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SITTING DAYS—2012

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FORTY-THIRD PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

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

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

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

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister Assisting the Prime Minister on Asian Century Policy</td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
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<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon David Bradbury MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Bernie Ripoll MP</td>
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<td><strong>Minister for Tertiary Education, Skills, Science and Research</strong></td>
<td>Senator the Hon Chris Evans</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td><strong>Minister for Industry and Innovation</strong></td>
<td>The Hon Greg Combet AM MP</td>
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<tr>
<td>Minister for Small Business</td>
<td>The Hon Brendan O’Connor MP</td>
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<td>The Hon Sharon Bird MP</td>
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<tr>
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<tr>
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<tr>
<td><strong>Minister for Defence</strong></td>
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<td>Minister Assisting on Queensland Floods Recovery</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>The Hon Julie Collins MP</td>
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<td>Senator the Hon Bob Carr</td>
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<tr>
<td><strong>Minister for Trade and Competitiveness</strong></td>
<td>The Hon Dr Craig Emerson MP</td>
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<td>Parliamentary Secretary for Trade</td>
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Thursday, 29 November 2012

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

BILLS

Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WHISH-WILSON (Tasmania) (09:31): I rise to speak on the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011, reminding myself this morning that we only spoke about this same issue very recently. It is an issue that has been near and dear to my heart over the years—marine protected areas.

I have been involved with marine protected areas through my research at the University of Tasmania over the years, and I volunteered my time to consult with conservation groups such as the ACF and the Wilderness Society. In the rollout of marine protected areas in South Australia, I have briefed both the South Australian Liberal Party and Labor Party over the years on the economics of marine protected areas. And, of course, the economics are closely tied to the science of marine protected areas. But I will get back to that in a minute.

Essentially, what we are debating here this morning is the role of science: the importance of science in policy and decision making, and whether the government should be able to overturn good science for political reasons. Clearly, this has been a big issue in the chamber with the supertrawler debate over the last six months. I and other members of the Greens and, of course, recreational fishers and a large section of the environment movement have been accused of being anti-science in our questioning of the allocation of the quota for a very large fishing vessel with freezing capacity and the potential risks that poses to Australia’s marine resources. In this case it was a small pelagic fishery.

The argument has been put very clearly by the Liberals, particularly by Senator Colbeck, who I expect is going to speak next, that the decision to allocate that quota was made on good science. There are a number of scientists from different agencies who were involved in those decision-making processes. It is interesting that the Greens moved to disallow that quota. The argument was very clearly put that parliament should not have the ability to interfere with the good science of that decision. Certainly, it was suggested that we were being populist and politicising a scientific debate.

I find it very hard to reconcile that logic with the Liberals doing exactly the same thing with marine protected areas, which is essentially what this bill is about, because marine protected areas have been based on years of scientific research. I will fill that detail in in a second, but there is over 30 years of research—not just in Australia, in places like South Australia, but all around the world. Thousands of scientific reports have looked at both the science—

Senator Colbeck: Thousands!

Senator WHISH-WILSON: Thousands—and I can give you the source of that quote, Senator Colbeck—have focused on the scientific principles that underlie the benefits of marine protected areas.

Benefits can be increased biomass, increased fecundity and providing buffers against risks in our very complex marine ecosystems; and there can also be, of course,
economic benefits and economic costs—which is, no doubt, one of the key reasons that the Liberals are casting concern over the rollout of marine protected areas around the country.

The concept behind a marine protected area is very simple; it is an insurance policy. This is unlike our land-based ecosystems, where we can actually send scientists into places like forests or wetlands and we can actually do science that is visible. We can take samples and we can have easy access to the resource. Of course, that still has a long way to go in terms of how we value our ecosystem services and the science behind that. But when you look at a maritime ecosystem, a lot of what we are focused on is underwater, and it is very difficult, very expensive and very costly to get the exact information that you need.

This has been widely recognised as an issue with marine protected areas over the years. It is not like you can suddenly and easily access the bottom of the ocean floor, potentially kilometres underwater. So with ocean ecosystems we have a much larger uncertainty in our studies and analysis of things such as the biomass of fish species, or the potential risks of extinction of species, or whether the biomasses are at a level where they can be commercially exploited. There is no doubt—and this has come up with the supertrawler debate as well—that it is expensive and costly to do the scientific research that is necessary to understand issues such as biomass and its extraction in our ecosystems. It is expensive, it is difficult and it is complex because marine ecosystems are influenced by thousands of variables.

What is the benefit of having a marine protected area? The benefit of putting aside an area for conservation is really simple. Marine protected areas can be multiple use; they can be no-take zones, which do not allow for activities such as commercial or recreational fisheries; they can exclude other extractive industries such as oil and gas or even tourism; they can leave an area alone. The key reason for doing that is that it provides a risk buffer from what both scientists and economists call exogenous shocks—in other words, things we can put into models for simulation purposes but that we cannot necessarily predict with any certainty.

A really good example is in Tasmania at the moment, with the rock lobster industry on the east coast of Tasmania being shut down because of an exogenous shock—a toxicity impact from algal blooms. We also know in relation to the rock lobster industry and the small pelagic fishery that ocean temperature changes, both at the surface and the subsurface, have been responsible for the productivity of those fisheries. So climate change issues are also exogenous shocks. We have had viruses in our fisheries in species such as abalone. Given the best fisheries management practices in the world—and I am quite happy to accept the argument that Australia has some of the best managed fisheries in the world—we still see declines in species. With all the best intentions and all the best science, we have examples such as the rock lobster industry in Tasmania that show that sometimes we do not get it right. That is no-one's fault. That is because these ecosystems are very complex and the variables that influence them are very difficult to predict. Even the Atlantis model, which CSIRO have constructed and based out of Hobart, cannot possibly accurately predict some of these impacts. So it is really simple: if we accept that we have limitations in our understanding of our ecosystems, that we do not know everything, then we need to put aside some areas that we cannot touch. That is what marine protected areas are designed to do.
A lot of the variables that influence how effective marine protected areas are in rebuilding our marine ecosystems depend on factors such as how denuded they are in the first place, the ocean currents, the bathymetry of ocean floors, the existence of other species, and all these variables need to be modelled. But the studies we have on existing marine protected areas show us that if we put an area aside and leave it alone, then over a period of time—it does not happen straight away—we observe what both scientists and economists call spillover effects. We see a build-up of biomass as we do not fish the area, as we take that pressure off it. Clearly, fishing is a man-made activity that puts pressure on ecosystems. We know that overfishing all round the world has been one of the most significant causes of species decline and loss of biomass. There are some really famous examples, not necessarily in Australia but certainly internationally, that no-one in this chamber would dispute have led to species collapse in commercial fisheries.

If we take the human element out of it, we have to assume that other impacts will occur in our marine protected areas such as from climate change. Agricultural run-off is another really good example of a man-made influence that negatively impacts on our marine ecosystems. We have also seen nutrient changes. We can see issues with shipping and pollution from oil and gas. What we saw recently with the BP spill in the US is a very good example of where the externalities posed by commercial activities in marine protected areas can cause extensive damage to marine ecosystems. So, again, if you put aside an area in the ocean, which is a really simple concept, then that is an insurance policy for future generations to allow marine species to grow in numbers. If you take a lot of that pressure off, you clearly have at least the ability to recoup some of what you have already lost. Over time, these spillover effects, which will include the building of biomass and will vary depending on what species you are discussing, will produce benefits in the areas surrounding the marine protected areas.

I mentioned in the chamber a month ago that the first marine protected area was discovered by accident. It was not protected because people wanted more fish or wanted to leave an exploited resource alone. It was protected because the Space Shuttle and, before that, the Saturn rockets needed a security exclusion zone at Cape Kennedy, which used to be called Cape Canaveral. That exclusion zone varies between 50 and 30 miles, or up to 40 or 50 kilometres. People started noticing that areas surrounding that exclusion zone were very abundant in fish life and other marine species, and that was where the first studies occurred. So marine protected areas were discovered by accident, thanks to the Cape Kennedy space station. That was the birth of the application of science to marine protected areas and the benefits they may have.

I mentioned earlier that there have been a number of studies, and I want to read a quick version of a report put together by Dr Melissa Nursey-Bray at the University of Adelaide. She summarised 48 recent scientific reports on the science of marine protected areas, outlining all their recommendations in terms of the positive impact they have had on fisheries and, in some cases, where the evidence has not shown that. There have been some examples where marine protected areas have not necessarily increased the fecundity or the biomass of fish species, and there are good reasons for that.

These studies were from right across the world: from Arabia, Spain, South Africa, the
Philippines, New Zealand, South Australia, Tasmania—including off Maria Island which is a very small marine reserve—Great Britain, the USA—and that includes Florida, California and Maine—Kenya, Fiji, Western Australia and the Bahamas. Wherever marine protected areas have been scientifically studied they have been shown to have benefits to fisheries. One specific report actually summarised 89 separate studies dating back to 1992, and that was just one of the reports that Dr Nursey-Bray aggregated in her report. That was what the *Los Angeles Times* recently focused on when they wrote a story on the science behind marine protected areas. They said:

In a survey of 89 scientific papers, UC Santa Barbara researchers found that 90% of marine reserves around the world had more fish, 84% had much larger fish and shellfish and 59% had a far greater variety of marine life than did adjacent waters—that were not protected. They went on:

So far, the spillover effect hasn't won many converts among anglers, who disdain it as "junk science," and fear new limits on where they can fish.

'Junk science' is the issue that we started with and no doubt it is the Liberals' point here in the Senate when they dispute the benefits of marine protected areas. It is probably the underlying reason they want the ability for parliament to disallow the science behind marine protected areas, because that is essentially what we are doing in here today. We are giving us as senators and as MPs the ability to disallow over 30 years of scientific research on the benefits of marine protected areas.

The economics is slightly different. It is not black and white, and I admit that. Marine protected areas are not a silver bullet solution to providing benefits, because there are costs associated with protecting and conserving parts of the ocean. That is purely from an economic point of view. If there is displaced fishing effort, then that fishing effort should potentially be compensated, and that is certainly something that has been dealt with in the bioregional plans, though no doubt they will dispute that and say that not enough compensation is being paid.

But we do not just look at costs in terms of financial or economic costs. We have a duty to look at a much larger array of costs when we look at our environment and the importance that it plays in our daily lives. We need to look at social costs and of course those costs need to be assessed in relation to impacts on communities, and we can look at cultural aspects there as well. But we also need to look at environmental costs and ecological costs in areas of overfishing. And, as any first-year economics student should be able to tell you, once you include those extra environmental and social costs into, for example, the price of fish, then that market is suddenly efficient because the price of those goods factors in all the costs.

I would argue that the externalities that we see in areas such as fisheries—and they are just one example—show that markets have often failed to price those costs into the goods that we buy and sell on markets. It is the role of government, in my opinion and certainly the opinion of the Greens and no doubt Labor on this issue, that the government has a very important role to play in making sure that these externalities are priced into markets. The carbon tax is a very good example of that, and the bioregional plans that provide conservation outcomes reduce the risks of increased costs in the future. If we do deplete our fish stocks—and as I mentioned earlier there are numerous examples of that occurring—then the costs in the future to future generations such as the kids in the chamber here today, are going to much larger. We have a role and responsibility to play in putting aside
contingency plans to make sure that we have resources for the future.

That is what marine protected areas are designed to do. That is what thousands of research reports into marine protected areas have shown. The science has been going on for a long time and it has been funded all around the world. The science has shown that marine protected areas have positive spillover effects and positive benefits not just for fish stocks or other marine species, which further down the chain predate and feed on other types of fish species, but there are also positive benefits for communities in the area. If we do get recovery particularly into depleted and endangered or threatened species, then we have the ability to access those fisheries resources into the future.

Marine protected areas are not perfect because of that complexity that we see in our marine ecosystems and they are only one of the fisheries management tools. I agree that they are a fisheries management tool as well as a conservation outcome.

**Senator Colbeck:** It is not a fisheries management tool.

**Senator WHISH-WILSON:** It is a fisheries management tool—I will take that interjection. It has to be a fisheries management tool if you believe the science. The science says that fish stocks will recover.

**Senator Colbeck:** You misrepresent the science.

**Senator WHISH-WILSON:** You will get your chance in 16 seconds. Do I get 16 seconds back, Mr Acting Deputy President Marshall?

**The ACTING DEPUTY PRESIDENT (Senator Marshall) (09:51):** If you make your sentence last.

**Senator WHISH-WILSON:** Thank you. They are a fisheries management tool because the science says very clearly that they will have a positive impact on fish stocks. *(Time expired)*

**Senator COLBECK** (Tasmania) (09:52): I rise to make my contribution to my private senator's bill: the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011. This is a very simple piece of legislation. It does one thing. It gives the parliament the opportunity to have oversight over the declaration of marine protected areas. It is a very simple piece of legislation.

We have just heard from the Greens what we continuously hear from the Greens—a whole heap of mind-reading. I love it that the Greens think that they know what we are thinking. They attribute thoughts to us. They attribute motives to us. They misrepresent what we say and what we think, even though I do not think they really do know what we think. We have just seen that again today. The representation from the Greens is that the coalition does not believe in marine protected areas. That is patently not true. If you look at our record with respect to marine protected areas, you will see that the areas we implemented in 2006 in the south-east around Tasmania, which is our home state, Senator Whish-Wilson—

**Senator Whish-Wilson:** What? One per cent of state waters, Senator.

**Senator COLBECK:** Again, you have no idea what you are talking about. There is danger in coming into this place and not knowing what you are talking about. The marine protected area in Commonwealth waters around Tasmania that we delivered was 20 per cent larger than the area that was proposed by the government in the initial round. What we implemented in those waters in the south-east was 20 per cent larger than what was initially proposed. The Greens were running around Tasmania saying that
the coalition wants to shrink it. The initial boundaries were proposed by us. They were not good, I have to say. They had seriously bad impacts on the fishing industry in Tasmania.

There was a cooperative process that allowed negotiation between the fishing industry and the environment groups. We put everybody in the tent. We did not do what this government has done, which is silo the negotiations and play parties off against each other and basically take the line being run by giant environmental groups from not just Australia but the United States. Thousands of emails have come into Australia from overseas trying to push the government into implementing these marine protected areas. Through that negotiation process we changed the boundaries, provided the environmental values and provided the representative areas that were required under this process. We reduced the impact on the fishing industry in Tasmania by 90 per cent and increased the area by 20 per cent. So, Senator, do not come in here talking rubbish. You have no idea what you are talking about, and you have demonstrated that again here today.

**The ACTING DEPUTY PRESIDENT (Senator Marshall):** Order! Senators will address their remarks through the chair.

**Senator COLBECK:** Let us go to what a globally recognised expert says in respect of marine protected areas. The senator has just gone through that process here yet again in his representations this morning. Professor Ray Hilborn is one of the most globally recognised marine scientists in the world.

*Senator Whish-Wilson interjecting—*

**Senator COLBECK:** You say he is paid for by the fishing industry, but when he went to find out what was going on he put together a group of people from across the spectrum—from those directly opposed to his view of the world to those who have a more extreme view in the other direction. He did not just go and science shop. He did not find somebody who did not know anything or did not have any expertise in the area, which is what the Greens quite often do, and get them to comment on a scientific area in which they have no expertise and attack scientists who do have expertise.

He got a full spectrum of people to provide a report that put a very different picture than what one of the scientists, Dr Boris Worm, had initially indicated. He went to the person involved in that piece of science that said that the oceans could be empty of fish by 2047. That was the science that Dr Boris Worm had put together. Professor Hilborn went to Dr Worm. A group of 23 scientists put together a report that caused Dr Worm to step back from his initial statement. That was the work he was prepared to do. Senator, you should not just science shop and pick out a few people who will provide the answer that you want. You should go to the direct science, the real science and the credible science. Do not come in here with your claims.

I am proud of the record that the coalition has with respect to marine protected areas. Our record stands. The people who have been involved in working with us know that that is the case. Why are we taking the stand that we are taking right now? Not because we do not believe in marine protected areas but because in the development of these marine protected areas the science has not been used. That is why we have a concern about this current process. How do we know the science has not been used? Because the government has admitted it.

The Greens are happy to go along with lockups, because that is what they do. They live in the past. Before the EPBC Act came
into being and before a whole range of other management tools came into being, the only way to protect some areas was to lock them up. I am happy to concede that that was the case. We in Australia have done some pretty average things to our environment—to our marine areas and our land areas—but we have learnt. As Senator Whish-Wilson has conceded, we do have among the best fisheries management systems in the world. We need to continue to improve those.

Rather than just lock up bits of the environment, which is what the environmental groups who still live in the 19th century would like us to do, we need to look after all of our marine environment. We should not just lock up huge swaths of the ocean and say, 'You can't go there.' That is not what we ought to be doing. We ought to be looking after it all. So do not come in here and tell us that we do not have any desire to protect areas. We believe that if there are areas that deserve to be protected then we should protect them, but we should not be making decisions based on representations by, for example, the Pew Foundation, which has run a campaign to lock up pretty much the entire Coral Sea.

Senator Whish-Wilson talked about economics. What really gets up the nose of my constituents, your constituents and other people here in Australia is that the Pew Foundation then admit that it is not going to pursue the same scale of lockups in the United States because it does not stack up economically, because of the negative economic impact on the American economy. So they are happy to come and lock ours up but they will not do it in the United States because of the economic impact.

Here we have Minister Burke admitting that there are fewer marine protected areas off New South Wales because he has locked so much up in the Coral Sea. Tell me that is based on science. What a load of baloney. Here we have an area that has huge potential in respect of meeting our future seafood needs—and they are significant as 25 per cent of the globe's protein currently comes from seafood. If you were to replace that with terrestrially based protein, you would have to clear the world's remaining rainforests 23 times over—so talk about a small picture view of the world from the Greens and talk about a small picture view of the world from the government!

Let us have a look at the broader picture. Let us look at the requirements to look after our environment and also to feed ourselves and those of us on the planet. Let us not lock ourselves out of a huge swathes of the ocean when we have a whole series of other management tools. Let us not lock ourselves out of our oceans and our fisheries because somebody else is raping and pillaging theirs. What a sensible move that is! How ridiculous to suggest that, because fisheries management is unsustainable in other parts of the world, we should close down ours. Give me a break!

What we should be doing—and, in fact, this is what Australia is doing—is participating in improving fisheries management in other parts of the world. We are acting in a whole range of fisheries, through a number of fisheries management systems and through a number of international agreements, to improve fisheries management in those regions. You talk about small pelagics; we are involved in looking at the South Pacific small pelagic fishery and improving that, an area where the fish stocks have collapsed because of overfishing, not because of supertrawlers—as would be implied by the Greens and their environmental group friends—but because the fishery has been overfished for years long before the advent of large freezer
vessels. The fishery has been overfished for years and it has not been improved by the fact that there have been no fisheries management systems in place and there have been no quotas in place, but fortunately there now will be. That fishery will have the opportunity to recover because there will be fisheries management put in place and there will be quotas put in place. The decision to do that is already having an effect on the amount of effort that is put into that fishery.

So for Senator Whish-Wilson to come in here and misrepresent where the coalition sits in respect of fisheries management of marine parks is quite dishonest because we have a strong view about utilising the science and about believing the science. And this was coming from a person who said, 'We don't care about the science. We just don't want the boat.' I have to say it is quite hypocritical of him to come in here and lecture us about science.

Senator Whish-Wilson: Where is your evidence of that?

Senator COLBECK: Well, you repeated it in this chamber—through you, Mr Acting Deputy President. In fact, questions to the minister in question time here this week confirm they are not interested in the science around the small pelagic fishery, because the weight of the science—the credible science—supports the quota that was set in all of those fisheries.

Senator Whish-Wilson: Credible science?

Senator COLBECK: So here they go bashing scientists again. If it does not agree with what they say, they will attack the scientists. That is the process that they run through, and if you do not believe me have a chat in Tasmania to Nigel Forteath, who was hounded out of the state by the Greens because he dared to disagree with Bob Brown. Death threats, phone calls in the middle of the night and he had to take his family out of the state—an absolute disgrace what the Greens did to that man.

Senator Whish-Wilson: Where is your evidence?

Senator COLBECK: I will bring the evidence in here, Senator, and I will table it. I sat down and had conversations with Professor Forteath so I can tell you that very well. In fact, the Greens were censured in this place for what they did to him, so go back and have a look at the Hansard and you will find your own history.

This is a very simple piece of legislation. We know because the government has admitted that these zones that are being proposed by Minister Burke at the moment are not based on science. I have already given an indication as to the zones that were declared off New South Wales. I was in Queensland at the beginning of the year. I went up to have a talk to some of the fishermen in that region about the proposed declaration of the Coral Sea. Unfortunately, they could not meet with me on the day because they were meeting with the department to talk about the proposals for declaring the Coral Sea. One of the questions that they went into the meeting and asked of the department was: can you put on the table for us the science that supports declaring the entire Coral Sea a marine zone? When I met with them at morning tea directly after they had had that conversation with the department, I found the answer was: 'There is none.' The only thing that there was was a campaign by the Pew Foundation and environmental groups here in Australia. That is the basis on which Tony Burke has closed off the Coral Sea.

I go back to the discussion I had a moment ago about our seafood needs. As I said, 25 per cent of the globe's protein comes from seafood—a full quarter. The broader
environmental impacts of having to replace that with terrestrially based protein do not bear thinking about. As I said, if you were to replace it with grass-fed protein, you would have to clear the globe's rainforests 23 times over. It just does not add up. The health of our marine environment and the capacity to achieve and maintain a level of protein from wild catch fisheries is absolutely vital. In fact, if you look at the wild catch fishery you will find that it is the most environmentally friendly form of gathering protein of the lot. It is much more environmentally friendly than any form of terrestrial farming. It is the most environmentally friendly because you can take out your quota, based on sustainably set quotas with proper management tools, and the natural environment does the rest for you. It is the most environmentally friendly form, so it is vitally important that we maintain it as part of our overall protein task.

Australia's potential demand for seafood will grow by 850,000 tonnes by 2020. I am not talking out to 2030 or 2040 or 2050 but by 2020—that is, in eight years we will need an extra 850,000 tonnes. The potential fishery in the Coral Sea alone is of that magnitude in two species.

Senator Whish-Wilson: You'd better start protecting it, then.

Senator COLBECK: So that is the answer from the Greens: shut down a potential fishery and import from unsustainable sources. Let us offshore our environmental responsibilities. Let us calm our conscience by offshoring. Let us take it somewhere else where they do not have the fisheries management tools in place.

What the coalition would like to see is marine protected areas based on science, not based on campaigns by environmental groups from the United States, not based on, 'Let's move it away from this Labor seat and put it up here next to this coalition seat.' Let us have marine protected areas based on science. Let us put everybody in the room together. Let us put the science on the table. Let us have the conversation between everyone. Let us not play groups off against each other, which is what the government has done in this particular process, because the groups come in and tell me what has just happened to them. Let us have a genuine consultation. Let us not just have show-and-tell, where the government turns up and says, 'Here's the maps; that's what's going to occur.' Let us have a consultation process where the final maps—the maps were put out 60 days ago or a bit longer and the minister said, 'This is not about the boundaries; this is about whether we do it or not.' That is not a consultation. That is a take it or leave it process.

That is what the coalition is concerned about. The coalition is concerned about the process. We are not contesting the science, as the Greens contend we are. We have said we believe in the science. If something needs to be protected, we should protect it. But we need to look after it all, not just bits of it. Let us not salve our conscience by saying that we have locked up 30 per cent of our marine environment, that we have locked out our fishing industry from all of those areas. Let us not salve our conscience by thinking that we have done our job. Let us look after it all. Let us ensure that we have strong fisheries management.

Senator Whish-Wilson indicated that this is a fisheries management tool. Not even the scientists contend that it is a fisheries management tool. The government does not contend that it is a fisheries management tool. It is not a fisheries management tool. The process around the marine protected areas is about looking after important parts of our environment. One of the issues around that is that fish tend to congregate around formations in the ocean. That is just the
nature of things, and that is where the contest comes into place as part of the development of these marine protected areas. That is where the difficulty is.

This process also has not compensated people. There is $100 million sitting on the table for the fishing industry, but what about the downstream businesses and communities? There is absolutely nothing there for them. What about the recreational fishing sector, which is something like a $10 billion a year industry? There is nothing there for them. There is no recognition of the bait shops, the boat sellers and the charter operators, so any argument about proper compensation as part of this process is completely and utterly out of order. There is not proper consultation. The process that was put in place in the south-east put up $220 million, just for the south-east. In this process, we have $100 million for the rest of the country. We have a very simple proposition here: allow this declaration process to be scrutinised by the parliament. That is all we say, and that is what this bill does.

The ACTING DEPUTY PRESIDENT (Senator Furner): The question is that the bill be read a second time.

The Senate divided. [10:16]

(The President—Senator Hogg)

Ayes.........................30
Noes.........................35
Majority.................5

AYES
Bernardi, C
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H
Madigan, JJ
McKenzie, B
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Sinodinos, A
Williams, JR (teller)

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

PAIRS
Abetz, E
Back, CJ
Boswell, RLD
Brandis, GH
Scullion, NG
Farrell, D
Evans, C
Wong, P
Carr, KJ
Ludwig, JW

Question negatived.

Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator MADIGAN (Victoria) (10:19): I rise today to speak to the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012. The excessive noise from wind farms bill is important and necessary. The issues at stake are of vital importance to all Australians. There are
matters of health, matters of proper regulation and matters of substantial increases in taxpayer funding. The excessive noise legislation is not an attack on the wind industry; it is not an attack on renewable energies. This bill is designed to provide appropriate regulation of wind farm noise, delivering some comfort to residents near wind farms. It will help deliver regulatory certainty to the wind industry. It will sort out the dog's breakfast that currently characterises wind farm noise regulation at state and territory levels. It will help ensure that the Commonwealth's renewable energy certificates scheme is supporting wind farm operators who do the right thing by the Australian public and filtering out those who do the wrong thing.

There are some who have stated that this bill has only come into existence because apparently Senator Xenophon and I are obsessed with wind farms. That accusation is half right. I will not speak for Senator Xenophon—I know he is more capable than I am to do that—but I will speak for myself. Am I obsessed? Yes. I am obsessed with the health and wellbeing of ordinary Australians. I am obsessed with good regulation and accountability. I am obsessed with full transparency and with exposing cover-ups. And I am obsessed with the protection of taxpayers' money. This bill is, in essence, about all of these things, but more directly it is about proper regulation and the necessity for compliance.

The following from Senator Rhiannon regarding the need for independent studies into the effects of coal seam gas could have been written for the wind industry. Senator Rhiannon stated:

The government should not take the industry's word for it because at the moment the studies that have been trolled out are from industry.

In her call for a moratorium on coal seam gas, Senator Waters declared that a moratorium must be done:

… until we understand better those risks that we are taking and those long-term impacts that we may have—potentially irreversible long-term impacts.

In the supertrawler debate Senator Waters was determined in her call that the onus of proof must be on the industry and saying that the supertrawlers:

… must be banned until the best possible science has proven that they are not causing the untold damage the community is so concerned about.

There is no call for a moratorium in this bill. There is no call to ban an industry here. What there is is a bill that fulfils the calls by the Greens senators for full accountability by industry—for thorough examination of the risks, and for community concerns and dangers to health to be put ahead of economics. This bill seeks to ensure that an industry that enjoys substantial taxpayer subsidies is properly regulated, transparent and is held just as accountable for its actions as any other industry in this country.

Through the Senate committee inquiry over the last few weeks we have substantiated that this legislation is not onerous on the wind industry relative to noise legislation regulating other Australian industries. In fact, wind farm operators would only be required to meet half the noise limit currently demanded of other industries. The excessive noise limit of other industries is set at a noise above background plus 5dBA compared to the proposed legislation before the wind industry, which is background noise plus10dBA. Ironically, the industries that manufacture wind farm components in Australia, few though they are, are compelled to comply with these noise levels that are lower than for the wind industry itself.
I can guarantee that there are few industries in this country that would not love to operate under a noise standard of background plus 10dBA. In fact, those who suggest the industry noise standards should be fair and even to all should consider that to do so would mean either increasing other industry levels to background plus 10dB(A) or reducing the wind industry's level to background plus 5dBA. But to insist that the wind industry follow the same noise levels as other industry is too much like attacking a sacred cow to many here. While regulating excessive noise, this legislation is not excessive overregulation.

Through the Senate committee of inquiry we have substantiated that other industries, such as the aviation sector, must provide real-time noise information to the Australian public. In the case of airports, anyone can at any time access real-time live-feed information readily from the internet. If you are interested, I would be happy to send you a link so you can check it out for yourself. This ensures transparency and accountability.

During the recent public hearing, Professor Simon Chapman, who, while not an a medical expert and cannot be expected to provide an expert opinion on matters of health relating to excessive noise, made a valuable contribution regarding transparency. When asked:

... do you have an issue with that level of transparency in terms of the proponents of wind farms providing that information publicly?

Professor Chapman stated:

No, transparency is always a good thing—the right to information is a cardinal principle of a democracy, which good decision-making needs in order to take place.

Publicly available data helps displace worries and fears, eradicates the veracity of noise data being contested and supports independent checking and verification of noise data by the public. Unfortunately, despite statements by virtually every witness at the inquiry stating transparency is a good thing and that the provision of data is necessary, the wind industry sees it differently. In fact, the wind industry refuses to release information but then claims noise is not a problem, that it is all in the minds of local residents. They try to dignify this brush-off by calling it 'psychosocial' or a 'placebo effect'.

The best way the wind industry can prove that wind turbine noise is not a problem is by making public their noise reports and making publicly available real-time noise data. Just as Senator Waters suggested in the debate on the supertrawler, the burden of proof lies in the hands of the wind industry and not on the local residents or even on the regulator. Complaints means just that. All industry must comply with regulation whether they be the lepers of Australian industries, such as coal and uranium, or the sacred cows of the renewable industry—wind farms.

The industry must prove they are complying. It is not up to the local community and the taxpayers to prove they are not. The industry's refusal to release noise data does not support their case; it works against it. Why are they hiding the noise data? 'Commercial-in-confidence' is the most common excuse. 'Commercial-in-confidence', 'sovereign risk' and 'peer-reviewed' are expressions that seem to be used more and more—unfortunately, not for transparency but usually to keep something hidden or untouchable.

When I was young the expression 'scientific studies show' ended all debate. The wind industry's reply to requests for data generally ends the same way. 'We are compliant', they say, 'so why do we need the data?' In answer to their stoicism I will say
the same thing that I have said since I was given this reply several years ago. If you are compliant you have nothing to fear by supplying the data. If you are compliant then all the more reason for it to be provided.

This industry, the wind industry, is in business for pretty much the same reason as any other business: profit. That is fine. All businesses are encouraged to make profits, to develop and to add to the local community and to the economy. But, while most industries in this country go about making their profits, they do so under regulations which they are required to comply with and which prohibit them from causing harm to the health of the community or the environment. Almost all of these industries are compliant with these regulations, and those that are not are penalised and expected to become compliant or close. But here we have an industry that does not believe it needs to prove its compliance. When asked repeatedly at the hearing whether they would make their data publicly available, the industry representatives could only respond that it would depend on what it was wanted for. When asked why they objected to the excessive noise level of background plus 10dBA, as stated in the bill, their response was that the state noise guidelines were regulation enough. In reply to Senator Xenophon's question on what constitutes excessive noise, Mr Upson from Infigen stated:

Excessive noise, by definition, is a noise above what the state noise limits are. If you are over that limit, then it is excessive. It is simple enough.

I agree that it is simple enough. If you operate below the noise level limits you are compliant; if you do not, you are not. But the problem here is: how do we know if you are compliant if you will not supply the data?

The wind industry, like all industries, protects its interests wherever possible. In order to continue getting substantial public subsidies and to enjoy the rewards of the renewable energy certificate scheme, they need to comply. If they do not comply, their profits and their RECs are in danger. But to allow any industry complete self-regulation is disastrous—and we all know it. Yet here we have one of the most heavily subsidised industries in the country and we cannot get them to agree that verifying their compliance is a necessary thing. We constantly hear criticism of the subsidies given to the vehicle-manufacturing industry, but not a word about subsidies of an industry that are so defensive about complying with a basic noise level. If there is no public scrutiny, there should be no public money. I ask again: what do they have to fear?

Surely the best defence for a multibillion-dollar industry wanting to protect their business is compliance. If the data is compliant, their case is won. Releasing the data will either verify their compliance or show their noncompliance. If it turns out that the wind industry are noncompliant then it is best we find out now and ensure the problem is fixed so that any and all future wind energy facilities are constructed to meet compliance. The data collection methodology could be checked, the data outcomes could be checked and an independent verdict could be achieved. This level of obstruction will inevitably lead to the idea that the wind energy industry are hiding something.

The Senate committee majority report recommends a peace offering that was initiated by Pacific Hydro. It recommends that noise information may be provided to an independent authority. This is the only offering from the majority report. It opposes all of the noise aspects of the bill. While the smallest gesture from the committee's majority goes a little way towards what is needed, it is not enough. It is a gesture in the right direction, but it is still only a gesture.
The wind industry needs a regulatory environment that can and will protect members of the public and the environment from noise emissions. That will support and encourage good industry practice and, in doing so, help protect the reputation and investment prospects of this industry.

If the Senate Environment and Communication Legislation Committee were sincere in analysing this bill, committee members would have showed up to the public hearing. If the committee were sincere in wanting to protect an important plank of the federal government's emissions reduction policy, they would welcome the regulatory environment of the wind energy industry being put on a scientific, accountable, and open footing. Emissions reduction should be across the board—reducing greenhouse gas emissions and noise emissions from energy technologies.

During the day of the inquiry, we heard the mantra of the wind turbine manufacturers and wind turbine operators: 'This is a states rights issue. The states are doing a great job. Leave the current arrangements alone.' The reality is that wind does not discriminate on state lines. No two states or territories have the same standard or regulatory compliance and enforcement approach.

The inquiry heard from the Pyrenees local council, which has the Waubra wind farm in its municipality. Despite receiving numerous complaints about noise, the council cannot access noise reports submitted by the wind farm to the state regulator. The state-based regulator will not provide them to the local council or to the public. I understand that the Victorian regulator does not have the internal capacity or technical expertise to scrutinise noise related reports it receives from wind farm operators and to arrive internally at an expert conclusion about their contents. Instead, it is happy to receive affidavits attesting to the reports being true and compliance being achieved.

That is how Victoria's statutory regulator for wind farms, the Department of Planning and Community Development, is dealing with the complex noise and environmental issues arising from the wind energy industry—by affidavit. It gets sent an affidavit from a wind farm operator or one of their consultants that says they are complying, and on that basis the regulator believes them. There is no capacity or willingness to engage, for example, the Environment Protection Authority or any other regulatory government authorities, scientists or health experts. The industry says it is telling the truth and, therefore, the state believes it is telling the truth. Because the regulator will not make the reports public, there is no external checking. During the inquiry, Mr Chris Hall of the Pyrenees Shire Council said:

It was only when Waubra started becoming an issue—with the number of complaints that were received—that the department's attitude towards being willing to take on enforcement responsibility seemed to change quite suddenly. They then wrote to us and other councils and indicated that basically they believed—without providing any legal advice, mind you—that they believed that the shires were the responsible authority for administration enforcement, overriding what they have done on the planning permit. It does not override the enabling legislation—that is legally unenforceable.

This is not regulation. This is not regulatory enforcement and compliance. This is systemic regulatory failure.

When the system that lets the industry do whatever it likes, when it fails to cover up the lack of regulatory enforcement and when the problems become manifest, the response of the regulator is to duck and shove responsibility elsewhere. No wonder the industry likes state based arrangements so
much and is repudiating Commonwealth involvement. I encourage all senators to support this bill.

Senator CAMERON (New South Wales) (10:37): We have just heard Senator Madigan's 'stop the planet; I want to get off' bill. That is what this is. We have around the world wind power being installed at an unheard-of level. I used to work at Liddell Power Station, which is a 2,000-megawatt coal fired power station and one of the biggest in Australia. To try to get some understanding of what is happening with wind power: in 2012 alone there is around the world 238 gigawatts of wind power installed. That is about 119 Liddell Power Stations—a huge investment in wind power all around the world. If you look at the International Energy Agency website and you go to what is targeted for wind power around the world, you see that it is targeted to pick up 12 per cent of energy needs by 2050. That requires 47 gigawatts of installation of wind power every year for the next 40 years. It is $81 billion a year in investment.

