through a union of their choosing, over the past twelve months. In
March last year, the Governing Body of the International Labour Organisation called on the Mexican government to end the use of protection contracts concluded between a charro or 'ghost' union and an employer with no consultation or mandate from the workers they cover—contracts which systematically violate workers' rights that are enshrined in Mexican and international law. Despite these strong recommendations, the Mexican government has failed to reply and it appears that no action has been taken up.

It is important to remember that Mexico is a recent G20 host, former WTO host, aspiring Trans-Pacific Partnership member and, as a member of the United Nations, is party to the International Labour Organisation conventions. As such, it is simply not good enough for a country to take with one hand and then turn a blind eye to its international obligations—especially when this impacts on some of its most vulnerable people. Examples of ongoing abuses that demonstrate the worsening of labour rights protections over the past year include: lack of recognition of independent and democratic unions and their democratically elected leaders; mass sackings of workers as a result of the illegal or fraudulent closure of unionised companies; the manipulation of legal and administrative processes for determining union representation and collective bargaining rights; and the sudden appearance of charro or ghost unions in false representation of workers.

I have been provided with a number of examples of ongoing abuses that demonstrate the worsening of labour rights protections in Mexico. I wish to highlight those specifically against the members and officials of Los Mineros. Just days before the explosion at Pasta de Conchos six years ago, the government of Mexico declined to recognise the leadership of that union. The union's general secretary has been democratically elected by its members, twice, but has been forced to operate from exile in Canada for more than half of his term, as the government does not recognise his leadership of the union. The union's secretary-treasurer was released after spending over two years in jail and being subjected to nineteen mistrials, just days after the 2011 Global Days of Action for Trade Union Freedom in Mexico. Thirteen hundred troops provide daily safe passage to an equivalent number of scab workers at the Cananea mine site owned by Grupo Mexico, where Los Mineros workers have been on strike for over 4½ years for improved health and safety conditions. This is after the 10 June 2010 raid on this strike by over 4,000 Mexican government troops in which tear gas and force were used on the miners, who were striking simply for a safe work site. The union is under attack at several other mine sites where three protection unions operate in complicity with the Canadian mining company Excellon to prevent a new Los Mineros local union branch from gaining bargaining rights for 400 workers. The union is also under attack in places where auto parts assembly plant workers are choosing to join. The most important example of that is at the Finnish-owned PKC wire harnesses plant in Ciudad Aculia where 7,000 workers are now facing a legally sanctioned protection union and a concerted anti-worker campaign in a bid to prevent them from having the right to a voice on the job.

I stand with workers and unionists from across the globe at the Days of Action in calling on the Mexican government, through President Calderon, to stop its attack on workers, to implement steps to allow for workers to organise independent democratic trade unions of their choosing, to uphold its internationally recognised obligations and to implement the March 2011 International Labour Organisation recommendations. I
urge the Mexican government to do so, through constructive dialogue with unions and social partners, and seek out legislative measures that will end the practice of protection contracts and initiate real change for the advancement of trade union rights in Mexico. I also urge the Mexican government to force Grupo Mexico to remove the bodies of the workers and return them to their families so they can be given the dignity of a proper burial and so that the families can grieve in the proper process.

World Population

Senator MOORE (Queensland) (20:53): Before I begin I would like to acknowledge the speech made earlier this evening by Senator Fisher and to acknowledge that five years ago today, in this very spot, Senator Jeannie Ferris made her last contribution in this place. I think it was really timely for Senator Fisher to draw that to our attention so we could remember with fondness and respect the contribution that Jeannie Ferris made to so many things in this chamber.

Tonight I want to talk about the fact that last year in October the world population reached seven billion. In that same month the UNFPA, the United Nations Population Fund, released its annual State of world population report. The UNFPA is an international development agency that promotes the right of every woman, man and child to enjoy a life of health and equal opportunity. The UNFPA supports countries in using population data for policies and programs to reduce poverty and to ensure that every pregnancy is wanted, every birth is safe, every young person is free of HIV and every girl and woman is treated with dignity and respect. The UNFPA believes that everybody on our planet does count.

This year's State of world population report took the theme of people and possibilities in a world of seven billion. In fact, the recently appointed Executive Director of UNFPA, Mr Babatunde Osotimehin, who had previously been the health minister in Nigeria, took the theme 'seven billion people with seven billion possibilities'. The report uses a snapshot from across world, this year from the countries of China, Egypt, Ethiopia, Finland, India, Mexico, Mozambique, Nigeria and the former Yugoslav Republic of Macedonia. Working with people on the ground and using proven data, this report shows us the dynamics of what is happening on our planet.

There are no easy answers. There are successes and there are areas where we must and can do better. Certainly the personal stories in the report shed light on the real life challenges we face in a world of seven billion and growing. In conversations with people living and working in countries, it does not take long to discover that no population issue can be seen unconnected to another. In some parts of our planet, we have people who are ageing very rapidly and their areas are faced with shortages of support for people who are getting older, with fewer young people coming through. In other areas we see population rates continuing to grow. But for all of us there is a worldwide challenge.

There is much to celebrate in the world population trends over the last 60 years, especially in the area of life expectancy, which rose from about 48 years in the early 1950s to about 68 years in the first decade of our new century. Importantly, many people have been working through UN processes and national programs to put a real focus on issues around infant mortality. Infant deaths have plunged from about 133 in 1,000 births in the 1950s to 46 per 1,000 births in the period from 2005 to 2010. One of the key aspects of that change which we can be very proud of is the rise of immunisation
programs. Our own country, working with AusAID in numbers of areas, has been very effective.

We have a series of challenges. I think it is important that we look at what has occurred. In the UN State of world population report, there is always an index calculated on known data that examines where we are winning—it is called a scorecard—where we are losing and where there is uncertainty. These things are calculated by looking at historical data so that there is clear evidence—there has to be that process—and there are 28 variables that can be measured and put into a projection so we can trace our progress year by year.

The areas where there has been genuine progress, where we must celebrate and learn, are areas like improved water activity. We know that people are getting better access to fresh water across our planet. The literacy rate has risen across many countries so that now there is a real advance in the literacy area and in school enrolment. We see an actual attempt at reducing world poverty. We can see that the things about which I am speaking reflect the Millennium Development Goals. It is no secret that, where there is combined action, concerted funding and real commitment, there can be change. When we see on the index areas where there has been improvement, we can see the link with the Millennium Development Goals process and achievements.

Women in parliament is something that is most dear to my heart. It is an area in our own part of the world in the Pacific where we are not doing well. Worldwide there has been an increase. These things give us hope but they are not generally accepted across the world. People need to see where there has been progress, work out what has ensured that progress, and then have continued focus on where we can do better. This report is available to everybody on the web. Some of the areas in the same index where we need to do better are things like carbon dioxide emissions across the planet and people voting in elections. In some countries fewer people are using their democratic rights. One of the things that is most worrying—and I know many people talk about it—is the level of corruption in many governments across the planet. The international Corruption Perceptions Index is being studied closely and there have been improvements and changes. Nonetheless there continues to be a lack of trust and a lack of stability in some of the governments.

There has been much discussion in this place about the number of refugees. Worldwide there has been a great increase in the number of people who find themselves homeless and seeking refuge for reasons over which they have no control. That has been exacerbated by both man-made disasters, with a horrible range of insurgencies and war in the last years, and the awful tragedies from geographic disasters. We have seen tsunamis covered in the media as well as awful droughts and floods which have impacted on our world. These natural disasters show us all the challenges that we have. These are certainly issues which we have to face moving into the future.

At this stage, the Millennium Development Goals process needs to be finalised by 2015. The world is moving to that, including by doing this report which comes out every year. The report gives us some markers about how we are going and where we can do better. The new Executive Director of the UNFPA sees that there is much more hope than despair. The life stories in this document, which looks at a world facing an ever-growing population, show that these opportunities are there for us to learn from. The report states that:
... our world of 7 billion can have thriving, sustainable cities, productive labour forces that can fuel economic growth, youth populations that contribute to the well-being of economies and society, and a generation of older people who are healthy and actively engaged in the social and economic affairs of their communities.

This is where we are moving to. Through the annual reports we are able to see where our country can be part of the international response. We know that we have a stake in the future of humanity and we know that every individual, every government, every business is interconnected.

We have seven opportunities for a world of seven billion people. We can reduce poverty and inequity and we can slow population growth. We can unleash the power of women and girls and we can accelerate progress on all fronts. We can have energetic and open new technologies which young people can use to transform global politics and culture. We can ensure that every child is wanted, every childbirth is safe and we can have smaller and stronger families. All of us depend on a healthy planet, so we must protect our environment. No. 6 is promoting the health and productivity of the world's older people. No. 7 is that the next two billion people will live in cities, so we must plan for them now.

Gillard Government

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (21:03): History will harshly judge the events of the last three days. These events have clearly shown that the Gillard government is divided and dysfunctional, consumed in personal acrimony and internal feuding. The nation witnessed a degree of bitterness the likes of which we have never seen before, uncontrollable adversity like children fighting over who gets the last raspberry lollipop.

We now know that when the Prime Minister and Treasurer crowed about the so-called effective governance in 2008 and 2009, they were words to convince themselves as much as to reassure the Australian public. We were told by the Prime Minister in 2010 that Mr Rudd was an outstanding foreign minister travelling the globe in a way which rivalled any former foreign minister, embarking on some 26-plus overseas trips crossing all continents. It would be reasonable to question whether it was to keep some distance between them. After the faceless men orchestrated the removal of Prime Minister Rudd for Ms Gillard, Australians were assured that the ALP caucus, and more importantly the Australian government, was united and focused. We continued to hear that cabinet was functioning well and that this reformed family were 'happy little Vegemites'.

How can we believe the current assurances from the Prime Minister and her government that division and dysfunction are things of the past, and that the blood spilt over the last few days has stopped? Sadly the reality is that Australians cannot believe what Labor says about itself and that is why they want their say at a ballot box, and the sooner the better. The moving of the deckchairs does not change the fundamental policy decisions of this government: the imposition of a carbon tax, the stripping of the private health insurance rebates, plundering our economic reserves with heightened uncertainty about jobs and the increased cost of living. Instead of focusing on the interests of the Australian people, we now know that the Gillard Labor government has been focused on itself.