Senator Madigan said that this was a billion-dollar industry. Senator Madigan, it is not a billion-dollar industry; it is a trillion-dollar industry. The industry will have to invest $3.2 trillion through to 2050 to meet that 12 per cent with wind energy. Senator Madigan throws these words around—'The wind energy industry can do whatever it likes' and 'The system allows it to do whatever it likes'—but I did not see Senator Madigan sleeping through any of the evidence, so he has obviously ignored much of it. He obviously has not read the evidence from the Queensland conservative government, who say that they have stringent regulation in place, that they do not want an industry to operate without any regulation and that the regulations that are in place with the state governments around this country are amongst the most stringent regulations anywhere in the world.

I have a little bit of an issue with Senator Madigan's approach on this. I would like to remind the Senate why we need renewable energy. The climate science is in, Senator Madigan. You cannot continue to believe that the climate science is not there and that this is some kind of conspiracy by the wind power industry or some group of bankers in Zurich or somewhere. This is a real problem. It is a problem the world is struggling to deal with, and wind energy is one of the key components to try to deal with the issue of global warming and climate change. I know many senators in this place are sceptics, deniers, conspiracy theorists or just political opportunists on this.

Senator Williams: What about realists?

Senator CAMERON: I will take that interjection by Senator Williams, who said, 'No, we're just realists.' Senator Williams, the realists around the world are people like the World Bank, not some left-wing conspirators trying to create a world government. They are saying that there are significant problems. Let me remind you of the Australian Academy of Science 2010 report. They are being realists. They are the realists on this issue. They put out a report: The science of climate change: questions and answers. Go have a look at it. Have a look at what it says. They try to address the confusion created by contradictory information in the public domain. Obviously, Senator Williams, you have not read it.

I remind senators of the 2011 CSIRO report Climate change: science and solutions for Australia. That report draws on the latest peer reviewed literature contributed by thousands of researchers in Australia and internationally. It provides a synthesis of CSIRO's long history of public funded research over several decades. Obviously,
Senator Williams, you have not read that either. It highlights the importance of climate change as a matter of significant environmental concern in Australia and provides the latest information on international climate change science and the responses.

If you want to be a denier, if you want to be a sceptic, if you want to listen to Alan Jones, you will not believe it, you will say the scientists are wrong—the CSIRO has it wrong; the Academy of Science has it wrong. But let me tell you: I would take those bodies before I would listen to Alan Jones any day, because I am concerned about the future for my grandkids and the kids that are being born in Australia today. They have to have a future, and part of that future is wind farms. Part of that future is renewable energy. It is absolutely important that we deal with this issue on the basis of science and not on what is said by groups that are running around trying to instil fear in local communities. These groups are creating the problems that local communities are feeling because they are out there fearmongering about wind farms.

It is not just the scientists who are worried. The Catholic Church is worried, Senator Madigan. I would ask you to go and have a look at the Pontifical Academy of Sciences report in 2011. I notice that you are smiling. I am not sure if you have read the report, Senator Madigan, but I am sure it would certainly educate you a little bit about what the scientific issues are. The Vatican brought together a number of the world's most eminent scientists on climate change, and their report said that global warming and climate change is a real problem. Icebergs are falling into the sea. Glaciers are retreating. The sea level is rising. You can sigh all you want, Senator Madigan, but I can tell you that I would listen to these bodies before I would listen to the Waubra Foundation, who probably wrote your speech for you.

The report from the Pontifical Academy of Sciences calls on all people and all nations to recognise the serious and potentially irreversible impacts of global warming caused by anthropogenic emissions of greenhouse gasses. Senator Madigan, go down and see your local representative of the Vatican in Australia, talk to them, get a copy of the report. I will send it to you, if you like. But I can tell you that they are equally concerned about this, as are the scientists in Australia.

I remind senators of the Bureau of Meteorology's State of the Climate 2012 report, which provides an updated summary of long-term climate trends. It notes that the long-term warming trend has not changed, with each decade being warmer than previous decade since the 1950s—and it goes on and on. Last week, the World Bank released its contribution to this issue in a report called Turn down the heat. The report provides a snapshot of recent scientific literature and a new analysis on the impacts and risks that could be associated with a four-degree Celsius warming this century. It outlines a range of risks, focusing on developing countries and especially the poor. The report describes a number of meteorological record-breaking events. It goes to England and Wales: wettest autumn on record since 1766; Europe, hottest summer in the last 500 years; England and Wales, May to July, wettest since records began in 1766; Victoria, Australia, heatwaves—many station temperature records; Western Russia, the hottest summer since 1500; Pakistan, rainfall records; the western Amazon, drought and record low levels of rainfall in Rio Negro. I can go on and on, yet we still have people who say that global warming and climate change is not
real. I go to those points because, Senator Madigan, I do not believe the issue of wind turbines is the issue with you.

The ACTING DEPUTY PRESIDENT (Senator Furner) (10:44): Senator Cameron, I will remind you to address your comments through the chair.

Senator CAMERON: I apologise, Chair. My view is that Senator Madigan's position is not about wind turbines; it is not a concern about the people who have got a problem. Underlying his position is his fundamental denial that there is a problem with changing climate around the world; I am convinced of that.

This week the International Energy Association in an article for PlanetB magazine discussed how energy efficiency and renewable energy technology will play a vital role in the transition to a secure and sustainable future. Even some of the sceptics' views are changing. Ben Cubby wrote a most interesting article in the Sydney Morning Herald on 31 July 2012, where he outlined that prominent sceptic scientist, Richard Muller, had changed his position. So things are changing. Surely scientists are starting to deal with the issues and we will hopefully get to a position where most of the senators in this place can believe that there is a problem, that it has to be dealt with and that wind power is an important part of dealing with it.

The bill before us today, the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012, which I have described as the 'Stop the planet I want to get off bill', aims to give powers to the regulator to ensure that accredited power stations that are wind farms either in whole or in part do not create excessive noise. I do not have a problem with that position. All I say to you is that we have some of the most strict environmental controls on wind farms anywhere in the world—that is a fact—and the controls are subject to state environmental laws.

In Australia, we currently have 59 wind farms, consisting of 1,345 turbines with 2,480 megawatts of capacity. The evidence given to the committee was that right around the world—I have described how much wind power is installed around the world—it is only in English-speaking countries where there is this so-called wind turbine syndrome and these problems starting to appear. So I do not think that the Waubra Foundation have actually got enough translators to get their message out to the rest of the world—hopefully, they do not, because around the world there is not an issue with wind turbines. There is not a problem of this so-called wind farm syndrome anywhere else in the world, but there is in some areas in Australia—not everywhere where there are wind turbines—and in some areas in Canada and also in some areas in the UK. If you draw the link between the groups that are agitating against wind turbines that link eventually goes back to the climate change sceptics and the climate change deniers.

There are issues there. I do not for a minute deny that there are people who feel genuine concern about wind turbines appearing in their backyards, especially if their neighbour is getting a financial gain from it and they are getting no gain. I do not for a minute underestimate the problems that individuals feel, that they genuinely feel that the wind turbines are making them sick, but there was absolutely no evidence to link either infrasound or the sound of the wind turbines to the various complaints and illnesses that were brought before the committee.

Our conclusion is consistent with every analysis that has been made on this around the world—that we should not simply accept
the arguments; that there are problems there. We should take a precautionary approach, which the committee has said we should do. We should continue to do the scientific evaluation that Senator Madigan wants. I think that is appropriate and that is being done. We should continue to ensure that we can make a contribution to renewable energy through more wind turbines.

Senator Madigan spoke about the nocebo effect. We had evidence that the nocebo effect is a well-documented part of medical and scientific literature around the world. The National Health and Medical Research Centre have reviewed some of the literature available and they said that no adverse health effects other than annoyance could be directly correlated with noise from wind turbines. There is limited and contested published evidence that wind farm noise may be associated with annoyance and sleep disturbance in some individuals, but the causes are not clear and that has been considered by the NHMRC.

The committee was provided with recent research that has been peer reviewed and accepted for publication by the leading health journal Health psychology. That research has not yet been publicly released. The research comprises a controlled double-blind study in which subjects were exposed to infrasound and sham infrasound. Healthy volunteers, when given information about expected physiological effects of infrasound, reported symptoms which aligned with that information, during both exposure to infrasound and sham infrasound. This is a scientific study that is basically saying that if you tell people this is what will happen to you through this infrasound which you cannot hear and you cannot see and you can expect that this might happen to you, people will say, 'Yes, I have now got the symptoms.' People in the scientific study had sham infrasound—there was no infrasound—and they reported the same conditions that they were told to expect. That is called the nocebo effect and it is well known.

I am not saying that, if you are suffering the nocebo effect, you should be ignored, that we should simply walk away and say, 'Well, that is bad luck; it is psychological and not physiological.' The view is that the wind industry have a responsibility to deal with this issue, and so they should. But dealing with it is not stopping the world and getting off, as Senator Madigan would want. It is about understanding the importance of the wind industry and of individuals who feel that they have been affected by the wind industry, ensuring that we continue to have strong state based environmental protections in place and that we continue to research and put regulation on the industry as far as practical, and ensuring that monitoring continues to go on.

After listening to all the evidence, I just feel that, when you weigh up the scientific evidence against the anecdotal evidence that we got, we must go with the scientific evidence but we must also have care and consideration for people who are suffering because of wind turbines. There should be more transparency in the industry, but that should be through an independent auditor because you cannot provide what is being asked without having a real influence on the cost of power. So I recommend and support the recommendations in the report. I think it is the sensible way to go. I reject and do not support the Madigan-Xenophon bill.

Senator BIRMINGHAM (South Australia) (10:58): I rise to also contribute to this debate on the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012. I welcome the opportunity provided by this debate for us to make some comments on what is a genuine area of concern in parts of the community
and for us to ensure that those concerns are appropriately reflected in this place and to make clear the inadequacy to date of government responses to those concerns.

All businesses require not just a legal permit to operate but also a social permit. What has occurred over recent years in the wind sector is that aspects of that social permit and social licence to operate have come under threat. They have come under threat because of genuine concerns that many people have about the impact that wind farms are having in their communities, on their lifestyles and on their health.

Those concerns should not be easily dismissed. Those concerns should be dealt with seriously. That is not to say that we should be shutting down the wind industry and not to say that we should not recognise the very important role that wind power has played in helping Australia to grow its renewable energy sector, because there is an important role being played there by the wind power sector within the renewable energy industry. And we want to see continued growth of renewable energy; that is an important part of Australia’s energy mix for the future and important especially for how we deal with the issues of tackling climate change and reducing our greenhouse gas emissions. But that does not mean that we just ignore or sweep under the carpet community concerns that exist.

In Senator Madigan’s well-thought-out remarks—many of them were—he drew some very good comparisons and quoted from some of the Greens senators in this place in those comparisons. They were comparisons in the debates we have had in here—and there have been plenty—around coal seam gas. Or there were more recent debates around the so-called supertrawler. In all of those areas there were emphatic arguments to let science speak, to ensure that we have the best available science undertaken, that we rely on that research and that we act on what that research says. That is what the coalition believes should be the case here as well. We think that it is important to make sure that beyond any doubt the community, the wind industry and the regulators—at a state level in particular, who provide the planning approvals for these developments—all have sound evidence on which to base their decisions.

Indeed, submitters to the inquiry into this legislation made similar views known. Mrs Maria Linke wrote in her submission:

I feel there needs to be independent health studies into rural wind farms, focusing on excessive noise.

However until that happens, I fully support the Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012. Let us reflect on what Mrs Linke is saying there. She supports this bill because of the absence of other action, and it is the absence of other action that I condemn this government for.

There should have been underway by now very thorough and comprehensive reviews into the health effects of wind farms. Why should there have been such views? Because no less than a previous Senate inquiry had asked for them and made it clear that this was the best way forward to deal with the community concerns that exist.

On 23 June 2011 the Senate Community Affairs References Committee presented the Report into the social and economic impact of rural wind farms. Among several recommendations made by this committee—and can I emphasise, by the whole committee, including the Labor senators on that committee; the government senators—was one that says:
The Committee recommends that the Commonwealth Government initiate as a matter of priority thorough, adequately resourced epidemiological and laboratory studies of the possible effects of wind farms on human health. This research must engage across industry and community, and include an advisory process representing the range of interests and concerns. It is very clear from this recommendation what the committee sought—very, very clear. But far from treating the Senate committee's recommendation as a matter of priority, the Gillard Labor government took more than 14 months to respond to that inquiry—just to respond to it? It even took more than seven months after this Senate called on the government to act immediately on the Senate committee's recommendations.

The government finally responded on 13 September 2012 to the committee's report of 23 June 2011. The government should surely appreciate that such delays and tardiness in responding only add to the angst and concerns that do exist in parts of the community about the operation and impact of wind farms.

When it did come, the government response was manifestly inadequate. The government claimed to accept the recommendations in principle. However, what we got instead was effectively an NHMRC literature review. I have complete faith that the NHMRC review will be thorough. I am sure they will do a good job of it. But it is not what the Senate had recommended, and it is unlikely that the nature of this review—in fact, it is clear from the evidence already received—will satisfy the concerns of those in the community. It will not provide the Australian based type of research, with the thorough epidemiological and laboratory studies, that is necessary to provide the robust scientific evidence needed to manage this issue well into the future.

Just as senators frequently come into this place and call for us to act on the science, on this we should also act on the science. But we should acknowledge that wind farms have not been in existence in Australia for a century and so there is not a deep reservoir of well-established epidemiological and laboratory research about them. However, the industry has now been about for long enough to ensure that that research is undertaken, and we should commit to making sure that that research is undertaken. It is to the shame of the government that they did not grasp the opportunity more than a year ago to get that research underway about the concerns of the people who have come to see me and those I have gone to see, the people Senators Madigan and Xenophon have heard from and the people like Mrs Linke who made submissions to the Senate inquiry. These people have concerns and have a right to expect that those concerns will be listened to and acted upon.

There is some good research happening in places. There is some progress occurring. As recently as yesterday there was a news story from my home state about a University of Adelaide team that is trying to investigate precisely how turbines produce noise, especially in the low-frequency range. Universities do not start undertaking research in these areas if they do not think there is something to look into. Adelaide university and, in particular, Associate Professor Con Doolan obviously think there is something that needs to be looked at. Professor Doolan commented in the news story:

"We have a fair amount of knowledge around the noise generation mechanisms but, particularly in the low-frequency ranges, we don't know a lot about how they combine together," he said.

"This project is aimed at getting to the bottom of what is creating the noise that can cause disturbance."
The story went on to say that the Adelaide university team:

... will build a small wind turbine in the University's wind tunnel in Adelaide and use advanced techniques to measure aerodynamics and best practice.

"If we can understand what's creating these sounds then we can advise governments about wind farm regulation and policy and make recommendations about the design of wind farms or the turbine blades and industry," Professor Doolan said.

That is exceptionally welcome work from the University of Adelaide, Professor Doolan and his team. We welcome that type of progress because it will only be by providing the robust and sound scientific evidence that we will ensure the social licence to operate for the wind farm industry remains strong and well supported within the communities in which they operate.

The coalition believe that, after all the waiting for the government to act on last year's Senate inquiry, it is now time for the parliament to try to force the government's hand. So it will be our intention during the committee stages of debate on this bill—which I acknowledge are unlikely to be today—to move amendments to cause to have undertaken the type of NHMRC study that we have spoken off and that was recommended by the Community Affairs References Committee last year. There should be a study and a body of research that includes full spectrum acoustic monitoring with epidemiological and laboratory studies. It should be research that ensures the views of industry and the community are heard during its process so that it can seek to address and study the areas of concern. It should look at audible noise, low-frequency noise, infrasound, electromagnetic radiation and vibration arising from or associated with wind farms including wind turbines, transmission lines, substations, telecommunications towers and any other structures associated with industrial wind electricity generation. Importantly, it should ideally be undertaken in a way that has buy-in from both sides of this debate, from the Clean Energy Council and from the Waubra Foundation, so that at the outset there is some acceptance of who is undertaking the research, how it will be undertaken and what it will cover and there is some confidence that the outcomes we get can be used in a sound way to inform future regulation of this sector.

I said before in relation to the need for science and to act on science that we hear this pointed out about coal seam gas or CSG. We have seen actions taken by the Labor government to have thorough research undertaken into the impacts of the coal seam gas industry. We have seen the government set up an independent panel to oversee that research and to provide some certainty around its impacts, especially the impacts on groundwater systems. So there is no reason why the government should not embrace the type of action the coalition is proposing in relation to wind farms.

There is another area in this debate that is analogous to the position of coal seam gas, and that is that the Commonwealth with its research funds, expertise and expert bodies such as the National Health and Medical Research Council takes a lead role in helping to establish the evidence base. However, we should also acknowledge the Constitution under which we operate and the Federation that we have and respect the fact that state and territory governments are ultimately responsible for the type of planning decisions that relate to projects, be they coal seam gas projects on the one hand or wind farm projects on the other. That is why, whilst we have an understanding of the concerns that Senators Madigan and Xenophon are pursuing in this legislation, we
equally think that the types of legislative reforms they are proposing are not the types that this parliament should be legislating for, because they do intrude on the rights of the states to regulate for their communities as they see appropriate.

We think that if you could get the ideal outcome, if you could get the comprehensive evidence base that informed what would be sensible exclusion zones, sensible noise limits, the types of regulations necessary for the wind farm industry, an evidence base that had the confidence of both sides of the debate in this argument, then the pressure and the expectation could be applied to those states to ensure that they enact the types of planning laws that operate on the best available scientific evidence.

We want it done in a way that provides some confidence and certainty for the future for the wind farm industry just as much as it does for the communities in which that industry operates. The wind farm industry has come a long way. Senator Cameron cited some of the statistics in his contribution about the global science of the wind farm sector as well as the number of wind farms operating in Australia—many of which are of course in my home state of South Australia.

Wind-farm and wind-power generation is critical to achieving the 20 per cent renewable energy target set by the Commonwealth. I have expressed in this place previously some concerns that we have not banded or set aside some of that target to ensure that other technologies, the emerging technologies, can definitely benefit from it. I think that is a genuine concern that we need to keep in mind for the future. Nonetheless, the wind farm industry deserves, just as much as the communities in which these concerns have emanated from, to have certainty for the future. There should be certainty for both sectors, certainty that everyone has confidence in the evidence base on which decisions are made and on which regulations are put in place. Everyone should have confidence that no harm is occurring or, if harm is occurring, it is being prevented by the actions taken by industry and government working together.

As I said, noting that we probably will not get to the committee stage today and that this is the last sitting day for the year, I invite the government over the next couple of months before the parliament returns to think long and hard about the type of inquiry this Senate called for more than a year ago and the type of inquiry that we have urged be undertaken—and, if necessary, the coalition will move through the parliament—to provide the type of sensible, sound evidence base for the future that the communities where wind farms are based deserve and the wind farm industry itself deserves as well.

Senator MILNE (Tasmania—Leader of the Australian Greens) (11:18): This debate is not about sensible, sound evidence based policy. This debate is not about noise from wind farms. This debate is about an organised campaign by the fossil fuel sector using astroturf organisations running around being anti wind farms and anti renewables. They have added solar to it now, you will be pleased to know, so next year we will probably have the blinding impacts of solar farms out here talked about as a major impact. This debate is about a group of fossil fuel interests around the world organising an anti-renewables campaign and focusing in particular on being anti wind farms.

Just this week, for example, the fake grassroots campaign against wind has been exposed in the United States. It has been funded of course by the Koch brothers, as you would expect, because they always do provide funds for the oil industry, for the
coal industry, for the gas industry. The whole tactic has been exposed of what you do to get stuck into renewable energy because the fossil fuel sector knows that renewables are coming on at scale and are challenging the base of the fossil fuel sector. That is what this debate is about. It has got nothing to do with noise from wind farms.

Let me tell you some of the activities that have been revealed with this leaked strategy from the fake grassroots campaign. It is associated of course with the Heartland Foundation, and the American Legislative Exchange Council—and our very own Senator Bernardi is the Australian representative of the American Legislative Exchange Council—whose job it is to bring up template legislation to put into state legislatures around the world to do away with anything that the fossil fuel industry does not want. They are bringing in template legislation around the United States to do away with renewable energy. So no doubt Senator Bernardi will be right across this fake grassroots campaign against wind because the organisation for which he is the Australian representative and spokesperson will be providing him with all that information. Previously, we had here Family First, Senator Fielding, who went off to the Heartland Foundation. They are one of the leading think-tanks of global climate sceptics. This is organised by people who want to delay and not address climate change, and it is the most bogus and disgraceful campaign running around the world.

But they are having extraordinary success. The Baillieu government's decision in Victoria to do in wind in Victoria is completely and utterly a result of this bogus campaign being run by the fossil fuel sector. I am terrified when I hear Senator Birmingham giving the Waubra Foundation equal status with the scientists. Can you believe it—in this place the coalition actually standing there saying that a balanced debate with the Waubra Foundation on one hand and others on the other! It is not a balanced debate.

Senator Birmingham: Mr Acting Deputy President, I rise on a point of order. In that regard, if Senator Milne looks back to the comments, she will see that I mentioned the Waubra Foundation and the Clean Energy Council in the same sentence. I never suggested equal billing for either organisation with the scientists who should undertake the research.

The ACTING DEPUTY PRESIDENT (Senator Marshall): Senator Birmingham, as you know, there is no point of order.

Senator MILNE: Let me tell you about the Waubra Foundation. Back in 2009 Waubra hit the news when powerful forces linked to mining interests and Australia’s climate sceptic factory, the Institute of Public Affairs, which is in turn linked to the Liberal Party, used what was then the largest wind farm in the Southern Hemisphere as an easy target for their antiwind scare campaign and they established the Waubra Foundation. That Waubra Foundation was set up by Mr Mitchell. He is part of the Landscape Guardians. He also has the investment company Lowell Resources Funds Management Ltd, which lists coal in various forms as the standout investment performer and shares the same PO box in South Melbourne with the Waubra Foundation. It is obvious. If you go to astroturfing and look at the connections, you can see where they come together. You get exactly what you have here—and that is a campaign to do in renewable energy, in particular wind.

Let us get to some of the so-called health impacts. Let us go to the spokespeople for wind turbine syndrome. The qualifications of the spokespeople were exaggerated and were
forced to be corrected because there is no serious background research science behind Dr Laurie, the spokesperson for the Waubra Foundation, in terms of acoustics and so on. There are all these allegations about wind turbine sickness and syndrome. There are meant to be 222 separate health diseases and symptoms as a result of wind farms. I will tell you what some of them are. These are the diseases and symptoms experienced by people and animals as a result of wind farms: dental infections, feet sores that would not heal until they moved out of the house, kidney damage, leukaemia, skin and lung cancer, nausea, children losing interest in school and refusing to go to school, spontaneous abortions by horses, chickens laying yokeless eggs, Peacock-mating problems, earthworms abandoning the properties and the sudden death of 400 goats. Now come on!

We have just heard Senator Birmingham telling us that we should be taking this seriously and we should equally weigh up the claims of the Waubra Foundation and so on. The science community is out there saying that this is ridiculous. The scientists concerned have said that wind farm syndrome is actually a psychogenic condition. People are told they are going to be sick and if they do not have a financial interest in the wind farm then suddenly they get sick. Isn't it interesting that where people have a financial interest in the wind farm, whether it is a lease arrangement or a joint venture, those people do not get sick? I find that extraordinary. If you have a financial interest, you do not get sick. If you just do not like looking at it and you have not got any money in it and you might have in the fossil fuel industry then it is a different thing.

We hear Senator Birmingham say he is terribly worried about setbacks for wind farms, but what about coal seam gas? I am going to come to that because he was suggesting that there is some equivalence between wind farms and coal seam gas. Let me tell Senator Birmingham that coal seam gas actually requires a physical intervention which results in gas coming up and fugitive emissions that are going into the atmosphere. Those are methane emissions that are driving climate change. Those are scientific facts; those are evidence based facts. There is no equivalence whatsoever. You cannot look at these two things as if they are somehow equivalent. That is a load of nonsense.

There are thousands of wind turbines in Germany, Denmark and Spain but those people have not got wind turbine syndrome. How is it possible that the Germans, the Danes and the Spaniards do not get sick, but people in North America and Australia get sick? How is that possible? There is a lot to suggest that actually these illnesses are psychosomatic, because a whole lot of the bogus literature that is not peer reviewed is overwhelmingly written in English. It is not until you read about it in English apparently that you get sick, so the Spanish, the Germans and the Danes do not get sick at all.

Where is the concern for the coal dust and particulate matter from coalmines that is causing illnesses? That is evidence based and documented. It seems nobody in the coalition is the least bit concerned about the real health impacts that are already occurring as a result of expanded coalmining, coal seam gas and the like. So what we have here is a carefully constructed and orchestrated campaign by astroturf organisations and brought to Australia via the Institute of Public Affairs and the Waubra Foundation. It is obvious to me that this is now a strategy put together by the Landscape Guardians and the IPA. It is all about trying to do over renewable energy.

As I said before, Peter Mitchell has 25 years of history in the fossil fuel industry. He
was the founding Chairman of the Moonie Oil Company and a chairman or a director of related companies, including Clyde Petroleum, Avalon Energy, North Flinders Mines, Paringa Mining and Exploration, and so on. So there you go. You have absolute evidence that the person running the campaign against wind is totally associated with the fossil fuel industry.

Like the Landscape Guardians, the Wauabra Foundation is highly secretive. There is no information about its funding or its sponsorship. The audited financial statements of the Landscape Guardians contain no expenditure but money seems to be no object to them. They have full-time campaigners, an advertising budget, travelling expenses and a media monitoring service and yet they have no expenditure in terms of their audited financial statements. How is it so? Professor Simon Chapman notes:

Most wind farms around the world and in Australia have no history of complaints, and most of those which do, have seen the local area targeted by external anti-wind farm activists who spread panic and tell frightened locals to report anything they might experience to their doctor. The activist groups even provide symptom menus to assist residents—in case they had not actually identified the symptoms for themselves. This is an absolutely appalling situation and at the Senate inquiry we had Mr Holmes a Court, who is chairman of the Hepburn wind farm and submitted a leaked running sheet from the Australian Environment Foundation. It was addressed to the guardians detailing the strategy for a protest at Leonards Hill, including the signage to be held up by the crowd of predominantly outsiders. We also know that the Australian Environment Foundation is an astroturf organisation. Again, it is funded by vested interests. It is designed to look like, of course, the Australian Conservation Foundation and that has been a long-term subject of concern. The Environment Foundation's Executive Director, Max Rheese, is the executive director of another anti-renewables group, the Australian Climate Science Coalition, one of over 100 climate sceptic astroturfers. Who funds them? There is some evidence to suggest it could be Exxon. I would be very interested to know if in fact they come clean about whether it is Exxon.

As to the actual particulars of the legislation, one of the most ridiculous parts of this legislation is—and listen to this—the bill would empower the Clean Energy Regulator to suspend accreditation of a power station if they believe the power station is being operated in contravention of 'a law written or unwritten'. The Australian Energy Regulator shutting down a power station on the basis of an 'unwritten' law—what does that mean? The law of whom or of what? This is a silly idea and it is a nonsense.

As to the suggestion in terms of the decibel standards, actually the Australian states already regulate wind farms to a tougher standard than is being proposed by Senator Madigan in this bill. Whether Senator Madigan and Senator Xenophon are aware of the extent of astroturfing, the links of all these organisations to the fossil fuel sector and the broader campaign against renewables that is being run and is showing up as an anti-wind farm campaign, I have no idea of the extent to which they know that, understand that or whatever. But there is absolutely no science base to the allegations that are being made. As Professor Simon Chapman has noted, what we have now is a psychogenic condition—and if a condition needs to be treated it is that. I have said to the wind farm operators that if they want to end wind farm syndrome in Australia all they have to do is develop a business model that enables communities to financially benefit
from wind farms. Then they will find that even these astroturfers cannot stir up a level of concern because people have actually got a financial interest in the wind farms and will look at them in a far more balanced way.

We have got a serious crisis here. We have the world meeting in Doha right now with the globe on track for three to four degrees of warming. Today in Victoria we have a heatwave expected and in Western Australia storms are expected. Look all around the world. The World Meteorological Organization released overnight the latest impacts of global warming—and make no mistake: the people running the anti-wind farm campaign and anti-renewables renewables campaign do not want the world to act on climate change and they want to derail renewable energy. This leaked memo out of the United States shows that this is a fake campaign being run by those vested interests. The tactics they are suggesting are to partner with think tanks across the political spectrum such as the Brookings Institute, the Cato Institute and the Heartland Institute and, as I said, no doubt the IPA are up to their necks in it as well; to encourage critical thinking for members and the public about renewables; to recruit volunteers without establishing a formal national organisation and using them as people to lobby lawmakers; to get out strong public relations; and to collaborate with like-minded groups such as Tea Party activists and the like—and, of course, that is exactly what is happening here in Australia.

So I think the Senate needs to recognise (a) this bill has no merit—and I would be interested to know whether the coalition thinks the Energy Regulator should be able to shut down a power generator on the basis of laws ‘written or unwritten’—and (b) we have a bill which the committee found comprehensively ought not to be passed. Obviously, the committee rejected the voodoo science that has been put forward in many of these cases, with 222 separate health diseases and symptoms, supposedly experienced by people as a result of wind farms, for which there is no substance. But the bigger issue here is this. If we are to actually try to constrain global warming to less than two degrees, we have to get to 100 per cent renewables as quickly as possible. We need appropriate planning laws, and there is no doubt about that, and what we do not need is astroturf organisations which are driving fear into communities and actually bringing in people from outside in order to frighten communities as they try to knock over wind farms because they interfere with the vested interests of the fossil fuel sector. That is what we are getting into here and I am not surprised. When you have got the IPA linked to Heartland and other organisations in the US, Senator Bernardi as spokesperson for the American Legislative Exchange Council and the Liberal Party's connections to the Institute of Public Affairs, no wonder we have got all of this happening in Australia.

It is part of climate scepticism, climate denial or reality of climate change and a deliberate strategy to do over renewable energy. I do not think the Senate should have any part of it. Before the Waubra Foundation expects anyone to take them seriously, they should come out with their financial statements and make it plain as to where they get their funding. Until we get an idea of where they get their funding, I am going to stand by the claim that I am making that they are an astroturf organisation for the fossil fuel sector who are meddling in public debate in Australia.

I do credit them with success with the Baillieu government in Victoria. The sooner that the Baillieu government gets over it and recognises that the Baillieu government gets over it and recognises that they are doing in the prospect of wind energy in Victoria, which is being
picked up elsewhere in the country—I think that Senator Xenophon and Senator Madigan are part of a campaign against wind energy and renewables in Australia. That is a very bad thing in terms of responding to the climate crisis and responding to the very real health impacts. If you want to get to health impacts, let us deal with the health impacts of particulate matter and coals, for example, and of methane from coal seam gas emissions rather than these astroturf organisations' claims, which I believe are voodoo science.

Senator Ian Macdonald: That's 55 times you've mentioned astroturf.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (11:38): It is disappointing for me to hear in this place from Senator Milne, the leader of a party which is part of government, a disappointing, insulting and dismissive presentation. I am deeply disappointed by it, but at least I have learnt now just from the last few seconds what astroturfing is all about. I had absolutely no idea and I am sure that, in his contribution, Senator Macdonald is going to tell us more about it.

I do congratulate Senators Madigan and Xenophon for the work they are doing. I cannot understand why Senator Milne would be attacking particularly Senator Xenophon, who seems to support her in so many areas, but I am sure he will speak to that. I want to recognise the late senator Judith Adams, who was very passionate in this area, and now past senator Steve Fielding, who were both participants in the Senate Community Affairs References Committee inquiry chaired competently by Senator Siewert, from the Greens.

For somebody who, in Senator Milne's case, speaks of the fact that she has such an interest in rural Australia, it is so disappointing that she would be so diserisory and so dismissive of people in rural Australia who themselves believe there are health effects. What is equally disappointing is that the collegiality of this Senate is in the fact that we participate in Senate hearings, where we listen and learn and ask and form views, but at the hearing that was held only last Wednesday week Senator Milne was not a participant, and much of the nonsense that we have just heard from her would in fact have been answered had she been a participant—comments like, 'Those who earn an income from wind farms don't get sick whereas those who don't earn one do.' I point Senator Milne to the evidence of a Mr David Mortimer, himself a retired naval engineer, whose area of specialty, strangely enough, was the movement of sound and electromagnetic waves through different media, including air, ground and water. He and his family are recipients, are hosts and do earn an income, and he, for one, has come out and said recently, 'Yes, we are suffering ill effects.'

That is the disappointment of Senator Milne, because she is an intelligent person. Why she would expose herself to ridicule with a statement like that is beyond me. I am very pleased that she did not link me to any of these astroturf and other organisations, because I have no links to any of them. What I can say is that in my time as Chief Executive Officer of the Rottnest Island Authority, off the coast from Fremantle, we were the hosts of the first wind turbines in Western Australia, and it was from that work that the Albany and the Esperance wind farms were developed. When it comes to solar energy, Senator Milne, in case you are listening, I am proud to say that my organisation was in fact the developer of no less than six applications of solar energy, including solar hot water systems, solar based remote lighting, solar based navigation markers and, interestingly, solar based
electric fencing for the small marsupials such as the quokka, from which the island derives its name, and I believe the world's first ever solar powered remote composting toilet.

So I will not stand in this place and listen to ridicule from Senator Milne or anybody else about my interest in renewables. We all know that in Western Australia, in Cockburn Sound, there is some tremendous work going on with the use of wave energy for generating power. I, for one, am very interested in it. Our former colleague in the other place Wilson Tuckey was always a great advocate for the value of tidal power from the north of our state, where we have 10-metre tides twice daily. So do not come in here, through you, Mr Deputy President, Senator Milne and start criticising me for the concern I have.

There are two elements that are of concern to me in this issue. First of all, I want to be satisfied that there are no adverse health impacts from any technology that is introduced into this country. Second, I want to see technology that is commercially viable and realistic, or has the capacity to be. I make the point as an arch federalist and of course as a Western Australian that I have no interest at all in the federal government removing from the states and territories their inherent constitutional right to govern whatever it is they do under the Constitution. But, equally, I say to you that as a senator of this Australian parliament I do have an obligation to ensure that there are not adverse health effects over which we can have some control. I do not want to see the expenditure of vast sums of taxpayers' money on development of any sort, including wind turbines or wind farms, if indeed they are not shown to be commercially viable. That has been the motive that has caused me to pick up the work of the late Senator Adams and in fact to participate with Senators Xenophon and Madigan, by telephone with Senator Birmingham and with the chairman of the committee, Senator Cameron, in the hearings recently.

If there are such concerns from the wind farm developers about noise, why do they not do two things? Firstly, why do they not make publicly available the information that they receive on audible noise? Secondly, why do they continually refuse to evaluate low-frequency infrasound and other effects that may be having an adverse health effect.

As we know, and as I brought out recently in the hearing in Canberra, we have real-time aircraft noise monitors over all of the major airports in Australia and by going on to a website called WebTrak anybody listening, anybody in this chamber, can watch it now—as indeed the chairman, Senator Cameron, did while I was asking my questions the other day. He and the secretary went on to the WebTrak site for Sydney airport. He interrupted me to say: 'Yes, what he says is right. I am watching in real time noise over Sydney airport.' I say if we can do that for every airport in Australia, why can we not do it for the wind farms or those in the vicinity of them?

I also asked the question, and I have not yet had adequate answers: why is it that the contracts that the wind farm developers demand of the hosts have these particular clauses? One of them is:

The operator will generate sound pressure levels of a maximum of 50 decibels auditory and the operator consents to the proposed operation of a wind farm—listen to this, Mr Deputy President—despite its non-compliance with noise guidelines sound pressure levels set out in a clause of the deed.

I am reading from a contract that wind farm developers require land owners to sign. Furthermore, the organisation uses a contract to include a clause that shifts liability for
health effects due to noise from the developer to the landholder. It says:
The landholder releases the developer from any liability for loss, damage or injury occurring in the premises or on the land arising from the tenant's breach of the Environment Protection Act 1970 due to noise emitted from wind turbine generators.

Well, if Senator Milne does not have any concern about those clauses in those contracts, I certainly do. Remember these contracts tie people up for 50 years. Neighbours are being asked to sign them to say that for a 50-year or more period they will not complain. I asked the question, and I have asked it of the developers themselves: what are you trying to hide?

We had evidence on the day—and it was a shame Senator Milne was not there because she would have heard it—from Professor Hansen, who has received Australian Research Council funding to have a look at some of these aspects of ill health. The wind farm developers will not release their data to him to undertake independent research. I ask: why not? If I had confidence in my technology, firstly, I would be out there very proudly saying it; secondly, I would not be tying people up to confidentiality agreements that prevent them from actually stating if they do believe they have adverse health effects; and, thirdly, I certainly would not be denying scientists access to review these circumstances.

It is this that brings me to the conclusion that for the first time ever—whoever it is in English or Dutch or Danish or Norwegian or Swahili, I do not care—I want to seek independent research undertaken into issues associated with the question of adverse health effects of people affected by wind turbines. Senator Milne, I am not paid by anybody, I am not in anybody's pocket and I do not know what or who astroturf organisations are. What I want to see is a proper literature review, and I have questions and I have raised concerns over the independence of those who undertook the so-called rapid review by NHMRC. I asked questions recently in the hearing about that. The very term 'rapid review' of itself was a most unfortunate term. I urge yet again NHMRC to remove from their website the outcome of that rapid review, because simply there is a question as to its adequacy and its validity.

What the coalition wants to see, as I heard my colleague Senator Birmingham spell out, is an independent undertaking by credible scientists who can have full access to all noise data, who can undertake epidemiological studies, who undertake adequate funding to do the research and the laboratory studies, who can actually go to industry and go to the communities totally independent of bias—he it my side, be it Senator Xenophon's and Senator Madigan's side, or indeed Senator Milne's side—and undertake this work. I want to see studies undertaken of audible noise, low-frequency noise, infrasound, electromagnetic radiation and vibrations associated with all aspects of the technology.

This is the effect that is happening in rural communities around Australia and Western Australia at the moment. This is what amazes me. Perhaps Senator Milne does not get out into rural Australia; I know Senator Siewert does. We have communities in Western Australia, and the absolute cornerstones of communities in Western Australia and around rural Australia are the Country Women's Association and bush fire brigades. Those two are the absolute foundations. We have circumstances in our rural communities now—I am sorry I am keeping Senator Collins awake—where there are people who are not attending CWA meetings because of anger and discord. There are people who are not turning out at
rural fires because of their concerns and because of the community discord.

I certainly am interested in the legislation that has come forward. At this stage there are deficiencies in it, but I am very, very hopeful that the coalition may in fact be able to contribute actively and sensibly to resolving this question.

The PRESIDENT: Order! Time for the debate has lapsed.

PETITIONS

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

Asylum Seekers

Signatures: 1,008

To the Honourable President and Members of the Senate in Parliament assembled

Your petitioners ask that the Australian Parliament end mandatory detention and endorse the majority recommendations of the Joint Select Committee on Australia’s Immigration Network 2012, in particular recommendations 22 and 23 which read:

Recommendation 22: That the Australian Government take further steps to adhere to its commitment of only detaining asylum seekers as a last resort and for the shortest practicable time and subject to an assessment of non-compliance and risk factors as enunciated in the New Directions policy.

Recommendation 23: That asylum seekers who pass initial identity, health, character and security checks be immediately granted a bridging visa or moved to community detention while a determination of their refugee status is completed and that all reasonable steps be taken to limit detention to a maximum of 90 days.


by Senator Hanson-Young (from 345 citizens).

Petition received.

Release of Mr Joyce and Mr Lee

To the Honourable President and members of the Senate in Parliament assembled:

The petition of the undersigned shows:

In January 2009 highly respected Victorian businessman working in Dubai, Mr Matthew Joyce, attended a meeting with Dubai police. He was not allowed to leave this meeting and was incarcerated in solitary confinement at the Dubai State Security for seven weeks. He did not see light of day once in this period. The room was two by three metres, with no windows bathroom and a grass mat in the corner for a bed. When he was finally allowed to see his wife a month later he was white, clammy and weeping, with sores from the cold floor and malnutrition.

Six months after his incarceration Mr Joyce, Mr Marcus Lee and others were charged with bribery offences in relation to a Dubai property transaction involving Sunland Group Limited in 2007.

The Victorian Supreme Court recently considered the same matter and in June 2012 unequivocally found that Mr Joyce and his co-accused are victims of a false complaint to Dubai authorities by senior executives of Sunland. Importantly, there were no findings of either misrepresentation or fraud which have been the nub of Sunland’s allegations in both Dubai and Australia.

Justice Croft accepted submissions against Sunland that Mr David Brown's contradictory evidence given during the trial' pointed to the utter unreliability of Brown's evidence' and, at one point, that Brown's evidence became 'increasingly nonsensical. His Honour also accepted submissions that 'Brown's evidence in relation to the bribery allegations indicates, very clearly, that Brown cannot be taken as a reliable witness of truth'. In September 2012 the Victorian Supreme Court went on to find " .. .that Sunland commenced and continued the present proceedings in wilful disregard of known facts and law and also for an ulterior purpose." and that "...Sunland had no qualms whatsoever about misleading the Dubai prosecutor on critical factual matters." The criminal trial in Dubai took almost three years. There were no adverse findings, and Mr Joyce and Mr Lee now face a
second trial in Dubai after the matter was referred back to the Dubai prosecutor.

Your petitioners ask that the Senate:

Does everything in its power to ensure that the Government and the Minister for Foreign Affairs, Senator the Honourable Bob Carr, actively pursue the immediate release of Matthew Joyce and Marcus Lee with utmost vigour

by Senator Kroger (from 4,057 citizens).

Petition received.

NOTICES
Withdrawal
Senator XENOPHON (South Australia) (11:51): Pursuant to notice of intention given yesterday, I withdraw business of the Senate notice of motion No. 1 standing in my name relating to the disallowance of the National Health (Weighted average disclosed price—interim supplementary disclosure cycle) Amendment Determination 2012 (No. 2).

COMMITTEES
Selection of Bills Committee
Report
Senator McEWEN (South Australia—Government Whip in the Senate) (11:53): I present the 16th report of 2012 of the Selection of Bills Committee and I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 16 OF 2012
1. The committee met in private session on Wednesday, 28 November 2012 at 6.22 pm.
2. The committee resolved to recommend—

That—

(a) the provisions of the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 27 February 2013 (see appendices 1 and 2 for a statement of reasons for referral);

(b) the provisions of the Australian Education Bill 2012 be referred immediately to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 13 March 2013 (see appendix 3 for a statement of reasons for referral);

(c) the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012 be referred immediately to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 27 February 2013 (see appendices 4 and 5 for a statement of reasons for referral);

(d) the provisions of the Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 13 March 2013 (see appendix 6 for a statement of reasons for referral);

(e) the provisions of the Customs Amendment (Miscellaneous Measures) Bill 2012 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 13 March 2013 (see appendix 7 for a statement of reasons for referral);

(f) the provisions of the Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 25 February 2013 (see appendix 8 for a statement of reasons for referral);

(g) the Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012 be referred immediately to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 12 March 2013 (see appendix 9 for a statement of reasons for referral);

(h) contingent upon its introduction in the House of Representatives, the provisions of the National Disability Insurance Scheme Bill 2012, be referred immediately to the Community Affairs Legislation Committee for inquiry and
The committee resolved to recommend—
That the following bills not be referred to committees:

- Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012
- Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012
- Federal Circuit Court of Australia (Consequential Amendments) Bill 2012
- Financial Framework Legislation Amendment Bill (No. 4) 2012
- International Tax Agreements Amendment Bill 2012
- Migration Amendment (Special Protection Scheme for Afghan Coalition Employees) Bill 2012,
- Offshore Petroleum and Greenhouse Gas Storage Amendment (Compliance Measures) Bill 2012
- Protection of Cultural Objects on Loan Bill 2012
- Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2012
- Social Security and Other Legislation Amendment (Income Support Bonus) Bill 2012
- Superannuation Legislation Amendment (Reducing Illegal Early Release and Other Measures) Bill 2012
- Income Tax Rates Amendment (Unlawful Payments from Regulated Superannuation Funds) Bill 2012
- Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2012
- Tax Laws Amendment (2012 Measures No. 6) Bill 2012
- Water Amendment (Save the Murray-Darling Basin) Bill 2012.

The committee recommends accordingly.

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


(Anne McEwen)
Chair
31 October 2012

Appendix 1

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Agricultural and Veterinary Chemicals Legislation Amendment Bill

Reasons for referral/principal issues for consideration:
Significant industry and other stakeholder concerns regarding the efficacy of the Bill and associated costs

Possible submissions or evidence from:
CropLife
WWF
Bayer CropScience
Committee to which bill is to be referred:
RRAT

Possible hearing date(s):
January 2013

Possible reporting date:
27 February 2013
(signed)
Senator Fifield
Whip/Selection of Bills Committee member

Appendix 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Australian Education Act

Reasons for referral/principal issues for consideration:
The bill to be examined against national reform agenda and Council of Australian Government objectives.

Possible submissions or evidence from:
States and Territories
Non-government sector authorities
Teacher associations
Parent Group representatives

Committee to which bill is to be referred:
Senate Education, Employment and Workplace Relations Committee

Possible hearing date(s):
January/February 2013

Possible reporting date:
March 2013
(signed)
Senator Fifield
Whip/Selection of Bills Committee member

Appendix 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Biosecurity Bill
Inspector-General Biosecurity Bill

Reasons for referral/principal issues for consideration:
Industry concerns regarding risk assessment process and consideration of new science in reviewing existing arrangements

Possible submissions or evidence from:
NFF
AusVeg
Committee to which bill is to be referred:
RRAT

Possible hearing date(s):
January 2013

Possible reporting date:
20 March 2013

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

Appendix 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Biosecurity Bill 2012 and Inspector-General Biosecurity Bill 2012

Reasons for referral/principal issues for consideration:
Scrutiny of the legislative proposals to manage biosecurity risks.

Possible submissions or evidence from:
Primary Industry Representatives; Retailers; Customs Brokers; Shipping Interests; Environment NGOs; Business representatives.

Committee to which bill is to be referred:
Rural and Regional Affairs and Transport Legislation Committee.

Possible hearing date(s):
Possible reporting date:
27 February 2013

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

Appendix 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012

Reasons for referral/principal issues for consideration:
The bill introduces a range of new offences which need to be thoroughly examined.

Possible submissions or evidence from:
Law Council of Australia
Australian Commission for Law Enforcement Integrity
Australian Federal Police
Australian Crime Commission
Australian Customs and Border Protection Service

Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Committee

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

Possible reporting date:
To be determined by the committee

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

Appendix 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Customs Amendment (Miscellaneous Measures) Bill

Reasons for referral principal issues for consideration:
The bill introduces a new offence of importing restricted goods which needs to be thoroughly examined.

Possible submissions or evidence from:
Australian Customs and Border Protection Service
Australian Federal Police

Committee to which bill is to be referred:
Senate Legal and Constitutional Affairs Committee
Possible hearing date(s):
To be determined by the committee

Possible reporting date:
To be determined by the committee

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

Appendix 8
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012

Reasons for referral principal issues for consideration:
Referral of this Bill will provide an important opportunity for the Australian community and relevant experts and industry representatives to input on the Bill's provisions.

Possible submissions or evidence from:
- Environmental and biodiversity scientists
- Heritage experts
- Environmental and planning legal experts
- Community members involved in the protection of EPBC protected matters
- State and federal government environmental regulators
- Relevant industry bodies

Committee to which bill is to be referred:
Environment and Communications Legislation Committee

Possible hearing date(s):
Late January/ early February 2013.

Possible reporting date:
25 February 2013
(signed)
Senator Siewert
Whip/Selection of Bills Committee member

Appendix 9
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012

Reasons for referral principal issues for consideration:
For detailed consideration of the provisions of the Bill including:
- Whether the penalties will act as a sufficient deterrent;
- The duties and obligations of the officers of registered organisations; and
- The regulatory regime governing registered organisations.

Possible submissions or evidence from:
- Registered Organisations
- State Governments
- Department of Education, Employment and Workplace Relations
- Interested parties

Committee to which bill is to be referred:
Senate Education, Employment and Workplace Relations Legislation Committee

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

Possible reporting date:
12 March 2013
(signed)
Senator Fifield
Whip/Selection of Bills Committee member

Appendix 10
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
National Disability Insurance Scheme Bill 2012

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

Possible reporting date:
25 February 2013
(signed)
Senator Siewert
Whip/Selection of Bills Committee member
Reasons for referral/principal issues for consideration:
To fully examine and consult to ensure intended policy outcomes are given effect to by the legislation

Possible submissions or evidence from:
People with disability, their families and carers
Disability and carer sector peak bodies, advocacy groups, support groups, workers
Disability service organisations
Department of Families, Housing, Community Services and Indigenous Affairs
Department of Prime Minister and Cabinet
Department of Treasury
Department of Finance and Public Administration
Australian Government Actuary
State and Territory Governments
Productivity Commission
Other interested parties from legal, insurance and community sectors

Committee to which bill is to be referred:
Senate Community Affairs Legislation Committee

Possible hearing date(s):
January/February 2013
Possible reporting date:
end February 2013 (25 FEB)
(signed)
Senator McEwen
Whip/Selection of Bills Committee member

Appendix 12
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Native Title Amendment Bill 2012
Reasons for referral/principal issues for consideration:
Consideration of the measures proposed and implications for the Native Title system in Australia.

Possible submissions or evidence from:
Attorney-General Department
Law Council of Australia
National Native Title Tribunal
Aboriginal Legal Centres 3 State and Territory Government
Legal Practitioners engaged in Native Title
Pastoral bodies

Committee to which bill is to be referred
Legal and Constitutional Affairs Committee

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

Possible reporting date:
To be determined by the committee

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

Appendix 13
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Parliamentary Service Amendment Bill 2012

Reasons for referral/principal issues for consideration:
To compare the provisions of the bill with the
Public Service Amendment Bill 2012

Possible submissions or evidence from:
- Department of Parliamentary Services
- Public Service Commissioner, Parliamentary Services Commissioner
- Presiding officers

Committee to which bill is to be referred:
Senate Finance and Public Administration Committee

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

Possible reporting date:
To be determined by the committee

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

Appendix 14
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Private Health Insurance Amendment (Lifetime Health Cover Loading and Other Measures) Bill

Reasons for referral/principal issues for consideration:
Consider the implications for the health system of Australia.

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

Committee to which bill is to be referred:
Community Affairs

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

Possible reporting date:
To be determined by the committee

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

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

BUSINESS
Leave of Absence
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (11:53): I move:
That leave of absence be granted to Senator Boswell for today, for personal reasons.
Question agreed to.
COMMITTEES
National Broadband Network Committee
Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (11:54): I move:

That the Joint Standing Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1 pm.

Question agreed to.

PARLIAMENTARY ZONE
Approval of Works

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (11:55): At the request of Senator Feeney, I move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the following proposals by the National Capital Authority for capital works within the Parliamentary Zone:

(a) the removal and replacement of trees;
(b) the construction of bus shelters;
(c) the removal and replacement of a pedestrian and cycle crossing;
(d) making permanent two existing temporary sculptures at the National Gallery of Australia; and
(e) the installation of three outdoor exhibits at Questacon.

Question agreed to.

Senator IAN MACDONALD (Queensland) (11:55): I seek leave to make a short statement in relation to that motion.

The PRESIDENT: Leave is granted for one minute.

Senator IAN MACDONALD: I should indicate that I have a conflict of interest in that I do ride my bike around part of the place where these works are proposed. I just hope that the trees being removed are not some of the trees that make Canberra so special.

Can I also say that I hope that this motion does not allow for any astroturfing. I wanted to mention 'astroturfing', because Senator Milne was able to say the word 53 times in her most recent contribution. Coming from the Greens political party, talking about astroturfing, when GetUp! are the ultimate astroturfer and they are there to astroturf for the Greens political party, it is absolutely incredible for Senator Milne to have the hide to accuse Senator Madigan and Senator Xenophon of astroturfing when then they are the arch architects of it. (Time expired)

COMMITTEES
Legal and Constitutional Affairs References Committee
Reference

Senator WRIGHT (South Australia) (11:57): I move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 21 March 2013:

The impact of recent proposed federal court fee increases on access to justice in Australia, with particular reference to:

(a) the impact of federal court fee increases on low income and ordinary Australians and operators of small business;
(b) whether recent and proposed fee increases are reasonable, based on evidence and consistent with other justice policy matters;
(c) how increases in court fees, and other reform to the courts and justice system, can act as a barrier to accessing justice;
(d) the extent to which court fee increases may impact on services provided by legal assistance.
services, i.e. legal aid commissions, ATSILS, FVPLS and CLCs; and
(e) other relevant matters.

Question negatived.

MOTIONS

Christian Assyrians in Iraq

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (11:58): At the request of Senator Fierravanti-Wells, I move:

That the Senate—

(a) recognises that:

(i) Christian Assyrians, a minority religious and racial group in Iraq, are subject to ongoing violence, intimidation, harassment and discrimination on religious and ethnic grounds at the hands of extremists,

(ii) on 31 October 2010, 58 Christian Assyrians were killed in an attack on a church in Baghdad in an act of violent extremism targeting this minority group,

(iii) since 2003, 600 000 Christian Assyrians have left Iraq, including many thousands to Australia, and

(iv) despite the rights guaranteed to minorities in Iraq, including Assyrians, there are still cases of harassment, intimidation and discrimination;

(b) condemns violence, intimidation, harassment and discrimination on religious and ethnic grounds wherever it may be found, including in Iraq;

(c) welcomes the stated commitment of the Government of Iraq to the protection of the rights of Christians and other minorities enshrined in Iraq's constitution, and the steps taken by the Government of Iraq to address violence and discrimination, including:

(i) the formation of a Christian Police Force of around 500 to protect Christians and churches, in the wake of the 2010 bombing attacks on churches, and

(ii) moves to establish an Independent High Commission for Human Rights; and

(d) calls on the Government to continue to press the Iraqi Government to guarantee the rights of Christian Assyrians and other minorities.

Senator McEWEN (South Australia—Government Whip in the Senate) (11:58): Could I just clarify: is that the motion that has been amended?

The PRESIDENT: It is the motion as it stands. Senator Kroger, it might help—

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (11:58): If I can clarify, it is the motion as it stands in the Notice Paper.

Question agreed to.

Freedom of Information

Senator RHIANNON (New South Wales) (11:59): I move:

That the Senate—

(a) notes that:

(i) there is widespread community support for broad freedom of information laws and transparency in government,

(ii) the Freedom of Information Act 1982 and the Australian Information Commissioner Act 2010 are currently under review,

(iii) the Prime Minister, Ms Julia Gillard, on taking office in September 2010 stated 'we will be held more accountable than ever before, and more than any government in modern memory. We will be held to higher standards of transparency and reform, and it's in that spirit that I approach the task of forming a government', and

(iv) the OpenAustralia Foundation has developed a new website 'Right to Know' to improve the ease with which Australians can lodge freedom of information requests and to make the whole request and response process public;

(b) recognises the new 'Right to Know' website;

(c) congratulates the Foundation for its 'Right to Know' initiative which will further improve access to government held information; and

(d) urges the Government to use the site, provide feedback and support the Foundation in its aim of
encouraging effective citizen access to government information.


The PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS: The government is not supporting this motion. Labor is committed to a strong FOI system and transparency of government. In 2009, Labor undertook extensive reforms to make it easier for Australians to apply for personal documents. We removed application fees and abolished conclusive certificates. This year, Labor has asked an independent reviewer to undertake a legislative review of the FOI Act. It is clear from these actions that Labor believes in access to information and transparency; however, the government is unable to commit to using a website that is only being launched today. It may well be a good initiative, but we are not yet in a position to know. We also note that the site is being launched with a hackfest and a reported intention to shame public servants. The government certainly does not support this.

Senator RHIANNON (New South Wales) (12:00): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator RHIANNON: The stated objective is not about shaming public servants. I would urge the government to check with the people involved. It is a very well-respected project to broaden the effectiveness of FOI and could actually be quite informative for our own work in how we present our material publicly on websites. An outcome of the project may reveal delays in the work of departments, but it is certainly not about shaming anybody in any way. It is a constructive project that deserves our support.

Question agreed to.

National Asbestos Awareness Week

Senator SINGH (Tasmania) (12:01): I move:

That the Senate—

(a) formally marks National Asbestos Awareness Week, which in 2012 is being held between 26 November and 30 November;
(b) acknowledges the ongoing and devastating legacy of asbestos on the Australian community and that Australia has one of the highest rates of asbestos related diseases in the world;
(c) recognises the ongoing efforts of the many asbestos support and advocacy groups and unions which support those living with an asbestos related disease and advocate on behalf of victims;
(d) extends its sympathies to those who have been affected by an asbestos related disease;
(e) acknowledges Australia's ongoing work with like minded countries to achieve listing of chrysotile asbestos under the rules of the Rotterdam Convention; and
(f) commends the Government on its efforts to eradicate asbestos from workplaces, homes and the community through its response to the Asbestos Management Review and the establishment of the Office of Asbestos Safety.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee Reference

Senator LUDELAM (Western Australia) (12:02): I move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 30 June 2013:

CHAMBER
The role, adequacy and effectiveness of government regulation of uranium oxide transport, including:
(a) the mitigation of public radiation exposure from uranium oxide transport;
(b) the evaluation of the frequency and severity of transport and handling accidents including the 27 December 2011 train derailment resulting in toxic copper concentrate flowing into the Edith River;
(c) the process of issuing and auditing compliance with radiation transport management plans;
(d) the resourcing and conduct of transport related aspects of nuclear actions referred under the Environment Protection and Biodiversity Conservation Act 1999;
(e) the preparedness and resourcing of regional emergency contingency planning, education and training services;
(f) the Australian Radiation Protection and Nuclear Safety Agency codes, including the Code of Practice for Safe Transport of Radioactive Material;
(g) the Australian Safeguards and Non-Proliferation Office regulation of the transportation of nuclear material and issuance and auditing of compliance with transport permits; and
(h) other relevant related matters.
Question negatived.

Finance and Public Administration References Committee Reference
Senator DI NATALE (Victoria) (12:03):
I move:
That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 21 March 2013:
Progress in the implementation of the recommendations of the 1999 Joint Expert Technical Advisory Committee on Antibiotic Resistance, including:
(a) examination of steps taken, their timeliness and effectiveness;
(b) where and why failures have occurred;
(c) implications of antimicrobial resistance on public health and the environment;
(d) implications for ensuring transparency, accountability and effectiveness in future management of antimicrobial resistance; and
(e) any other related matter.
Question agreed to.

MOTIONS
Iran
Senator RHIANNON (New South Wales) (12:03): I move:
That the Senate—
(a) notes:
   (i) with deep concern the human rights situation in Iran, including the use of the death penalty, the intimidation and arbitrary arrest of human rights and political activists, and the treatment of minorities,
   (ii) with particular concern the situation of Ms Nasrin Sotoudeh, the Iranian human rights lawyer who has campaigned for 'freedom, social security, the rule of law and justice', and who has been imprisoned since 4 September 2010,
   (iii) Ms Sotoudeh's health has deteriorated as a result of being on a hunger strike for more than 40 days, and
   (iv) 30 000 people have supported a campaign run by Amnesty International to demand the unconditional release of Ms Sotoudeh; and
(b) supports the Australian Government raising concerns about Ms Sotoudeh's human rights, including her imprisonment, with the Government of Iran, and continuing to urge Iran to abide by its international human rights obligations and to protect the human rights of all its citizens.
Question agreed to.

Cancer Treatments
Senator XENOPHON (South Australia) (12:04): I, and also on behalf of Senators Fierravanti-Wells and Madigan, move:
That the Senate—
(a) notes the concerns of key stakeholders in relation to the price reduction of chemotherapy
drug Docetaxel and its potential broader impact on the treatment of cancer patients;
(b) calls on the Government to:
   (i) negotiate with relevant bodies regarding the cost of dispensing chemotherapy drugs, and
   (ii) ensure that the result of these negotiations will allow pharmacists to continue dispensing the drug, and other chemotherapy drugs, without disrupting patients;
(c) welcomes the policy of price disclosure of items on the Pharmaceutical Benefits Scheme; and
(d) calls on the Government to ensure that further disruption to patients does not occur.


The PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS: There has been a lot of misleading information about this matter. Contrary to the claims contained in this motion, patient services have not been disrupted. Taxpayers have been paying inflated prices for docetaxel, an older, off-patent chemotherapy. It is time the government paid the market price, and consistent with the bipartisan price disclosure policy the price will come down on 1 December. The Gillard government has a strong record of delivering for cancer patients. Since 2007, at an additional cost of $1.3 billion, the government has listed 30 new medicines to treat 15 different types of cancers, saving many patients over $5,000 per treatment. By paying less for older medicines like docetaxel, the government is able to continue to list new cancer medicines. The government will also continue working in good faith with the Pharmacy Guild, consumers, independent hospitals and private health insurers to ensure chemotherapy services are sustainable and the government will not be supporting this inconsistent and factually incorrect motion. (Time expired)

Question agreed to.

BUDGET
Consideration by Estimates Committees

Senator McEWEN (South Australia—Government Whip in the Senate) (12:06): I present additional information received by committees relating to estimates.

COMMITTEES

Senate Publications Committee Report

Senator McEWEN (South Australia—Government Whip in the Senate) (12:06): On behalf of the Chair of the Senate Standing Committee on Publications, Senator Brown, I present the 22nd report of the Publications Committee.

Ordered that the report be adopted.

Regulations and Ordinances Committee Documents

Senator McEWEN (South Australia—Government Whip in the Senate) (12:07): On behalf of the Chair of the Standing Committee on Regulations and Ordinances, Senator Furner, I present a volume of correspondence relating to the scrutiny of delegated legislation for the period January to June 2012.

Education, Employment and Workplace Relations References Committee Report

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (12:07): Pursuant to order, I present the report of the Education, Employment and Workplace Relations References Committee,
The adequacy of the allowance payment system for jobseekers and others, the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BACK: I move:

That the Senate take note of the report.

I do wish to speak to the report, but I seek your guidance—I want to make sure that there is adequate time for others to contribute.

The PRESIDENT: We have got until 12:45, so there is time.

Senator BACK: Thank you, Mr President. I thank the secretariat, those who participated in the series of hearings that we did have and those who made submissions, of which there were 78. We heard from witnesses in Melbourne, Canberra and Sydney, and we considered a number of reports prepared by charities and the not-for-profit sector, academics, government, professional bodies and, most importantly, those who are deeply affected by the legislation.

The committee made seven recommendations that I commend to the Senate. If implemented by government, they would improve the allowance payment system, not least by further encouraging those on Newstart to get work if and when they can even if it is temporary work as a first step to longer-term employment. The recommendations relate firstly to increasing the resources available to jobseekers during the first few weeks and months of unemployment. The committee heard evidence of many instances where the length of time from a person losing their employment to when they get back into meaningful employment or its opportunity is critical to their own wellbeing, to the maintenance of their skills and, most importantly, in their presentation to potential employers of their capacity to get back into the workplace.

The second recommendation relates to improving the cooperation between government agencies to appropriately target training and support for mature aged workers. Whilst time does not permit me to go into all of the elements, I do commend the report. I particularly commend the secretariat for the work they have done in preparing a wealth of background information which is well worth reading. There are summaries of reviews that have been undertaken, including the Henry review into this area. I would commend people to read this in some detail. Mature aged workers at the moment fall into a void because very often at the time they lose a job, whether it is due to redundancy or whatever, they actually have sufficient cash and assets, as an older person, to put them above the limit that would immediately allow them access to the sources and resources available. All of us would know that, when an older person does lose their employment, the days, weeks and months between them losing employment and becoming re-employed will dictate their capacity and their ability to get back into the meaningful workplace.

The third recommendation is to develop programs to assist former carers back into the workforce. I particularly commend a witness here in Canberra—a person who was trade skilled and a great contributor to his community—who ceased work to care for aged relatives. Some years later, when his mother passed away, he found great difficulty in getting back into meaningful employment through the processes. The committee actually asked him whether he would go away and give us a template for the
best mechanism and process by which a person finding themselves as a carer whose relative or the person for whom they were caring has now passed away, can find their way meaningfully back through the system and towards employment. I recommend that to those who are interested.

The fourth recommendation relates to increasing the income-free threshold for long-term Newstart allowance recipients to enhance incentives to work, and I know there are others who may speak to that. I do nevertheless commend that there needs to be an increase in the income-free threshold to encourage people to actually get back into work.

The next recommendation relates to increasing the working credit for Newstart recipients to the equivalent of three months work at the minimum wage to again create the incentive for those who have lost employment or who are not in employment to actually move in that direction.

Next is reforming governmental processes to enable departing Newstart recipients to remain on departmental systems for one year after they cease receiving payment. We found instances where a person would be receiving payments, they would be in the system and they would then have the offer of employment, but a fear of them falling out of the system may have led them to a decision to not seek that employment, however short term; however temporary. We recommend that the circumstance should be there that a person could actually remain on the books, in a sense, without being a recipient, so that, in the event of them losing that source of employment, they can get back into the system without an unnecessary delay.

The last recommendation is assessing the viability of creating an online calculator to enable allowance recipients to calculate the costs and benefits of work and the impact of work on allowances. I want to acknowledge the effort made by the combined departments in evidence presented to us in Sydney. I thought it was a very collaborative and collegial approach to the questions that we put to them. What came out of it for the committee was an absolute plethora of entitlements that might be due to some people but not to others; of circumstances in which there may be an opportunity which is either denied to them or they do not know about. Of course, I am sure there is also a movement in the staff of Centrelink and in the other agencies, and I think it lends itself to some form of database with online access so that people can participate.

The predominant theme in the evidence to the committee went to the adequacy of allowance payments and, in particular, the Newstart allowance. We received information from those who put in written submissions and from other witnesses about how difficult it was for them to eke out an existence and to gain secure paid employment whilst living on Newstart. We certainly could relate to that. But I would say from my position that there are all sorts of reasons for increases in the cost of living—the carbon tax being one and other expenses which are not brought into account in the consumer price index. I would make the point that the CPI itself is not an adequate indicator in determining the adequacy of these payments for these people. The committee agreed on the whole with the argument that the Newstart allowance does not allow people to live at an acceptable level in the long term. But, of course, it is important to remember that the allowance is not intended to be a long-term solution to unemployment. We hope that Newstart will be a prop so that people who have lost employment or who have not yet gained it will be able to use it on their way back into gainful employment.
We do know that there has been waste and there has been a lack of spending, and that has now come home to roost. We now know that the interest burden alone on the debt in Australia is some $20 million a day, or $600 million a month. It was interesting that an earlier hearing considered the question of moving people from the parental leave back to Newstart, and that was to save the government $700 million over four years. In fact, that $700 million is the equivalent of about one month's interest on the national debt at the moment. It is when we do run up debts of this level that we see the end result.

The committee was concerned to learn that 42 per cent of recipients who commenced Newstart each year do not transition quickly back into the workforce. We believe that the allowance payment system could better encourage a rapid return to employment. The committee focused on how policy makers might make best use of the resources available for job seekers to speed up their movement from Newstart back into employment. The committee also made recommendations that resources be boosted to assist job-seeking for those in what is known as stream 1—most of whom are likely to be relatively newly unemployed people—so that their term of unemployment can be minimised.

This has not been an easy hearing for the committee. I commend my colleagues and I commend the secretariat. I also commend the report and its recommendations both to the Senate and to the wider community as being a bipartisan attempt to come to a resolution on this very difficult and long-term issue in Australia.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:18): I would also like to contribute to the debate on the Education, Employment and Workplace Relations References Committee report entitled The adequacy of the allowance payment system for jobseekers and others, the appropriateness of the allowance payment system as a support into work and the impact of the changing nature of the labour market. I am very pleased to be able to contribute to this debate as it was the Greens that referred this very important issue to committee inquiry.

The Greens have submitted additional comments because, while we welcome the primary finding of the majority report, which is that the current rates of Newstart and other allowances are inadequate—let me say that again: the committee found that the current rates of Newstart allowance are inadequate—and we support that finding, the overwhelming evidence that the committee received was in fact that Newstart is inadequate. Where we have concerns is that the committee did not then go on to make the most obvious recommendation, which of course the Greens have done, which is: Newstart needs to be increased. Newstart needs to be increased by at least $50 a week because it is inadequate. We also go on to recommend the need to address the issue around indexation because we know that is separate as well, and we document that in our committee report findings. We also recommend that, with the increase in payment, there should also be proportional increases across the other payment allowances.

The reason that we needed to give additional comments is that the committee in their majority report failed to make that increase. In fact, they say that they are not able to make that recommendation. They go on to say how we cannot afford it because of other wastages of money, which Senator Back has just articulated. The committee's majority report says that there are two possible solutions: either Newstart allowance should be increased to raise the standard of
living available to recipients, or more careful thought needs to be applied to how best to ensure that people spend as little time as possible on welfare between jobs.

The committee were not forced to take that approach. What they should have more carefully looked at was: what impact does a low rate of Newstart have on people in driving them into poverty, what impact does that poverty have on them and what cost does that poverty have on society? We document that in our additional comments to highlight the need to address an increase in Newstart. It is quite obvious that Newstart is inadequate and that it needs to be increased. I am really disappointed that the majority of the committee did not take the step to make that recommendation. The Greens have of course taken that step and made that recommendation.

Another issue that the Greens address in our comments is around the inadequacy of some of the joint agency submissions. We raise two points in particular in our additional comments. We believe that they run two particular arguments to dull the overwhelming evidence from the community and from the experts that Newstart payments are inadequate. One of the arguments they run is that measuring 'adequacy' is a subjective measure and so it is difficult to measure. My question is: what is so difficult to measure about Newstart being $130 below the poverty line or only 45 per cent of the minimum wage? It does not seem to too hard to me.

On top of that, of course, there are a lot of international frameworks around, guiding measurements of this sort. So it should not be too hard now because of the frameworks that we have. It is a pretty poor argument that we cannot raise Newstart because it is a bit of a subjective measure.

The other line that they continue is trying to mess with the fact that other allowances on top of Newstart mean that families can earn almost as much as the minimum wage or more than it. Of course, that line was run very early on and the media picked it up because the government were trying to make it look as if was not too bad being on Newstart if you get these other payments—but they were measuring it against the minimum wage for a single. If you are a family on the minimum wage, you are also entitled to those same allowances such as family tax benefit. This is done to disguise the fact that Newstart is too low. I am really disappointed that the agencies that are supposed to be looking after the welfare of the most disadvantaged Australians feel it is necessary to muddy the waters to try and confuse people about the inadequacies of Newstart—and so we address those issues in our submission.

The other issue that we raise is that we think that the committee did a good job in addressing issues around older workers. We had some very strong evidence around that, including the contribution that, if only three per cent of older workers were able to gain employment and get over discrimination against the aged in our workforce, they would make a very significant contribution to our economy. The report, as Senator Back just touched on, addressed the issues around carers going back into the workforce. However, I do not think the committee really adequately got to grips with the issues around partial disability, with one in 10 people on long-term unemployment being Indigenous, one in 15 being a sole parent—and we are about to see a whole lot of sole parents dumped onto Newstart—and the fact that one in two have not completed year 12.

The department and the government like to use these confusing figures saying that nearly 60 per cent of those going onto
Newstart come off within a year. As Senator Back said, 42 per cent are actually on Newstart longer than a year, and 62 per cent of people that are on Newstart have been there long term, trying to survive on an inadequate payment. The majority committee report addresses this bit with quite a piecemeal approach. With issues around better employment service support, they make some recommendations but they are not comprehensive.

The Greens believe that there was certainly enough evidence given to the committee to point out that we need to be having an independent review of the functioning of Job Services Australia. There is enough evidence to show that major cohorts are missing out and that we need to better support people trying to find work. We need to be addressing their barriers to employment, even if it is a single barrier—though many of them face multiple barriers to work. So we also need to be improving our employment support to those most disadvantaged job seekers.