The events of the last week have been broadcast around the world and will have affected our standing in the international community. Every indication is that Labor has a divisive future. Mr Rudd warned that
Labor will settle old scores in coming weeks when he said:

… what I already sense is the emergence of round two of the campaign.

Minister Martin Ferguson also warned that the faceless men are still in charge:

They're at work today and they'll be at work in the future because they just cannot help themselves.

In caucus only yesterday Mr Rudd reportedly promised to protect Ms Gillard from a third challenge later in the term. And Prime Minister Gillard refuses to make any promise to protect Rudd supporters from retribution in her next reshuffle.

Over the summer in Victoria the Australian Open had many tense moments, but this does not compare. The game in Melbourne was a marathon and this one was an even greater marathon, but the end is not in sight. We are at deuce again, and the players are as determined as ever to be the victors. For them a lot is at stake here. Probably most damaging is how each player will be remembered, but for the rest of us what is really at stake is a stable and thriving economy. My electorate office, which is in the heart of Deakin, the home to the Labor member of parliament Mike Symon, has been inundated with phone calls, emails and visits from people demanding an immediate election. This outpouring has moved me to draft a petition to the parliament. The sentiment of the people insists that the Prime Minister holds a general election so that they and not the feuding individuals of the Labor Party may decide who governs our country. I encourage anyone who shares this sentiment to contact my office, and to those who are listening to this broadcast I will gladly provide a copy of this petition.

Schools

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations)

(21:08): Following the recent release of the Gonski report on school funding, tonight I would like to focus on the Gillard government's reforms in school education and, indeed, challenge some of the comments often made by some opposition senators in this place in these areas. As a Labor government we are moving forward with reforms across a range of areas in school funding. We are introducing a new era of transparency through MySchool—not achieved by the opposition. We are implementing a national curriculum—not achieved by the former government. We are improving and empowering local schools. We are working towards a new funding system that is transparent and accountable and is fairly applied to all schools. We are partnering with school authorities in national partnerships for smarter schools, which are now achieving impressive results.

The Gillard government has always understood that investing in education is a national priority. In total the government is investing $64.9 billion in school education over four years, twice as much as what the coalition spent in the previous four. Making sure we have world-class schools has never been more important as we face the challenges and opportunities of a changing global economy. We have seen recent reports highlighting this critical factor.

I want to focus for a moment on infrastructure investment. This is why we have already completed the largest school improvement program in our history, a $16.2 billion investment in the nation's education future. We have built libraries, science labs, classrooms and multipurpose halls. These are some of the facilities that will change the way our students learn. These facilities are an investment in our future and will deliver better educational outcomes for students.
Recently I read with interest an article in the *Daily Telegraph* titled 'Catholic schools find bigger is better'. It spoke of utilising new facilities to provide children with an open learning environment and personalised learning. Classes that were in box-like facilities are now enjoying facilities that encourage teachers and students to work more effectively. I remember visiting Seaford Park Primary School last year to open a new $2 million multipurpose centre which is its first-ever permanent building as the rest of the school consists entirely of portables. Whilst the federal opposition gets a kick out of ridiculing the government's investment in education, these bricks and mortar are merely a foundation for the improvements we will see in the future. I have been excited by principals reporting changes to teacher performance as a result of these new facilities. These will bring with them an improvement in student outcomes. Research increasingly shows that teaching is a critical determinant of quality. A *Four Corners* report recently explored the effect of good teachers on student outcomes, noting, 'There is an increasingly compelling argument that the fundamental key to quality education outcomes is quality teaching.' If teacher quality is vital to student outcomes, how to attract and retain quality teachers and provide them with the best tools to teach effectively is important for any government. We now know that investing in school infrastructure is an investment in teacher quality. Instead of one teacher per classroom, teachers are now planning and working together. They are now able to provide each other peer support and accountability. The feedback from schools and principals is overwhelmingly positive. The long-term educational benefits will continue to flow to Australian students for years to come.

But, with respect to the Gonski report, we need a funding system that also encourages educational benefits. The Gillard government continues its reform process as we believe we can do better here. Consistent with our other reforms we commissioned the first comprehensive review of school funding in almost 40 years. The report found that the current system is too complex and lacks transparency. It offers ideas for government to pursue that will further enhance our education system; and, as Minister Garrett noted last week at the school funding forum here in Canberra: 'The model proposed in the report is very different to the way schools are currently funded. All governments and stakeholders, mums and dads, teachers and principals need time to understand and work through what is proposed by the review panel.' Indeed, the review panel report recommends that much of their proposal be validated.

The government will now consult with stakeholders, states and territories, parents and the community to better understand how the current system operates and their thoughts about how it can be improved in light of these recommendations. We want to hear from parents and teachers about how our schools should better be funded.

The Prime Minister kick-started a nationwide discussion with Australian schools, teachers and parents. Last week I visited Marist Regional College and Parklands High School in Burnie with local member Sid Sidebottom. Concerns were raised, details were discussed and feedback was given. I was encouraged by these visits and look forward to hearing from other schools about how to better fund our schools. In particular I am leading the work on capital funding and philanthropy.

The Gonski report highlights a number of concerns about our ability as a nation to determine the adequacy of existing school facilities and to plan for the future needs of
new and expanded schools. While we are open to continued discussion about the most effective way to deliver capital needs for schools, we do not envisage a significant expansion of the Commonwealth's current capital role. But I do look forward to working with the sector on ways to better fund school infrastructure into the future. We can take many lessons from our recent success delivering new classrooms and facilities to every school across the country. The government believes that every school, regardless of its location or sector, should offer facilities that provide its students with a high-quality, 21st century education.

**Vietnam: Human Rights**

Senator BOSWELL (Queensland) (21:15): I rise tonight in support of the great people of the Socialist Republic of Vietnam. For too long, the Vietnamese people have had their basic human rights denied by the ruling Communist Party of Vietnam. In particular, I want to draw attention to an extraordinarily brave musician by the name of Viet Khang, who rallied against the Communist Party and the government through his songs and paid the price.

Viet Khang, born Vo Minh Tri, is a Vietnamese singer and songwriter. He co-founded Patriotic Youth, a network formed to raise public awareness of social injustice in Vietnam. On 23 December last year he was arrested by Vietnamese security forces. He is currently being detained without trial at an unknown location in Vietnam. What did Khang do to warrant indefinite detention? He penned two songs decrying the Vietnamese communist regime's failings. He denounced the government's campaign against his people's right to freedom of speech. He posted these songs online, where they quickly went viral, capturing the attention of people in Vietnam and around the world. This was unacceptable to the communist government.

Khang's incredible bravery cannot be understated. The Communist Party has long utilised violence, intimidation and unjust imprisonment to combat any criticism of its rule. For years now it has indefinitely detained a number of Vietnamese artists, lawyers and human rights campaigners. As with Khang, their only crime was to speak out against the communist regime. Many of these innocent people are still being held without charge. Khang knew what would happen to him once he posted his protest songs online. He knew how the Communist Party would punish him, but he went ahead and defied his government.

This is courage on a scale that the people of our great and free nation will thankfully never have to find within themselves. His sacrifice deserves to be recognised. It is our duty as a leading world advocate of democracy to address the human rights situation in Vietnam. We must do everything in our power to bring these issues to light. We must help secure the release of all human rights advocates who have been imprisoned by the Vietnamese Communist Party government.

The leader of another great democratic nation has already recognised the grave importance of this matter. President Barack Obama has agreed to meet with a delegation of 100 spokespeople for Viet Khang on 5 March. Khang's current predicament will be discussed, along with the broader human rights situation in Vietnam. The delegation will be led by Mr Truc Ho, a US resident who has tirelessly campaigned on Khang's behalf. It is through Truc Ho's efforts that Khang's plight has reached President Obama's attention. On 7 February this year, Mr Ho created a petition on the official White House website calling for the US
government to act to secure the release of innocent Vietnamese imprisoned by the Communist Party. Mr Ho aimed to get 25,000 signatures by 8 March. In just three weeks, the petition has received 90,000 signatures and counting.

Ninety-thousand calls for action coming from every corner of the globe is a testament to the severity of the Vietnamese government’s crackdown on dissident movements. It is a testament to the power and urgency of Khang’s songs, which have awakened an outcry both in Vietnam and overseas. President Obama is so concerned about the issue that he has requested to hear Khang’s songs in English to better understand his message.

The songs are called Where is My Vietnam? and Who Do You Think You Are? In Where is My Vietnam, Khang sings about his disillusionment with the Communist Party. He highlights the government’s failure to address spreading social injustices. He despairs about how the government has violently persecuted peaceful activists who have criticised its policies in the past. Khang’s second song, Who Do You Think You Are? condemns Vietnamese security forces for their brutal tactics. It asks how Vietnamese police could so harshly suppress the people they supposedly protect, and punish them for participating in peaceful protests against the government. Together, Khang’s songs have captivated the Vietnamese people. Vietnamese artists have performed them in English and other languages around the world, raising global awareness of the country’s dire human rights situation.

The effect of these songs on Vietnam and the fuse they have lit within the Vietnamese human rights movement have terrified the three-million-strong Communist Party. The government’s worst fear is the Vietnamese people uniting to tear down its regime. Its worst enemy is anyone who would shine a light on its oppression of its own people. Viet Khang heralded a call to arms against the Communist Party that, for his sake and the sake of his people, must be addressed and acted upon immediately.

Just imagine if Keith Urban or Kasey Chambers were to release a song criticising the Australian government for its recent embarrassments. Just imagine if, as punishment, the government were to throw them into prison. Such an act is unthinkable in our country, yet it is a hazard that Vietnamese citizens face every day under the Communist Party. Viet Khan is not alone on the list of brave men and women who have fallen victim to the Communist Party’s campaign of censorship. Father Nguyen Van Ly, a non-violent dissident, was imprisoned for nearly 15 years for participating in numerous pro-democracy campaigns. He received an eight-year sentence for supporting the Bloc 8406 manifesto, a Catholic coalition of groups advocating democratic reforms in Vietnam. He was released just last year.

A leading dissident against the Communist Party is Dr Nguyen Dan Que, leader of the Humanist Movement in Vietnam that seeks social and political reform in the country. Since 1978, when he first criticised the government, he has been arrested a total of four times and detained for up to eight years. He has received a Nobel Peace Prize nomination for his tireless efforts to effect change in his country.