We have identified the inadequacies of Newstart and we are about to dump tens of thousands—in the first instance, 84,000—single parents and their families on to an inadequate payment that is clearly documented as inadequate. On 1 January we dump 84,000 single parents and their children onto a clearly documented inadequate Newstart payment. I had an email just this morning from one of those single mothers. I would like to read it out:

I am absolutely in shock that my parenting payment is about to be reduced by around $200 a fortnight. I had a Centrelink employee ask me if I needed to talk to counsellor. I need to have the $200. I am in a legally binding lease. I have payments for my car, internet for my son and all the other expenses in life. I have been given two months' notice of the changes. I do the right thing. I work double what Centrelink requires but I cannot find fulltime work. It would be like tapping the highly paid Centrelink employer on the shoulder and saying, 'Oh by the way, at Christmas we are halving your wage.' It is outrageous. There are going to be a lot of homeless people and children. Somebody please help us with no voice.

That is the human face of what is about to happen on 1 January.

What this report clearly articulates is that we need to be changing direction. We need not to be dumping these single parents onto Newstart. We need to be increasing Newstart. We need to be indexing it better and supporting those workers who have faced multiple barriers to employment. They are the most disadvantaged workers. They need better employment support to enable them to find meaningful work, not just cycling people in and out of casual work. That is the other thing the department could not tell us about. They do not even have the data systems to track whether people are cycling in and out of work and how many times. Of that 60 per cent who find work, we do not know how many return to unemployment within a short period of time. We have to do this better, Australia. This report clearly articulates that.

Senator MARSHALL (Victoria) (12:28): Senator Siewert's passion on these issues is there for all to see. I certainly commend her advocacy in these areas. I know she is very genuine and takes a very active and constructive role in the committee's deliberations.

I would like to commend the report that Senator Back has tabled today and thank him for his chairmanship of that committee. As always, we have striven to reach consensus, and in the bulk of the report we have achieved consensus. It is a report which Labor senators absolutely endorse, even though we have included some extra comments and recommendations because we
believe there are issues not dealt with comprehensively enough in the report. We do support all the recommendations that are in the report.

Whilst the recommendations in the committee’s report go some way to addressing the immediate concerns of Labor senators, it is plain that the Newstart allowance is too low, particularly for single recipients. For this reason, Newstart allowance single should be increased, taking into account other potential increases consequential to recommendations made in the committee’s report.

Labor senators believe that indexing arrangements for Newstart need to be reviewed and that consideration be given to whether, like pensions, the payment should not decrease in real terms.

Labor senators note that recommendations 4, 5 and 6 in the committee’s report are targeted at increasing incentives for Newstart recipients to engage with the workforce as they transition away from the payment. These recommendations are a good beginning. However, Labor senators believe that it is more appropriate that the income-free threshold for Newstart allowance recipients should be increased to the equivalent of eight hours per fortnight at the minimum wage. That, in effect, is half a shift per week before people lose payments. We believe that is a good incentive to get people into the workforce. Hopefully, half a shift a week will then lead to more hours, more days and will build confidence in an experience and skill base that people require in the workforce before people start to lose payments. We recommend that.

We also note and refer to Senator Back’s comments about the enormous complexity that the committee was confronted with on how different payments intersect with different circumstances that people are in. It was very difficult to get our head around many of those issues. While I have the greatest respect for Senate committees, we effectively write reports based on evidence presented to us. Unfortunately, in this instance we neither had the time nor the ability to actually drive down and do any investigative work ourselves to look at some of the ways that the policy might need to be changed to deal with some of the enormous complexity.

It has been 12 years since the last significant review of the payment system. In the last 12 years the nature of work has changed quite dramatically. We believe that 12 years on from the last review, the McClure review, it is timely to conduct another comprehensive review with a particular focus on allowance payments. The Senate Education, Employment and Workplace Relations References Committee had neither the capacity nor the time to do that. Such a review should consider indexing arrangements; adequate payment rates; participation requirements; incentives and support to work; supplements such as rent assistance; job support services, including the Job Services Australia incentives framework for providers; and the changing nature of the labour market.

The review should also consider how tailored assistance can be better provided to people who face particular barriers to employment—for example, young people, sole parents, people with a partial capacity to work and people who have been unemployed for more than a year. Newstart is designed to transition people from unemployment into work. Unfortunately, because of a whole range of reasons, Newstart allowance is the only support for a significant number of people in our community. So let me again say that, as far as Labor senators are concerned, the payment is too low. Labor senators have recommended, in addition to
the good recommendations in the bulk of the report, which we agree with, that the government increase Newstart allowance single, taking into account the relationship with the base rate and other payment design changes already recommended by the committee.

Labor senators also recommend that the government review the indexing arrangements for Newstart allowance and other allowance payments. We also recommend that the government increase the income-free threshold for Newstart allowance recipients to the equivalent of eight hours work per fortnight at the minimum wage. Labor senators recommend that the government commission a comprehensive review of Newstart allowance and other allowance payments.

Let me thank the secretariat. They always produce reports of the finest quality for us. This report is no exception. I know that a power of work went into getting a report that the whole committee signed onto. Again, I want to thank not only Senator Back but also the secretariat for achieving a unanimous report. I recommend the report to the Senate and I recommend the additional comments and the additional recommendations of Labor senators. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Senators' Interests Committee Report**

**Senator KROGER** (Victoria—Chief Opposition Whip in the Senate) (12:35): I present the report of the Standing Committee of Senators’ Interests on the code of conduct inquiry, together with submissions received by the committee.

Ordered that the report be printed.

**Senator KROGER**: In accordance with the declaration of senators’ interests, I present declarations of interests and notifications of alterations of interests in the Register of Senators’ Interests lodged between 27 June and 27 November 2012.

**BILLS**

**Water Amendment (Water for the Environment Special Account) Bill 2012**

**First Reading**

Bill received from the House of Representatives.

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:36): I move:

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

Question agreed to.

Bill read a first time.

**Senator JACINTA COLLINS**: 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_—

Today in introducing this Bill, I am seeking a commitment from this Parliament to restore the Murray-Darling Basin to health.

Murray-Darling Basin reform has relied on a number of steps being taken; the National Water Initiative; the development of the water market; the Water Act; the soon to be presented Murray-Darling Basin Plan; with the final step of Parliament to use this Bill to maximise environmental outcomes in the Plan.

For over a century the Murray-Darling Basin has not been managed with a Basin-wide Plan. This has resulted in environmental degradation, a
lack of resilience and an ongoing layer of uncertainty for communities.

The Basin Plan, to be made later this year, will restore the health of our rivers, support strong regional communities and ensure sustainable food production.

The Murray-Darling Basin Authority is proposing a plan which starts at a benchmark of 2750 gigalitres of environmental water. The proposed Plan includes an adjustment mechanism which will allow the SDL to move up if environmental outcomes can be delivered with less water and move down if constraints are removed and additional water is acquired in a way which is not detrimental to Communities.

This legislation allows the Commonwealth to use that mechanism. It will provide funding to projects that improve environmental outcomes over and above that in the proposed 2750 gigalitre benchmark.

We will fund removing constraints in the system and we will also fund projects such as on-farm infrastructure required to acquire up to an additional 450 gigalitres of water beyond the benchmark in the Plan. This will give us an even better outcome for the Basin.

The additional environmental water made possible by this Bill doesn't only work to achieve better outcomes for the Coorong and Lower Lakes. There are environmental assets, Ramsar listed wetlands, River Red Gum forests, National Parks and homes for Australian wildlife throughout the Basin that will benefit because of this Bill.

Importantly, the plan being proposed by the Murray-Darling Basin Authority stipulates that additional water beyond the benchmark should only be acquired through methods that deliver additional water for the environment without negative social and economic consequences such as infrastructure.

By way of example, the benefits of modernising on-farm irrigation infrastructure are already well established.

The Government agrees with this approach and this Bill is framed in these terms.

A secure funding stream extending a decade into the future is required since recovering water is a long-term endeavour.

Accordingly, this Bill amends the Water Act 2007 to provide a secure funding stream to enable up to an additional 450 gigalitres of water to be recovered.

It complements the Water Amendment (Long-term average sustainable diversion limit adjustment) Bill 2012 introduced into this House on the 20th of September this year.

Through the Sustainable Rural Water Use and Infrastructure Program, this Government is already recovering water for the environment through upgrading on-farm and off-farm irrigation infrastructure.

The majority of the proposed funding will be directed towards achieving further improvements in irrigation efficiency.

The Bill also secures funding to enable the increased environmental water to be delivered to wetlands in an efficient and effective manner by addressing existing constraints that limit higher water flows.

Such constraints include outflows from storage dams, low lying infrastructure, and the need to provide for flood easements or agreements with landholders.

All Basin Governments will be fully involved in the development of projects that would underpin Sustainable Diversion Limit adjustments, including initiatives to remove constraints.

Projects to be funded through this special account will be considered alongside projects that allow an increase the SDL by using environmental water more efficiently, so that Governments have a complete picture of what the final SDL will be in all catchments.

Potential enhanced environmental benefits from the provision of an additional 450GL of water and the removal of physical constraints are many. They include:

- salinity in the Coorong and Lower Lakes can be further reduced so that do not exceed levels which are lethal to insects, fish and plants that form important parts of the food-chain;
water levels in the Lower Lakes can be kept above 0.4 metres for 95% of the time helping to maintain flows to the Coorong, prevent acidification, and prevent acid drainage and riverbank collapse below Lock 1;

The maximum average daily salinity in the Coorong south lagoon can be less than 100 grams per litre for 98% of years and is less than 120 grams per litre at all times in the model period.

the maximum average daily salinity in the Coorong north lagoon can be less than 50 grams per litre for 98% of years, maintaining the Murray Mouth at greater depths reducing the risk of dredging being needed to keep it open
two million tonnes of salt can be exported from the Basin each year as a long term average;
barrage flows to the Coorong can be increased, supporting more years where critical fish migrations can occur for estuarine fish;

there will be opportunities to actively water an additional 35,000 ha of floodplain in SA, NSW and Victoria, improving the health of forests and fish and bird habitat, improving the connection to the river, and replenishing groundwater; and

enhanced instream outcomes and improved connections with low level floodplain and habitats adjacent to rivers in the Southern Basin can be achieved.

After a century of getting it wrong, this Bill combined with the soon to be finalised Murray-Darling Basin Plan, says that this Parliament will not fail the Basin. The system will return to health and the communities and environment which are nourished by these mighty rivers will have a strong, resilient future.

Ordered that further consideration of the second reading of this bill be adjourned to 5 February 2013, in accordance with standing order 111.

BUSINESS

Days and Hours of Meeting

Senator Jacinta Collins (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:37): I move:

That, on Thursday, 29 November 2012:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7 pm to adjournment;

(b) divisions may take place after 4.30 pm;

(c) any proposal pursuant to standing order 75 shall not be proceeded with;

(d) consideration of general business and committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(e) the routine of business from not later than 12.45 pm to 2 pm and from not later than 3.45 pm shall be government business only;

(f) the question for the adjournment of the Senate shall not be proposed until a motion for the adjournment is moved by a minister;

(g) the following government business orders of the day shall have precedence over all government business, be called on in the following order and be considered under a limitation of time, and that the time allotted be as follows:

Wheat Export Marketing Amendment Bill 2012 commencing immediately to 3.45 pm—second reading from 3.45 pm to 4.15 pm—all remaining stages

Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 commencing immediately after the preceding item to 5.30 pm—all remaining stages commencing from not later than 6 pm to 8 pm—second reading from 8 pm to 9 pm—all remaining stages

National Gambling Reform Bill 2012 and related bills

Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 commencing immediately after the preceding item to 9.45 pm—all remaining stages

(h) Paragraph (g) of this order shall operate as a limitation of debate under standing order 142.
This motion was anticipated in my speech to the hours motion passed by the Senate last Tuesday. The motion organises the consideration of the government legislation for the remainder of today. Limiting the hours to be spent on the remaining bills for 2012 will ensure that the government's program of legislation is completed in a timely fashion. In drafting the motion I have taken up the suggestion of opposition senators from the debate on Tuesday that we do sit later tonight.

Once again, I would like to thank all senators for their cooperation in debating legislation in these spring sittings. Particularly this fortnight, the Senate has sat extended hours and dealt with a very high volume of legislation. With the notable exception of Senator Abetz's contribution on the fair work bill on Tuesday and yesterday, when we spent well over an hour of the debate on the name of an organisation, I recognise that debate has moved constructively and that most positions on bills are now on the record. This is hard work for all of us, our staff and Senate staff, and thank you all for your corporation.

The motion before us aims to allow enough time for the four remaining contentious government bills so that all parties and Senator Xenophon will have a chance to speak on these bills. As I said on Tuesday, such motions are typical of this time of year, regardless of the party in government. I recommend the motion to the chamber and foreshadow amendments that Senator McEwen will move that have been circulated in the chamber. These amendments simply reflect or update the order of messages we have from the House.

**Senator Fifield** (Victoria—Manager of Opposition Business in the Senate) (12:39): I must confess to sometimes feeling a little bit like Nostradamus in this place in terms of my ability to predict what is likely to happen. I do recall a matter of days ago, when the government were moving the hours motion and also moving the motion to exempt a number of bills from the cut-off, that I predicted that the chamber, if it approved the motion to exempt bills from the cut-off, would be doing so in order that those bills could subsequently be guillotined. That is what the motion before us today seeks to do: to guillotine the very bills that the cut-off exemption enabled to be brought forward. I must confess I do see that as a little perverse.

We again see the situation where the government on one hand are seeking to extend hours, so they are seeking to give with one hand to the chamber by providing more hours, but then they are seeking to take with the other hand by guillotining the bills which are listed in the motion before us—giving with one hand and taking with the other.

We actually have before us the fourth proposal this week for how today should proceed. The first proposal for how the day should proceed was the standard way a Thursday would flow. The second proposal that we had for how today should proceed was a variation in hours, which was moved earlier this week and would have seen the Senate rise earlier than usual. The third proposal for how today should proceed is the one that we see on the Notice Paper, which is there for you to see, Madam Acting Deputy President. Then the fourth proposal for how we should proceed today is the amended version of that motion as circulated in the chamber and moved by Senator Collins. So I do not think it is stretching things too far to say that the government are perhaps a little untidy and a little inelegant when it comes to the management of the chamber: four propositions put to this place for how to handle one day.
As Senator Collins did indicate, legislation has been moving through this chamber at a clip. The chamber has been very productive. All senators have had the opportunity to contribute as they choose on all bills exempt the Low Aromatic Fuel Bill, to date. That is the way that this place should work. There should be cooperation, but there should also be the opportunity for all senators to contribute, to speak and to examine legislation as they choose.

What we would be agreeing to if we supported this motion would be the neutering of the Senate chamber on the last sitting day of the year. We have before us a proposal to compress severely the time available to senators for the consideration of four bills. I note that Senator Collins said all colleagues, all parties, would have the opportunity to contribute to debate on these bills. That is clearly not the case, and especially not the case in relation to the gambling package of legislation. How all colleagues who choose to can contribute in that time frame of two-odd hours is not clear to me.

This chamber does have an important role as a place of review of legislation. As I have said before, often this is the first place that legislation is actually read in this building. We know that it is not always the case that the party rooms in this building look carefully at legislation. We know that it is not always the case that the cabinet room closely examines legislation. We know that it is not always the case that the first group of people who will carefully and closely examine and read the legislation in this building are indeed the senators of this chamber. It is always surprising the things that do get picked up by the senators in this place.

We do not want to be complicit in any way, shape or form in seeking to neuter this chamber on the last day of the year and stopping this chamber from performing its duties. I know that there is a great deal of interest in a number of these bills. There is a great deal of interest in the National Gambling Reform Bill in particular, which is the last item scheduled to be guillotined in this place.

I started by saying that I often feel like Nostradamus in this place. I know that Nostradamus did not always get his predictions right, but I feel that my batting average on that front is not too bad at the moment. This situation was entirely predictable. We said this would be the case, that the government would seek to use the guillotine. They have got a taste for the guillotine. Senator Collins has a taste for the guillotine and I am sure that I will think of some appropriate historical analogy to use in relation to Senator Collins before the day is up.

We will not be supporting this motion. The past weeks in this chamber have been marked by cooperation to facilitate the good working of this chamber and it is extremely disappointing that that has fallen by the wayside as we approach the final hours of this sitting here on this final sitting day of the year. For those reasons, we are unable to support this motion.

Senator McEWEN (South Australia—Government Whip in the Senate) (12:47): I move an amendment to the motion, the terms of which have been circulated in the chamber:

Omit paragraph (g), substitute the following:

(g) the following government business orders of the day shall have precedence over all government business, be called on in the following order and be considered under a limitation of time, and that the time allotted be as follows: (g) the following government business orders of the day shall have precedence over all government business, be called on in the
following order and be considered under a limitation of time, and that the time allotted be as follows:

- **Wheat Export Marketing Amendment Bill 2012**
  - commencing immediately to 3.45 pm—second reading from 3.45 pm to 4.15 pm—all remaining stages

- **Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012**
  - commencing immediately after the preceding item to 5.30 pm—all remaining stages

- **Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012**
  - commencing from not later than 6 pm to 8 pm—all remaining stages

- **National Gambling Reform Bill 2012 and related bills**
  - commencing immediately after the preceding item to 9.15 pm—second reading from 9.15 pm to 10 pm—all remaining stages

**Senator CASH** (Western Australia) (12:47): I too rise on behalf of the coalition to speak to the motion put by the Manager of Government Business in relation to the hours of meeting and the routine of business variation, and to endorse the comments made by the Manager of Opposition Business that this motion that is being presented by the government to the Senate is one that strikes at the very heart of what the Senate's role is. It strikes at the very heart of the Senate's capacity to fulfil its role and its function as a democratic house of review.

I note that in the comments made by the Manager of Government Business she actually said that she has taken on board the suggestions put forward by the opposition when we debated a very similar motion on Tuesday in this place. I would say to the Manager of Government Business: by those comments you are actually misleading the Senate because in no way did the Manager of Opposition Business or myself suggest that we should have a guillotine imposed in relation to the debate of legislation on the final sitting day of the parliament. By this motion, this is exactly what this Senate intends to do.

The Manager of Opposition Business, Senator Fifield, has stated that Senator Collins has a taste for the guillotine. Let me read out to the Senate just how voracious this taste for the guillotine is. This is exactly what the motion is going to do. The Wheat Export Marketing Amendment Bill 2012—a bill that has had a lot to be said about it and which has a large speaking list—is going to be finished by 3.45 pm today. For any senator who has not been able to speak, at 3.45 pm today the government will move that debate on this particular bill 'will now be finished'. We will then move at 3.45 into all remaining stages. The only problem with that part of it is that it finishes at 4.15 pm. You have got 30 minutes to get through an entire committee stage on what is a very important bill.

At 4.15 pm in relation to this motion, we move to the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012. At 5.30 pm the guillotine again comes down and all debate in relation to that particular bill will be finished. In relation to the motion that I have in front of me, the next bill that is to be debated is the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012—between 6 pm and 8 pm. What is going to happen then? Yet again, the guillotine is going to fall in relation to debate on what, once again, is a very, very important piece of legislation.

There is a very large speaking list in relation to this legislation but because of the way that the government manages this chamber, senators are again not going to be able to
have an opportunity to properly debate this legislation.

But it does not stop there. After that bill has been guillotined, we are going into perhaps what is one of the most contentious and fundamental pieces of legislation that has come before this parliament this year, and that of course is the National Gambling Reform Bill 2012, and related bills. We have just over an hour and a bit, it would appear, to debate a very, very meaty piece of legislation. If that is not an abuse of the Senate's process, of the ability of this chamber to undertake properly its role in scrutinising legislation, then, quite frankly, I do not know what is.

The government can only put through this motion if either the Greens or the opposition agree with them so they have the numbers—and we have clearly indicated that we will not be agreeing with the government because we will not be imposing a guillotine on what are exceptionally important pieces of legislation that deserve the debate of the Senate. Quite frankly, if we were to sit all night and into tomorrow, that would not worry me because I believe we should be giving these pieces of legislation the scrutiny that they deserve. On the basis that the opposition are not supporting this motion, there is only one other party here who has the numbers to join with the government. Lo and behold, there they are right there—the Australian Greens, who time and time again in this place go on the record with complete hysteria, calling the opposition and the government every name in the book, for even thinking of contemplating gagging debate in this place.

Well, lo and behold, the only way this gag motion will go through in a few minutes is for the Australian Greens come running into the chamber—clearly they have been promised something else; an end of the year Christmas present for the Australian Greens—and sit with the government on the yes side of the chamber government. They will join the government in a completely hypocritical manner, but I do not think that surprises any Australians, other than those that vote for the Greens. Even then they might be surprised on a regular basis. Despite the rhetoric and despite the Hansard they like to so proudly display to say that they are a party that supports scrutiny of legislation, the Australian Greens will still be recorded as having voted with the government to curtail debate on what are exceptionally important pieces of legislation to come before this Senate.

I do not think anyone should be surprised that the Australian Greens are a party that can be bought. Despite their protestations about political donations and the acceptance of political donations when it comes to the Australian Labor Party or the coalition, we all know that the Greens speak with forked tongue. Just for the record I will highlight their hypocrisy. Which party in this place is on the record as having accepted the largest political donation ever made to a political party in Australia—$1.3 million? That would be the Australian Greens, who hungrily and greedily accepted the money and tried to pretend that they did not. I give Senator Rhiannon credit there. At least she has been upfront about that and said that if she had been running the party—and it is a bit of a shame that she is not, because she is actually a lady of principle; I do not agree with her principles, but she is a lady of principles—she would not have accepted that donation.

Under the former leader of the Australian Greens and the current leader of the Australian Greens, the Australian Greens accepted what is known to be the biggest donation to a political party of all times—$1.3 million. If that does not say that the Australian Greens can be bought, I do not
know what does. And they will be bought again very shortly when the division bells ring. They will come running into the chamber and vote with the government to gag debate on exceptionally important legislation that should be given appropriate scrutiny by the Senate.

It is the government's obligation to manage the sitting calendar. As I said in my comments on Tuesday, under the former Howard government we sat for 22 weeks a year and under the current Gillard Labor government and the former Rudd government we sit for 18 weeks a year. That within itself shows that this is not a government that is interested in being accountable to the people. As the Manager of Opposition Business in the Senate has stated, the government set the timetable, the government set the agenda and they should be able to manage the year's sitting within that timetable. If they cannot, that is their problem. They should come to the parliament and explain exactly why they have been unable to manage appropriately the business of the Senate. They have failed to do that and on that basis, the opposition will not be supporting the guillotine motion before the Senate.

Senator XENOPHON (South Australia) (12:56): I will not be supporting the government's motion. I understand what the government is doing. It would have been preferable to sit another day, another two days or another week if necessary to go through the legislation. Having said that, I understand where the numbers lie in relation to this so, accordingly, in relation to the gambling bills that will be coming up later tonight, I will have to cut my cloth accordingly and I guess the rest of us will as well. Even though I believe this is a far less than satisfactory way of dealing with important legislation, I guess we will have to get on with it. An extra sitting day or two would have made all the difference in appropriate scrutiny.

Senator IAN MACDONALD (Queensland) (12:57): I want to take a few minutes to add to the concerns—

Senator Jacinta Collins: Madam Acting Deputy President, I rise of a point of order. You were aware that I was seeking the call. As I understand it, in terms of general precedence in the chamber, the call should have been given to me.

The ACTING DEPUTY PRESIDENT (Senator McKenzie): I understand what you are saying, Senator Collins; however, previously three of you jumped up seeking the call at the same time: Senator Xenophon, Senator Macdonald and yourself. I was simply following that. I will seek advice on the precedence.

Senator Ian Macdonald: Madam Acting Deputy President, on the point of order: the minister does not even want discussion on this motion of guillotine to expose the evilness of a government that will not allow proper debate. Madam Acting Deputy President, you made the right ruling.

The ACTING DEPUTY PRESIDENT: Senator Macdonald, you are now actually debating—

Senator Ian Macdonald: I am just talking on the point of order. I am saying that previously you called Senator Xenophon in preference to me. You could have called me in preference to Senator Xenophon, but you did not, appropriately. I agree with your ruling that I should be the next person to speak.

The ACTING DEPUTY PRESIDENT: In order with the conventions of the Senate, the call will be with Senator Collins.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary
Secretary for School Education and Workplace Relations) (12:59): I move:

That the question be now put.

The PRESIDENT: The question is that the motion moved by Senator Collins, that the question be now put, be agreed to.

The Senate divided. [13:04]

(The President—Senator Hogg)

Ayes.................36
Noes....................32
Majority..............4

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS

NOES

Abetz, E
Bernardi, C
Boyce, SK
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

PAIRS

Evans, C
Farrell, D
Thorp, LE
Wong, P

Colbeck, R
Boswell, RLD
Cash, MC
Brandis, GH

Question agreed to.

The PRESIDENT: The question is that the amendment moved by Senator McEwen be agreed to.

The Senate divided. [13:07]

(The President—Senator Hogg)

Ayes .................36
Noes ....................32
Majority ..............4

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS

NOES

Abetz, E
Bernardi, C
Boyce, SK
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM

Back, CJ
Birmingham, SJ
Bushby, DC
Edwards, S
Fawcett, DJ
Field, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

Back, CJ
Birmingham, SJ
Bushby, DC
Edwards, S
Fawcett, DJ
Field, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Question agreed to.

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

The Senate divided. [13:11]

(The President—Senator Hogg)

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

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS

NOES

Abetz, E
Bernardi, C
Boyce, SK
Cormann, M
Eggleson, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)

BILLS

Wheat Export Marketing Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator EDWARDS (South Australia) (13:13): I resume talking about the draft voluntary code of conduct proposed for the Australian wheat industry. The draft code is flawed in that it is not binding, it is not independent, it does not have a sustainable source of funding via the arbitration act and it may further circumvent the ACCC. In short, the Wheat Export Marketing Amendment Bill 2012 as proposed fails to achieve its competition objectives, hence the reason we now have amendments on the floor, because even the Greens know that any real oversight will only happen if the code is mandatory.

That code should broadly contain, firstly, the adequate provision of grain stock information to enable efficient operation of the market; and, secondly, an enforceable mechanism to ensure fair access to port facilities for non-handling exporters. That means the people who sought to come into
this business to compete and to provide an international marketplace, are not prejudiced because they do not own the infrastructure, ports or the up-country rail hubs that have in the past led to a closed market. Thirdly, the code should contain an effective mechanism to provide confidence in cargo integrity, especially in relation to the Australian wheat variety classification system.

The final report of the South Australian Select Committee on the Grain Handling Industry called for the federal government to:

... ensure the benefits of deregulation are fully realised within a competitive and innovative framework that provides the basis for a viable and successful industry.

It is my contention that, unless we ensure that at least those three aforementioned elements are contained within the reform, all of the findings of this inquiry conducted recently, and the many others I have been involved in, will be ignored.

To ensure this actually occurs, the federal government should establish an independent body to maintain this deregulation momentum. I cannot stress enough the importance of the minister appointing a truly representative panel to the proposed advisory body, which is flagged in the amendments to this bill before us. The board should have representatives comprised of grain grower representative bodies, non-bulk handling traders and bulk handlers—and they should all be in equal numbers. This would prevent one interest group from dominating the final code agreement to the detriment of one of the other stakeholders in this very important Australian industry.

The importance of this industry cannot be understated. Not only is wheat growing part of this country's DNA, but also, if demand rises, as everybody expects it will during the much-lauded Asian century, it should be set now to succeed and be the success story for decades to come that it deserves to be. We must get this right now and with the appropriate oversight framework in place—the kind of oversight that the majority of wheat growers of this nation are expecting from the minister. I urge the minister to listen to them. Many of us from this side of the chamber will be working to ensure that the reform required is implemented.

I will be supporting an amended bill. Senator Xenophon, I have some sympathy with a number of your proposed amendments and I will look to talk those through in the committee stage of this bill. I would underline the fact that the minister has a great responsibility to ensure that the proposed advisory body has—if we adopt the amendments to this bill—a mandatory code of conduct so that it functions properly and so that we may look forward to a fair and prosperous wheat industry from this day forward.

Senator XENOPHON (South Australia) (13:18): There have been a lot of discussions about the deregulation of the wheat industry, and it is a great tragedy that we have reached this stage without significant and sufficient safeguards in place for producers. The last thing anyone wants to see is the wheat industry turn out like the supermarket industry: controlled by monopolies and with the growers under pressure.

There have been several inquiries in the past to determine how best to deregulate the wheat industry in Australia and what the best arrangements are. Most recently, the Senate Rural and Regional Affairs and Transport References Committee conducted an inquiry into the operation of grain networks in Australia. That was a very worthwhile inquiry, which I was a part of. The information provided to the committee...
exposed significant flaws in the grain export networks that must be addressed before complete deregulation can go ahead. Essentially, natural monopolies exist in every state. These companies control grain handling and export from purchasing and storing, to movement, to shipping. That is simply not good enough.

The committee inquiry recommended that Wheat Exports Australia needed a continuing and expanded role in the industry, acting as a combination of ombudsman, accreditor and quality assurance. The committee also recommended that a mechanism to publicise wheat stockpile information should be available to all participants in the bulk export industry, and that the upcoming inquiry into this bill should consider this further. I also made several more recommendations in my additional comments to that report. These recommendations included the establishment of an oversight body for the industry, as well as a mandatory code of conduct relating to the publication of grain storage information, assessment and grading of grain, and access to port and rail transport facilities. My further recommendations related to reviews and investigations that needed to be undertaken by the ACCC or other bodies in relation to specific practices on the part of some bulk grain handlers.

The inquiry into this bill, the Wheat Export Marketing Amendment Bill 2012, by the rural and regional affairs and transport committee also recommended that the government assist the industry in developing measures relating to the publication of information on wheat stock information. There is a clear and compelling narrative running through these recommendations. In the first instance, a lack of clear and complete information on grain stocks that is available to the entire industry is severely disadvantaging producers. This information asymmetry is simply unacceptable. These producers cannot determine when and where they might get the best prices for their product. In fact, this lack of information could be putting the whole industry at risk. In the case of a drought or a crop shortage, the government and other organisations do not have the necessary complete picture of what grain is being held where. The implications of this are obvious.

The other major concern is that there is no oversight of the industry to enforce a code of conduct or to deal with disputes or competition issues. To this end, I will be moving several amendments to strengthen this bill. I note Senator Edwards' sympathy for them; I hope I can have more than Senator Edwards' sympathy. I am grateful for his comments in relation to that, but I hope I can actually have his vote on some of these amendments, particularly on the review mechanism. There must be a review mechanism. I would urge my colleagues in the Australian Greens to consider a review mechanism in relation to this bill, because the implications of this bill are huge for the industry. We need to get it right. If this bill does go ahead in its current form there will be a lack of sufficient safeguards for the industry.

These amendments are designed to build on the agreement with the government reached by the Greens. However, they will go further and insert certain requirements in relation to the structure of the Wheat Industry Advisory Board, the code of conduct—it must be mandatory—and the outline of the act. I will be expanding on these amendments in the committee stage.

Finally, I would like to thank the representatives of Grain Producers Australia, and in particular Pete Mailler and Darren Arney. They have been strong, tireless and articulate advocates for their members. I
thank them for the advice and guidance they have given me on this issue.

I want to make it clear that without some form of amendment to strengthen this bill I cannot and will not be supporting this bill. It does not offer enough support and protection for our producers, and I believe it will lead to further market concentration, a severe lack of competition in the market and it will disadvantage our grain producers.

Senator EGGLESTON (Western Australia) (13:23): I rise to speak on the Wheat Export Marketing Amendment Bill 2012, which is before the Senate today. I was one of those who worked with the former member for O'Connor, Wilson Tuckey, and the late Senator Judith Adams towards ending the single-desk marketing system.

According to all accounts, deregulation has brought great benefits to the West Australian wheat growers, whose properties are generally larger than those in the eastern states and whose wheat is largely exported. The experience so far in WA has been that deregulation and open marketing has brought great financial benefits to WA growers.

According to the latest Australian Bureau of Statistics figures, the gross value of the Australian wheat crop during the period 2011-12 increased by seven per cent to $7.5 billion. In my home state of WA, again according to the ABS, the value of the wheat crop doubled to $2.8 billion in 2011-12 over the previous year. This period followed the abolition of the single-desk marketing operation in 2008 and surely demonstrates that the strong support by the WA farming organisations in WA for deregulation was proved to have been well worthwhile and in the interests of the Western Australian industry.

The single desk was a monopoly marketing body for wheat overseen by the Australian Wheat Board—AWB. By this process, returns from growers for the sale of wheat, both domestically and internationally, were pooled together on a national scale, the prices were averaged by the Australian Wheat Board and farmers were paid that average price for their wheat. As I mentioned, this covered both domestic and international sales until 1989, after which it focused exclusively on exports before being limited in scope again to bulk exports in its final year of operation.

However, over the years the winds of change for a different wheat marketing system gathered momentum. There was a National Competition Policy review of the Wheat Marketing Act in 1989 which ultimately found no clear benefit to Australian growers from the single-desk arrangements then in place for the export of wheat. Importantly, increasing dissatisfaction with the operation of the single desk mounted, especially in Western Australia. As I have said, farmers in WA have experienced improved financial returns since deregulation was introduced with the abolition of the single desk. Those improved financial returns have in fact been quite substantial. It is therefore unsurprising that WA growers have been very vocal in support of the Wheat Export Marketing Amendment Bill 2012, which, if passed, will complete wheat marketing deregulation following the process set out by the Productivity Commission in an orderly way, albeit with a slight delay from the recommendations of the Productivity Commission.

I acknowledge, as home to the largest grain producers, who are staunch supporters of deregulation, WA and its growers do stand to benefit most by the enactment of this legislation. While not always united in their views in the past, WA's largest and second-largest farm lobby groups, the WA Farmers Federation and the Pastoralists and Graziers Association of Western Australia,
... respectively, are now united in their support for the process which will lead to the full deregulation of wheat marketing that will follow the passage of this bill.

Farmers in WA have been pleased with the significant increase in sales and the broadening of the market which deregulation has brought so far. Similarly, the Cooperative Bulk Handling Group, one of Australia's leading grain bodies based in Western Australia, with more than 4,500 grain grower members, also supports this bill. Simply put, WA wheat growers not only are pleased with the deregulated environment in which they work now but also have overwhelmingly benefited from it and wish to see that situation maintained and continued.

I do recognise in saying that that some growers in the eastern states have a different view to those in WA about how wheat is marketed. This is a reflection of the fact that the circumstances and form of the wheat industry differ from state to state. While Western Australian farmers have large acreages and their wheat is mostly exported, by contrast most farms in the eastern states are smaller in acreage and the wheat is largely sold domestically.

I believe it is high time these differences in the form of the wheat industry across Australia were recognised and it was accepted that a 'one size fits all' approach to marketing wheat is just not appropriate. Because of these differences, I believe the growers in each state should have the right to decide their own marketing arrangements and should have local control over how that is done. In other words, I believe wheat marketing should be devolved to the states to organise and run. There are many precedents for this: in the past, the states had marketing boards for products such as eggs, potatoes, rice and so on. There is not a national iron ore or coal marketing board dictating to Western Australia or Queensland the terms and conditions under which iron ore and coal are marketed respectively. Instead, the sale of these commodities is left to the WA and Queensland governments to arrange themselves.

Similarly, I do not believe that the federal government should have an overall role in legislating for the marketing of wheat given the differences between the states, and the facts are that most wheat produced, as I said already, in the eastern states is sold on the domestic market whereas the grain produced in WA is exported to world markets. As I have also said, this legislation will enable the completion of the process of deregulation of wheat marketing by following the steps recommended by the Productivity Commission, albeit with a slightly delayed time frame of about a year for each of the steps.

Australia is a large island continent, and, as I have said, it has to be acknowledged that there are significant differences across the country and one size does not fit all. This legislation embodies the preferred outcome of the majority of the WA wheat industry participants, as expressed by the WA Farmers Federation, the Pastoralists and Graziers Association and Cooperative Bulk Handling. In addition, the WA Liberal Party has supported this legislation and has been consistent with its support for market deregulation. As a Liberal senator for Western Australia, I support the objectives of this legislation.