The list of individuals who have dedicated their lives to transforming Vietnam into a free and democratic country is endless. Viet Khang and other selfless activists have woken up the Vietnamese people and the world to the Communist Party’s suppression of human rights. In the words of one of
Khang’s admirers, ‘Every word, every sentence is like a sword, a bullet that comes down to the Vietnamese Communist Party.’

The US has already made significant contributions to the Vietnamese human rights movement via its Vietnam Human Rights Act and Vietnam Human Rights Sanction Act. Closer to home, it is encouraging to see that on 7 February this month, the Joint Standing Committee on Foreign Affairs, Defence and Trade conducted a public meeting where it took evidence for its inquiry into Australia’s human rights dialogue with Vietnam. I pay tribute to the Howard government for establishing an Australian-Vietnam Human Rights Dialogue in 2002 so that human rights issues can be discussed at the government-to-government level.

But there is still much to be done. As the decades-long struggle of human rights and democracy advocates in Vietnam demonstrates, the battle will not be won overnight. It is imperative that we assist these extraordinarily brave men and women in their fight against the Vietnamese Communist Party. Australians have always enjoyed freedom of speech without fear of persecution. It is time the Vietnamese people are granted this same right.

World War II

Senator CROSSIN (Northern Territory) (21:25): On 9 February last year in this very chamber, long before any motion was put and passed in the House of Representatives, I put before this parliament my very strong view that 19 February, the day Darwin was bombed by the Imperial Japanese forces in 1942, should be recognised and commemorated nationally. I spoke of the need for us to officially commemorate that day that the enemy came to our shores and took the lives of our soldiers, sailors and civilians on our own soil.

The surprise attack on Darwin was conducted just four days after the fall of Singapore by the same Japanese fighters and bombers who had destroyed Pearl Harbor. The Imperial forces that hit Darwin that steamy, wet season morning were intent on decimating that northern capital. The Darwin defenders fought back courageously and many lives were lost. At the time we were at war, but history will show that this nation downplayed the attack on Darwin. However, with the passage of time, the true significance of the war on our shores should be known and known widely.

I worked with many people in Darwin and around the country last year and the year before who knew the stories of 1942 and, like me, were determined that the valour and commitment of these people should be fully acknowledged. Working with fellow Territorian and parliamentary colleague the Hon. Warren Snowdon, the Minister for Veterans Affairs, over many months, we built the case that the 1942 bombing of Darwin and North Australia should be commemorated across the nation every year. We were successful in this undertaking, and in November last year the Prime Minister confirmed that Australia would indeed commend to the Governor-General that this day would now be nationally recognised.

So I am proud to rise in this place tonight to say that a magnificent series of commemorative events were held in the Top End over the week leading up to, and during the weekend of, 19 February. Collectively, they were indeed the great and fitting tribute to the veterans that I have always believed they would be. So I want again to pay tribute to the veterans of that time and to those who organised, attended and watched these events right around our nation. I also place on record my thanks and acknowledgement for the national broadcasters of this country—for radio, for television and even for print—in
the way in which this coverage was conducted on 18 and 19 February and beamed into every household right around this nation.

The ceremony held on 19 February was an extraordinary event. Coinciding with the 70th anniversary of the bombing of Darwin in 1942 we, as a nation, commemorated the falling at a ceremony at the Darwin Cenotaph. In attendance was the Governor-General of Australia, the Prime Minister, the Minister for Veterans’ Affairs, the Administrator for the Northern Territory, the Chief Minister of the Northern Territory and ambassadors from the United States, Indonesia and Japan. The ambassador for Timor-Leste sent an apology as he was in Sydney with the Prime Minister of Timor-Leste, His Excellency Xanana Gusmao, and they commemorated that day that Australian troops, aided by the Timorese people, fought the Japanese invasion of the island of Timor.

Many thanks to our commemoration partners, the Northern Territory government and the City of Darwin. I particularly want to acknowledge the Chief Minister, Paul Henderson, and the Lord Mayor of Darwin, Graeme Sawyer. Together we were successful in getting this solemn day properly recognised. Paul Henderson in particular has been a long-time advocate for the teaching of the bombing of Darwin in our schools, and this is now happening. Equally important is that the stories of the bombing of Darwin will now be included in our new national curriculum, another great Labor education initiative. Among the myriad activities was the submission by seven Top End schools of artwork to the NT Schools Bombing Of Darwin Art Exhibition at the Chan Contemporary Art Space. The curator of the exhibition, Mr John Waight, aptly described its effect as ‘creating a bridge from what happened in 1942 to today’.

There was a series of talks at the Northern Territory Library at parliament house. One of these talks was delivered by the inspiring 93-year-old veteran naval officer Mr Eric Thompson, who was featured in conversation with our renowned naval officer and director of the Darwin Military Museum, Dr Tom Lewis OAM. Eric told the stories, and Tom—as always—provided the rich context of the significance of the war and the chronological events of the grim day of the bombing. The National Film and Sound Archive and the Darwin Film Society held various film screenings depicting Top End life during wartime. The week also included the premiere screening of The Bombing of Darwin: an Awkward Truth, which is the film adaptation of Peter Grose’s groundbreaking book of the same name.

The events kept coming. On 17 March I attended a families lunch hosted by the Northern Territory government at the Darwin Convention Centre. This families lunch finally paid recognition to the Chinese families, the Indigenous families and other civilians who were in Darwin on the day of the bombing and in the coming weeks and who assisted the many defence personnel in the clean-up which followed that tragic event. Finally families in Darwin—particularly Indigenous families—got to reconnect. It was almost like a massive, 1,000-family reunion. It was so great to see those families catching up on old times and sharing stories of ancestors who had been around on the day. I particularly thank the Chief Minister, Paul Henderson, whose initiative this was; I thank Mr Bill Risk and Mr Don Christopherson; I thank Ms Wendy James for the stories she told; and, of course, I thank our young and cheeky custodian of Darwin, Mr Austin Asche AC, QC, who was a member of the Royal Australian Air Force in World War II.
On the Saturday morning I attended the opening of the Defence of Darwin Experience at East Point. The Defence Of Darwin Experience is an interactive exhibition space that tells the story of the bombing of Darwin through an immersive multi-media experience and covers the extraordinary years between 1932 and 1945. I thank again Dr Tom Lewis, the NT libraries and the Northern Territory Archives Service for the research work that contributed, amongst other things, to the iPad application for the Defence of Darwin Experience. If you ever take a trip to the Top End, you most certainly have to pop in and have a look at this fantastic new military museum.

I thank also Mr Pierre Arpin, the director of the Museum and Art Gallery of the Northern Territory, and his team, who worked so hard in an incredibly short time on the content for the Defence of Darwin Experience. This magnificent exhibition will become a part of the education of Territory kids and visitors alike. The Defence of Darwin Experience is located next to the Darwin Military Museum and is now part of the impressive World War II precinct at East Point.

One of the Saturday afternoon activities was a commemorative AFL football match played between the Tiwi Bombers and the Darwin Buffaloes at Marrara. The Bombers—predictably, of course—won, and perhaps this was partly due to the welcome by the Tiwi traditional dancers whose aeroplane dance captures the story of the day that the planes came overhead their island home, bound for Darwin, on 19 February 1942.

On the Saturday evening, the eagerly awaited Frontline Australia Ball was held. A thousand people attended this wonderful evening, which was hosted by Ray Martin and where the veterans were, appropriately enough, the focus of the guests’ attention. My congratulations go to the City of Darwin team which worked very hard for many months to ensure that this event was a great success.

Finally, there was Bombing of Darwin Day on 19 February. This is the official day of recognition of the bombings across the Top End of Australia. The day started with a service at the USS Peary memorial on the Darwin esplanade. Honourable senators will remember that last November I spoke in this place of the wreath-laying ceremony conducted jointly by our Prime Minister and President Obama to commemorate the 89 brave US sailors who were lost when the Peary was sunk in Darwin harbour. I acknowledge the US Ambassador, Mr Jeffrey Bleich, who is becoming a frequent visitor to the Northern Territory these days. We were honoured that he was able to attend the ceremonies last week. Eric Thompson, an Australian Navy veteran of the bombing, described the actions of the sailors on the USS Peary that day as amongst the US Navy's proudest moments.

As the USS Peary ceremony came to a close, people were already making their way to the Darwin cenotaph to get the best seats for the official commemorative ceremony. A record crowd of more than 5,000 people witnessed a very moving ceremony that featured a raid re-enactment with soldiers in World War II uniforms firing blanks from artillery and machine guns at the vintage aircraft flying overhead. Wreaths were laid by the Governor-General, the Prime Minister, the Leader of the Opposition, veterans, dignitaries and members of the community.

I acknowledge the Australian Defence Force's participation in the ceremony, including that of the magnificent Australian Army Band Darwin directed by Captain
Darren Cole. I acknowledge also the Darwin Chorale, directed by Nora Lewis, and the contribution of the school children that made this such a warm and inclusive community event.

Concurrent with the cenotaph service, the Maritime Union of Australia hosted the annual memorial service at Stokes Hill Wharf. The ceremony involved wharfies, seafarers and members of the community. Unveiled at this service was a new wharfies memorial to commemorate the wharf workers who died on 19 February 1942 as the bombs and bullets rained down. The memorial also acknowledges the bravery of those workers and onlookers who risked their own lives to save those of their comrades amongst the burning ships and along the smashed wharf.

I want to acknowledge Mr Thomas Mayor from the Maritime Union of Australia, who leads his union with distinction and who found the support for the Tiwi Islands dancers to get to Darwin to participate in the commemorative events.

Sunday, 19 February was a great and fitting gesture of respect to the fallen, but the commemorations did not finish there. The following day more than 300 people attended a ceremony at the Adelaide River War Cemetery about 100 kilometres south of Darwin. This war cemetery is the resting place for 434 soldiers, sailors and airmen, as well as 60 civilians, most of whom were killed during the first bombing raid on that day.

Many thanks to the Northern Territory Transport Group for providing the buses that enabled many veterans to attend a range of functions and activities during the week—notably the commemoration at the Adelaide River War Cemetery, which is 100 kilometres from Darwin, or 'just down the track' as we say.