Senator SMITH (Western Australia) (13:32): I rise to support the Wheat Export Marketing Amendment Bill 2012, which will bring to fruition in Australia a truly deregulated wheat export marketing regime—a bill that brings to completion a process that was commenced by the Howard
government. I support the path to full deregulation of Australia's wheat export marketing arrangements in the time frame first prescribed in the Productivity Commission's inquiry into wheat export marketing arrangements and now contained—with some minor adjustments—in this bill. I believe strongly that the evidence points to the fact that Australia's wheat export marketing arrangements are sufficiently matured and competitive to allow for the abolition of both Wheat Exports Australia and the wheat export charge—a charge, it must be remembered, that is levied on farmers and their families. This charge hits WA farmers and their families the hardest because, of all the wheat produced in Western Australia, around 90 per cent is exported. It is also worth noting that wheat growers in WA are the nation's largest, with over 75 per cent of them amongst the largest 50 per cent of wheat growers nationally. I have travelled around parts of regional Western Australia, talking with farmers at public meetings and one-on-one in places like Katanning, Wagin, Bruce Rock, Quairading and Gnowangerup—amongst others. In WA, these remain challenging times for wheat growers. It is important to remember that this debate is not occurring in a vacuum; we are talking about people's livelihoods and the viability of regional communities.

Some in this debate have said that the wheat export charge is a small thing and continuing to levy it will make little difference. However, I contend that removing the charge sends a powerful signal that we in this place understand that farming is often a difficult task. By removing the charge, we explicitly acknowledge this fact. We are showing that we understand that the last thing growers need is another government impost on their activities, especially for those growers who may not be experiencing the harvest they had hoped for.

It is also my considered judgement, a judgement formed after years in both the insurance and telecommunications industries dealing with competition related issues, that matters such as port access arrangements, transparency regarding stock information and quality standards for wheat exports can be appropriately overseen by existing competition law, by a code of conduct and by the industry themselves. I believe that a core component of maintaining Australia's international competitiveness is to embrace free and open markets, to abandon regulation and red-tape when the opportunity arises and at every step to reduce the tax burden on Australian businesses and families—especially on its agricultural businesses and farming families.

After careful consideration, robust debate and many discussions with wheat growers and their representatives, I can find no defensible justification for not actively supporting the Wheat Export Marketing Amendment Bill 2012. At its core, this bill is an economic one as much as it is an agricultural one. As a coalition senator, I believe that I have a responsibility to stand up for those policies that I consider will lead to smaller government, removing unnecessary bureaucracy and reducing taxes and charges. I do not believe that the path that was agreed to many years ago should be delayed or deviated from.

Long before I came to this place, I did not believe the proposition that Australia's single-desk wheat export regime was a successful mechanism to extract a premium wheat price in global markets for the benefit of Australia's wheat exporters. The very idea runs against every economic and political principle I hold dear. Every monopoly should be treated with suspicion, and I do not
believe that there should be any sacred cows in Australia's economic landscape, no matter how cherished the institution or longstanding its contribution to our economic prosperity. The Wheat Export Marketing Amendment Bill 2012 is a simple one: it will transition Australia's wheat export marketing arrangements to a truly, fully deregulated market—a process that was first begun in 2008.

The story is well known but worth briefly recapping: in 2008, Australia's single-desk wheat export marketing arrangements were abolished and a system for regulating the export of bulk wheat through the accreditation of bulk wheat exporters under the Wheat Export Accreditation Scheme was established and administered by the body Wheat Exports Australia.

The new regime was to be funded by the wheat export charge. These were always intended to be transitional arrangements—transitional arrangements which were found by the Productivity Commission in 2010 to be unnecessary for a maturing wheat export market. The editorial of the *Australian Financial Review* of 3 October 2012 was correct in identifying that an accreditation system had some uses in transition to a free market but there was no reason to put off full deregulation.

I agree this bill will bring the bulk wheat export market into line with other agricultural commodity markets. It will promote further competition in the wheat industry and will be a driver for increased productivity and profitability. It will mean more buyers of wheat will be competing for wheat, ensuring growers can attract and get prices that reflect the true market value of their product. We can have every confidence that it will drive further market innovation and improve the services that marketers provide to secure wheat supplies. Importantly, it will remove costs for industry.

I support the bill because it will bring significant economic benefits to WA wheat farmers, their families and their communities. I support the bill because, uniquely, it has the united endorsement of WA farming organisations: the Pastoralists and Graziers Association of WA, the WA Farmers Federation and the Co-operative Bulk Handling Group. Given the enormous sensitivity this issue has traditionally invoked amongst WA's agricultural community, a common position is remarkable.

Western Australia's wheat growers support the bill because they believe in themselves and in their product and have confidence that they are best able to make decisions about their own future. In the words of the PGA, the wheat industry has made 'remarkable progress' since 2008. Of course there are challenges, but the PGA's firm view is that these can be addressed using current means without further direct government interference. The PGA has said, 'Abolishing the scheme will ensure that the benefits to industry provided by accreditation during the transition to full deregulation are not undermined in the longer term by the direct and indirect costs of continuing with a scheme that has served its purpose.' The PGA identified these costs as being 'the WEC and the administrative and regulatory burden of accreditation, as well as the necessary regulation on efficiency and competition in the wheat industry.' This attitude was echoed by WA's CBH Group when it said:

… there is no need to continue with any partial regulation of wheat exports …

…… …

The CBH Group incurred costs in excess of $1.2million … These costs are ultimately borne
by Western Australian growers with no net benefit to them.

The CBH Group supports the view that the role of Government is to provide necessary services and safeguards to support industry without distorting the economic environment.

It is now time to allow Australia's wheat export industry the flexibility to take advantage of the opportunities that await it, free from any additional layers of regulation.

I should also note for the record that both the PGA and the CBH Group have advised me that, although they do not believe the mandatory industry code proposed in amendments to the bill are necessary, they are nonetheless satisfied that the amendments put forward by the Greens will not disadvantage WA growers. The CBH Group advises, 'This outcome remains favourable for WA growers and the industry more generally.' The WA Farmers Federation has also added its voice, saying: 'WA Farmers position in respect to the deregulation issue is that we do not see value for growers in WEA and hence agree with the proposed wind up and call on all WA federal politicians to support the proposed Wheat Export Marketing Amendment Bill 2012. However, great caution should be exercised over other amendments that specifically seek to address stocks information and quality issues. These will have a disproportionately adverse on WA growers. In practice, they would be unworkable and add costs to growers.'

The bill is also strongly supported by the Premier of Western Australia, the WA Liberal Party's state council and the many, many people living and working across WA's farming communities. The view of many West Australians has been best expressed by the West Australian newspaper. It said, 'Wheat Exports Australia is the last vestige of centralised marketing bureaucracies in Australia' and pointed to the fact that 'Pointless delay will cost wheat growers money and traps the industry in an early-20th-century mindset of protectionism and closed-shop marketing.'

This bill deserves the support of the Senate because the facts speak for themselves. The facts are most accurately presented in the ACIL Tasman report Continuing the reforms of the Australian export wheat market: why the WEMA Amendment Bill 2012 should be passed into law. It was released in July this year. The ACIL Tasman report makes the case that significant investment has occurred in Australia's wheat export market both as a result of the 2008 reforms and, more importantly, in anticipation of their conclusion in 2014. The report makes it clear. It states: 'Since 2008 a number of large mergers have occurred together with significant levels of infrastructure investment, to unlock scale and scope economies in bulk handling, marketing and grain transport. Grain is now exported to more countries than was previously the case under the single desk operator. Growers have been the main beneficiaries of these reforms through improved services and more competition for their grain. Export dependent WA grain growers in particular have in recent seasons experienced improved prices for their wheat exports when compared with Australian east coast growers. These recommendations, which have little if any apparent industry support in WA, Australia's largest wheat export state, will, if implemented, be a significant departure from the industry's current and generally accepted course and would reverse many of the reforms already implemented.'

I am conscious that as a result of the government's guillotine there are restricted times available to us. I will not go through...
the entirety of my speech—as much as I would like to—out of courtesy for those other coalition senators who I know have a different point of view, and I do believe that their view should be recorded in this debate. Out of respect for their positions, I will keep my last remaining comments brief.

This place, in deliberating on this issue should not be ignorant to the sovereign risk and disincentive to invest that arises from delaying—even stalling—the passage of these final deregulation initiatives.

Deviation and delay from our publicly stated intentions acts as a powerful disincentive to invest and diminishes the confidence of exporters and international buyers in our wheat export arrangements. This point was echoed and has been made very clear by CBH Group and GrainCorp in their presentations to the Senate inquiry. The clear intention of Wheat Exports Australia was always to act as a transition mechanism. Its role is to merely accredit exporters to give growers confidence that new exporters were ‘fit and proper’ and would reduce the business risk to wheat growers. This legislation is supported by a long and impressive list of organisations and people, many of whom I have referred to in the course of my contribution and many of whom, I might say, I trust.

Having weighed the evidence, I have concluded there is no rational reason to delay the abolition of Wheat Exports Australia and the wheat export charge. The national interest and the interest of wheat growers and exporters across Australia is best served by supporting this legislation. I am aware that others in my party have reached a different conclusion, giving weight to other considerations and evidence. I respect the difference of view. However, in preparing for this debate, I have been deeply conscious of my responsibilities to Western Australia—to the united position of WA's farming groups, the position of the WA Liberal Party and, most significantly, the regional people of WA, who have taken time to share their strong opinion with regard to this important and meaningful step in our agricultural policies.

I celebrate the fact that my own political party, unlike the one opposite, permits me to faithfully represent my constituents in this place. In explaining my decision to the Senate to support this bill, I return to the words of my first speech, which I made in this place six months ago:

I regard the Senate as the first child of Federation and the most significant of our democratic institutions, and I challenge the view that its creation was a compromise. In prescribing how Australia's representative government would operate, our founding fathers took a deliberate and conscious step—our democratic style would consist of two separate and distinct mandates: one representing the people as a whole and one representing the people voting by their states. In every deliberation I will sanctify this historic fact. In supporting this bill, I have chosen to remain faithful to that promise to stand up for WA and its wheat growers, their families and communities, and to be an active champion for the benefits of free enterprise and competition in our country.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (13:47): I acknowledge that a lot of people want to speak in this debate on the Wheat Export Marketing Amendment Bill 2012, so I will try to limit my remarks to around five minutes. If there is one good thing that comes out of this, it will be that the Senate is actually going to operate as a Senate and that the people from the different states who have different views will express those views—and that is how the Senate is supposed to work.
I concur with the remarks that there is a circumstance in Western Australia that is more evident towards a larger grower. I do not understand why—and I am agreeing here with Senator Eggleston—we would be moving in a direction to change the outcome with this legislation beyond Western Australia. We are changing it for the whole nation. The reality on the eastern coast—and I am there and I have grown wheat; I have a grain place—is that we are getting ripped off. If people want to talk about access to markets, let us make sure that we bring into the chamber right now legislation for the ACCC, because it has had no chance against the regional based monopolies which have taken the place of a regulator. We acknowledge that the single desk was a regulated monopoly, but it was regulated. It worked on behalf of the best return to the growers. What it has been replaced with is regionally based monopolies for which we are definitely at a strategic disadvantage, and that is reflected in the price that we get for our product. But no-one seems to be suggesting changes to the ACCC, to bring in laws so that we can get fairness for these people and a better price—a price that is a better reflection on the market price. The multinational monopolies now dominate so many sections of regional New South Wales and regional Queensland. The latest one is Archer Daniels looking to buy GrainCorp, in which case we will be completely and utterly over a barrel and exploited. All of a sudden the bells are starting to ring.

In the east, we are in a different circumstance. I concur with Senator Eggleston that maybe the time has come to have a different regulations on this for the different states. If growers in Western Australia are certain that their situation works for them, then we are absolutely certain that it does not work for us. Western Australia has an advantage because it is the cooperative bulk handler. It is a monopoly owned by the growers; it is owned by individuals. We do not have a cooperative bulk handler. We have Viterra. We are going to have Archer Daniels. We have Cargill. They are doing what monopolies do. Once they dominate the marketplace, they work to exploit the people who supply them the product to try and get the best return for them, not for the grower.

It is incumbent upon this parliament, if we believe that all controls should be removed and we acknowledge that farmers are being exploited, that we move towards a broader and more instructive process in the ACCC so that fairness can be brought back to the farm gate. With access arrangements and quality arrangements, it is a one-size-fits-all approach. I think we all agree on this now: the one-size-fits-all approach across the nation is just not working.

I heard mention of the Productivity Commission. The Productivity Commission study went over one year. That is hardly the timeframe required to get a proper assessment when there are variant seasons from droughts to bumper seasons and everything in between. You cannot do an assessment on the wheat industry on an examination of one year. The process that we ask for, especially in the National Party, is not a position that is driven by philosophy. It is driven by experience. It is driven by pragmatism. It is driven by a desire to deal with an issue which is completely and abundantly apparent to us now—that there is exploitation in the new arrangements that have come as we predicted to the people predominantly in the eastern states.

We are not supporting this, because the issue has not been resolved. We will not walk away from people that are being exploited on the premise of a philosophy.
when the reality for them is clear and apparent. I acknowledge that they are the small growers but we, especially in the National Party, look out for those small growers because, if we do not look after them, then who on earth will?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (13:53): I rise to make some comments regarding this Wheat Export Marketing Amendment Bill 2012. Like Senator Joyce in front of me, I am a wheat farmer. While I am a senator for New South Wales, I am also a wheat farmer. Senator Joyce and I have some skin in the game in this. Senator Joyce could not have been more right when he talked about those with a philosophical view. I completely understand that and acknowledge absolutely the right of my colleagues to have a philosophical view on this. They do not have the practical experience of being on the ground, day in and day out, knowing how this affects wheat growers and rural communities across the country.

I have not changed my position one bit from 2008 when I thought that getting rid of the single desk for wheat was singularly one of the most stupid things a government has ever done in this nation. I stand by that now and I have seen nothing in the last four years to change my view on that. Interestingly, at the time when we looked into the legislation that was going to get rid of the single desk for wheat through the Senate Rural and Regional Affairs and Transport Legislation Committee, the committee as a whole had serious concerns about the fact that if we removed the single desk we would end up with regional monopolies. Remember, colleagues, this was 2008. Indeed, in the dissenting report put forward by me, Senator Joyce and Senator Sculion, we said:

The draft bills as proposed clearly do not satisfy the requirements necessary to ensure a wheat marketing system that would deliver the best outcomes for wheat growers. More dangerously, the draft bills lack sufficient safeguards to prevent regional monopolies from arising.

Madam Acting Deputy President, it is a really sad thing to say I told you so in this place, but we told you so.

Four years ago we could see exactly what was going to happen, that we would end up with regional monopolies in place of a single monopoly that served wheat growers very well, replaced with regional monopolies whose instincts at heart are to serve their own interests. I excuse CBH from that in that they do operate on the notion of returning to growers. I do see that they are different and, indeed, as Senator Joyce said earlier, perhaps there is a case for having different arrangements in different places across the nation.

What we had with the cessation of the single desk for wheat was for the Wheat Export Authority to put in place transitional arrangements—I do acknowledge they were transitional arrangements—to a fully deregulated system. What that Wheat Export Authority has done is accredit wheat growers and also put in place some requirements on the bulk handlers for continuous disclosure to oversee what those bulk handlers were doing and, of course, the access undertakings for those bulk handlers who also had port operations.

What we now see from the government is complete dismantling of the Wheat Export Authority as well. On this side of the chamber, we recognise that the industry has said, 'We are not yet ready to transition to complete deregulation, because there are a number of industry good functions that need to be performed since the cessation of the single desk.' It has become increasingly apparent that these industry good functions need to be performed to ensure the optimum running of the wheat industry, particularly
for those wheat growers. It has become increasingly clear that the most appropriate way to deal with that is, as we have reflected in the coalition amendment, through continuing the Wheat Export Authority and then appropriately reconfiguring it to be able to provide the proper processes for those industry good functions to be performed. It is sensible; it is a no brainer. We already have an industry body that is funded by growers at a 22c a tonne levy that is already in place that could easily be reconfigured to do those industry good functions that the industry itself wants to see performed.

Colleagues, we had a Senate inquiry into this and it was abundantly clear that the great majority—again notwithstanding some industry voices in Western Australia—saw that as the appropriate mechanism to provide these functions: primarily access to stocks information and equal and fair opportunity access to ports and quality assurance. Those are very simple, practical, sensible things that the industry and those of us actually out there on the ground understand need to be addressed, so much so that the majority of the state organisations came before the Senate committee to put their collective voice about the fact that the WEA should not be disbanded until these issues were addressed and resolved.

I will just place on the record that AgForce Queensland, Grain Producers South Australia, New South Wales Farmers and the Victorian Farmers Federation all joined forces to reject the bill. They believed that rules were needed if Australian grain was to retain a premium on the world market, if fair access to port terminal services was to be maintained and if the market supply chain was going to be transparent. How sensible and practical is that? Grain Producers South Australia chairman Garry Hansen said:

As the major grain farmer representatives organisations on the East Coast and in Southern Australia, we are united in our opposition of the Government's Wheat Export Marketing Bill.

… we join together to support an evolution of the existing regulation to better facilitate competition for our members' grain.

New South Wales Farmers Grains Chairman, Mark Hoskinson, said:

We are concerned that the removal of specialised wheat regulation in the present market will see the influence held by the three major bulk handlers inhibit competition. This would ultimately be to the detriment of the grain farmers our four organisations represent …

Debate interrupted.

QUESTIONS WITHOUT NOTICE

United Nations Security Council

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (14:00): My question is to the Minister for Foreign Affairs, Senator Bob Carr. Did the minister or the government give any undertakings to other countries that Australia would abstain from the vote on Palestine being given observer status at the United Nations in return for undertakings from those countries that they would vote for Australia gaining a seat on the United Nations Security Council? If so, what undertakings?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:00): I welcome the question; it is a serious question. The answer is no. Indeed, I would have liked, during the period when we were campaigning for votes for the Security Council seat, to have been able to say: 'We will not oppose the bid signalled by the Palestinian delegation.' I would have liked to have been able to say that.

In September, we received a letter from the Palestinian delegation, indicating they were disposed or they were planning to make a bid for increased non-state status. We did not reply to that letter. At a meeting in New York, at the Waldorf Astoria hotel, in
September, between me and the Gulf Cooperation Council—a large number of Arab nations—the foreign minister of Oman asked me what would be the Australian response to the Palestinian bid. My reply was, 'We won't make a decision until we see the wording of the draft resolution.' Let me say, uninhibitedly, that the job I had of lobbying for a vote would have been easier if I had been charged with the possibility of saying: 'We are committed not to oppose the Palestinian bid that is expected in November.' But we did not say that. I did not say that. I would have liked to have been able to say it. I could not say it, because it was not our position. On that one occasion, as I said, when the matter came up at a meeting between me and members of the Gulf Cooperation Council, my reply was—disappointing to my interlocutors, I am sure—'We would need to wait until we see the wording of the motion.' We won that bid, without having made a commitment anywhere that we would 'not oppose' the—(Time expired)

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (14:02): Mr President, I ask a supplementary question. Did the minister or the government give any undertakings to other countries that Australia would vote yes for Palestine being given observer status at the United Nations in return for undertakings from those countries that they would vote for Australia gaining a seat on the United Nations Security Council?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:03): I thought I had answered that question.

Senator Abetz: It's a different question.

Senator BOB CARR: All right, it is marginally different. Let me answer that: absolutely not. In fact, I was not seeking that. I did not imagine that as a possibility. The position I canvassed in the first part of the question was whether I would have been able to have said, back in September—before 18 October—that we would not oppose a bid for Palestinian status. I did not say that. And, not even being able to say that, I certainly was not able to say that we would vote yes. That was not even a question.

So I can underline for the benefit of the Senate that we won on 18 October, having been silent to the request from the Palestinian delegation expressed in a letter to, I think, our ambassador seeking our support or, at any rate, seeking our position on this. We did not respond to that letter. There are no settings where we gave any other indication.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (14:04): Mr President, I ask a further supplementary question. I thank the minister for his response. Did other countries subsequently voice concerns when they became aware that the Prime Minister, Ms Gillard, was contemplating Australia voting no in relation to Palestine being granted observer status at the United Nations and, if so, which countries?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:04): I am not aware of letters we received on that or messages that were sent to us. I will look at the files and give you a response. There was a letter sent on behalf of Arab country ambassadors in Australia by His Excellency the Ambassador of Morocco, I think, seeking our view or asking us to vote in favour of Palestinian status. There may well have been other representations of that type.

Education Funding

Senator MARSHALL (Victoria) (14:05): My question is to the Minister representing the Minister for School Education, Early
Childhood and Youth, Senator Kim Carr. What is the government doing to ensure a decent start for all Australian students? I refer the minister, in particular, to the state Auditor-General's report, tabled in the Victorian parliament this week, on school completion rates, which confirms that the gaps between rich and poor students and between rural and urban students are growing.

Senator KIM CARR (Victoria—Minister for Human Services) (14:06): I thank Senator Marshall for the question. In education, equality of opportunity is the first priority of a Labor government. That is why this government is committed to a needs-based funding arrangement for schools. This is the only way that we can break down the barriers of poverty and isolation. This is the key to ensuring that we actually have a richer and a fairer country that everyone in the country can share in. This is a commitment we have enshrined in the current education bill that has been introduced in the House.

So I am very disturbed by the findings of the Victorian Auditor-General. I am disturbed to see that the government of Victoria is failing the most disadvantaged. I am disturbed that Premier Baillieu is seeking to ensure that we are able to actually increase the levels of poverty, with more cuts to vocational learning. I am concerned, as the Auditor-General says, that, with no consultation, no prior research and no objective beyond a mere, measly $12 million save, in the state of Victoria substantial reductions in educational opportunities are being pursued by the Victorian state government.

This is in a state which has miraculously found $1.4 billion down the side of its metaphorical couch. This compares with the New South Wales government, who could only find $1 billion down their couch. Of course, we have seen the couches in Queensland being searched by the government in that state, which is so fond of crying poor and telling us there is a great crisis. The real crisis is the mismanagement of the state funding in those states. The Auditor-General report suggests that early school leavers—(Time expired)

Senator MARSHALL (Victoria) (14:08): Mr President, I ask a supplementary question. I thank the minister for that answer and I ask: is the government confident it can meet its equity targets in other states, given the significant cuts to education budgets?

Senator KIM CARR (Victoria—Minister for Human Services) (14:08): Senator Marshall, of course it is much more difficult for the Commonwealth to meet these targets when the states are passing the buck on education. We have in Victoria a long, long history of Tory cuts to education. We saw with Jeff Kennett the model that is now being pursued across the country. We have seen some real lessons learned from England, where the Tory masters are. The Kennett creed was very simple: cut deep, cut early and cut the poorest first. We are seeing in New South Wales now that the cuts are so bad that people cannot even get their sports days. We know that the Liberals are actually being banned from schools as a consequence of the policies that are being pursued there. We have seen that they have cut $1.7 billion from the school budgets. They have cut special needs funding for more than 270 schools. They have halved the literacy programs for the most disadvantaged. They have axed the curriculum support services—(Time expired)

Senator MARSHALL (Victoria) (14:09): Mr President, I ask a further supplementary question. I thank the minister for that answer and I ask: how does the government respond
to the contention that state funding cuts will not affect disadvantaged students?

Senator KIM CARR (Victoria—Minister for Human Services) (14:09): Senator Marshall, I think the evidence is clear. This is backward logic from a very backward movement. The Liberal movement in this country is very, very backward. They have this bizarre idea that you should only get the education that your parents can afford. You should only get the sort of support that you can pay for. That is completely opposite to the principles of equality of opportunity.

It does not matter in their view what happens in the public education system. What does matter is that, if you can spend an absolute fortune on an elite private school, that course is legitimate. It demonstrates their point that education and money do go together—that education attainment does matter when it comes to the question of how much money parents can afford.

We know that universal education has been one of the great achievements of the modern state. Right across the world we have those who recognise that this is an achievement of this country. (Time expired)

Privatisation

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:10): My question is to the Minister representing the Prime Minister, Senator Evans. I refer the minister to a recent letter sent from the Prime Minister to the secretary of the Electrical Trades Union Queensland and Northern Territory branch, Mr Peter Simpson, clarifying the government's recently released energy white paper. In that letter the Prime Minister states: 'The government has not and does not advocate for the privatisation of electricity assets.' Is it the government's position not to support or advocate plans for the privatisation of electricity assets?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:11): I thank Senator Joyce for the question. I am a bit shocked to get a policy related question, but, as it involves a trade union, no doubt we will soon dive down into something far less highbrow than a policy question. First of all, Senator—through you, Mr President—I am not aware of the letter sent by the Prime Minister. As you have not made a copy available to me I am not able to provide any assistance in relation to that letter. I am happy to take it on notice if there are issues you wish to raise.

In terms of the privatisation of electricity assets in Australia, I think the minister has made it very clear in the white paper that these are issues for state governments. They own those assets and we have not made pronouncements about what they should do with those assets. There is a healthy debate in the community about the impact of the sale of those assets or the privatisation of those assets. In my own state of Western Australia and, I know, in Queensland, it has been a very contentious issue.

The Commonwealth's role in the energy white paper was to set out the range of issues that need to be tackled and a broad direction, and to encourage the states to deal with the overinvestment in poles and wires, if you like, in an attempt to encourage them to reduce the cost to consumers. But the question about the ownership of electricity assets state by state is a question for the state governments and, as I say, they have traditionally taken a variety of paths in dealing with that. But what this Commonwealth government is interested in is making sure we have enough capacity and reducing the cost to consumers. (Time expired)
Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:13): Mr President, I ask a supplementary question. I acknowledge the answer given by the minister that the privatisation of assets is therefore a role for the states, but, if that is the case, Minister, then shouldn't the letter that had been sent from the Prime Minister have properly stated that it was from a position of the states and not a position of the Prime Minister? What is the explanation for the fact that the letter sent to Mr Peter Simpson is completely at odds with the answer you just gave?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:14): Senator Joyce seeks to come in here and say, 'I've got you: what you said is different to what the Prime Minister said,' but he has not said what the Prime Minister says. He has not provided a copy. He has not provided the Senate the information he is making the comparison with. So I have no idea about the veracity of the claims Senator Joyce makes.

Senator Joyce: I seek leave to table a letter to Mr Peter Simpson from the Prime Minister, Julia Gillard.

Leave not granted.

Senator CHRIS EVANS: The government will be very happy to have the Senate table a copy of the letter after he has shown the normal courtesies to all sides of the chamber.

As I said, the energy white paper makes it very clear what the government's policies are—its vision for the energy future of Australia. It is a road map to guide Australia's energy transformation. But I simply make the point that the electricity assets are owned by the states.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:15): Mr President, I ask a further supplementary question. The Prime Minister tells the ETU that she does not support privatisation. Then we come into the chamber and find out that they actually do. She said there would be no carbon tax under the government she leads, and then we get one. She said she does not recall a letter to the WA corporate affairs commissioner, and then it becomes apparent that she does. She said she was more likely to play full forward for the Western Bulldogs than remove Rudd, and then she did. Do you think the Australian people are starting to see a pattern in the practices of the current Prime Minister?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:16): I was too kind to Senator Joyce. It is not like me, but I was too kind: I thought he was asking me a policy question. And what do we get? The normal slander, the normal abuse, the normal poorly based claims. It was just another excuse for the Liberal opposition, who have nothing positive to say, nothing to contribute to public policy in this country, other than to try to slander and abuse anyone in public life. It does not matter whether it is the Godwin Grech affair or whether it is the matters involving Mr Slipper, the member for Dobell or now the Prime Minister. It is just straight slander. This is apparently the new positive agenda. Well, they finish the year on the same note that they started: nothing to say on issues of importance to the Australian people.

DISTINGUISHED VISITORS

The PRESIDENT (14:17): I draw to the attention of honourable senators the presence in the President's gallery of former senator Andrew Murray. Welcome to question time. I am sure you haven't missed too much!

Honourable senators: Hear, hear!
QUESTIONS WITHOUT NOTICE

Environment

Senator WATERS (Queensland) (14:17): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. Last week Sir David Attenborough and 32 other world renowned UNEP Global 500 laureates begged the Australian government to retain its power to protect Australia's national environment and not to delegate it all to the states. They said the government should 'avoid, at all costs', the devolution of the government's environment powers. This comes on the heels of Tim Flannery's Quarterly Essay, which predicts a second wave of species extinctions throughout Australia. How is the government's handover of federal environmental powers to Campbell 'we're in the coal business' Newman and Barry 'shooters in national parks' O'Farrell going to prevent this extinction crisis?

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) (14:19): Thank you, and I wish you a Merry Christmas, Mr President. Senator Abetz interjecting—Senator Birmingham interjecting—Senator Conroy: I am sure Senator Birmingham is champing at the bit. My apologies for acknowledging the interjection. The government is working closely with the states and territories to implement the COAG agreements to meet the deadlines of developing standards by December 2012 and agreeing on new bilateral arrangements for the accreditation of assessment and approval processes by March 2013. These reforms are about eliminating duplication and making processes more efficient for business. They are not about reducing standards or winding back environmental protection. High environmental standards will be maintained and businesses will benefit from reduced regulatory burden.

The EPBC Act has made a significant contribution to environmental regulation in Australia. These COAG reforms are consistent with the government's commitments made in response to the independent review of the EPBC Act that Minister Burke announced on 24 August 2011.

Senator Abetz interjecting—Senator CONROY: Yes, from the minister involved, given that I am representing him. You are very observant, Senator Abetz, as always. The Australian government is involved with the national agenda for reform of environmental regulation. The minister announced the government's response, and the environmental department and Minister Burke have pursued these reforms actively, consulting with many groups, including the Business Advisory Forum prior to COAG. The COAG process is continuing, and if there is any further information that is available to assist the senator I will seek it from Minister Burke.

Senator WATERS (Queensland) (14:21): Mr President, I ask a supplementary question. Minister, you said that the federal government will require the states to meet standards of environmental protection, but no standard in the world will change the fundamental approach of state governments to put short-term economic gain ahead of environmental protection. So, when will you stop selling out Australia's environment to the highest bidder?

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) (14:21): I fundamentally reject the premise of the question. The standards will ensure that high environmental outcomes are maintained. On 2 November 2012, the minister released a draft framework of standards for accreditation. The draft standards, along with the accompanying statement of environmental and assurance outcomes, were released so that people could be clear on what the draft standards were and the approach the government would take to the negotiation of the bilateral agreements with states and territories, and to ensure there were no omissions.

The draft standards are the foundational rules for the negotiations. They are about keeping the bar high, and making sure Australia's environmental protection standards are maintained.

Senator WATERS (Queensland) (14:22): I have a further supplementary question. Martin Ferguson was on Inside Business a couple of weeks ago, spruiking the Australian government's desire to roll out an even fluffier red carpet for the mining industry. He said that the main way the government was achieving this was through this handover of environmental powers to the states. How much is Martin Ferguson, as the mouthpiece for the mining industry—

The PRESIDENT: You need to refer to a person in the other place by their correct title.

Senator WATERS: How much has Minister Martin Ferguson, as the mouthpiece for the mining industry, driven this agenda to destroy environmental protection?

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) (14:23): I had the good luck on that particular Sunday morning to be watching the television and I saw Minister Ferguson. I do not recall him mentioning fluffy regulations and handing things over. So I do not think the basis of your question has any merit at all. It almost resembles an opposition question, in that it seeks to denigrate rather than actually ask a question. I do not think there is anything for me to follow up on with Minister Burke, but if there are any follow-up questions I would happily seek further information.

Indigenous Employment

Senator PAYNE (New South Wales) (14:24): My question is to the Minister representing the Minister for Indigenous Employment and Development, Senator Wong. I refer to the ongoing uncertainty for job placement providers under the Indigenous Employment Program. Is the minister aware of New South Wales based Booroongen Djugun Aboriginal Corporation, which has placed 58 Indigenous Australians in jobs in conservation, land management and aged care on the New South Wales North Coast under the IEP, and which has a further seven businesses on its books ready to take on trainees, whose future is under threat due to the freeze on IEP contracts? What steps is the Department of Education, Employment and Workplace Relations taking to engage with the corporation on these issues?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:24): I thank the senator for her question. I do not have any substantial information on the particular circumstances that she references. I will seek some information from the minister and see what I can find subsequently.
Senator PAYNE (New South Wales) (14:25): I thank the minister for the undertaking. I have a supplementary question. Is the minister aware of the Replay Group, to which I have referred in a question before, which has placed 1,100 Indigenous Australians into jobs in the aged care and childcare sectors since 2000, all of whom have completed at least 26 weeks of continuous employment? Can the minister explain why the department refused to guarantee ongoing funding under the IEP and advised the Replay Group to apply for funding under the National Workforce Development Fund, despite the fact that a review into IEP providers commissioned by Minister Collins found that the placement program was the best of the providers selected by the minister?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): I have some general information about IEP contracts, which I think I gave on the previous occasion. IEP contracts, as I understand them, have start and end dates—that is, they are not ongoing—and any new contracts have to meet the guidelines and criteria of the IEP. I do not have any information on any ongoing negotiations generally, nor specifically with the provider to whom the senator refers.

I previously provided some information about the IYCP, Indigenous Youth Career Pathways program, which obviously is relevant to this in that it provides a new way for government to support young Aboriginal and Torres Strait Islanders participating in school based traineeships and providing support for mentoring, preparation-for-work activities and other activities directed to Aboriginal and Torres Strait Islander students. I will seek further information on the specific organisation to which the senator refers.

Senator PAYNE (New South Wales) (14:27): I have a further supplementary question. Given we are now one week closer, since I last asked the minister these questions, to many providers who are victims of the freeze having to work out how to continue to operate, can the minister explain how the Indigenous community—and indeed all Australians—could have any confidence that the minister and the government are really serious about achieving the Closing the Gap objective of halving the gap in employment outcomes between Indigenous and non-Indigenous Australians by 2018?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:27): I do not have any information before me to confirm the notion of a freeze. As I understand our previous discussions, in the context of the senator's previous question, we have a new approach in terms of the provision of these services. There was a tender process. I refer the senator to my answer in the context of her previous questions, when I went through the nature of the tender and the way in which the tender operated. I also indicated to her that, in relation to IEP contracts, the department was continuing to discuss contracts prior to expiry with existing providers, as is the usual practice. And I have indicated to her that I will seek further information on the specific providers, if that is able to be provided. Obviously, there may well be commercial-in-confidence issues with the provision of some information.

Queensland Floods Recovery

Senator FURNER (Queensland) (14:28): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister update the Senate on the reconstruction effort in Queensland after the floods and cyclones of 2010-11?
Can he also indicate how the government is progressing the rebuilding of Queensland?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:29): I thank Senator Furner for his question, as a good Queenslander supporting flood recovery. We are approaching the two-year anniversary of the floods and cyclones that ravaged Queensland.

When disaster first hit, the Gillard government said that we would stand shoulder to shoulder with Queensland every step of the way to repair, recover and rebuild. I can advise the Senate that the Gillard government has done just that, and continues to do that. The rebuilding of communities right across Queensland is a top priority for this government and, you would hope, Queensland.

Across Queensland we have delivered more than $3.5 billion in reconstruction works, and there is another $3.4 billion under construction or out to tender. In just four months, from June to September of this year, over $1 billion of reconstruction was completed. Every damaged school, coalmine and port has been reopened, and only a few national parks still remain closed because of the nature of the damage. More than 92 per cent of damaged state roads have been restored and more than 96 per cent of damaged rail lines have been restored. We have fully reconstructed almost 3,000 kilometres of roads, with another 1,800 kilometres under construction.