A great many people were involved in pulling the various activities together. A team of correction workers laboured manfully to ensure that the Defence of Darwin exhibition was up and running in time for the big weekend. I was very heartened to be informed by the NT government that the majority of these detainees have been offered full-time employment at the conclusion of their detention. Northern Territory corrections also assisted the City of Darwin with the cleaning of memorials and plaques prior to the anniversary. As I said, it was a great and inclusive Top End team effort.

I would like to especially acknowledge our allies who fought with us on 19 February 1942 and who joined us again on that Sunday last February. The relationship between the Top End and the United States of America was born in the dark days of 1942 and is now over 70 years old. This relationship will continue to be important for Australia in the coming years. We are deeply proud of the defence of Darwin and are, as always, strongly committed to the defence of northern Australia.

The Prime Minister described 19 February as the unimaginable day when the sanctuary of our great island home was breached by the attack of a great foreign power. However the Prime Minister also spoke of the rebuilding of our relationship with Japan, and it is true that today we work together as friends and trading partners, evidenced most recently by the confirmation of the $33 billion Inpex project, which is about to begin on Darwin harbour. This massive project is going ahead to the benefit of both our now great countries.

I want to conclude with a comment made by the Chief Minister of the Northern Territory, Paul Henderson, who made the observation on that weekend that 'the
anniversary provides the opportunity to share our history, with the rest of the nation and with generations, who, thankfully, have never had the war so near.

On the 9 February last year I rose in this place to put the case for national commemoration and I concluded:

Commemorating the bombing of Darwin each year, nationally and for one minute on that day—like we do on the other two days of significance during the year, Anzac Day and Remembrance Day—will help to educate our future generations about our past and honour those who have contributed to our history. It will also ensure that the events of that day are not lost; that they become part of our culture and part of us.

We have started well and my sincere thanks go to all those who made possible this first national commemoration of the bombing of our Darwin in 1942. To those who watched from afar, please come and join us next year, you will be warmly welcomed to our Top End.

Finally, in finishing I want to pay tribute to Waldo, our very famous Australian bush poet who lives out at Humpty Doo. In commemoration of this day of significance he has penned for us a poem, *The Bombing of Darwin: 19th February 1942*. It has about six verses and I promise the Senate that I will not labour tonight and read it out loud. I have sought agreement from the Opposition Whip to have Waldo's bush poem on the bombing of Darwin incorporated in *Hansard*. I do that quite proudly in honour of the terrific way he is able to encapsulate events like that on paper. I seek leave to incorporate a copy of the poem in *Hansard*.

Leave granted.

*The document read as follows—*

**The Bombing of Darwin**

19th February 1942

The bombs rained down on Darwin, what a sad and sorry day.

Prayers said for those who perished, what a shocking price to pay.

The war had reached our golden shores and some northern country towns.

While the people south of the Brisbane line thought they were safe and sound.

Enemy bombers spanned our skies as fighters flew below,

Attacking ships in the harbour like a giant lightning show.

Our Airforce tried to stem the bombing, but didn't stand a chance.

With the Imperial Japanese carriers, as their Naval fleet advanced.

Australia's Ack-Ack crews relentless, as they searched the northern skies.

From East Point 'cross the Stokes Hill Wharf, diggers died before our eyes.

Our courageous indigenous coast watch spotters were all on high alert;

They were bombed and strafed across their Islands and left dying in the dirt.

Japanese Zeros plastered bullets on the fuel tanks at Stokes Hill Wharf,

Then strafed A.I.F. Gun turrets, as they slowly changed their course.

They attacked the Catalina base at Doctors Gully then flew down by the shores

Where they bombed another flying boat base and turned around for more.

Then the bombers flew down Smith Street, Cavanagh as well;

Demolished shops and the Post Office—it was just like bloody hell.

Melville Island, Groote and Bathurst, Torres Strait and Broom as well;

Katherine also copped some flack, Strauss airstrip, Hughes and Pell;

The USS Peary's gun crew were outstanding as she slipped beneath the waves.

Now she rests I our beloved harbour—a proud US Naval grave.

Seventy years we've been allies through blue skies and 'cross the waves
We share a common bond for peace, Australia and the USA.

God bless our wonderful countries and peace be with you all.

Darwin, we now salute you

World War II

Livestock Exports

Private Health Insurance

Senator RONALDSON (Victoria) (21:41): I would like to associate myself with the comments of Senator Crossin. I was also fortunate enough to be in Darwin for the weekend, particularly for 19 February, and I was at both the Peary and the cenotaph commemoration. I would like to pass on my congratulations to all associated with arranging those commemorative services.

Senator Crossin, I am going to make some comments about your comments in a second. I just want to put you on notice. If you want to stay in the chamber you should feel free to do so.

We should remember, of course, that there were more bombs dropped on Darwin than there were on Pearl Harbour. Nearly 300 fellow Australians died during those bombing raids and it was high time that the anniversary of the bombing of Darwin did become a day of national significance.

I am bitterly disappointed with Senator Crossin's speech today. Senator Crossin finally had the opportunity to acknowledge the role of the member for Solomon in relation to this, and she failed again to do so. I think it is instructive that if you reread Senator Crossin's speech you will find that she spoke about her apparent involvement in the day before she spoke about the day itself. And I think that tells a story.

Senator Jacinta Collins interjecting—

Senator RONALDSON: You were not there and I think you would be very wise to keep quiet in relation to this. Just keep very quiet because you will just dig a bigger hole for yourself, Parliamentary Secretary.

The reality is that the one person who drove this with a motion in the House of Representatives was the member for Solomon. Senator Crossin had opportunity after opportunity to recognise her. None of those 5,000 people who were there on Sunday will forget the response to the two speeches between the Prime Minister's and the Leader of the Opposition's. When the Prime Minister refused to acknowledge the role of the member for Solomon and spoke only of the Minister for Veterans' Affairs, who on my understanding did not even think about proposing such a motion about the official recognition, there was silence, Senator Crossin. When the Leader of the Opposition, who quite rightly referred to the role of the member for Solomon and the role of Senator Scullion, there was widespread responsive applause from those 5,000 people. I thought Senator Crossin might have learnt from that and at least tonight had the dignity and the good grace to acknowledge the person who commenced the commemoration—the member for Solomon. Her churlishness will be long-remembered.

Fortunately that magnificent ceremony last Sunday will be remembered for even longer.

I would like to go on to the matter I wanted to discuss tonight. While I would not describe it as central to my political life, I am, however, no stranger to the meat industry and there was a time so many years ago when I worked on the floor of the Ballarat abattoir. Alas, after a two-month holiday job, I opted for a less eventful career path. My grandfather was somewhat more successful, serving as the Chairman of the Australian Meat Board after his time as the member for Ballarat during the 1930s. But those ties aside, I believe that all Australian businesses, including meat processors, are entitled to
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conduct their affairs free from unlawful interference.

I rise tonight to express concern at the recent airing of footage obtained by Animal Liberation through trespass on the ABC. Contrary to what might be expected, while unethical, this action is perfectly legal for broadcasters. It has been over a decade since the High Court found in the 2001 case of the ABC and Lenah Game Meats that if a broadcaster received footage which they knew was obtained lawfully then so long as the broadcaster was at arm's length from the perpetrator that footage could be aired freely over any objection by the victim. But even if that footage was evidence of some unlawful activity, the fact is that it makes the trespass no less unlawful or justified. The law of course frowns upon trespass. While this broadcaster's loophole continues, however, it must be acknowledged that for Animal Liberation and like-minded groups there is a very real incentive to violate it.

I would now like to turn to contempt for the law and the role of authorities. Honourable senators have no doubt been made aware of the recent closure by the New South Wales Food Authority of the Hawkesbury Valley Meat Processors, an abattoir located in Western Sydney. This happened shortly before Lateline aired undercover footage from which it would appear animals were being mistreated at the facility. I do not feel it appropriate to discuss the allegations against Hawkesbury Valley or the involvement of the New South Wales Food Authority at this early stage in the investigation. The comments of Animal Liberation spokeswoman Emma Hurst, however, in admitting that the footage was obtained unlawfully are an entirely different matter. On 10 February Jen Rosenberg and Ben Cubby of the Sydney Morning Herald reported that according to Ms Hurst, Animal Liberation 'planned the covert operation with the whistle blowing worker and the installation of two pinhole cameras'—and the words 'whistle blowing' in that quote are mine. Such behaviour invariably goes to that old question of 'do two wrongs make a right?' The tort of trespass to land, as summed up by Halsbury's Laws of Australia, at paragraph 415-480, is that:

Every unjustified entry directly by a person on land in the possession of another, which is carried out either intentionally or negligently, is an actionable trespass, even though no damage is done thereby.

Such acts can also amount to a criminal offence, as provided, for example, by section 4 of the New South Wales Inclosed Lands Protection Act 1901 and section 9 of the Victorian Summary Offences Act 1966. It would be quite reasonable to surmise that Animal Liberation has on this occasion broken the law.

I now want to turn to Animal Liberation and the ABC. I am deeply concerned by the recklessness and contempt for the law which Animal Liberation and like-minded groups are, by their activities, promoting. Their attitude is that the end justifies the means, that because their activities can expose animal mistreatment, their activities are above the law. This is an attitude that is beyond unacceptable. But I am also concerned by, and this goes to the very heart of the matter, the actions of the ABC. If a private citizen obtained such footage, the appropriate course of action, in the first instance, would be to go to the authorities, who can and will investigate the matter and take appropriate action. That is due process, to which even the most grievous offenders are entitled.

The ABC deprived Hawkesbury Valley of due process by airing the unlawfully obtained footage, exposing them to public consequence that would normally follow an investigation, but without having allowed
that investigation to occur, let alone begin. A troubling possibility is that, if Hawkesbury Valley had not been presented with footage from reporter Steve Cannane, it might not have made its way to the food authority before the story aired. But I say this more generally: showing such footage is a problem in itself, even if nothing illegal features. The fact is that, to most Australians, the sight of slaughter is not pleasant and can damage the reputation of processors at home and abroad. Compliance with regulations will have little bearing on such innate responses.

The Hawkesbury Valley abattoir is not the only facility into which Animal Liberation and other like-minded groups have trespassed, and from which footage has been passed onto the ABC. If their current 'success', as they no doubt consider it, is left unchecked, it is unlikely to be the last. I am reminded by this incident of one particular anecdote, which occurred in 1999. The victim then was Lenah Game Meats of Tasmania, an abattoir who processed possum meat, which at the time was being exported to China. Then, too, the footage was taken covertly, and, following a High Court appeal in 2001, was featured on the 7.30 Report. Unlike Hawkesbury Valley, the airing of the Lenah footage was not said to show breaches of the relevant welfare standards. Then, as now, the ABC could air the story, despite the footage being a product of unlawful entry, because the broadcaster itself committed no wrong nor were they found to have encouraged or assisted the unknown third parties. Indeed, the High Court indicated that, unless some trade secret was revealed, the fact of the unlawful entry in itself does not provide the victim with any recourse. This means, in effect, that regardless of content or the foreseeable consequences of broadcast—and, again, Lenah did nothing illegal—so long as the broadcaster are at arm's length from the trespass there is no prohibition on the footage going to air.

There is undoubted value in the exposure of unlawful activities. I am not convinced, however, that, especially in the meat industry, the national broadcaster should be playing that role. The fact that Animal Liberation, in the course of their trespass, have exposed alleged illegality makes their actions no less unlawful—indeed, it is not their role as private citizens to be conducting investigations which are the proper domain of the authorities. And what message does the national broadcaster send when it airs footage that it knows has been obtained illegally? It says: 'Well, you broke the law, but we won't punish you; we'll reward you! After all, we can't be sued; we'll air the footage that you could not put on your own website.' To break the law and still get your desired result is more than sufficient encouragement to do it again.

What we saw at Hawkesbury Valley is a direct result of the precedent set in 2001. Indeed, if Animal Liberation knew the ABC was prepared to air such footage, it stands to reason that the broadcaster is effectively an accessory to the trespass. The ABC has behaved in an irresponsible manner and it has done so on numerous occasions. It is a reckless trend, with no foresight as to the consequences. What if the investigation into the Hawkesbury Valley footage were to clear the facility? What if the footage misidentified the location? The ABC will have destroyed livelihoods and reputations and, at the end of the day, it is the taxpayer who will foot the bill. This is not about freedom of press but about the responsibility of journalists. Would the ABC have aired the footage without first informing the regulator? Was it not at least prepared to wait for the investigation to begin before showing the footage? The ABC, like all broadcasters, plays with people's livelihoods when it
reports such issues. This cavalier attitude must cease, and the ABC should start behaving more responsibly.

In finishing this part of my contribution tonight I want to say the following. What makes the trespass at Hawkesbury Valley distinct from a decade ago is that Animal Liberation have been very open about their involvement. The fact they have exposed some evidence of illegality is no reason for them to be exempt from prosecution. This is of course, I acknowledge, a matter for the New South Wales authorities. What also must be considered, however, is whether a broadcaster should be permitted to behave as the ABC has done in this instance. No broadcaster should be providing encouragement for trespass—nor should the law allow them to. Are we really saying that the actions of Animal Liberation are wrong but that a broadcaster who benefits from that wrong has no responsibility? Are we saying that only the third party can cause the damage, that the broadcaster bears no responsibility? The events following the break-in at Lenah Game Meats, and the subsequent High Court ruling, set a dangerous precedent, and we are now seeing the results. Even if footage exposes illegality, the actions of the ABC, and the laws allowing it to so act, are contrary to the laws against trespass and encourage further trespasses. This matter must be addressed.

The Health Insurance Restricted and Regional Membership Association of Australia, otherwise known as HIRMAA, is a peak industry body representing all 13 restricted-access insurers and four non-restricted-access regional private health insurers. It was formed in 1978 and, since its formation, HIRMAA has advocated for the preservation of competition, believing it to be fundamental to Australians having access to the best value healthcare services. I want to read out some of the funds that are part of HIRMAA, because it puts paid to the lie that only the rich have private health insurance and therefore that justifies the government's recent actions in relation to the PHI rebate. Just try some of these, Mr Deputy President—I will not go through all of them: Defence Health Ltd, Navy Health Ltd, Police Health Ltd, Queensland Country Health Ltd, Queensland Teachers Union Health Fund Ltd, Railway and Transport Health Fund Ltd, Reserve Bank Health Ltd, Teachers Federation Health Ltd and Transport Health Ltd. They are representing not the rich but average Australians in the Defence Force, in the teaching profession, in railway and transport: not the rich at all.

HIRMAA wrote to, and pleaded with, the Independents to do something about this—particularly the country based Independents. What they quite rightly said was that as a result of any 'downgrade' of 'health insurance as a result of the rebate changes, all privately insured Australians will be forced to pay higher premiums.' Ron Wilson, Executive Director of HIRMAA, wrote an open letter to Mr Oakeshott. There was another letter from Mr John Rashleigh, the President of HIRMAA. Mr Wilson wrote to Mr Oakeshott and said:

As you are aware, many private health insurers in Australia are not-for-profit restricted and regional funds. These funds operate solely to offer their Members the best health insurance at the most affordable price. Members of these funds will find that they will now have higher premium increases and for some this will mean they will drop or downgrade their insurance. This will inevitably place added pressure on the capacity of private hospitals, especially in country Australia—

I repeat: especially in country Australia—to provide full services and access to specialists.

In an open letter to the newspapers Mr Wilson said:
Independent MPs thinking of supporting the rebate changes should also consider the negative impact on specialists working in private hospitals in rural and regional Australia. As people leave private health insurance, private hospitals in country Australia will have reduced capacity to attract and retain specialists.

In a letter to Mr Windsor, dated 17 August last year, Mr Rashleigh, the President of HIRMAA, said:

As we have communicated to you earlier, HIRMAA is aware of the wide variation in the estimates of the impact these changes will have on PHI membership. The Federal Government estimates that the impact will be as little as 25,000 less memberships (99.7 per cent retaining their PHI) while a recent survey conducted by Deloitte, on behalf of the Australian Health Insurance Association, concluded that:

- 1.6 million Australians will exit their private health hospital cover with a further 4.3 million downgrading their level of cover;
- Private health insurance premiums will rise 10 per cent above what would otherwise be expected;
- There will be an additional 845,000 treatments in public hospitals as people withdraw from their private cover at an estimated cost to government of $3.8 billion.

It is our contention, that if you take a conservative view that the damage lies somewhere in between the two estimates, that damage will be significant and with long-term ramifications.

As a result of strong PHI coverage, private hospitals throughout Australia, and particularly in regional and rural Australia, have been able to provide invaluable services to millions of Australians. Well over half of all surgical procedures take place in the private hospital system and that includes Tamara Private Hospital in Tamworth and Armidale Private Hospital. It is inconceivable that any government would pursue any policies that will reduce the capacity of these hospitals to provide first class facilities and services and the availability of first class clinical specialists to patients accessing these hospitals.

I have a lot more information provided to the Independents by HIRMAA, representing, as I said before, average Australians who are doing average jobs and are far from rich. What Mr Oakeshott and Mr Windsor have done is to put at risk the health of their constituents, whom they ostensibly represent, on the back of the clear danger to the private health and hospital system in rural and regional areas.

This policy was on the back of another broken election promise. The government stand utterly condemned for these changes, which they swore they would never make. They come on the back of the carbon tax and on the back of these Independents letting down the people who elected them. (Time expired)

Colvin, Ms Marie
Sri Lanka

Asian Forum of Parliamentarians on Population and Development

Senator RHIANNON (New South Wales) (22:02): Tonight I pay my respects to journalist Marie Colvin and photojournalist Remi Ochlik, who were recently killed in Syria. Marie lost her eye in Sri Lanka when she was shot at by the military while entering government territory after filing a report from the then restricted Tamil Tiger held territory in 2001. In 2009 Marie negotiated the surrender of two Tamil Tiger leaders, Mr Nadesan and Mr Puleedevan, in an incident that is known as the White Flag Massacre.

For several days during the final stages of the war in 2009, Ms Colvin had been the intermediary between the Tiger leadership and the United Nations. Her contact at the United Nations was special envoy to Colombo Vijay Nambiar, Chief of Staff to Secretary-General Ban Ki-moon. In the early morning of 18 May, Ms Colvin was told by
Mr Nambiar that he had been assured by Sri Lankan President Rajapaksa that Mr Nadesan and Mr Puleedevan would be safe in surrendering. All they had to do was 'hoist a white flag high'. Hours later, as both men and their families walked towards Sri Lankan army lines with a white flag in a group of about a dozen, they were all shot down and massacred in cold blood by the Sri Lankan military. Ms Colvin was a witness to the brutal atrocities committed in Sri Lanka and she will forever be remembered for her brave commitment to justice and human rights.

This brings me to a very disturbing briefing taking place in Parliament House tomorrow. Called 'A nation moves on: Sri Lanka's journey from conflict to reconciliation', this presentation is being hosted by MPs Chris Hayes and Don Randall. One of the speakers is the High Commissioner for Sri Lanka, Mr Samarasinghe. The high commissioner was the commander of the Sri Lankan navy during the last days of the war, when civilians trapped in the government designated no-fire zone were shelled from the sea. On 17 October 2011, it was reported in the media that the International Commission of Jurists named Mr Samarasinghe in a submission containing allegations of war crimes. The International Commission of Jurists' Australian section's submission was sent to the Commonwealth Director of Public Prosecutions, as well as to the offices of the Prime Minister and Minister for Foreign Affairs.

As I said in October last year, I have spoken extensively to two Australian Tamils who were in the conflict zone in 2009 and witnessed artillery fire from the sea, where the Sri Lankan navy was patrolling into densely populated civilian areas in the final stages of the war. I and Senator Bob Brown have previously said Prime Minister Gillard should ask the Sri Lankan government to recall the Sri Lankan high commissioner while he is investigated for alleged war crimes or, if they are unwilling to do that, he should be expelled. I reiterate this position tonight and once again ask Prime Minister Gillard to give this matter priority.

I note with disappointment what is being reported by a pro Sri Lankan government website, Asian Tribune, that Prime Minister Gillard on 2 February this year hosted at the Lodge the high commissioner and Mrs Samarasinghe at the reception for the visiting Sri Lankan cricket team. I ask all those who are planning to attend the presentation on Sri Lanka by the high commissioner tomorrow to understand that the title for the event, 'A nation moves on: Sri Lanka's journey from conflict to reconciliation', is most likely a construct of a public relations company. The Sri Lankan government has not yet taken meaningful steps to hold to account those in the Sri Lankan government or military implicated in allegations of war crimes and crimes against humanity. Until these issues are addressed, Sri Lanka cannot move on.