I can also report that while we are rebuilding Queensland we are achieving value for money for taxpayers by having the Commonwealth Government Reconstruction Inspectorate in place assessing projects. We have created around $600 million in value. This value for Australian taxpayers is of an order that has never been achieved in past reconstruction efforts and is a testament to the work of the inspectorate in overseeing the work to ensure that we do get value for money. Measures to support councils and their labour costs, particularly in rural and remote areas, will benefit communities and also create a benefit to the Commonwealth of up to $180 billion. (Time expired)

Senator FURNER (Queensland) (14:31): I thank the minister for that answer and I ask a supplementary question. Can the minister outline to the Senate the priorities of this government in rebuilding Queensland? Are there any alternative priorities in the rebuilding effort for Queensland?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:31): I thank Senator Furner. Unlike those opposite, he continues to work with Queensland to rebuild. In hundreds of communities across Queensland the reconstruction progress is taking place, from the Bruce Highway to local roads in Somerset, bridges in Petrie, marine infrastructure in Cardwell, the Knights club in Ipswich, the Warrego Highway and Cunninghams Gap, which is undergoing major work. We are getting on with the job.

I can inform the Senate that the reconstruction work is continuing each and every day; it is continuing as we speak. I am happy to announce that the local boating pontoon at Balgal Beach, just outside of Townsville, has been completely replaced and was reopened this afternoon. The 11-metre pontoon damaged by Cyclone Yasi has been reconstructed, in the original position, next to the boat ramp. The facility will have real benefits for the safety of the fishing and boating enthusiasts. I wish— (Time expired)
Senator FURNER (Queensland) (14:32): I thank the minister for that information and I ask a further supplementary question. Can the minister detail areas of progress cross the rebuilding efforts in Queensland and can he outline any recent measures in the reconstruction effort?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:32): I thank Senator Furner. This government believes that rebuilding Queensland is a top priority. Right across the state there was billions of dollars of damage and thousands of families and communities affected. But I have been surprised that this has not had bipartisan support, as we have heard from the interjections opposite. Firstly, the Liberals and Nationals voted against the rebuilding by opposing the modest levy which went to the reconstruction of things like the pontoon in Townsville. Secondly, Campbell Newman began a secret plan to dismantle the Queensland Reconstruction Authority, until he was shamed into a backflip. Finally, when the Newman government released its top priority document last week, not a single mention was made of rebuilding Queensland. They have abandoned Queensland just like the Liberals did when they did not support the flood levy. It shows the Liberals and Nationals are just doormats, doormats, doormats. They do not care about— (Time expired)

Carbon Pricing

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:33): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Ludwig. I remind the minister that on 1 July 2014 the government's carbon tax, the world's biggest carbon tax, will impact heavily on the transport industry with a further reduction in the diesel fuel rebate of 6.85c a litre, in effect adding $510 million diesel tax per year to the trucking industry. By how much will a carbon tax fuel levy reduce emissions from Australia’s 47,000 trucking businesses by the imposition of this extra $510 million tax on them?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:34): I remind Senator Williams that the impact of the carbon price in the transport industry is a couple of years away, because we have ensured that in 2014 we will look at the impact and deal with it at that point. It is important to recognise that this government is acting on climate change—unlike the deniers on that side of the chamber, who do not believe in climate change, who do not want to drive to a clean energy future, who do not want to ensure that we can have a clean energy future, who want to continue to say: 'This has no impact. This is not going to happen.' This government has put in place assistance for households but also assistance for business. And who opposed that? Those opposite opposed it. They opposed having assistance for business. They opposed—

Senator Williams: Mr President, I rise on a point of order. I asked the minister how much emissions will be reduced on our 47,000 trucking companies by the imposition of the $510 million extra fuel tax. Will he please directly answer that question?

The PRESIDENT: The minister still has 52 seconds remaining to answer the question. There is no point of order at this stage.

Senator LUDWIG: This is what Senator Williams misses out—all fuel, including petrol, diesel and LPG gas for passenger motor vehicles and light on-road commercial
vehicles, will not be subject to a carbon price. Households and most small businesses already pay fuel excise on their transport fuel and will not face a further carbon price. I think Senator Williams does not add all of the facts when he asks that question. This is because the government knows that fuel costs are a major expense for family budgets. Transport will not be directly subject to a carbon price under the government's carbon pricing mechanism. They will not need to worry about buying and surrendering permits; however, some businesses get fuel tax credits, which means that they will pay no excise or just pay a road-user charge. Fuel tax credits will be reduced—(Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:37): Mr President, I ask a supplementary question. Can the minister advise how many Australian trucks are now fitted with the Euro 4 engines, which are designed to give cleaner emissions? Given that these Euro 4 engines also increase fuel consumption by around 10 per cent, meaning more costs for the operators, does the minister now concede that the trucking industry is already being taxed in the pursuit of cleaner emissions before it is lumbered with a carbon tax on 1 July 2014?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:38): I thank Senator Williams for his broad view of the world, but those opposite also commit to reducing carbon emissions. Maybe those on this side should tell you that you also signed up to your 'direct action' plan.

I also point out that the heavy vehicle transport industry has a two-year transition before joining the scheme. That is because we understand that this industry is made up of small operators who deserve time to prepare for a carbon price. To offset the impact of the carbon price, including price rises brought about by slightly higher freight costs, over half the money raised from the carbon price will be used to assist households. Nine out of 10 households will receive assistance through tax cuts or payment increases and more than four million will get an extra buffer with assistance that covers 120 per cent of the...
average price impact of the carbon price.  

(Time expired)

Food Labelling

Senator XENOPHON (South Australia) (14:40): My question is to Senator Ludwig, the Minister representing the Minister for Health. On 28 January 2011 Dr Neal Blewett presented his report Labelling logic—the final report of the Review of Food Labelling Law and Policy, commonly known as the Blewett review, to the government. The government released its response to the Blewett review on 30 November 2011 in a joint statement by the then Minister for Health and Ageing and the Parliamentary Secretary for Health and Ageing. The statement said, 'The Gillard Government believes consumers want food labelling that provides them with information that will help them make informed decisions about what they buy and eat'. Given that it has been almost two years since the Blewett review was released, can the minister indicate how many of the 61 recommendations made by Dr Blewett have been implemented?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:41): I thank Senator Xenophon for his question. The Gillard government is taking action to improve the clarity of food labels for consumers, while supporting suppliers and Australian industries. The Gillard government understands that food labels are a critical tool to communicate important information to consumers about what they buy and eat.

Opposition senators interjecting—

Senator LUDWIG: Mr President, I know those opposite are not interested in the Blewett report, but I do know Senator Xenophon is.

The PRESIDENT: Senator Ludwig, resume your seat. Senator Xenophon is entitled to hear the response. Senator Ludwig, continue.

Senator LUDWIG: Thank you, Mr President. We are committed to ensuring that food labels are clear, accurate and enable consumers to make informed choices about the food they buy. The government response to the Blewett review of food labelling law and policy reflects the need to improve information about food labels while maintaining market flexibility and minimising barriers to trade and regulatory burden on industry.

So there have been a series of projects which are in progress to implement the government's response to the Blewett review over the next five years. The vast majority of recommendations are currently being implemented. The government has of course prioritised the work on the recommendations that the ministerial forum has agreed on, and good progress is being made on issues like front-of-pack labelling, the finalisation of health claim standards and many others. Food Standards Australia New Zealand has been tasked with the majority of the implementation of the agreed recommendations and began work from December last year.

It is worth bearing in mind that the ministerial forum's response to Blewett was a response by all state and territory governments as well as New Zealand, and in that respect work on the agreed recommendations is not being tasked solely by the Commonwealth government. The forum on food regulation, which is the meeting of all jurisdictions and which I will also be attending, is being held in the next week in Brisbane and will consider the next steps on important issues—
Senator XENOPHON (South Australia) (14:43): Mr President, I ask a supplementary question. Will the minister please answer how many of the 61 recommendations have been implemented to date? Furthermore, the Blewett review made a specific recommendation regarding the labelling of fats, sugars and vegetable oils. It recommended that the generic term such as 'added vegetable oils' be followed by a bracketed list that specified the actual product, for instance palm oil. If the government recognises that consumers want food labelling that is meaningful, that will help them make informed decisions on what they buy and eat, why does it not support this particular recommendation?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:43): I thank Senator Xenophon for his supplementary question. In response to the Blewett review government ministers from around Australia with responsibility for food regulation will consider possible changes to the way ingredients are declared on food labels. The minister has requested that FSANZ undertake a technical evaluation and provide advice about recommended changes to ingredient labelling, including for specific palm oil labelling.

Such advice will assist in assessing the expected benefits and cumulative impacts of possible changes to labelling requirements before any amendments to the code are considered.

So all food for sale in Australia, whether produced domestically or imported, is required by law to comply with the Australia New Zealand Food Standards Code. The code requires the ingredients list on a food label to declare the presence of fats and oils, and whether the source is animal or vegetable. (Time expired)

Senator XENOPHON (South Australia) (14:45): Mr President, I asked a further supplementary question. A few days ago I spoke to an orange grower in the Riverland in South Australia, who said that he had been forced to plough his oranges into the ground because he cannot compete with imports of cheap Brazilian orange concentrate. The main reason that he says he cannot compete is because Brazilian orange juice is imported into Australia, mixed with water and Australian pulp to give the juice an orange colour, put in a carton and labelled as 'made in Australia'. Does the government acknowledge that delays in implementing meaningful reform to food-labelling laws are destroying the livelihoods of Australia's farmers?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:45): No, I do not. The last part of that, I reject.

I do understand that many in the citrus industry are doing it tough, and for many and varied reasons right across the regions that grow our wonderful product. The best thing that we can do as Australians is to eat Australian apples—use them, buy them and juice them.

I acknowledge, though, that the Australia New Zealand Food Standards Code mandates country-of-origin labelling for packaged food and unpackaged fresh and processed vegetables, seafood and pork sold in Australia. The government has already made changes to the Australian Consumer Law to provide a 'grown in' claim in addition to the existing 'made in' and 'product of' claims. You can identify 'grown in' oranges in the supermarkets and, as Australians, you can purchase them. Using the 'grown in'
gives industry another way of meeting the mandatory declaration of country of— *(Time expired)*

**New South Wales: Grazing Trial**

Senator McKENZIE (Victoria) (14:46): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. Last week the New South Wales government announced a scientific trial of grazing would be conducted in river red gum and cypress forests in the Riverina area, on the land where grazing permits have been issued by the former Labor government—

Honourable senators interjecting—

The PRESIDENT: Order! Just wait a minute, Senator McKenzie. I cannot hear you because of noise in the chamber. Please continue.

Senator McKENZIE: The trial will be based on a recommendation to the previous New South Wales government made by the Natural Resources Commission. Is the minister prepared to let this valid scientific trial proceed, or will Labor put politics and its sycophantic relationship with the Greens ahead of science and attempt to intervene in this state matter?

Honourable senators interjecting—

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

Senator McKENZIE: The trial will be based on a recommendation to the previous New South Wales government made by the Natural Resources Commission. Is the minister prepared to let this valid scientific trial proceed, or will Labor put politics and its sycophantic relationship with the Greens ahead of science and attempt to intervene in this state matter?

Honourable senators interjecting—

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

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:48): I would say Merry Christmas, but that was a slightly churlish question—but I wish you a Merry Christmas anyway, Senator!

Minister Burke has sought advice from the Department of Sustainability, Environment, Water, Population and Communities about whether national environmental law applies to the grazing trial. Minister Burke makes no apology for protecting national parks for families. National parks are special places, and they are a vital way of protecting our natural environment. Once places are protected in national parks, whether by the Australian, state or territory governments, there should be no backward steps in protection.

On 13 November 2012 the New South Wales Minister for the Environment announced a scientific trial within the New South Wales red gum national parks. The red gum national parks provide a habitat for a range of threatened species. The Murray Valley National Park also includes part of the Central Murray State Forests Ramsar wetlands. Large areas of the national parks—

Senator Ludwig: Where's your coloured sign?

Senator CONROY: I am being harassed by my own side, Mr President! This is Christmas!

Senator Chris Evans: It's actually November 29.

The PRESIDENT: Order! I need silence on my right so that the minister can continue the answer.

Senator CONROY: There should be some Christmas spirit shown from our own side, Senator Evans, is all I can say!

Large areas of the national parks were state forests, which have been subject to grazing for many decades. As I was saying, it also includes part of the Central Murray State Forests Ramsar wetland. The environment department is seeking detailed information from the New South Wales Office of Environment and Heritage about the nature of the proposed trial to determine whether significant impacts on matters of
national environmental significance are likely.

The department is also examining whether the trial might be exempt from the EPBC Act. Potential exemptions include grazing that was authorised before the commencement of the EPBC Act in 2000, or because it is a lawful continuation—(Time expired)

Senator McKENZIE (Victoria) (14:50): Mr President, I ask a supplementary question. The ACT Labor government continues to use grazing as a fuel reduction measure, recent media reports indicate. Indeed, in last fire season, the Fire Management Unit stated:

‘Grazing is a crucial, … component of the ACT’s hazard reduction program.

As we head into summer do you support the ACT Labor government’s continued use of strategic grazing to keep the territory safe from fire?

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) (14:51): Just to finish the answer that I was—

Honourable senators interjecting—

Senator CONROY: It is actually information that is relevant! ‘Or if it is a lawful continuation of use land which was occurring before the commencement of the act’.

As to the ACT governments views, I do not have any further information on that. I am happy to take that on notice and see if the minister can add anything.

Senator McKENZIE (Victoria) (14:51): Mr President, I have a further supplementary question. In my home state of Victoria, ecological grazing has been occurring at the Terrick Terrick since the park was proclaimed in 1999. A group of expert grassland scientists has recommended sheep grazing as a tool to achieve specific ecological goals, including helping to preserve the habitat of the endangered plains wanderer. Will the minister support the scientists’ view that environmentally sensitive grazing has an important role in the management of particular land assets and the protection of some endangered native species?

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) (14:52): Minister Burke is aware that cattle grazing still occurs in various other national parks and nature reserves in different parts of the country.

Senator Conroy: You asked about sheep, Senator McKenzie, didn’t you?

Senator CONROY: Senator Abetz, if you would like to ask a question, you should feel free—any time.

The PRESIDENT: Senator Conroy, ignore the interjection.

Senator McKenzie: Mr President, I raise a point of order on direct relevance. The question went to sheep grazing, not cattle grazing.

The PRESIDENT: The minister is addressing the question. The minister has 47 seconds remaining.

Senator Ian Macdonald: They’re the ones that go ‘baa’.
An opposition senator: And you do it so well!

Opposition senators interjecting—

Senator CONROY: They’re your backbench colleagues, Senator Macdonald. I have thoroughly enjoyed listening to good senators from Western Australia describe exactly what they think of you and the rest of your parliamentary party.

The PRESIDENT: Senator Conroy, just come to the answer.

Senator CONROY: I am sorry, Mr President. Those opposite have no credibility whatsoever on these issues. You supported the Victorian government tramping its way into national parks until Minister Burke tossed them out, and that is as it should have been. Those opposite make no attempt to ask serious questions in this chamber. They have been derelict in their duty as an opposition and they are reduced to baaing like Senator Macdonald is at the moment—the most intelligent contribution Senator Macdonald has made in years. (Time expired)

Education

Senator STERLE (Western Australia) (14:54): My question is to the Minister for Tertiary Education, Skills, Science and Research, Senator Evans. Could you advise the Senate on how the Gillard government’s record of investment in higher education and skills is delivering real outcomes right across Australia, especially in our regions, unlike the previous Howard government?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:54): I thank Senator Sterle for his question. The Gillard Labor government has made education and skilling of our workforce its major priority since coming to government. We have invested in education and skills right across the board, from early learning right through to postgraduate study. What that is about is making sure that every person in Australia has the chance to maximise their potential and maximise their attributes to be able to get a quality education that allows them to fulfil those talents, but also to contribute to the economy by maximising their capacity to contribute to the nation. We know that those people with higher levels of skills and education have higher incomes, better health and better life outcomes more generally. This government is investing in tertiary education and skills right across the country.

There are some who would want to argue that our expansion of access to higher education is somehow lowering quality when, in fact, what we are doing is increasing access. What we are seeing in regions of Australia where young people never got the chance to go to university is that those with the capability have been allowed access. They are getting support and regional institutions are being supported to allow young people who have been discriminated against for many years because of where they live, to have access to higher education. There are 16,000 more students in regional tertiary education as a result of this government. We have also seen a 56 per cent increase in funding under this government for those regional institutions. This week I announced further investment in four regional universities to make sure that young people from across the country are getting the opportunity to gain higher skills and higher education. (Time expired)

Senator STERLE (Western Australia) (14:57): Mr President, I have a supplementary question. Is the minister aware of any community support for the government’s record investments in education for Australia’s future economic
prosperity, unlike what we saw in the 12 years of the Howard Liberal government?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:57): There is broad based support for this government's investments in education and it is not just about those involved in education; it is from business, from trade unions, from local governments. People understand what the investment in education means for their communities. That is why the programs and the investment this government is making are being supported throughout the community. People know the differences they are making in people's lives. You can meet young Indigenous people, young people from lower socioeconomic areas and young people from rural and regional areas who are getting opportunities they never would have got before. More than 150,000 more students are at university and record numbers are in training because they are getting access.

Senator Nash interjecting—

Senator CHRIS EVANS: Senator Nash, you may interject but have a look at this government's record in regional education. What did the Nats do in the Howard government? Nothing, and it is to your shame. (Time expired)

Senator STERLE (Western Australia) (14:59): Mr President, I have a further supplementary question. I must say I am absolutely gobsmacked. This is my second supplementary question: can the minister advise the Senate on how state government budget cuts, particularly in those moribund states with a Liberal government like Queensland under the Newman regime and New South Wales under the Farrell regime, could put at risk the Gillard government's record investment in education and skills?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:59): While the Commonwealth government is investing heavily at record levels in higher education and skills, unfortunately, we have seen a reduction in commitment to training and skills development in three states, Queensland, Victoria and New South Wales. It is not just about their politics—the Western Australian government and the South Australian government are keeping up their level of effort—what we are seeing in Victoria and New South Wales and Queensland is conservative governments closing facilities, closing courses, sacking staff and reducing opportunities for young Australians to get skills that will lead them into better jobs. The failure to maintain investment in those states is undermining the opportunities for those young people. It is undermining their capacity to go on to further tertiary education, and those states have to be held accountable for the damage the cuts are doing to the skillling and education of young Australians. (Time expired)

Senator CHRIS EVANS: Mr President, I ask that further questions be placed on the Notice Paper until at least February next year.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:01): I move:
That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

As we end 2012 we see a government in shambolic disarray, a government that has no agenda other than spin; a government that is being led around by the nose by the Australian Greens; a government that promised there would be no carbon tax and then foisted a destructive carbon tax on all Australians; a government that promised every year 9 to 12 child access to their own computer at school, a plan announced on 14 November 2007, a plan that failed to reach its targets, a plan was abandoned this year; a government that promised to take over public hospitals if the states did not act by mid-2009, a plan announced before the 2007 election, where the deadlines have not been met and the plan now thoroughly abandoned; a government that promised that the Commonwealth share of hospital funding would increase to 60 per cent. That was announced by Ms Gillard on 29 November 2010 and abandoned on 11 February 2011.

This is a government that promised to require full mandatory precommitment technology for all poker machines, announced in September 2010, abandoned in January 2012; a government that promised to establish a trade centre in every Australian secondary school, announced before the 2007 election, a plan that has now been abandoned; a government that promised a real increase in the defence funding base by an average of three per cent each year through to 2017-18, a plan announced in August 2010, abandoned in the budget of May 2011.

And if that is not enough, this is now the government that seeks to spin and promise a National Disability Insurance Scheme, a dental scheme, a Gonski scheme—all hollow, cynical promises. Australians are deservedly distrusting of this government. And why wouldn't they be? Mr Rudd does not trust the Prime Minister, she who claims that she was foisted into the job of Prime Minister, yet conveniently overlooked that she had prepared the acceptance speech 14 days beforehand. People with private health insurance know they cannot trust this Prime Minister and government. Mr Wilkie, the member for Denison, knows that he cannot trust this Prime Minister and government over poker machines. The car industry knows that they cannot trust this government with a more than $6 billion plan, a plan which has now been absolutely slashed. The State of Israel knows that they cannot trust the Australian government, and of course all Australians know that they cannot trust this government because of that broken promise in relation to a carbon tax.

So as we end the year 2012, we have a government that is in shambolic policy disarray. We also have a Prime Minister who is in personal credibility disarray given the revelations today that have blown out of the water all her pathetic defences to date in
relation to the Australian Workers Union scandal. The coalition provides hope, reward and opportunity for the future of this great country. *(Time expired)*

**Senator CAMERON** (New South Wales) *(15:06)*: I am always pleased to follow Senator Abetz, the man who will go down in this term of parliament for Godwin Grech. He came in this parliament and talked about the performance or record of others but we did not hear anything about Godwin Grech. No wonder he is sneaking out with his face like thunder. What he did is an absolute disgrace. He is the only politician in this chamber who had to apologise to the chamber and the Australian public.

**Senator Abetz**: Mr Deputy President, I rise on a point of order. I claim to be misrepresented. Firstly, there was no way I was sneaking out of the chamber. Secondly, as the senator knows, a Privileges Committee of the Senate unanimously found—

**The DEPUTY PRESIDENT**: Order! Senator Abetz.

**Senator Abetz**: with a majority of Labor senators that I had acted in good faith at all times—

**The DEPUTY PRESIDENT**: Order! Senator Abetz!

**Senator Abetz**: something that Senator Cameron could never say about Ms Gillard in relation to the AWU.

**The DEPUTY PRESIDENT**: Senator Wong, do you still wish to raise a point of order? I was trying to sit Senator Abetz down.

**Senator Wong**: Perhaps he should listen to you.

**The DEPUTY PRESIDENT**: I remind senators that when I call them to order they must come to order. Senator Abetz, there was no point of order.

**Senator CAMERON**: Senator Abetz walks out of the chamber, probably feeling a little bit better because he tried to defend the indefensible. He comes in here and talks about people acting with credibility. He was the guy who had to apologise to the chamber and apologise to the Australian people because of his behaviour.

**Senator Nash**: Mr Deputy President, I rise on a point of order. The senator is misleading the chamber. Senator Abetz is not leaving the chamber. He should withdraw those remarks.

**The DEPUTY PRESIDENT**: There is no point of order.

**Senator Ian Macdonald**: Mr Deputy President, I have a different point of order. The motion we are debating is that we take note of answers to questions by all opposition senators. There was no question and no answer mentioned, related to, referred to or anywhere near the topic that this senator has continually talked about. I ask you to bring the senator to order.

**The DEPUTY PRESIDENT**: I will rule on Senator Nash's point of order. There was no point of order. Senator Nash, you were debating the point. Senator Cameron, I remind you of the topic before the chair.

**Senator CAMERON**: The topic before the chair, as I understand it, is the behaviour of politicians. If ever there was an issue on behaviour of politicians it was Senator Abetz and it was the former Leader of the Opposition Malcolm Turnbull, who lost his job because of the behaviour involved. Senator Abetz was up to his neck in it. I just will not accept any lectures from Senator Abetz about the behaviour of politicians or political parties, given his behaviour.

He spoke about private health insurance. I do not want the cleaners in Parliament House subsidising my private health insurance payments. That is what the coalition are
arguing. The cleaners in Parliament House should not be supporting the subsidy for private health insurance for me or any senator here. It was an absolute disgrace. Who supported that? Who wanted the cleaners in Parliament House to be subsidising the richest people in the country? It was the coalition who were doing it. So do not talk to me about policy. I have not heard a word about policy from the coalition. Senator Abetz got up—and he is supposedly going to be a senior member in a coalition government—and there was not one issue on policy. He has not said to the Australian public how they would pay for the policies that they have announced—and I use the word 'policies' advisedly. He did not get up there on one constructive issue.

Who was it that put the issue of national disability insurance on the agenda? It was Labor. For 11½ years the coalition did nothing. Who increased pensions to historic highs in this country? It was the Labor Party. Who had the courage to take on the vested interests in this country to tackle climate change? It was Labor. Who are the apologists for the mining industry in this chamber? It is the coalition. Who gets flown around the world by Gina Rinehart? It is the National Party. Who are the people who suck up to big business, saying to them that they will do something about labour flexibility, which is code for ripping away workers' penalty rates, ripping away workers' allowances, ripping away their annual leave and leaving them with no control over what they achieve in their workplaces? It is the coalition.

Senator Joyce mentioned letting the public determine on Work Choices. Well the public did determine and they threw you lot out on your backsides. That is what will happen continually when you guys want to take from ordinary workers in this country. That is what you are about. Do not give us any of the nonsense that Senator Abetz put up. You are absolute policy vacuums. (Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:13): It is amazing: every time you think the Labor Party has got as mad as they can possibly get, they outdo themselves. We always remember the Craig Thomson story and we always remember the Peter Slipper story—an appointment by the Labor Party—and now, of course, we have the latest one, the Bruce Wilson story.

Senator Cameron: Very funny! Even your advisers are laughing!

Senator JOYCE: You will be laughing at this. This is what we have got. We are back in the 1990s. The Prime Minister comes back to her boyfriend, Bruce. She comes in: 'How are you, Darling?' 'I'm not bad. How are you, Petal?' 'All's good. What have you got on for dinner?' 'I've got a casserole on.' 'Oh, isn't that lovely! What's that out in the backyard?'

The DEPUTY PRESIDENT: Order!

Senator JOYCE: 'Well, that's Ralph Blewitt.' 'What's he up to?' 'Just burying money.'

The DEPUTY PRESIDENT: Order! Sit down, Senator Joyce. Senator Wong, on a point of order.

Senator Wong: That contribution is completely out of order, Mr Deputy President. The standing orders are quite clear about reflecting on members in another place. The imputation there was quite clear, of criminal conduct, and should be withdrawn. It really says something about the senator that he would use the Senate chamber to make those sorts of allegations.

Senator Ian Macdonald: On the point of order, clearly nothing Senator Joyce has said makes any allegation, Mr Deputy President, in relation to criminal matters. It was a
humorous account and unfortunately Senator Wong has lost her humour—and I do not blame her, I might say. I would urge you to dismiss the point of order.

Senator Thistlethwaite: On the point of order, Mr Deputy President, the motion was moved to take note of answers given by government ministers. The point that Senator Joyce is making has no relation whatsoever to anything that was said by a minister of this government. On that basis he should refrain from seeking to smear the reputation of people in the other place without basis.

Senator Cameron: On the point of order, Mr Deputy President, it is quite clear and unequivocal that this was a reflection on the Prime Minister. It should be withdrawn. I think it is the clearest reflection I have seen here in many times. You cannot hide a reflection on the Prime Minister by saying it was a joke and it was supposed to be humorous. It is clearly unacceptable.

Senator Joyce: On the point of order, Mr Deputy President, there was no reflection on the Prime Minister whatsoever—so if may continue.

The DEPUTY PRESIDENT: Senator Joyce, I will just rule on the point of order first. First of all, there is no point of order and there is no need for you to withdraw anything but I will say this, Senator Joyce, and to all senators: firstly, the debate is wide ranging and we have steered off the topic but all speakers to date have steered widely from the topic and, secondly, be careful with your language and what you do say and how you reflect on people in the other chamber. Senator Joyce, you have the call.

Senator Joyce: Thank you. So we had Bruce Wilson saying the other night that Ralph Blewitt was occasioned to burying money in the backyard. Of course, that is what you do! So she looks out the back and says, 'What's Ralph up to?' 'Oh, he's burying money.'

Senator Cameron: On a point of order, Mr Deputy President: I accept that we do range widely in the take note debate but what Senator Joyce is talking about now has got absolutely no relevance, absolutely none, to any of the issues that were raised by a government minister in response to questions today—absolutely nothing.

Senator Ian Macdonald: On the point of order, Mr Deputy President—and I am sure you do not need my help—it has as much relevance as Senator Cameron's comments about Gina Rinehart and Godwin Grech.

The DEPUTY PRESIDENT: I will rule on the point of order, Senator Cameron. There is no point of order and I would take you back to the comments I used when you were pulled up on a point of order for your comments. So I remind Senator Joyce of the question before the chair.

Senator Joyce: So Bruce Wilson, the Prime Minister's ex-boyfriend, has said, 'Well, what happens is that Ralph Blewitt—he's a funny bloke—used to bury the money in the backyard.' Of course, why do we need a bank when you have got a perfectly good backyard! That is where you put money these days. You put money there because you want to be transparent and you want to be above board. What was the source of this subterranean benevolence? Where did it come from? Why would people be burying money in a backyard? I do not know, but they were probably getting it from somewhere. Who would know? Anyway, there is a bit of a pattern here, and it goes with the Craig Thomson story and it goes with the Peter Slipper story and it is all part of this 'there's something that's not right'. The Australian people wake up and go: 'Who on earth is running the show? Who are these people? Where did they come from?'
go back. Imagine we had a story of Menzies or someone and somebody said, 'Oh, yes, and then he had this mate who was a bit of a one.' You see we have the description of Ralph Blewitt by the Prime Minister: he was 'an imbecile', he was a 'sexist pig' and he was 'an idiot'. They are the sorts of thing that I want to hear my Prime Minister say at a press conference! That is the sort of character I expect to be running the country! And who was their associate back in the 1990s? Well, it was a person who was getting money from somewhere and just hanging around the petunias burying the dough. There might be still a bit there. We should go and have a look and we could give it back to the AWU and probably back to the members. That is probably where it could go. Maybe it could go back via the way it got there, through this slush fund. That is possibly how it could go back there. So this is running the country! The country has descended into anarchy. It is totally and utterly out of control. This is why we can find ourselves $252.9 billion in debt as I speak now. This is why we borrowed in excess of $3 billion last week, because of this absolute pandemonium palace and every day just when you think it could not get any stranger, that it could not get any stranger than Craig Thomson or that it could not get any stranger than Peter Slipper, Bruce Wilson then comes out to help the Prime Minister out and, by gosh, didn't he help her! What help! Such friends like that!

There are still some serious questions that need to be asked and I will ask just one. So there is only one question and it is serious: did the Prime Minister witness the power of attorney? I do not want to hear the answer that she has witnessed lots of powers of attorney and she has witnessed lots of documents. Did she witness the power of attorney that was responsible for being able to move a house from Mr Wilson's name into Mr Blewitt's name and what was the reason for that? Did she witness it on the day and at the time that they signed the document? I ask because if you do not witness it at the time they sign a document, then, as any solicitor will tell you, you have done something very, very naughty. Anyway here we are and we have got the NBN story and we could go on with the ceiling insulation and houses burning down story but let us stop it there and see if we ever get an answer.

**Senator THISTLETHWAITE** (New South Wales) (15:22): That contribution from Senator Joyce was one of the most disgraceful, irrelevant pieces of diatribe that I have heard in this place since I became a senator here.

**Senator Brandis:** You're the ones with a criminal in the Lodge.

**Senator THISTLETHWAITE:** This is our nation's parliament—

**Senator Chris Evans:** Mr Deputy President, I raise a point of order. Senator Brandis just said, 'You are the ones with a criminal in the Lodge.' Mr Deputy President, I ask you to make him withdraw, and he ought to when he is on his feet withdraw the outrageous statements he made yesterday. For a man who seeks to be the chief law officer of the nation, his performance over the last few days has been an outrage and disqualified him from the job. Mr Deputy President, we should not allow what occurred yesterday to again be repeated today. It is an outrageous inference on the Prime Minister and it ought to be withdrawn.

**The DEPUTY PRESIDENT:** Thank you, Senator Evans. Before I call you, Senator Brandis, I will deal only with the point of order before the chair today. The matter of yesterday is not before the chair. Senator Brandis, I do ask you to withdraw that comment concerning the Prime Minister.
It did adversely reflect on the Prime Minister.

Senator Brandis: Mr Deputy President, yesterday I made a number of specific allegations about breaches of the Western Australian Criminal Code by Julia Gillard.

Senator Wong: Withdraw.

Senator McEwen interjecting—

The DEPUTY PRESIDENT: Order! Senator Brandis, I am not going to deal with anything that happened yesterday. There is only one matter before the chair and that is a point of order on a reflection made on the Prime Minister.

Senator Brandis: Mr Deputy President, I seek your guidance on this question.

The DEPUTY PRESIDENT: Certainly, Senator Brandis.

Senator Brandis: Are you ruling that to say that a member of parliament has committed a crime is unparliamentary?

The DEPUTY PRESIDENT: Senator Brandis, it was the reflection on the Prime Minister and the way you said what you said about the Prime Minister.

Senator Brandis: You see, I do say, Mr Deputy President, and I will expand in my contribution shortly, that the Prime Minister has committed a series of breaches of the criminal and commercial laws of Western Australia.

The DEPUTY PRESIDENT: Senator Brandis, I think it would assist—it was the way in which it was said. There was a reflection, adversely, on the Prime Minister in your brief comment. How you contribute to the debate after this is fine. The matters before us about yesterday are irrelevant, in my view. I ask that you do withdraw that comment that you made about the Prime Minister.

Senator Brandis: Mr Deputy President, I withdraw it if you instruct me to but, in doing so, let me make it perfectly clear that I am not withdrawing an allegation that the Prime Minister has committed a breach of the criminal law, because I make that allegation.

The DEPUTY PRESIDENT: Senator Brandis, I ask you just to withdraw the comment you made.

Senator Chris Evans interjecting—

Senator Wong interjecting—

The DEPUTY PRESIDENT: Order! Senator Evans, I am trying to determine this matter. Senator Wong you are not assisting either. Senator Brandis, I ask if you would withdraw the remarks you made concerning the Prime Minister a moment ago.

Senator Brandis: I have already done so, Mr Deputy President.

The DEPUTY PRESIDENT: Thank you very much, Senator Brandis. Senator Thistlethwaite, you have the call.

Senator THISTLETHWAITE: Thank you, Mr Deputy President. This is our nation's parliament and it should devote most of its time to debating policy, to the contest of ideas. That is what the Australian people seek and expect from us as representatives. They want to know what our plans are for the nation, where we will take the people over coming years. Three weeks ago, I had the great pleasure of visiting Mungindi, a town that borders New South Wales and Queensland. I was there to open a trade training centre, a $2.4 million investment by this government in a hospitality and metalwork trade training centre to provide better skills development for the town.

Anyone who has visited Mungindi would know that it is a town with very big social problems. It has a very large Indigenous population. While I was at Mungindi Central
School to open this trade training centre, I met a young girl, an Indigenous student, in year 10 who explained to me that she was so excited about becoming a chef because of the hospitality trade training centre that had been placed in her school. Her teacher was teaching her how to become a chef and she was just about to begin her apprenticeship. She was telling me that the school had developed a vegetable patch at the back of the school and that they were teaching the kids not only how to cook but how to cook healthy food. This young Indigenous girl would then go home to her family and was teaching her mother how to cook healthy food.

When we talk about closing the gap on Indigenous disadvantage in this country and when we talk about real social change, that is an example of real social change. That will not show up in any of the statistics that we see published on education or on indifference in this country. But that is real social change. What people have to understand, and what the Australian public are coming to understand, is that those opposite and Tony Abbott have a plan to cancel the trade training centres program in this country, to get rid of that program that is delivering real results for the Australian people.

One of the programs that this government can be most proud of is the Building the Education Revolution. We have rebuilt every single school in this country. At the moment, in New South Wales, the O'Farrell government is cutting $1.7 billion from the education budget. Last year I was at East Maitland Public School to open a new BER facility. This wonderful school with a wonderful principal, Sheree O'Brien, who is passionate about special-needs education, had put all of their BER money into building two special-needs classrooms. I was there to open that facility. At the morning tea after the opening of those wonderful new facilities, where kids with severe Down syndrome and autism are now getting an education, I spoke to some of the parents. One of the parents came up to me and said, 'Can you send my thanks to Julia Gillard and Kevin Rudd for this program.' She explained that she had moved her family all the way from Perth to get her son into East Maitland Public School because she had heard how passionate that principal was about special-needs education and because the school was investing in special-needs education.

Any special needs classroom has two teachers and at the very least a teacher's aide. When you talk about $1.7 billion worth of cuts to education, have a guess what positions will go first in those cuts. They are going to be those teachers' aides that assist those teachers providing special needs education in public schools throughout the country. That is the difference between a Labor government and a Liberal government when it comes to education. That is what this Senate and this parliament should be focusing on—the future of our schools, our hospitals and our nation. (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:30): Australia today is led by a Prime Minister who faces serious and specific allegations of misconduct, including breaches of the criminal law, and other conduct which makes her unfit for office.