In 2009, an estimated 40,000 Tamils were massacred. I have spoken to people who have very legitimate reasons to believe this figure could be even higher, possibly 100,000 or more. Three hundred and eighty thousand Tamils were imprisoned by the Sri Lankan government in barbed wire camps in which stories of abuse, kidnapping, torture and sexual violence were rife. I have met Tamils who had to escape these camps to ensure their survival. Human Rights Watch says makeshift hospitals in the war zones were bombed by the Sri Lankan army 30 times in five months. The Channel 4 documentary titled Sri Lanka's Killing Fields—which I, along with my colleague in British Labour, MP Siobhain McDonagh, recently nominated for
a Nobel Prize—brought the nightmare of what happened to the Tamils in Sri Lanka into our homes. We must not forget these horrors.

It is obvious from the Sri Lankan government's response to the Lessons Learnt and Reconciliation Commission report that the Rajapaksa regime has no interest in addressing the issue of war crimes and crimes against humanity. This is despite calls to do this from the UN Secretary-General's Panel of Experts, Amnesty International, International Crisis Group and Human Rights Watch, not to mention those who were fortunate enough to survive the atrocities and are now key witnesses. As well as this there has been no detailed action plan from the government of Sri Lanka on how it is going to implement the recommendations of its LLRC report.

An article published in the UK Guardian yesterday by Archbishop Desmond Tutu and former Irish President Mary Robinson stated:

This week the UN Human Rights Council has an opportunity and a duty to help Sri Lanka advance its own efforts on accountability and reconciliation. Both are essential if a lasting peace is to be achieved. In doing so, the council will not only be serving Sri Lanka, but those worldwide who believe there are universal rights and international legal obligations we all share.

According to news sources, the United States government has decided to directly submit a resolution on Sri Lanka at the UN Human Rights Council session. The sources who advise me on this issue understand that there will be support for the US resolution. I have seen what I believe is the draft text of the resolution and think that it falls disappointingly short of calling for an independent investigation into the war crimes and crimes against humanity that took place on both sides in Sri Lanka during the civil war. I do believe the resolution from the US provides a constructive step forward, however, and should be supported. The least Australia can do is offer its support to this US initiative.

Ultimately there has to be an independent investigation into what happened in Sri Lanka during the 26-year civil war. Along with my Greens colleagues in federal parliament, I will continue to add my voice to the growing international campaign to ensure this becomes a reality.

I will now move on to the issue of population health. In December last year I was fortunate to travel to Bangkok to participate in the Asian Forum of Parliamentarians on Population and Development Focus Group on Population Policy Tracking and Monitoring. The participants of this focus group were a diverse group, ranging from academics to politicians from a number of countries, and were focused on one key outcome: to brainstorm and develop new ideas in monitoring and improving population policy geared towards managing HIV and population health. A key focus of the conference was the need to create new policy directions in managing population health and the spread of HIV. There is an increasing recognition of the need for policies that recognise the interconnection between HIV and other sexual and reproductive health issues, including gendered power inequalities such as violence against women. This message was reiterated in the formal part of the events I attended as well as in many of the one-to-one discussions and small group meetings I participated in.

According to the UN Family Planning Association, one-third of all illness among women aged 15 to 44 years in developing countries is related to pregnancy, childbirth, abortion, reproductive tract infections and HIV/AIDS. These health issues do not occur in isolation from each other. The push for
greater integration of HIV related policies and access to sexual and reproductive health care comes 16 years after the introduction of the AusAID funding restrictions on family planning programs, championed by former senator Mr Brian Harradine. These restrictions, in place for 13 years, until 2009, forbade AusAID from funding any organisation that provided any form of education about abortion, even when a woman's life was at risk, and even restricted education about and access to some forms of contraceptives.

As a consequence of those restrictions, which echo a similar policy in the US, HIV awareness, family planning, and sexual and reproductive health were treated as separate issues, severely compromising women's ability to access comprehensive sexual and reproductive health care and advice. This meant that healthcare staff in countries already ravaged by HIV were being trained in reproductive health without also being trained in effectively understanding and dealing with HIV and the sociocultural factors contributing to its spread. The reverse was also true: people were being trained in HIV and AIDS treatment without a comprehensive understanding of sexual and reproductive health. The AusAID restrictions persisted for 13 years despite the fact that, according to the UNFPA, 70,000 women each year die from unsafe abortions, while many more suffer from infections and other complications. Although most of these restrictions were lifted in 2009, the effects of such policies in communities are ongoing.

We know there is clear evidence linking HIV to power inequalities between men and women. Gender based violence is both a cause and a consequence of HIV infection. Women living with HIV experience greater stigma and discrimination than men and are often accused of bringing HIV into the household. In sub-Saharan Africa, women are often reluctant to get tested for HIV or to share their results for fear of being punished with violence. Domestic violence also affects women's ability to negotiate safe sex or refuse unwanted sex, and to access and maintain treatment for HIV. These are just a few of countless examples of gender based power inequalities that act as drivers of HIV. Yet, largely as a result of the politicisation of population and development policies, such issues generally continue to be ignored as factors that must be addressed in order to combat the spread of HIV and improve women's sexual and reproductive health rights.

Programs and policies addressing HIV, gender based violence and access to sexual and reproductive health largely continue to operate separately. This means the wellbeing of women who are affected by multiple issues, for example, a pregnant woman who is also HIV positive or a woman at risk of infection as result of domestic violence, is severely compromised.

While in Bangkok, I also met with the regional director and deputy of United Nations Women, and with Susan Paxton, the director of a HIV-positive women's network called Positive Response. The real-life stories that they related of women living with HIV illustrate the consequences of a lack of integrated health care. Positive Response had, for example, collected stories of women presenting at hospitals and clinics while experiencing difficulties in childbirth and being denied access because of their HIV-positive status. One story involved a doctor attempting to push a child back inside its mother during delivery for fear the mother's blood would 'contaminate' the ward.

Two stories published by UN Women illustrate the reality for many women. One is the story of Prema, a young woman who experienced isolation and discrimination as a result of her HIV status, and the other concerns a young Indian widow. Prema is a
mother of two sons, Prema and her husband, Krishna, were content with two children and Prema asked the hospital staff who delivered her second child to perform sterilisation immediately after the birth. However after the nurse took a blood test, Prema was inexplicably asked to leave the hospital immediately. Her husband took her newborn son away from her and forbade her from breastfeeding or even holding him. He later told Prema that she had tested positive for HIV. The whole household kept their distance from Prema, including her husband. She was prevented from seeing her children, given no medical care and, as her health worsened, her husband told her that she would die soon.

When Prema’s family was eventually informed of her condition, her brother came rushing to her side and took her away from the home. He had heard of the positive work that the local AIDS Centre was doing. There, the doctor was horrified at the treatment that Prema had received and that she had been tested for HIV without her consent and had been given no care or advice once her positive result came through. Prema’s case illustrates the suffering experienced by HIV-positive women who are given inadequate health care steeped in ignorance, and the incredible difference there can be when they are given comprehensive sexual and reproductive health care and education, free of ignorance and stigma.

Another young woman in India tells the story of how she was treated when her husband died, having tested positive to HIV one week before his death. When she too tested positive, her mother-in-law ordered her to leave the family home and accused her of killing her only son. So she was forced to leave with her young daughter, after her in-laws told her they would have kept their grandchild if she had been a son. As a widow, this woman was denied any form of support from her in-laws and could not be provided for by her own family since her sister was shortly to be married and needed money for a dowry. She now lives in a shelter for widows where her daughter plays with the daughters of other HIV-positive women who have been abandoned by their families.

These women’s stories illustrate the need to address the interrelatedness of HIV education, family planning and gender power imbalances in creating comprehensive sexual and reproductive health programs. To quote UN Women, at present:

... most national responses to HIV and AIDS see women through a public health lens: either as mothers of unborn children or as sex workers at high risk for sexually-transmitted infections.

We need to recognise the complexity of sexual and reproductive health issues faced by women if we are to get our policy settings right and thereby invest in the programs that really work.

I am glad to see that the heavy restrictions on Australia’s funding of sexual and reproductive health services have been largely lifted. I congratulate all those who helped to return the aid policy to one based on an evidence based approach. However, there is still much progress to be made in the area of providing more integrated sexual and reproductive health services. Recognition of this urgent need for better services must occupy a key place in the future directions of HIV policy and I look forward to hearing about the progress AusAID makes in this area.

**Member for Dobell**

Senator **FIERRAVANTI-WELLS** (New South Wales) (22:19): by leave—On a number of previous occasions I have traversed the murky dealings of the member for Dobell and his New South Wales right-wing mates. Since my last contribution in
Tuesday, 28 February 2012

this place on 22 November 2011 we now know this desperate and dysfunctional government, which is hanging on by its fingertips, has hatched a grubby plan to keep the member for Dobell in parliament in the event he is charged. In the Daily Telegraph of 9 December 2011 we read:

Senior Labor sources have confirmed that, should Mr Thomson be charged, he will be suspended—not expelled—from the Labor Party, which would buy the party more time prior to a conviction.

Meanwhile Kathy Jackson continues to call for an end to the investigations about the HSU. On 15 December 2011, the Australian reported her comments:

'We want answers,' she said. 'The union needs to just get on with representing its members and not be tied up with all these investigations.'

All the while the Prime Minister continues to allegedly have faith in the member for Dobell. Various media reports such as the Age article 28 January 2012 entitled 'Material shows scale of Fair Work union inquiry' outlines the extent of the documents in this matter. Fair Work Australia has revealed the scale of its lengthy investigation into corruption at the Health Services Union, saying that it has amassed more than 6,500 pages of material and that the people subject to the probe have until 5 March to respond to the case against them. The article also states that the investigation had made adverse findings against Mr Thomson. Not surprisingly, the Australian Labor Party will use all means available to make sure any reports never sees the light of day. Transparency in their union dealings is not in their DNA. We know that there has been at least collusion over media management of the investigation. This sordid affair has been going on since 2009. This is longer than the Watergate inquiry, longer than the Korean War, longer than the time it took to build the Sydney Olympic Stadium. If the Australian Labor Party and this Prime Minister had nothing to hide, why the delay in releasing findings? It is simple. This is just another grubby cover-up. We will await the 5 March deadline for responses from various players with great interest.

Of course, the legal fees on all sides are building up. We know that the cost of Fair Work Australia investigations have blown out to over three quarters of a million dollars. One wonders about Mr Thomson's ongoing legal bills and those of Mr Williamson and whether there is any arrangement to meet those. Previously I have stated my understanding that the Australian Labor Party paid Mr Thomson's legal costs of his defamation proceedings to the tune of a quarter of a million dollars. No-one from the Australian Labor Party has ever repudiated the veracity of this figure. My understanding is that Mr Thomson was prepared to walk unless his legal fees were paid. My understanding is that the amount paid, as I said, was a quarter of a million dollars.

Given what we have read in the paper, the person most likely to be able to clarify this is Senator Arbib. On 22 August last year and on other occasions, I have traversed how someone in the New South Wales ALP must have authorised the payment. Did this figure cover both Mr Thomson's costs and the newspaper's legal costs? I suspect not. So the question remains: how much more was paid out in legal fees? Who paid them? Were they paid for by the HSU? My question is: is Sussex Street still paying Mr Thomson's legal expenses?

Let me remind the Senate of the main person thanked in Mr Thomson's maiden speech. Yes, you guessed it, it was now senator, Mark Arbib. Mr Thomson said in his speech:

At this stage I need to acknowledge the fantastic advice and assistance I received from
Mark Arbib, Karl Bittar and Sam Dastyari from the New South Wales ALP head office.

I did invite Senator Arbib to come clean and tell us how much it was and who did the deal. Perhaps now that Senator Arbib is leaving the Senate, he might write a tell-all book. I am sure it would be a bestseller.

I remind the Senate of my comments on 20 September 2011 when I traversed the corporate history of John Gilleland, his wife Carron and their string of companies, and their connection with Mr Thomson and Mr Williamson. Mr Gilleland's corporate history included a string of deregistered companies and liquidations. As we know, Mr Williamson and Mr Thomson allegedly received secret commissions from a major supplier to the Health Services Union. The two men had previously been provided with American Express cards by John Gilleland, who runs a graphic design business. The credit cards were issued in the names of Mr Thomson and Mr Williamson but were attached to Mr Gilleland's account. The Sydney Morning Herald article of 17 September last year states:

At a HSU function this year, Gilleland's wife Carron privately complained to senior union officials that Williamson had "run amok" with the credit card. According to one official, Carron Gilleland said, 'He even paid his private school fees on it' and 'this was not part of the deal'. Offering or receiving a benefit as an inducement to act in a certain way in business dealings may constitute a criminal offence.

According to the HSU's accounts for 2009-10, John Gilleland, 64, and Carron Gilleland, 51, receive about $680,000 a year to produce 10 issues of the union's newsletter, Health Standard. These figures were up to 10 times the amount other unions paid for similar things, industry sources said.

As I have previously stated, the Gillelands have an interesting corporate history. The Sydney Morning Herald article of 17 September last year states:

The Health Standard's producer, John Gilleland, has a colourful past. In 1984 he and his brother, Ian, were arrested by federal police over their alleged role in use their printing company to produce counterfeit German currency. The quality of the notes was so good that they were given a seven out of 10 rating by the Reserve Bank. While John Gilleland was acquitted by a jury on 1986, at a subsequent trial, Ian was found guilty and sentenced to five years jail.

Despite this, John Gilleland became director of Edley Pty Ltd in 1989 and his wife became a director in March 1993. In March 1993 he also became a director of Carron McDonald and Associates and from about 1990 to 1993 the Gillelands lived at 830 Barrenjoey Road, Palm Beach.

As I live on the northern beaches of Sydney, I am familiar with this area. This is rather a modest abode. John and Carron Gilleland became directors of another company, Communigraphix Pty Ltd, in March 1996 and have been directors since that date. In 1997 its principal place of business was located at 142 Avalon Parade, Avalon—certainly a step up from Barrenjoey Road, so business must have improved for the Gillelands. In November 1998, only a year or so later, the principal place of business of Communigraphix becomes a rather large waterfront property located at 156 Hudson Parade, overlooking Clareville Beach. Clearly the printing business was a lucrative one or the Gillelands were engaged in other activities where the financial returns were more rewarding.

In November 1998, Mr Gilleland was also a director of Baxter Manning Group Pty Ltd. In February 2001, his company was deregistered and he ceased to be a director. In 1999, Edley Pty Ltd subsequently went into liquidation with the Supreme Court appointing a liquidator. The company was deregistered in December 1999. Despite this financial setback, the principal place of
Communigraphix was moved to 909 Barrenjoey Road, Palm Beach, which is a multimillion dollar, two-storey house overlooking Careel Bay and Pittwater. It is clear that by this stage either the printing business was paying very, very well or indeed those other activities they were engaged in were definitely raking in big dollars. Then, in January 2008, John and Carron Gilleland were appointed directors of another company, CGX Media Pty Ltd, also located at the Palm Beach abode.

My point here is that John and Carron Gilleland have done remarkably well. In the 10 years from 1990 to 2000, despite what appears to be on paper a series of corporate failures, they had four separate abodes starting from a modest one to a multimillion dollar property overlooking Careel Bay from which they ran their businesses. Hence it came as no surprise to me to read in the Sydney Morning Herald article on 24 February 2012 entitled 'Thomson union printer raided over credit card':

Police this morning raided the house of the man accused of providing secret commissions to the Health Services Union's former general secretary Craig Thomson and the union's head Michael Williamson.

Detectives from Strike Force Carnarvon executed a search warrant at the Palm Beach house of printer John Gilleland 65 and his wife, Carron, shortly before 7 am today.

Several hours later police from the computer crime squad arrived to assist in the search of the Gilleland's house.

The article trawls through the Herald's previous revelations and states that:

Either offering or receiving a benefit as an inducement to act in a certain way in business dealings may constitute a criminal offence, which can attract penalties of up to seven years' imprisonment.

Let us not forget that the card which is the subject of the Gilleland allegations is separate to Mr Thomson's union issued one. The article states:

Mr Thomson is subject of two other investigations being conducted by the Victorian Police and Fair Work Australia into allegations that he used his union-issued credit card to withdraw $100000 in cash advances and to pay for prostitutes. This is a separate card to the one that was the subject of today's police raid.

I have raised these matters previously, because I was seeking to join the dots regarding the suspicious connection between Mr Thomson, Mr Williamson and the Gillelands. Hence, I was not at all surprised to read the article in the Sydney Morning Herald on 25 February 2012, entitled 'Police uncover more credit cards linked to union boss'. I quote:

POLICE have discovered further unusual credit cards associated with the Health Services Union's president, Michael Williamson, as they continue to investigate allegations he and the former general secretary Craig Thomson received secret commissions via credit cards supplied to them by a major contractor to the union.

Let us not forget that the American Express credit cards were issued in the names of Mr Thomson and Mr Williamson, but as the article states:

... were attached to Mr Gilleland's account and the bills incurred on those cards were allegedly paid for by Mr Gilleland.

Interestingly, the article reveals some other matters. Firstly, that the police stayed for more than eight hours and, secondly, 'they left carrying eight boxes of documents and two computers'. I have no doubts that there will be many more revelations to come. Of further interest is the other revelation in the article that:

... police are investigating allegations Mr Gilleland falsely stated on his Amex application for the extra cards that the two men were his brothers-in-law.
Records show that Carron Gilleland was born in Auckland in July 1960, and Mr Thomson was born in Wellington in July 1964. In his maiden speech, Mr Thomson referred to his sister Jane, who was present. Whilst there may be a connection, this is not known. Presuming none exists, the question is whether Mr Thomson and Mr Williamson were aware that they were being passed off as Mr Gilleland's brothers-in-law. I am sure that Strike Force Carnarvon will tell us more about this later. If Mr Thomson and Mr Williamson did know then there would be further serious legal issues to answer.

I would now like to return to another aspect of the 22 November 2011 article in the *Sydney Morning Herald* entitled 'Link by link, the powerbrokers of the Right emerge'—namely, the link between Senator Arbib and the Williamson family. The article states:

Meanwhile, questions have been raised in Labor circles as to whether Mr Arbib, the federal Sports Minister, was receiving an undisclosed benefit by not paying rent when staying in Canberra during parliamentary sitting days.

The article goes on to state:

During 2007 to 2009, Mr Arbib stayed in Alexandra Williamson's two-bedroom apartment in Forrest. Ms Williamson, a staffer in the office of the Prime Minister, Julia Gillard, is the daughter of Mr Arbib's and Mr Roozendaal's close friend, embattled Health Services Union boss Michael Williamson, who is the subject of a police investigation.

Just before Labor lost the last election Mr Roozendaal appointed Mr Williamson to a government board.

Mr Arbib, through a spokesman, said he was adamant that he paid rent directly to Ms Williamson. Ms Williamson's only comment, sent by email, was: "Mark Arbib and I lived together where he paid a portion of the rent."

It is unclear who paid all the rent. Did the funds come from the HSU? I say this because Mr Williamson has been generous in paying rent for his children. In an article dated 16 September 2011 in the *Sydney Morning Herald* entitled 'Union boss’s son used HSU building to run his own business' it is stated:

THE union boss Michael Williamson failed to disclose that his son was using a Health Services Union building to run a recording studio.

In 2006 the HSU bought an almost $800000 industrial building in Bankstown, near Sydney Airport. Two years later Mr Williamson's son, Chris, opened Studio 19, a recording and rehearsal studio in the industrial unit which he rents out on a commercial basis.

Chris Williamson is a bass guitarist with the band Overpass. According to its Facebook page, "Studio 19 is an acoustically treated studio which prides itself on offering the highest level of audio production whilst providing excellent customer service to Australia's leading acts."

The point of this is that, as the article states:

There is no disclosure of this in the HSU's accounts, and union sources confirmed yesterday it was an uncommercial arrangement that had not been disclosed to or approved by the union.

The article then focuses on Mr Gilleland and the American Express cards. Interestingly, in an interview by Tank Stream's Catherine Kennedy, Mr Williamson was asked:

Michael, there's been some media articles suggesting that the union is in crisis. That's far from the truth?

Mr Williamson replied:

The practical situation is that the union is in a fine position. It moving forward, and we're in good shape.