Senator Chris Evans: Mr Deputy President, I rise on a point of order. Not only is that, again, Senator Brandis trying to make an improper suggestion about the Prime Minister, but there has been no accusation made.

Senator Brandis interjecting—

Senator Chris Evans: I did not, Senator. I paid attention to the Senate during Senate question time.


**Senator Brandis:** And today I listened to the House of Representatives.

**Senator Chris Evans:** Senator, I understand where your priorities are. You have made that very clear in recent years. You are in the gutter with your leader—

**The DEPUTY PRESIDENT:** Senator Evans, can you address your remarks through the chair.

**Senator Chris Evans:** and you have done yourself a great disservice. We are not going to allow Senator Brandis to abuse the right of privilege in this parliament, and I will constantly take points of order if he does not adhere to the standing orders. He is seeking to allege corruption and conspiracy. If he has such a charge to make, he should take it to the police—not ring up his mates and try to get them to do it, but to take a complaint to the police. Making an allegation against another member is not in order, Mr Deputy President.

**The DEPUTY PRESIDENT:** Senator Evans, you are now debating the point. Senator Brandis, is this on the point of order?

**Senator BRANDIS:** Mr Deputy President, I have two points to make on the point of order. The first is a narrow and technical point, and the second is a more substantive point. First of all, what I said was that the Prime Minister faces accusations—

**Senator Chris Evans:** Made by you.

**Senator BRANDIS:** And by Mr Abbott, the Leader of the Opposition.

**Senator Chris Evans:** No, he didn't have anything when he got up today.

**Senator BRANDIS:** Yes, he did. I listened to Mr Abbott's speech and I listened to the subsequent questions from both Mr Abbott and Ms Bishop, and I can assure you, Senator Evans, that those specific allegations were put to the Prime Minister and were not dealt with by her. So, Mr Deputy President, the narrow point is this: it cannot possibly be unparliamentary to say that a member of the lower house faces accusations of misconduct, including a breach of the criminal law, when in fact they do face those allegations. That is an objective truth. Ms Gillard does face those accusations. Whether or not she is guilty is a matter for a court of law.

The broad point is this: it cannot possibly be the case that the parliament of the Commonwealth of Australia is denied the capacity to debate whether the most senior minister of the Commonwealth has committed a wrongdoing or breached the criminal law.

**The DEPUTY PRESIDENT:** Senator Brandis, thank you for your contribution. Senator Evans, on the point of order: in light of Senator Brandis's comments earlier, on which I ruled that he needed to withdraw, I was listening very carefully. I do not believe he does on this occasion. Senator Brandis was using language that I believe was satisfactory in the debate.

**Senator Ian Macdonald:** Mr Deputy President, I rise on another point of order. Senator Evans is holier than thou in accusing others of bad manners. He accused the current speaker of getting down in the gutter, or being in the gutter.

**Senator Wong:** And he does!

**The DEPUTY PRESIDENT:** Order, Senator Wong!

**Senator Ian Macdonald:** I ask you, Mr Deputy President: is the accusation by the Leader of the Government in the Senate parliamentary? It is an accusation that was just repeated by a senior so-called minister of this so-called government.

**Senator Wong:** That is dead right! He is in the gutter and everybody knows it. Just like you; you and he both!
The DEPUTY PRESIDENT: Order! Thank you, Senator Macdonald. I think it would assist the debate if we move on. There has been a lot of interjecting across the chamber. Senator Brandis, you have the call.

Senator BRANDIS: Mr Deputy President, when I hear government ministers, from the Prime Minister to Senator Wong and others, say the opposition is in the gutter, I am reminded of the late President Richard Nixon, who said the same thing. He used the same words about his accusers during the course of the Watergate affair. It is the defence of the scoundrel to say that the accuser is in the gutter. I remember the late Creighton Burns, one of the great giants of Australian journalism, who exposed during a previous Labor government—the government of Gough Whitlam—the foreign loans affair. He was accused of being in the gutter and accused of muckraking, and he said famously: 'If there's muck, let's rake it; that's what journalists do.'

Senator Chris Evans: You're not a journalist.

Senator BRANDIS: If the government or ministers of the government have engaged in misconduct or have broken the law—

Senator Chris Evans interjecting—

Senator Wong interjecting—

The DEPUTY PRESIDENT: Order on my right!

Senator BRANDIS: If the Prime Minister or ministers of the government have engaged in misconduct or broken the law, it is at the very heart of the role of the parliament to expose that wrongdoing and to call them to account.

Senator Wong: Go to the authorities if you've got something, George.

Senator BRANDIS: What I have is a document called a 'Specific Power of Attorney'. And the specific power of attorney—it is the power of attorney referred to by my friend Senator Joyce—is signed, sealed and delivered by Ralph Blewitt and is witnessed by Julia Gillard over the impressed stamp—

Senator Ian Macdonald: Table it! Incorporate it!

Senator BRANDIS: I am happy to. It is witnessed by Julia Gillard over the impressed stamp of a solicitor holding a current practising certificate. The specific power of attorney by Mr Ralph Blewitt appoints Bruce Morton Wilson as Mr Blewitt's attorney.

The power of attorney is recited to have been made on the fourth day of February 1993.

I also have here an advertisement placed by a real estate agent called Thomsons for a property at 85 Kerr Street, Fitzroy. The document advertises that the auction is to take place on 13 February 1993. It is not in dispute that the auction did take place and that the property was knocked down to Mr Wilson, who purported to acquire it in the name of Mr Blewitt. Mr Blewitt at the time the power of attorney was ostensibly executed on 4 February 1993 was in Perth. Ms Gillard, who witnessed the power of attorney, lived in Melbourne. It is not impossible that on 4 February 1993 Ms Gillard was in Perth personally present with Mr Blewitt. Nor is it impossible that on 4 February 1993 Mr Blewitt was in Melbourne personally present with Ms Gillard. It is even possible that the two of them were together somewhere else. But it would be a fraud and it would be a crime—it would be the crime of creating a materially false and misleading document—if in fact that power of attorney was backdated.

In the House of Representatives about an hour ago the Prime Minister was asked specifically by the Deputy Leader of the Opposition, Ms Bishop, 'Were you
personally present when this power of attorney was executed?—because, if the Prime Minister was not, then this document would be a forgery. And do you know what, Mr Deputy President, if the Prime Minister were personally present, there was one very simple answer that would put all suspicion at rest. She could simply have said yes. But she did not. She declined to do so. She said, ‘I’ve witnessed thousands of powers of attorney in my career as a lawyer.’ If this document were not a falsification why didn’t she just say ‘yes’? (Time expired)

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:39): I rise to speak on the motion to take note. Mr Deputy President, you have allowed a wide-ranging debate. I do not query that. That has been the tradition here. But I would point out, of course, that the opposition did not ask one question today about the AWU matter. In fact, they have largely failed to all week.

Senator Joyce: Mr Deputy President, I rise on a point of order. In fact we did. On supplementary, two of my questions—

The DEPUTY PRESIDENT: Senator Joyce, that is not a point of order; that is debating the matter. Senator Evans, you have a call.

Senator CHRIS EVANS: Mr Deputy President, I think if you check the Hansard record, you will find the question was about the electricity privatisation. The fact that the senator then went on to try and cast slurs and aspersions later in his contribution is a reflection on him.

Senator Brandis: Mr Deputy President, on a point of order: would you rule, please, Mr Deputy President, whether, when the Senate is debating taking note of answers to questions asked in question time, it is at liberty to address answers to supplementary questions, because if it is—and that has always been my understanding of the practice—then what Senator Evans just said is quite wrong.

The DEPUTY PRESIDENT: I will just clarify for the point of senators here today that the motion moved by Senator Abetz was to take note of all answers—so that is all answers; supplementary questions included—given by ministers to all question asked by opposition senators. That is what we are debating. Senator Evans, you have the call.

Senator CHRIS EVANS: We are used to Senator Brandis puffing himself up to his full height of importance and trying to pretend that he brings his legal skills and experience to these debates. What he brings is dirty, low-grade accusations. Yesterday he did accuse the Prime Minister of criminal activity. He accused her of being a party to a conspiracy to defraud. This is the same bloke who tries to ring up police commissioners or Liberal police ministers to put in the fix to try to get them to take action to suit his political interests. This is the bloke who has no standards.

The DEPUTY PRESIDENT: Order, Senator Evans! Senator Brandis on a point of order?

Senator Brandis: That assertion is false, but it is also unparliamentary because it suggests corruption. I ask that it be withdrawn.

The DEPUTY PRESIDENT: You were debating the point on the second matter. As far as the unparliamentary matter is concerned, Senator Evans, if you wanted to withdraw that part of your comment, I would be happy for you to do so.

Senator CHRIS EVANS: Mr Deputy President, I am not sure to which part you refer, but I am happy to cooperate with you.
If I said something unparliamentary I would of course withdraw it.

I was referring to the fact that Senator Brandis has been known in the past for getting politically involved in questions around the member for Dobell, Mr Thomson, and to engage with the then New South Wales Attorney General on that matter. I also understand that he sought to engage with the New South Wales police minister on that issue and also sought to engage with the police commissioner. Senator Brandis has form.

Senator Brandis: On a point of order, Mr Deputy President: the third of those statements—the statement referring to the New South Wales Police Commissioner—is false.

The DEPUTY PRESIDENT: Senator Brandis, you are debating—

Senator Brandis: It is an invention. It implies improper conduct and I ask that it be withdrawn.

The DEPUTY PRESIDENT: There was no point of order, Senator Brandis—you were debating the matter. Senator Evans, you have a call.

Senator Wong: You can dish it out but you cannot take it.

The DEPUTY PRESIDENT: Order, Senator Wong!

Senator CHRIS EVANS: Senator Brandis's glass jaw is famous. Senator Brandis has form. He has abandoned any pretence of impartiality, of the rule of law, as he has gone along with the Liberal Party as they sought to slur the Treasurer, Mr Swan, with the information from Godwin Grech. Remember of the accusations they made? Remember the prosecution? Remember the allegations of improper conduct that they cast then? That brought down their previous leader.

Senator Brandis: Mr Deputy President, my point of order is not that I had nothing whatsoever to do with the Godwin Grech affair—

Senator Wong: Mr Deputy President, I rise on a point of order.

The DEPUTY PRESIDENT: Order, Senator Wong! I am dealing with a point of order. You can speak to the point of order in a moment. Senator Wong, you do not have a call.

Senator Brandis: Let me start again. My point of order is not that I in fact had nothing to do with the Godwin Grech affair. My point of order is that I was the chairman of the Senate Privileges—

The DEPUTY PRESIDENT: You are debating the point, Senator Brandis. That is not a point of order.

Senator Brandis: Let me finish the point of order.

Senator Wong interjecting—

The DEPUTY PRESIDENT: Order! Senator Wong, I will give you the call in a moment.

Senator Brandis: Let me finish my point of order.

The DEPUTY PRESIDENT: Senator Wong, first of all, I will come to you in a moment. Senator Brandis, if you can explain the point of order or indicate what the point of order is and come to it quickly, I will appreciate that.

Senator Brandis: This is the point of order: I was the chairman of the Senate Privileges Committee, which examined the Godwin Grech affair.

Government senators interjecting—

The DEPUTY PRESIDENT: Order! I am going to deal with the point of order first.

Senator Brandis: In making the statement he just made, the Leader of the
Government in the Senate reflects upon me as the chairman of the Senate Privileges Committee and on the Senate Privileges Committee itself.

Honourable senators interjecting—

The DEPUTY PRESIDENT: Order, Senators! Senator Brandis, there is no point of order. Senator Wong, did you still wish to raise a matter on the point of order? We have now come to the conclusion of the time for this debate.

BILLS

Wheat Export Marketing Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

The DEPUTY PRESIDENT (15:45): By order of the Senate, by a motion moved earlier today, the time allocated for the second reading debate on this bill has expired.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:47): by leave—I move Australian Greens amendments (1) and (3) on sheet 7294 revised 2 together:

(1) Clause 2, page 2 (table item 1), omit "3", substitute "4".

(3) Page 2 (after line 11), after clause 3, insert:

4 National wheat industry advisory taskforce to be established

The Minister must cause to be established a wheat industry advisory taskforce by no later than 5 February 2013.

I will try and move through these amendments quickly, because I know we have a short amount of time. These amendments relate to the wheat industry advisory task force. As I articulated in my speech on the second reading, the Greens have spent a lot of time consulting and talking to people about the bill. We indicated during my speech on the second reading that without these amendments the Greens would not be supporting the bill. We recognise there are still some issues that need to be resolved in the full deregulation of this market. There are still issues around access to stocks information, there are still issues around wheat quality and there are other issues around the efficiency and effectiveness of the market.

We then decided it would be a good idea if there were an expert body established—an advisory task force—to specifically look at these issues. These are the issues that were identified in the dissenting report that was put in to the inquiry on this bill. The letters that I tabled in the chamber yesterday—a series of three letters—clearly articulate the purpose of this advisory group and the way they will report the issues around independence, transparency and all those sorts of things. What I want to do, though, is ask a question of the minister on this. I realise that advisers are not here yet.

Senator Wong interjecting—

The CHAIRMAN: Just a moment. People cannot speak without getting permission from the chair. That is the first issue. Secondly, Senator Siewert was just ensuring, Minister, that you were listening.

Senator Wong: She asked me a question.

The CHAIRMAN: But Senator Siewert has not concluded. You have concluded?

Senator SIEWERT: No, sorry.

The CHAIRMAN: I did not think you had.
Senator SIEWERT: I was going to ask a question, but I realised—and I was not trying to be rude—that there was no point in me asking the question without actually having someone able to hear. I also appreciate that the advisers are not here yet. My question relates to the independence of this task force. I understand that, through the correspondence, the minister has agreed to the points that we have been discussing. However, I want to clarify and make absolutely sure that it is the government's understanding that this advisory body will be as independent as possible both from the minister and from DAFF.

The CHAIRMAN: Do you want to take further questions first, Minister? Senator Nash was going to get to her feet. It might assist you with the advisers on the way.

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:50): I was just going to, perhaps, assist. I wonder if this would be possible, given that I think Senator Ludwig is on his way and we are still waiting for the departmental advisers. If the Department of Agriculture, Fisheries and Forestry would like to make sure their advisers are here fairly shortly, the Minister for Finance and Deregulation would really appreciate that.

Senator Chris Evans: It would help in the next budget round too, for them!

Senator WONG: I thought I should get that on the Hansard. But I might—through you, Mr Chairman—suggest that, if we could put a number of questions on notice, I am sure the minister, who is arriving now, will be able to respond.

The CHAIRMAN: I will call Senator Nash while Senator Ludwig is moving to his seat.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (15:51): Thank you very much, Mr Chairman. I am happy to assist, but I note that we are, I think—and I seek your guidance—only allotted till 4.15 pm for the consideration in committee, and any delay caused by the lack of officials really causes some great consternation given that we only have 25 minutes here. So I also will be brief. With regard to this amendment and the wheat advisory body, I would ask the minister about the make-up of the body, the process by which the body will be appointed and the date by which that advice is due to come back to government, because I do not have much confidence in the government getting even this right.

We have seen through the process of the legislation that we have before us that on the code development committee, which was the development committee for the voluntary code, the owners and users of the ports had seven positions while the producers only had two. It was completely inappropriately weighted in my view. The voluntary code simply will not work. I know we are coming to the mandatory code issue later, but I will take the opportunity now as I am sure we will run out of time before we get to the voluntary code. To have the whole premise of the WEA being disbanded and that, at the end of the day, it would be overseen by a voluntary code is simply stupid and shows that the government does not understand the operation of the industry and how this is all working.

The Greens are also moving some amendments, and I agree they are a slight improvement on the dog's breakfast piece of legislation we have in front of us. The Greens signed up with the coalition to a lengthy dissenting report when this legislation came to the committee. That dissenting report had a very comprehensive set of recommendations that went with it. We were tremendously pleased on this side when we saw that the Greens were going to...
do that, but now we see the Greens rolling over to do the bidding of their government partners, the Labor Party, on the back of a couple of small amendments. If the Greens had truly believed and insisted on those recommendations that they had signed up to in the dissenting report, they would have voted with the coalition against this legislation so we could have done it properly. It is extremely disappointing to see that.

We will have the ACCC overseeing this, and I simply do not have the confidence that the ACCC will be able to oversee this in an appropriate manner. The government has made a complete mess of this. There was a simple way forward to reconfigure the WEA to be able to do all those industry-good functions—

Senator Ludwig: Bring back WEA!

Senator NASH: Methinks thou dost protest a bit too much, Minister Ludwig. You just do not understand this. We have here a government that is quite happy to listen to the large bulk handlers and the big end of town and not listen for one moment to those producers, those people in the industry, who actually understand the ramifications of this. That is simply unacceptable and reprehensible. The government is going with the big end of town. A Labor government is doing this when we have producers out there who in no way, shape or form made any kind of abrogation about getting out their message that they know these industry-good functions need to be performed. The government simply has not listened. So we have a government that has absolutely pandered to the big end of town and the Greens that have rolled over to support that government, and the people who are going to lose out are those hardworking grain producers out in our rural communities who deserve much better than this.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (15:55): I have been so controlled over how the coalition has handled this debate—and I am not going to waste too much time—but Senator Nash has no understanding of the industry in, for example, WA and what has been going on with the farcical situation with the coalition there. She embarrasses herself. We have spoken to all the players in this. We know we have worked very hard to try to come up with a solution that moves us forward, because the coalition's solution is no solution and entrenches the industry in a mire.

**Senator Nash:** Mr Chairman, I rise on a point of order. The senator is misrepresenting me. If she had heard the beginning of my speech, she would know that I acknowledge the differences in Western Australia.

The CHAIRMAN: There is no point of order. That is debating the matter. Senator Siewert, you have the call.

**Senator SIEWERT:** Instead of sitting on our hands and watching the industry stagnate for two years, we have sought to find a solution. I do not usually take offense and raise the matter in this chamber when they continually attack us. They have an obsession with us—and that is fine because they are obviously worried about us. But, when they seek to denigrate the work that the industry has put in to try to find a solution here, that is when it presses my buttons. When she says we have rolled over when we have worked to try to find a solution, yes, I take offense. If you call me soft-skinned or thin-skinned, yes, I am on this one. Senator Nash may like to know that the very producers and organisations she has been talking about have contacted us and said they like the letters and the response that we have had from the government.
So let's get serious and talk about the real issues instead of trying to denigrate the work that has been done in this chamber, the very serious work that, I must say, has been put in on all sides of the chamber. There are other coalition members who do take this issues seriously and have been looking to find a solution so that we can move this industry forward and take a serious opportunity to look at the real issues to find a way forward with those sticking points that have been there for a long time and need to be resolved if we are really going to see this industry overcome the barriers to it proceeding effectively and efficiently.

Senator Ludwig, before you came into the chamber I was seeking your assurance that the wheat industry advisory task force would be as independent as possible from both the minister and the department.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:58): I thank Senator Siewert for her contribution. Yes, the purpose of the task force is to do the work that is set out. It is important that its work is supported by the secretariat of DAFF, but DAFF certainly has no intention to deliver the work or drive the outcome. What I want—and I suspect it is the same as you—is for that task force to do the work. I am not going to cavil with it and neither is the department. I can make that very plain. This is critical work that needs to be done.

You are right that Senator Nash, unfortunately, misses the point completely. I am not going to get into the negative arguments that she wants to run and which are personal denigrations as well. This industry needs this work done. It needs the work of the task force, and this is a once-in-a-lifetime opportunity for us to use the funds from the WEA to progress this debate further.

Where we have landed in the last short while is that the industry, which has effectively been saying this for a year, want the outcome that we have now got—in fact, so much so that it has been working on the voluntary code. Should the amendments pass, it will be a mandatory code. I think that is a sensible solution for the industry. We do need the facts on the table, and that is what the task force will do.

As to the make-up of the task force, we will consult with industry to ensure that we get the best possible people on the task force to be able to provide those outcomes. It is critically important that we look at opportunities from industry to put forward drivers who can contribute to the outcomes of the task force. In terms of the timing, clearly I will have to wait for the legislation to pass and it to be established to manage some of that. But I can broadly say that we will ensure that the task force is up and running as soon as practicable. Of course, we have to go through a consultation process with industry to get their input on who the people will be on the task force and, of course, consultation with those people who are appointed to the task force. That will obviously depend on the legislation passing, and it will depend on how long it takes industry to respond. I would imagine that will occur in a relatively short period of time.

This is one of those areas where industry, if you look across it, has unfortunately been significantly divide. The division between WA and the eastern seaboard is just so stark. The WA industry has embraced competition since 2008 and it has continued to prosper and thrive within a competitive environment. On the eastern seaboard, there are two different markets but the majority of the eastern seaboard has a range of market
opportunities from domestic through to export. To put it mildly, I think they have embraced competition and continue to strive and achieve. They have, though, in this respect, not moved on from a regulated market in part. I think this gives the industry a great opportunity to look at some of the issues that they say trouble them and to drive the change that is so desperately needed. This industry has all the elements of a great industry, and this change will ensure that it can continue to prosper.

The TEMPORARY CHAIRMAN (Senator Ludlam): The question is that amendments (3) and (1) moved by Senator Siewert by leave on sheet 7294 be agreed to.

Question agreed to.

Senator XENOPHON (South Australia) (16:02): by leave—I move amendments (3) and (1) on sheet 7328 together:

(1) Clause 2, page 2 (table item 1), omit "3", substitute "4".

(3) Page 2 (after line 11), after clause 3, insert:

4 National wheat industry advisory body to be established

(1) The Minister must cause to be established a wheat industry advisory body by no later than 31 January 2013.

(2) The wheat industry advisory body must consist of the following members, appointed by the Minister:

(a) an independent Chair;

(b) at least 9 skills-based members appointed from the production, bulk handling and non-handling export sectors of the industry;

(c) 2 non-voting observer members.

(3) The wheat industry advisory body is to administer the Wheat Industry Special Account.

Time is short so I will be very brief. These amendments are very similar to those just passed by the Australian Greens. The only difference is that they are somewhat more prescriptive in terms of the advisory board, and that is a fundamental difference. I think that fairly characterises it. So I will not be seeking to divide. If I could get an indication as to what the positions are, we can then just get on with it.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:03): I just want to let Senator Xenophon know that we will not be supporting these amendments. We have dealt with these issues in the correspondence with the minister, which we have tabled. This task force was specifically set up so that it could be flexible, and I think these amendments tie it down too much. We want a degree of flexibility because if other issues come up we want the body to be able to deal with them in a more flexible manner. We also are concerned about it being too heavily prescriptive about the make-up of the body. We do address those issues in the minister’s agreement to the make-up of the body and what the organisation will do. That is in the correspondence, which, as I said, has been tabled. The minister has agreed to the way that the body will operate, and we have just had a discussion about that. So we will not be supporting these amendments.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (16:04): The government, likewise, will not be supporting the amendments moved by Senator Xenophon. Can I say, Senator Xenophon, that I do understand what you are trying to achieve. We are not actually that far apart, in truth. It is about making sure that we do set up a task force. It will effectively be me who establishes it, and I intend to ask for stakeholder input into its make-up so that I can then appoint them to the board. Whether that can occur by 31 January will depend on the passage of this legislation, the ability to be able to consult with industry and for industry to provide the input into that and then to be able to do the machinery matters.
I certainly hope that it can meet your expectation. I think it would also be the Greens' expectation that we do it as quickly as possible. We may even do it before that date. So you would actually be a drag on the system. You would be taking too long for me. Hopefully, we can move very quickly. There is a lot of work that we want them to do. You have structured it in a way that the minister appoints an independent chair. You state:

The wheat industry advisory body must consist of the following members, appointed by the Minister:

(a) an independent Chair;
(b) at least 9 skills-based members appointed ...

I think it is a little prescriptive. What I want to ensure is that from industry consultation we can get a task force that represents industry, that can move it forward, that can do the work that we want it to do and that has the skills base.

I think we are also very close if we talk about making sure that they have a skills based membership and that they have skills from across the industry. All of that is essential for it to work and become effective. Although I understand your reasons for putting them forward, we are not too far apart in truth and in principle, and for those reasons I cannot support the amendments. I think you could confidently predict that the outcomes will look very similar.

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:06): I move Greens amendment (2) on sheet 7294, revised 2:

(2) Clause 2, page 2 (table item 4), omit the table item, substitute:


However, the provision(s) do not commence at all unless, before that day:
(a) the Minister has published a notice in the Gazette under subsection 12(1) of the Wheat Export Marketing Act 2008 in respect of a code of conduct; and
(b) the code has been declared by regulations under section 51AE of the Competition and Consumer Act 2010 to be a mandatory industry code.

This amendment is essentially about changing what was to be a voluntary industry code to a mandatory industry code, as I articulated in my second reading contribution. There is, I think, very substantial agreement in this chamber that a voluntary code was inadequate. The only way the Greens can support this bill is to ensure that this code is mandatory.

As you will see from the documentation that has been circulated in the chamber, there has been some agreement reached already in the voluntary code, including some of the stocks information and access to that information. The minister has confirmed that that process will be maintained in the mandatory code or in some other vehicle if that proves unworkable—because I understand there are some issues there.

As I understand it, there has been some agreement already reached through the discussions—despite the flawed processes Senator Nash articulated—about access to stocks information. That will be maintained and will be either in the mandatory code or some other vehicle. We encourage the Senate to support this amendment, because I understand there is a fairly strong consensus in the place that such a code should be mandatory.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (16:08): The government accepts the amendment. We
looked very hard and wanted to see how we would progress with a voluntary code. The voluntary code committee has been meeting for some time. I can say that the representations from a range of industry people really accord with your view and so it did not take much for me to be persuaded by you to adopt a mandatory code.

It is one of those areas where I was probably disappointed that the industry could not come to me with a united way forward. I think you have also heard the criticisms that the industry have reflected about how a voluntary code would operate, and I accept that, if we move to a mandatory code, it will give business certainty and grain growers certainty about how it will operate and the detail that they can operate within it.

I do not share Senator Nash's view about the ACCC. The ACCC are there to manage a range of competition rules—and they will, in this instance, do the work that they do well. Of course, it is always interesting, Senator Siewert, when people want a different type of body than the ACCC. They come up with things like an ombudsman with teeth—which would really fly in the face of what a true ombudsman does—or they come up with another regulatory scheme. Well, in that instance, they really want to go back to a reregulated market. They hark back for quota systems, they hark back for pooling, they hark back for all of those regulatory regimes that actually showed that they did not work. They were very uncompetitive. They led to very negative outcomes and they created bodies that led us into 'oil for food' scandals that we so well know.

Senator XENOPHON (South Australia) (16:11): Very quickly, I indicate that I support Senator Siewert's amendment. It is identical to an amendment that I have put up.

Senator Siewert: You put up one identical to mine.

Senator XENOPHON: If Senator Siewert wants me to say I put up an identical one and that makes her happy, I will say that. We are on the same page. In fact, we are directly on the same page, so far be it from me to aggravate Senator Siewert this afternoon. I do have one question on this because I do have another amendment that we may not get to. Is the minister of the view that this amendment will ensure that the entire supply chain will be covered by the code of conduct?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (16:12): It is a port access code of conduct. It is designed for port access. This is a port access regime. One of the challenges has been that there is a range of industry issues that have arisen, one of them significantly at the port access arrangements. This is designed to deal with the port access arrangements. The task force is designed to deal with other parts of the supply chain. The way the industry works, you can deal with port access. There is a range of bulk handlers in the marketplace at various ports, so it is easy to identify where they are.

Senator COLBECK (Tasmania) (16:12): Noting that we are very quickly going to run out of time, I just want to put on the record one particular question. It is about one of the future amendments that will come up when we start rolling through this process. I am indicating support for Senator Siewert's amendment—and Senator Xenophon's amendment in this case, and you can sort out the order. Minister, your letter to Senator Siewert says, 'I would see it appropriate to review the code two years after its introduction in 2014. The final form of this review will be determined closer to the date.' I really just want to get on record that that is the time frame, that it will be done at that
two-year time frame. Can you confirm that for the chamber, please?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (16:13): It will be two years from the introduction of the code. Is that sufficient?

Senator COLBECK: Yes.

Question agreed to.

Senator XENOPHON (South Australia) (16:14): I withdraw the identical amendment, and move amendment (7) on sheet 7328:

(7) Schedule 1, item 29, page 13 (line 19), at the end of subsection 12(2), add:

; and (e) requires the code to be reviewed no later than 2 years after it commences.

This amendment requires a review of the code no later than two years after commencement.

The TEMPORARY CHAIRMAN (Senator Ludlam): The question is that Senator Xenophon's amendment (7), on sheet 7328, be agreed to.

Question negatived.

The TEMPORARY CHAIRMAN: The time allotted for the remaining stages of the bill has expired. The question now is that the remaining stages of the bill be agreed to and that the bill be now passed.

Question agreed to.

Bill, as amended, agreed to.

Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (16:16): The Labor Party has no shame when it comes to casting around for more cash to feed its addiction to reckless and wasteful spending. The Labor Party has got no shame when it comes to pushing things through, pushing things through without proper scrutiny, irrespective of the unintended consequences and the damage that it might do. And it has no shame when it comes to the use of spin to make things appear different from what they are.
Let there be no doubt that this bill, the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012, is a shameless grab for cash from a government which is desperate for more cash to plug its budget holes. This is a rapid, six-month raid on people’s bank accounts, first home saver accounts, superannuation accounts and life insurance—supposedly, all lost. But of course the devil is in the detail.

The government are trying to make people believe that this is all about them—all about helping them, somehow, about reuniting them with their money more quickly over the six months, from 31 December 2012 to 30 June 2013. The government will end up with $762 million worth of additional revenue. This is revenue which was not budgeted at budget time and it is revenue which was not budgeted when the government promised that, in 2012, they would deliver a $1½ billion surplus. This is a measure that was first announced in the Mid-Year Economic and Fiscal Outlook and it is a measure which will deliver the government nearly three-quarters of their promised 2012-13 surplus of $1,770,000,000, as advised in MYEFO.

The government is not being upfront with the Australian people. The government is trying to make people believe something that is not.

Senator Nash: It wouldn’t be the first time!

Senator CORMANN: As you quite rightly say, Senator Nash: this is not the first time. They say it is all about reuniting people with, supposedly, lost super, lost bank accounts, lost first home saver accounts and lost life insurance. But the government will end up with the people's money in order to make it look as though they are achieving a $1,770,000,000 surplus. And their desperation, casting around for more and more cash, is not an isolated incident. But I have to admit this bill does take the cake.

We have had a government which, over the last five years, has delivered $172 billion worth of accumulated deficits. It is a government which inherited a very strong budget position: no government net debt, a $20 billion surplus and $70 billion worth of Commonwealth net assets.

The government, in 2007, was collecting more than $1 billion in net interest payments on its investments. Now the government is heading for more than $150 billion worth of government net debt, is heading for $300 billion worth of gross debt and is now planning to pay nearly $30 billion in net interest payments just to service the debt that it has so far accumulated—and this is even before we get to talk about the $120 billion in unfunded spending promises that Labor ministers, from the Prime Minister down, have been making in recent months.

No wonder they are always casting around for more cash, through new and increased taxes. There were 27 new or increased taxes in the first five years of the Labor government, through more than $150 billion worth of government net debt. And they are also raiding government business enterprises, none more so than Medibank Private, the government-owned private health insurer that, until 2009, was a not-for-profit health insurer. In order to facilitate their raids on the bank accounts and on the capital assets of Medibank Private the government changed them into a for-profit fund, which means that they now have to pay dividends and income taxes. But not only do they have to pay ordinary dividends out of their ordinary operating profits, they also have to pay the occasional special dividend. Whenever the government is short on cash, whenever it is trying to create a fiscal illusion, it looks around the government business enterprises
for more cash. Guess how much cash Medibank Private are expected to put on the table for this cash desperate government?

Senator Nash: How much?

Senator CORMANN: $391 million, Senator Nash. The Treasurer, Mr Swan, is putting his hands straight into the pockets of the people that have their private health insurance with Medibank Private. To put that in perspective, Mr Acting Deputy President, how much profit do you think Medibank Private made this year? They made $126 million worth of profit but they are expected to pay the government $391 million. In fact, since this government turned Medibank Private into a for-profit operation, Medibank Private has been required to pay this government, desperate for cash, more than $800 million in ordinary and special dividends. Once you add the company tax requirements on top of that, this government has collected more than $1 billion in additional revenue from Medibank Private, which of course is money that has been accumulated by people paying their private health insurance premiums year in and year out.

But it is not just Medibank Private. The Reserve Bank of Australia was required to pay $500 million straight out of their reserves, even though only a few years ago the Reserve Bank said that their capital reserves were too low. That was at a time when they were much higher than they are now, but $500 million has come out of the Reserve Bank. You keep adding it up: $391 million from Medibank Private, $500 million from the Reserve Bank, a couple of hundred million from the Australian Reinsurance Corporation. Then there is the $762 million out of people's bank accounts, out of people's super, out of people's first home saver accounts, out of people's life insurance. If you put it all together, people across Australia will readily understand that the promised $1.77 billion wafer-thin surplus in 2012-13 is nothing but an illusion, a figment of the Labor Party's imagination. I have not even touched on the conveniently timed sale of spectrum, which leads to a $3½ billion spike in revenue in 2012-13—conveniently at the time when this government wants to make people believe it will be able to deliver a surplus.

Because this government is always desperate for more cash in order to plug another budget black hole and to feed yet another addiction to wasteful and reckless spending, it has absolutely no shame in pursuing bills like this one with indecent haste. This legislation was first announced in the MYEFO just a few weeks ago. The government wants it to come into effect on 31 December and now wants to have collected all the cash by the end of May. The government did agree to defer aspects of this until the end of May, but that delay is inadequate to deal with some of the consequences of this rushed approach. There is always a cost when you rush these sorts of measures because you want to collect cash quickly. This rush comes at a cost ultimately to people across Australia who are going to be captured by this legislation. Because of the government's judgement and the way it has defined things in this legislation, there is a view that their bank accounts or super accounts are all of a sudden lost.

The coalition will move to amend this bill to delay implementation and if those amendments fail we will oppose the bill. Quite frankly, we think the government should withdraw this bill in order to facilitate a more orderly transition to what the government is trying to achieve. The government did move some amendments in the House of Representatives, which was an admission that they had got their legislation wrong upfront when they tried to rush things
through in even more indecent haste than what is happening now in the Senate, but it is still too rushed. Implementing these changes by 31 December this year, which was the original deadline, was just completely impossible for industry and was a recipe for disaster, as the rushed inquiry into this bill also made explicit. By delaying these deadlines at least a bit, the government has finally admitted this. But the problem is that the delay in the implementation deadline to 31 May 2013 is effectively tokenistic and quite ineffective. Before, people were required to have all their payment transfers done by the end of April; that is now going to be by the end of May. So, effectively, it is just a one-month delay.

While delaying to 31 May all the other aspects avoids a disaster over the Christmas period, it still requires banks and super funds to do a second set of processes similar but prior to those required by other government regulation changes or super reforms in the back half of 2013. As such, the extra processing and double handling is still not avoided, just pushed into the front half of 2013, along with the extra costs, the extra risks of unintended consequences and so on. Ultimately, that will be borne by people across Australia who are going to get caught up in this—all to facilitate $762 million in additional cash for this cash strapped and cash desperate government. The rushing of this legislation will impose costs. These costs will be borne in the end by the account holders, the consumers.

The problem with all of this is that we actually agree that the stated objective of the legislation, what the government say they are trying to achieve, is quite sound. If the objective is to reunite people with their money more quickly, that is fine. There is nothing wrong with that. What we get cynical and concerned about is that when the government say, 'We want to get you your money back more quickly,' they end up with $762 million of it in the next six months. How can that be in the best interests of people across Australia?

Senator Boyce: In the best interests of the budget!

Senator CORMANN: It is in the best interests of the budget perhaps—perhaps. In our view we should still withdraw this bill to fix up its many and significant shortcomings. However we understand that that is unlikely because this government is desperate for the cash. Therefore the coalition is moving amendments to delay implementation of schedules 1, 2 and 4 for a full year. These schedules relate to what the government describes as lost super, lost bank accounts and lost first home saver accounts. Delaying these three schedules would have the effect of deferring around $600 million in net revenue and around $650 million in gross revenue for the 2012-13 year into the next year, 2013-14.