The article discloses Mr Williamson's son is employed as an HSU media officer and lists his employment on his internet profile as a project officer at Tank Stream Productions. Of course, there is no mention of the studio. Tank Stream Productions, a boutique video production studio, is in the HSU headquarters in Pitt Street. It is clear that
they were paying very little rent. What a cosy family arrangement at the expense of some of the most low-paid workers in this country. It is clear that the longer the sad and sorry saga of Mr Thomson drags on, the more unanswered questions remain. One thing is clear: there is a cover-up and we are yet to understand the full extent of all the players involved, the intricate and internecine relationships that bind the New South Wales Right to a code of secrecy. The Australian public deserve answers. They deserve to know precisely what this cover-up is about. As my colleague Christopher Pyne stated in the other place when there was a motion pertaining to Fair Work Australia's investigation of the member for Dobell:

There is a protection racket that surrounds the member for Dobell and we all know why: it is not to keep him in his job, it is to keep the Prime Minister in hers.

Mr Pyne quoted an old mafia saying: 'A fish starts to stink from the head.' It is very clear that, in this whole sordid Thomson affair, the fish definitely does stink from the head. There is absolutely no doubt that this is a major cover-up and it all starts from one place. And why? It is because this is not just about keeping the member for Dobell in this place; it is about protecting the Prime Minister.

Those good Labor members on the opposite side both in this place and in the other place must absolutely cringe when they have to defend the member for Dobell and at having him as part of this government. As Mr Pyne says, they are:

... having to rely on the member for Dobell to stay in government, because without his vote the government will fall. That is what this is all about: protecting the member for Dobell in order to protect the Prime Minister.

**Senate adjourned at 22:38**

**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.]

Administrative Appeals Tribunal Act—Select Legislative Instrument 2012 No. 7—Administrative Appeals Tribunal Amendment Regulation 2012 (No. 1) [F2012L00396].

Australian National University Act—

Australian National University Academic Board Statute 2012 [F2012L00418].


Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 4 of 2012—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2012L00406].

Civil Aviation Act—Civil Aviation Safety Regulations—

Airworthiness Directives—

AD/BEECH 33/48 Amdt 1—Forward Elevator Cable [F2012L00409].

AD/BEECH 35/74 Amdt 1—Forward Elevator Cable [F2012L00411].

AD/BEECH 36/54 Amdt 1—Forward Elevator Cable [F2012L00412].

AD/BEECH 50/34 Amdt 1—Forward Elevator Cable [F2012L00413].

AD/BEECH 55/98 Amdt 1—Forward Elevator Cable [F2012L00414].

AD/BEECH 56/36 Amdt 1—Forward Elevator Cable [F2012L00415].

AD/BEECH 95/34—Forward Elevator Cable [F2012L00416].

Instrument No. CASA EX14/12—Exemption—navigation and anti-collision lights [F2012L00403].
The following government documents were tabled:

Audio-Visual Copyright Society Limited (Screenrights)—Report for 2010-11.


Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2011.

Coal Mining Industry (Long Service Leave Funding) Corporation—Report for 2010-11.

Innovation Australia—Report for 2010-11.

Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 October to 31 December 2011.

Treaties—

Bilateral—Agreement between Australia and the European Union Amending the Agreement on Mutual Recognition in relation to Conformity Assessment, Certificates and Markings between the European Community and Australia, done at
Brussels on 23 February 2012—Text, together with national interest analysis and annexure.

Multilateral—

Convention providing a Uniform Law on the Form of an International Will, done at Washington D.C. on 26 October 1973—Text, together with national interest analysis and annexure.

Text, together with national interest analysis—

Amendments to the Agreement Establishing the European Bank for Reconstruction and Development, adopted at London on 30 September 2011.

Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on 18 December 2002.

**Indexed Lists of 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—

Agriculture, Fisheries and Forestry portfolio.

Department of Families, Housing, Community Services and Indigenous Affairs.

**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—


Treasury portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Finance and Deregulation
(Question No. 1305)

Senator Abetz asked the Minister for Finance and Deregulation, upon notice, on 31 October 2011:

In regard to the announcement made by the Government that it would remove the necessity for restaurants and cafes to provide separate menus on weekends and public holidays that incorporate service surcharges, ahead of the decision were there any representations from the Minister for Tertiary Education, Skills, Jobs and Workplace Relations or the Minister for Small Business; if so, can details be provided.

Senator Wong: The answer to the honourable senator's question is as follows:


Fair Work Ombudsman
(Question No. 1522)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 24 January 2012:

With reference to the Fair Work Ombudsman annual report for 2010 11:

(1) Does the report reference the Fair Work Ombudsman's acknowledged errors in its Wage Rate Calculator, on its website and in advice given to the public; if not, why not.

(2) (a) What performance indicators or other measurement tools are used to track these and other errors; and

(b) if such errors are not tracked, how can the public be satisfied that the office of the Fair Work Ombudsman is improving its performance.

(3) In regard to the 'performance snapshot' on page vi, can the 825 000 calls to the Fair Work Infoline be broken down into categories, such as: employer or employee; small business or large business; legal, union, or representative roles, as opposed to individuals; if so, can this data be provided.

(4) Of the 32 000 education packs forwarded to employers, how many were:

(a) supplied to small businesses; and

(b) left as a result of education visits.

(5) Does the Fair Work Ombudsman engage media monitoring services; if so, at what cost.

(6) In regard to the compliance rates referred to on page 3:

(a) does the Fair Work Ombudsman have any information suggesting that employers have accidentally or unwittingly over paid staff; and

(b) are records kept in relation to these statistics.

(7) Given that the report states that a Fair Work Ombudsman employee received a Public Service Medal for 'creating an online tool that helps employees calculate how much they should be paid', can the Minister confirm that problems with the calculator were not with the tool itself, but with the information that was input by others.

QUESTIONS ON NOTICE
(8) In regard to the pie graph on page 41, titled 'Breakdown of attributes of alleged discrimination complaints received in 2010 11', can a list be provided detailing how many of these alleged discrimination complaints were valid, including a break-down as per the categories presented in the pie chart.

Senator Arbib: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) The Fair Work Ombudsman Annual Report for 2010-11 does not refer to errors in the on-line pay tools. From 3 February 2012 all updates made to rates of pay in the pay tools, including identified errors, are reported on the Fair Work Ombudsman website.

The Fair Work Ombudsman has committed significant resources to identifying and correcting errors in data supporting the online pay tools. The Fair Work Ombudsman is confident that all of the identified errors have been corrected. Although the number of errors was relatively small, the review process has been necessarily careful and comprehensive.

Throughout this process it has been necessary to ensure the accuracy of the corrections made and determine the basis upon which the errors occurred. Where necessary the Fair Work Ombudsman consults with the relevant industry bodies.

Having completed that process in respect of the errors that have been identified, a full list of those errors, along with other relevant updates to the pay tools, has been published on fairwork.gov.au.

(2) The Fair Work Ombudsman records and reports upon all changes made to the data supporting the online pay tools.

A quality assurance process that involves at least one peer review occurs prior to any major data updates to the database that supports the online pay tools. Additionally, the Fair Work Ombudsman monitors and investigates all feedback regarding the accuracy of the pay rate information in the online tools. Where issues are identified these are resolved in a timely manner and parties concerned are kept informed.

(3) The Fair Work Infoline only records whether an enquiry is made by an employee or employer, or "other". The categories of employer and employee include their representatives. The Fair Work Infoline does not separately record statistics of calls from unions, employer organisations and legal representatives.

Of the 825,000 calls answered by the Fair Work Infoline in 2010-11, 35% were from employers (or their representatives) and 58% were from employees (or their representatives). A further 7% was recorded as "other".

The Fair Work Infoline does not uniformly record whether the enquiry is from, or pertains to, a small business. However, a survey of 1,500 callers was conducted during a two week period from 10 May 2010. The data from this survey indicates that around 81% of the employers self-identify as having 15 or fewer employees.

(4) At least 23,520 of the 32,000 employer education packs were provided to employers during transitional education visits. Of those, approximately 91% were provided to small businesses, that is, business which self-identify as employing less than 15 employees.

The remainder of the information packs were provided to industry stakeholders or made available at Fair Work Ombudsman offices.

(5) Yes. The cost for media monitoring services in 2010-11 is as follows:

- Media Monitors: $20,570.35
- Meltwater News: $29,480 (two year contract)
(6) The Fair Work Ombudsman is not aware of the numbers of employers who may accidentally or unwittingly over-pay staff.

(7) The errors in wage calculations were the result of data entry errors, not faults in the functionality or efficacy of the online tool.

(8) The categories delineated in the pie graph ‘Breakdown of attributes of alleged discrimination complaints received in 2010-11’ reflect the allegations made by the complainants.

Of the 1171 complaints received alleging discrimination, 294 proceeded to full investigation. Of those, 24 are ongoing and 270 are finalised. Of those that are finalised, 258 were not sustained while 12 were resolved between the parties with the assistance of the Fair Work Ombudsman.

Of the 877 discrimination complaints that did not proceed to full investigation, 365 were referred to other teams within the Fair Work Ombudsman for investigations relating to other provisions of the Fair Work Act 2009, including the General Protections provisions or minimum entitlements.

The remainder did not proceed to full investigation for jurisdictional reasons, including that the complainant had lodged a concurrent complaint with another agency such as the Australian Human Rights Commission or Fair Work Australia; or that the allegations were outside of the scope of the discrimination provisions of the Act, including that the alleged discrimination occurred prior to the commencement of the discrimination provision of the Act.

A breakdown in respect of each category is as follows:

<table>
<thead>
<tr>
<th>Primary Alleged Discrimination attribute</th>
<th>Total</th>
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<td>Age Discrimination Total</td>
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<tr>
<td>Not Proceeded</td>
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<tr>
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<td>9</td>
</tr>
<tr>
<td>Not Sustained (includes Withdrawn)</td>
<td>4</td>
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<tr>
<td>Resolved with the assistance of FWO</td>
<td>3</td>
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<tr>
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<tr>
<td>Colour Total</td>
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</tr>
<tr>
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<td>3</td>
</tr>
<tr>
<td>Not Sustained (includes Withdrawn)</td>
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</tr>
<tr>
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</tr>
<tr>
<td>Totals</td>
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<tr>
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<tr>
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### Primary Alleged Discrimination attribute

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