If these amendments are unsuccessful then the coalition will oppose the passage of the bill. The key changes the coalition has been insisting upon, that were non-negotiable from the outset and would deliver the greatest benefits to consumers and account providers across banking and superannuation, have not been met, which is why the coalition's amendments will delay the implementation dates of schedules 1, 2 and 4 of the bill by a full year, to 31 December 2013, so that banks and super funds could implement the necessary changes to their IT systems and make the appropriate communications with their customers in a more orderly, more efficient and more cost-effective fashion. The full year's delay would allow banks to dovetail these changes into the related processes that the Banking Act requires them to do annually in the second half of the calendar
year, a process that had been essentially completed for the year by the time of the 22 October 2012 MYEFO announcement.

This is similarly the case with super funds. A full year's delay would allow super funds to dovetail these changes into the related processes that the stronger super reforms, also pursued by this government and announced in the last budget, requires of them by 1 January 2014.

The constant chopping and changing and putting changes in relation to the same area on top of each other on different time tables demonstrates that this government clearly does not understand what it takes to run a business effectively and efficiently. This government just does not get what it takes to run an economy in a way that does not impose excessive and unnecessary additional costs on business. This chopping and changing, going backwards and forwards, rushing about and going slow, and left and right and up and down, are the sorts of constant changes that undermine our international competitiveness. These are the sorts of approaches, and this is the sort of attitude, that unnecessarily adds to our sovereign risk profile.

Allowing changes to be done at the same time when all of these other regulatory change processes are already underway with specific timetables would be the sensible thing to do. I am sure that even the Labor Party understands that it would be much more sensible to align the implementation timetables for all these processes already underway, or are being put underway through this legislation. There is only one reason why that is not happening and that is because Mr Swan, the Treasurer, is desperate for the cash now. He is desperate for the cash before 30 June 2013 so that he can make people believe perhaps—unless some other disasters happen between now and then—that he will deliver a surplus in 2012-13. That is the only reason he is going for this rapid six-month raid for more cash out of people's bank accounts, out of people's superannuation and out of people's first home saver accounts.

The delay of a full year in implementation dates would have ensured a more orderly and reliable process overall with less risk of mistake, churn, cost and inconvenience to consumers and account providers. This is why for the coalition such a delay was non-negotiable from the outset and remains the case even after the last-minute admissions and compromises by the government. As a result, the coalition will continue to move amendments to introduce more realistic implementation timeframes and if these amendments are not successful we will continue to oppose the bill. We foreshadowed this opposition when the bill was being rushed into the House by the government. It is now clear that the rushed timelines for implementation are driven by nothing more than a desperate government trying to pretend it can deliver a surplus.

More than half the Gillard government's promised surplus—in fact nearly three-quarters, as I mentioned earlier—would come from this bill. The lost super measure alone raises $555 million, more than half the promised $1,077 million surplus for 2012-13. This undue, indecent, shameless haste and lack of proper process in developing these measures is driven by the government's desperate need for cash to continue to preserve the illusion of a surplus for a little longer.

But I suspect that while all this is happening and while the government is always playing catch-up with more new revenue measures to try to chase their spending tail, the government is still spending like a drunken sailors anyway. I do
not know why they even bother trying to keep the illusion going. Here they are, having made unfunded spending promises in the last few weeks to the tune of $120 billion, which come on top of $172 billion of accumulated deficits. This means that we have got a government here which over the last four budgets has spent $172 billion more than they have raised in revenue. Senator Wong during various question times and other related debates always tries to run the argument that this government is a low-taxation government as a share of GDP. They are putting it all onto the tax bill for future generations. Racking up debt, including more and more money onto the credit card—guess what that is—is deferred taxation and, if you want to have a true indication of what the tax burden of Australians is under this government, you have got to add the $150 billion of government net debt to the calculation. Some day or another, as governments in Europe and the US are finding out, the chickens come home to roost. At some point you reach a wall where you cannot keep living beyond your means. This government of course says, 'Oh, well, we are in such a strong position.' But the only reason we are in a strong position is because we had a strong government here up until 2007 that left the government a very strong budget.

Senator BOYCE (Queensland) (16:36): We certainly have to give it to this government! In terms of creating dogs breakfasts with the whiff of a rort about them, this government excels. It is their forte.

When we have the situation where a Greens amendment to a bill of this sort actually improves the bill, we really have to worry a bit. And yet, as we told the government over and over, and as we have said in a dissenting report, there is no way that banks and other organisations could be ready to accept the changes proposed in this unclaimed monies bill by 31 December. Finally, pushed by the Greens, they managed to get it to 31 May.

Of course, 31 May was not what we suggested. We will be moving amendments to try to delay the introduction of this for 12 months. Banks usually do a sweep, as they told us during the very, very rushed hearing on this legislation, well before Christmas. Imagine, during the Christmas period, being obliged to do a sweep of bank accounts to see what is left unclaimed? How desperate was this government to have tried getting this legislation through in the first place? It just smacks of, well, 'ineptitude' is probably the best term to use.

Not only do we have the situation with this legislation where a Greens amendment makes better sense than the government's initial proposal by pushing the date out to 31 May—it is a compromise, but if that is what the government insists on then the Greens have done a better job on this legislation than the government has—but we also have the bizarre situation where it is the Australian Bankers' Association that is telling us that the regulations will confirm that term deposits, linked accounts and children's accounts will be excluded. The regulations? Where are the regulations? Well, they were not developed before we got the first run of this bill, and they still are not quite exactly with us. So we end up with the banking association—not the government—answering some of the questions around the concerns that we have with this legislation. There is the opportunity that people's accounts would be picked up willy-nilly. The whole point of this, of course, was to attempt to put the budget back into surplus.

If the budget in May 2013 ends up in surplus it is on the back of young workers
and people with toothache, because for 18 months there will be no dental scheme funded by this government. We have already had evidence from the superannuation funds that the people who are most likely to have their accounts declared inactive within 12 months are young workers. People who might earn around $22,000 or so in six months are the people who will be most likely to have superannuation accounts under $2,000 and have that money claimed by Mr Swan and his greedy little friends, and then have to go through the business of claiming it back from the government. Of course, that will create a cost for the government, but I guess they are hoping that it will not create a cost in the same financial year. Perhaps they will work out a way to be very, very slow in paying it out.

Over the six months from 31 December 2012 to June 2013 the government is intending to raise $760 million in additional revenue from this bill. Let us look at their moves on bank accounts. Currently, if a bank account is inactive for seven years the money becomes unclaimed and it goes into an account run and overseen by ASIC. Not only are they more than halving the seven-year time frame to three years but this government is also saying, 'Oh no—pay us straight away. Stick it all in consolidated revenue so we can try and pretend somewhere along the line that we got a budget surplus.' Again, it is unconscionable that this is the way it will be gone about. We would have supported the idea of moving the time frame from seven years to five years, but we will not support the nonsense that is currently being proposed.

If we look at the superannuation side of it: as I said earlier, the people who will be most affected by this are likely to be young workers. The lost super is expected to raise $555 million in 2012-13. Let's face it: this is just a con aimed at getting the money in the bank account at the right time so that they can get their house in order.

We have the situation where not only do we have the superannuation levy likely to go to 12 per cent but we now have one of the architects of it, former Prime Minister Paul Keating, suggesting that it should go to 15 per cent. What? So they have a better chance to rip money off people earlier and sooner. It is just a shambles that has been created here.

We also have the Treasury secretary, Martin Parkinson, telling people, 'Well, the concessions we have on super at the moment, we can't let those stand. We'll have to get rid of those. We are going to have to raise revenue somehow and getting rid of the concessions on super would be a good way to go.' The superannuation industry has already undergone three tranches of change put through by this government. They are in turmoil right now and they will continue to be in turmoil if this government continues as it has with 'change this, change that, and let's do this, let's do that'. We have another piece of legislation around superannuation coming up shortly which, once again, the industry has said, 'Well, we're not sure what you mean. 'Oh, you won't have the regulations this time until 10 past midnight. We can't get the regulations.' And this goes on and on.

It is no wonder that the investment climate in Australia is very dicey at the moment and that there is a lack of confidence in the investment sector in Australia when you have this complete incompetence, this complete lack of information and also this complete lack of understanding of how the situation will pan out.

As far as I understand, we have not even talked about first home savers grants which can in many cases be inactive for more than three years. People want to set up a history of saving for four years, which is what they are required to do with first home savers
grants, yet if they strike a tough patch after, say, two years and do not put any money in for three years, the government will sweep their account. What a wonderful way to encourage people to save for the future! It is yet another bizarre example of how this government is going. The timing of this is just too rushed. It is unrealistic.

In fact, as the banking industry put out, it is not feasible that they could have met the government's initial deadline and they will have issues and significant extra costs in meeting the 31 May deadline. A far preferable deadline would have been from delaying the implementation of this for 12 months to avoid the sorts of mistakes and the sort of inconvenience that will be caused to bank customers who have their accounts taken.

We even had the bizarre situation, when this legislation was introduced, that it was going to operate at the account level. That meant that if I had five accounts with a bank—and even though four of those may have shown transactions going in and out and in and out—the fifth one, if it did not have transactions in it for three years, would be swept away by the government looking for some money to stick into consolidated revenue and hopefully produce a budget surplus. So the problem with this is that they just do not understand how business works.

So we had the situation where the regulations had not been made and the unclaimed moneys provisions, including what accounts would be excluded, were not set out. It would appear that the regulations are now going to exempt linked accounts from being swept up by Treasury in pursuit of its elusive surplus. But where are the regulations? This has not been thought through properly and we are still not sure, other than having some advice, that it will not affect linked accounts.

During the inquiry, the Australian Bankers Association said the bill:

… seems to have been developed and pushed through the parliamentary process with undue haste. While the changes in the legislation appear straightforward, they do in fact have significant implications for banks and for bank customers.

Of course, they have a significant problem. Imagine if you were posted overseas. There is a reasonable likelihood that you may be on a posting of more than three years and simply leave an account here, to earn interest and do nothing else. But if you are already overseas right now, how will you ever know? That is unless the banks spend their money to yet again fix up the government's policies and the shortcomings in the government's implementation. How will you know that account is going to be swept away?

Take accounts set up for children. The government tells us that they are going to exempt those. I am pleased to hear that because accounts for children are often set up by grandparents who simply leave them to earn interest until the children reach 16 or 18. I am glad that we will not have the kiddies of Australia attempting to provide a budget surplus for the Julia Gillard government.

Returning to first home savers grants and accounts, the problems with those multiply over and over. Another thing is that the government is intending—as they tell people in a friendly way—to pay interest on the moneys if and when people claim them back out of consolidated revenue. They intend to pay interest at CPI. Never mind what the account is earning, they will pay you interest at the cost of living index. So where are we going with this? There is a possibility that in fact people will be duded out of interest payments because the government has claimed their money and it has taken them some time to realise they have.
Another problem is that the way this legislation goes about talking about how one identifies an inactive account is out of kilter with the current way that most people engage with their banks. At the moment it has to be by letter and if you have attempted to correspond twice by mail with someone and they fail to get the correspondence, well, that is it. I know that when I bought the house that I am currently living in it took me something like 3½ years to stop receiving mail for former owners and friends of former owners around superannuation and banking accounts. Each one of these I religiously sent back with 'Address unknown—return to sender' but six to 12 months later yet another one would turn up. So that took over 3½ years to stop happening. So, despite my attempts to let these organisations know, certainly the systems appear not to be there right now that would allow banking and superannuation organisations to easily know when accounts are genuinely inactive and, when there is lost super, when people genuinely are not here anymore.

I see some attraction in not forcing employers to pay superannuation for people who are working casual work, such as backpackers, so that they are not put in the situation of needing to reclaim it or, as with most cases, forgetting to claim it and having it sit there until it does get reclaimed. I accept the point, and all the banking organisations and all the superannuation organisations accept the point, that having inactive accounts and so-called lost super accounts is a cost to those organisations. The administration around them goes on irrespective of whether they are earning anything. To change this willy-nilly so that the cost of the unclaimed moneys becomes a government cost and attempts to offset consolidated revenue is an interesting point.

The Joint Corporations and Financial Services Committee, of which I am deputy chair, will be holding an inquiry with ASIC early next week. I will be asking them at that inquiry about the degree to which unclaimed moneys are subsequently claimed. You would think that the government perhaps would need to look at whether they should have an offset for all this money, this $760 million that they are hoping to get into consolidated revenue through this measure. Should there be an offset so that, for those who reclaim their funds, the liability for the reclaimed funds is provided for? Or, do we just hope that not too many will do it, hope that this will slip under the radar and hope that nobody will pay attention.

The unintended consequences of the government’s ineffective and shambolic implementation of legislation, their shambolic introduction and drafting of legislation—I hasten to add that it cannot be blamed on the people who draft the legislation but on those who make the policy on the run to force the legislation. Their shambolic behaviour is unbelievable and unsustainable in the same way that their management of the budget is unbelievable and unsustainable.

In terms of how the government should handle identifying inactive members and lost super accounts, surely this legislation should also allow for the fact that people use email and computers and that it is quite possible to have a very active association with a bank or a superannuation company without being an uncontactable person. The current regulations define a member of a fund as a lost member if: (a) the member is uncontactable—that is, the provider has never had an address for the member; and, (b), two written communications to the member have been returned to the provider unclaimed and the member's account has not been active for five years.
That clearly needs to be developed further. Once again, without proper consultation and without properly understanding how the industry works, this government has got it completely wrong. It is not just the money that is lost or the accounts that are lost; it is also this government that is completely lost. This is yet another example of how poorly it has managed to construct its fiscal environment to attempt to meet the circumstances.

**Senator MASON** (Queensland) (16:57): Madam Acting Deputy President Pratt, I take this opportunity on the last Thursday of the parliamentary sittings of the year to wish you a Merry Christmas. Perhaps the Christmas spirit has made me more generous than I usually am.

**Senator Marshall:** What about me?

**Senator MASON:** And of course my colleagues in the Senate at the moment, in the government and indeed the crossbenchers.

**Senator Kim Carr:** What about your own team?

**Senator MASON:** I wish them all a Merry Christmas, thank you, Senator Carr. I am in a generous mood and that generosity is perhaps reflected in the fact that I will concede that the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 is not without all merit. The objectives of the legislation to prevent the erosion of small, lost or inactive account balances from fees and charges and to reunite unclaimed balances with their owners are not unworthy. There are some good policy aims. But the Senate knows that in fact this is a rather cunning plan by the Treasurer to sort of put his hand down the couch, to look under any hollow log for money to somehow pay off the budget deficit. He has to find a billion dollars. As my friend Senator Cormann said before, about half of that, $555 million alone, will come from lost super and, indeed, from the bill as a whole, about $760 million will be acquired, which is about three-quarters of that required to pay off the debt.

Sadly, this is not new. What the government is really doing is taking money that is supposed to be used by citizens for their future retirement and trying to balance the budget today. So the government is living for today and not saving for tomorrow. Sadly, this philosophy has a very long history in Western politics. You will be aware, Acting Deputy President Pratt, that after World War II, social democratic governments—indeed, even in the United States after about the 1960s, with President Johnson's 'Great Society'—made a habit of spending money they did not have. Social democratic governments got into a habit of spending money they did not have. In other words, they went into debt.

You have heard me many, many times in this place talk about Labor's record on debt since Federation. I always argue—and it is right—that every time Labor leaves office Australia is further in debt. There has never been an exception since 1901. Since this nation was founded, when Labor leaves office Australia is always further in debt. What is the government doing? It is borrowing from our children's future. That is what the Labor Party has done since 1901. I have said many times that it does not matter if it is peace, if it is war, if it is good times or if it is bad times, the Labor Party always leaves the citizens of this country further in debt. There has never been an exception in 110 years of this Federation.

The pea-and-thimble trick that Senator Carr and others like him tried to work out was that citizens, at least the middle-class ones—nudge, nudge, wink wink—would receive more in government benefits than
they ever would pay in tax. That was the pea-and-thimble trick—that the middle class, at least, would receive more in government benefits and welfare and entitlements than they would ever have to pay in tax—that developed in Western countries, in the United States from about the 1960s and Western Europe post World War II. That was the assumption. That was the clever trick.

What developed in Western Europe was a giant pyramid scheme—or, perhaps more accurately, a game of pass the parcel. My friend Senator Cormann alluded to it before. You keep kicking the debt down the road. That is what you do. You keep kicking the debt down the years. You keep kicking the debt down the generations. That is what social democracy has done post World War II. And, I have to say, they have got away with it for a hell of a long time—kicking the debt down the street. It was successful electorally, particularly in Western Europe. Fortunately, it was not so successful here in Australia.

If the coalition had not won two out of every three elections since World War II we would have gone down the Western European path of systemic debt. Fortunately, the conservative parties in Australia won two out of three elections after World War II. But what was the story in Western Europe? It was the other way around. The social democratic parties won about two out of every three elections—and look where they are. The pea-and-thimble trick ain’t that funny any more. The magic has well and truly gone.

The trick was that if people kept thinking that, if you keep kicking the debt down the road, well, it is magic, no-one ever really has to pay it off—abracadabra, really. We now know that this does not work. We now know that pass-the-parcel economics is exhausted, because in the end, as we have all discovered in recent years, those countries cannot even pay the interest on their debt. So they cannot pass the parcel any further because they cannot pay the interest on their debt. So much for the pea-and-thimble trick! So much for the social democratic magic. So much for debt.

The solution, as we now know, does not lie in Athens. Athens is not the answer. Social democratic governments must be very happy. And do you know why those governments are happy? Because they are spending money belonging to the young—those who are not old enough to vote and those who are yet unborn and cannot vote. They will spend the inheritance of young people who cannot yet vote and those yet to be born. That has been the crux of social democratic economics since World War II. That was the pea-and-thimble trick. That, of course, has become increasingly exhausted.

For years and year, for millennia, parents—as many of us are here in the chamber—have sought to pass down money or property to their children. That is what parents do. Parents pass down money or property in their wills and leave it to their kids. That is what people do. Now, what does our government leave to our children and grandchildren? It does not leave them something worthwhile having. It leaves debt. That is the present of the current government to future generations.

Mr Swan is not a Santa Claus. He has already taken the money and spent it. The gift from Mr Swan to future generations is an IOU. Can you imagine parents in this country leaving an IOU to their children in their wills? We laugh, because parents do not do that. But governments in this country and in the Western world are quite happy to leave debts to children and to generations yet

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to be born. Why do they do it? It is because they can get away with it, because those children cannot yet vote. All the rent seekers and all the interest groups are out there, taking money from their future, taking the kids' inheritance, taking their future from them. That is what they do.

Sadly, the coalition has not always been perfect—I know that. But this lot are even worse. They are spending the inheritance of our children and our grandchildren. Can you believe that this is the story, the legacy, of modern Western governments? There is huge debt to service a lifestyle that governments cannot afford. That is what this is all about.

The Labor Party preach to the coalition about social justice. They talk about intergenerational equity.

Senator Chris Evans: Is there a bill in here somewhere?

Senator MASON: Yes, and I have mentioned the bill, Senator Evans. It reflects this underlying concern. The government talks about intergenerational fairness and social justice all the time. Well, tell me, what is so just about leaving an IOU to future generations and kicking that bucket down the road? Where is the intergenerational equity in leaving billions of dollars in debt for kids yet to be born? As Peter Costello famously said when he was reflecting on the Intergenerational report—one of the great landmark documents of the last coalition government: 'Intergenerational inequity, in the end, is intergenerational theft.' And everyone, every member of this parliament, should be aware of that. None of us should ever forget it.

There is a wonderful book based on the BBC Radio 4 Reith lectures of 2012, and I urge my colleagues in the Senate to read it. It is by Professor Niall Ferguson, who is an eminent British historian. In it he talks about the partnerships between generations, and he quotes Edmund Burke, the great conservative philosopher. Professor Ferguson writes:

In his Reflections on the Revolution in France (1790), Edmund Burke wrote that the real social contract is not Jean-Jacques Rousseau’s contract between the sovereign and the people or “general will”, but the “partnership” between the generations.

In Edmund Burke's words:

Society is indeed a contract … The state … is … a partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born.

That is what Edmund Burke said in 1790. Professor Ferguson goes on to say:

In the enormous intergenerational transfers implied by current fiscal policies we see a shocking and perhaps unparalleled breach of precisely that partnership …

He also goes on to say:

I want to suggest that the biggest challenge facing mature democracies is how to restore the social contract between the generations.

To summarise the book and summarise the problem confronting Western nations, it is that: 'The biggest challenge facing mature democracies,'—Australia being prominent among them—is how to restore the social contract between the generations.

As Professor Ferguson knows, with current policies in the West, we are stealing the future of our young people. That is the problem. The measures are reflected in this bill. Governments are unable to resist the rent seekers and the interest groups, so they have to take the retirement savings of citizens to balance today’s budget. The challenge for this government—indeed, for all governments in the future—will be to resist the rent seekers, to resist interest groups, and to start representing future generations. I am not suggesting for a second that it is easy. It is difficult for this
government and it will be difficult for any government.

The test should always be this: is any expenditure proposed by government justifiable to the young and to the yet-to-be-born? I phrase it like this: if you are going to spend money, could you, in a hypothetical sense, justify that expenditure to your yet-to-be-born grandson or granddaughter? Could you justify the expenditure of that money to your yet-to-be-born grandchildren? If you can, maybe you should spend it. But, if you cannot, if it is to satisfy interest groups, if it is to satisfy rent seekers, if it is to satisfy the particular urgings of groups, if it is simply to win an election and if, by doing that, you bankrupt the future of those children, it is not worth it.

There is a crisis in the Western world. The United States is facing a fiscal cliff. I have only had the time this afternoon to talk about public debt. If you add public debt to private debt, well, God help us all. But this is the issue that is going to confront this government. It will confront the next Abbott government if we get the opportunity to govern. When we spend money, the test for us as well should be—and I do not mind saying this on the record—that we can justify this expenditure to our children and our grandchildren, not just so we can live a more luxurious lifestyle, not just so we can feel better about ourselves and not just so we can live in greater comfort. No, that will not cut it anymore in the West. Those days are finished. We have seen what has happened over the last 70 years since the end of World War II—and it is a disgrace. It is a disgrace because the politicians gave in to those rent seekers and those interest groups, and they bankrupted the future of their own children and their grandchildren. There is no money left to pay for social welfare in the social democratic Europe. How are they even going to service the debt? There is rising unemployment and rising social unrest, and they do not know how to get out of the spiral. I know that it is not quite that bad in Australia. I accept that and I think we all accept that.

What I am concerned about and what the coalition is concerned about is this: if we go the same way as western Europe, because it is very tempting, if we go the same way as the United States, if we start to give in to every interest group running around Australia, we too will start heading towards a cliff. Hopefully, someone will stop this nation before we hit the ground, before we hit the bottom of the fiscal cliff. We owe it not just to ourselves, not just to the nation at the moment, but to our children and our grandchildren, and their future. For whatever we do in this parliament in the future, what we cannot do is mortgage their future just so we can live a little more comfortably today.

I know the job of finance minister is extraordinarily difficult and the balances that have to be undertaken are always hard. But I make this plea: whoever is in government must not make the same mistakes as western Europe and the United States, and that someone in the end must stand up for and must talk for our children and our grandchildren and their future. It is not just about how we live today.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (17:16): I rise to speak on the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012. This bill should be called the ‘Government has its hand on my wallet bill’, because that is what this is about. While I was listening to my colleague Senator Mason's contribution to this debate, I was wondering how many Australians are overseas and not aware that their parents set up a savings account for them when they were at school. When we
were youngsters, just about everyone had a Commonwealth Bank savings account. I wonder how many people have gone overseas and are not aware they have one. Many of them have probably returned to Australia.

This bill basically means that in the six months from 31 December 2012 to 30 June 2013 the government will raise more than $760 million in additional revenue. The lost super measures alone will raise $555 million, more than half the promised $1.077 billion surplus this government have committed to for 2012-13. They certainly need the money because just before I came into the chamber I looked up today's gross debt. It is $253 billion.

Before I continue with my contribution, I want to make a point that at 5.30 today the guillotine will drop on this legislation. Before I handover to my colleague Senator Macdonald, I want to put on the record some quotes from others about the guillotine. On 6 September 2006, when in opposition, Senator Glenn Sterle said:

The Howard government are only too happy to guillotine debate to ram through legislation …

This next one is a good one, Acting Deputy President Pratt, you should listen to this. On 8 December 2005, Senator Stephen Conroy said:

The Howard government are only too happy to guillotine debate to ram through legislation …

This last quote I have before going on to the bill is from Senator Joe Ludwig—

Senator Chris Evans: The bill!

Senator WILLIAMS: The Leader of the Government in the Senator cannot throw his weight around in here these days because of his clever dieting and fitness. He does not have much weight to throw around these days and I commend him on the success of his weight loss program.

Senator Chris Evans: I'll be back with a bit of padding after Christmas.

Senator WILLIAMS: Hopefully, he will get out of the drought stricken area in the new year sometime. Senator Joe Ludwig said:

What we have now, and it is not even near the end of the year, is the government trying to use its numbers—and probably successfully—to make us sit tonight. All it really demonstrates is that the government has been unable, unwilling and incapable of managing its own program.

That is what we are facing here in the brief time I have to make my contribution before my colleague Senator Macdonald speaks. This legislation is penny-pinching at its greatest. The government is desperate to bring in a budget surplus this financial year.
That is why I say prepare for an election in August next year because there will be no way this government will stay after September, when Treasury will deliver the real figures for this financial year. As Senator Cormann said, we have some amendments and if the amendments are not successful, we will oppose this legislation.

Senator IAN MACDONALD (Queensland) (17:22): I thank Senator Williams for cutting short his contribution to allow me to say a couple of words on this grab for cash bill that the Labor Party has introduced. This bill, the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012, is so typical of the Labor Party. They have run out of money and they have promised this mythical surplus of $1.2 or $1.3 billion and half of it is going to come from stealing someone else's money. That is in effect what this bill does: it creates a legal ability to steal money that has been saved by others as a contribution towards their retirement. I concede that if you can come back later and show that they have taken your money they will give it back, but the Labor government would not worry too much about that because they know there is absolutely no way they will be on the treasury benches after the next election to have to find the money to pay back.

Isn't this bill so typical of the dishonesty of this Labor government led by a Prime Minister who cannot tell the truth? I say that and remind everyone yet again, if it needs reminding, that this government is led by a Prime Minister who a few days before the last election, knowing that unless she told a lie she would not have got the votes, promised the Australian people she would not introduce a carbon tax. As soon as she was elected on the strength of that promise, the promise to the Australian people that she would not do this, she turned around and introduced the carbon tax dishonestly. This bill is in that same vein. Indeed, over the six months from 31 December this year to 30 June next year the government intends to raise more than $760 million in additional revenue from measures in this bill the principle of which is stealing, as I say, $555 million of someone else's money.

Wouldn't you think that a bill with these implications—not just on the honesty of this government, not just on their financial mismanagement but on the fact that it is taking someone else's money—would be debated? I know that there are many more speakers who would like to speak on this bill but they are not going to have the opportunity because the Greens political party have joined their mates in the Labor Party to curtail debate on this important legislation. It would appear that this will be the second time today that I am going to be stopped from talking. I do not want to sound like I am taking it personally—

Senator Chris Evans: Your contribution is the biggest part of why we got the numbers.

Senator IAN MACDONALD: I did not quite hear that. I thought you are saying, Senator Evans, that you are doing this deliberately to impact on me, on my birthday, I might say. But twice in one day an individual senator—forget who it is—is being prevented from talking in this chamber that we are elected to to look after the interests of our constituents, in my case the people of the state of Queensland.

I know that a lot of this $555 million in so-called 'lost' super, and I put that in inverted commas—I call it stolen money—comes from people who earned the money in my state of Queensland. Queensland is a growth state, a state where until the Labor government came along there was a lot of investment in mines into the future. There
was a lot of work in Queensland based on mining and other industries, but the carbon tax and the mining tax that is about to come into effect are rapidly dissipating that will to invest in Queensland. But it has been there in the past. People have worked in Queensland, they have paid their super contributions and they have moved on to other jobs in different parts of the state, perhaps interstate or even overseas. They have this money left that it is owing to them.

So what is the Labor government going to do? They are going to steal it and put it into consolidated revenue so that this mythical $1.5 billion surplus might appear in the May budget. As Senator Williams so adroitly pointed out, whilst you will be up to fool people in the next budget you will not be able to do it about September next year when the government will be forced, as happened this year, to demonstrate just how shonky are their budget estimates. I am disappointed to say that in the way the Labor Party has cooked the books they do seem to be being assisted by Treasury. I do not like saying that but it is clear that these figures are so shonky and that this bill, along with a lot of the other measures, is just so shonky that it is a pity there are not more people in the Department of Treasury prepared to whistle-blow on the sorts of things that are happening.

This is just one indication of where this government will go to any lengths to try and get to this mythical surplus. You know, Madam Acting Deputy President, that they slashed our defence budget by something like $5.2 billion through the forward estimates to the lowest contribution as a percentage of GDP to defence of our country since 1938.

I could talk for a full 20 minutes but I am not even going to get the opportunity of having my 20 minutes, let alone others on my side who wanted to speak about this. I could go through time after time just listing where these shonky bills and the shonky way the budget has been put together by the Labor Party are just dishonest. It is a typical Labor Party approach. I repeat again the dishonesty of the Prime Minister in the carbon tax debate. We have heard these unanswered questions in relation to the AWU slush fund that the Prime Minister has also not been able or prepared to answer. And you can go through commitment after commitment, promise after promise, by the Labor Party and its leader and you will see that it is a dishonest government, a government shrouded in dishonesty. I will be joining my colleagues in supporting an amendment to this and if it does not go through I will be opposing the bill.

The ACTING DEPUTY PRESIDENT (Senator Pratt): Order! The time allotted for consideration of this bill has expired. The question is that this bill now be read a second time.

Question agreed to.

Bill read a second time.

The ACTING DEPUTY PRESIDENT: The question now is that opposition amendment (1) on sheet 7321 be agreed to:
(1) Clause 2, page 2 (table items 2 to 11), omit the table items, substitute:

<table>
<thead>
<tr>
<th>Schedule</th>
<th>End Date 2013</th>
<th>End Date 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 and 2</td>
<td>31 December</td>
<td>31 December</td>
</tr>
<tr>
<td>3</td>
<td>The day after Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>31 December</td>
<td>31 December</td>
</tr>
<tr>
<td>5</td>
<td>The day after Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>
The Senate divided. [17:34]

(The President—Senator Hogg)

Ayes.................30
Noes.................35
Majority.............5

AYES

Abetz, E
Bernardi, C
Brandis, GH
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Joyce, B
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR (teller)

Back, CJ
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Johnston, D
Kroger, H
Madigan, JJ
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

NOES

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Hanson, C
Hogg, JJ
Ludwig, JW
McEwen, A
Milne, C
Polley, H (teller)
Rhiannon, L
Siewert, R
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Evans, C
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Thistlethwaite, M
Waters, LJ
Xenophon, N

PAIRS

Birmingham, SJ
Boswell, RLD
Heffernan, W
Humphries, G
McKenzie, B
Farrell, D
Carr, RJ
Faulkner, J
Lundy, KA
Thorpe, LE

Carr, RJ
Boswell, RLD

The PRESIDENT: The question now is that the remaining stages of the bill be agreed to and this bill be now passed.

The Senate divided. [17:38]

(The President—Senator Hogg)

Ayes ..................36
Noes .................30
Majority .............6

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
McEwen, A
Milne, C
Polley, H (teller)
Rhiannon, L
Siewert, R
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Wright, PL

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Evans, C
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Thistlethwaite, M
Waters, LJ
Xenophon, N

NOES

Abetz, E
Bernardi, C
Brandis, GH
Bushby, DC
Cash, MC
Colbeck, R
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Johnston, D
Kroger, H
Macdonald, ID
Marshall, GM
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Smith, D

Back, CJ
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Furner, ML
Gallacher, AM
Hanson-Young, SC
Ludlam, S
Marshall, GM
Moore, CM
Parry, S
Ronaldson, M
Ryan, SM

PAIRS

Birmingham, SJ
Boswell, RLD
Heffernan, W
Humphries, G
McKenzie, B
Farrell, D
Carr, RJ
Faulkner, J
Lundy, KA
Thorpe, LE

Carr, RJ
Boswell, RLD

Question negatived.
Thursday, 29 November 2012

SENATE

10289

PAIRS

Farrell, D
Faulkner, J
Lundy, KA
Thorp, LE
Birmingham, SJ
Heffernan, W
Humphries, G
McKenzie, B

Question agreed to.
Bill read a third time.

COMMITTEES

Membership

The PRESIDENT (17:40): Order! I have received letters from party leaders requesting changes in the membership of various committees.

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:40): by leave—I move:

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

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples—Joint Select Committee—

Appointed—Senators Brandis, Crossin, Scullion, Siewert and Thistlethwaite

Constitutional Recognition of Local Government—Joint Select Committee—

Discharged—Senator Crossin
Appointed—Senator Singh

Education, Employment and Workplace Relations Legislation Committee—

Appointed—

Substitute member: Senator Wright to replace Senator Rhiannon for the committee's inquiry into the provisions of the Australian Education Bill 2012

Participating member: Senator Rhiannon

Environment and Communications References Committee—

Appointed—

Substitute member: Senator Ludlam to replace Senator Waters for the committee's inquiry into Australian Broadcasting Corporation television

Participating member: Senator Waters.

Question agreed to.

Government Response to Report

The PRESIDENT (17:41): In accordance with the usual practice, I table a report of parliamentary committee reports to which the government has not responded within the prescribed period. The report has been circulated to honourable senators. With the concurrence of the Senate, the report will be incorporated in Hansard.

The document read as follows—

PRESIDENT'S REPORT TO THE SENATE ON GOVERNMENT RESPONSES OUTSTANDING TO PARLIAMENTARY COMMITTEE REPORTS AS AT 29 NOVEMBER 2012

PREFACE

This document continues the practice of presenting to the Senate twice each year a list of government responses to Senate and joint committee reports as well as responses which remain outstanding.

The practice of presenting this list to the Senate is in accordance with the resolution of the Senate of 14 March 1973 and the undertaking by successive governments to respond to parliamentary committee reports in timely fashion. On 26 May 1978 the Minister for Administrative Services (Senator Withers) informed the Senate that within six months of the tabling of a committee report, the responsible minister would make a statement in the Parliament outlining the action the government proposed to take in relation to the report. The period for responses was reduced from six months to three months in 1983 by the incoming government. The Leader of the Government in the Senate announced this change on 24 August 1983. The method of response continued to be by way of statement. Subsequently, on 16 October 1991 the government advised that responses to committee reports would be made by letter to a committee chair, with the letter being tabled in the Senate at the earliest opportunity. The government affirmed this commitment in June 1996 to respond to relevant parliamentary committee reports within three months of presentation. The current government indicated on 26 June and 4 December 2008 that it is committed to providing timely responses to parliamentary committee reports.
Although, on 29 September 2010, the House agreed to a resolution which places a six month response time on House and joint committee reports tabled in the House, the Senate has not agreed to a similar resolution. Therefore, this list is prepared on the basis of a three month reporting requirement for Senate and joint committee reports tabled in the Senate.

This list does not usually include reports of the Parliamentary Standing Committee on Public Works, the Parliamentary Joint Committee on Human Rights or the following Senate Standing Committees: Appropriations and Staffing, Privileges, Procedure, Publications, Regulations and Ordinances, Scrutiny of Bills, Selection of Bills and Senators’ Interests. However, such reports will be included if they require a response. Government responses to reports of the Public Works Committee are normally reflected in motions in the House of Representatives for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit (JCPAA) primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an executive minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an executive minute within six months of the tabling of a report. The committee monitors the provision of such responses.

An entry on this list for a report of the JCPAA containing only administrative recommendations is annotated to indicate that the response is to be provided in the form of an executive minute. Consequently, any other government response is not required. However, any reports containing policy recommendations are included in this report as requiring a government response.

Senate committees report on bills and the provisions of bills. Only those reports in this category that make recommendations which cannot readily be addressed during the consideration of the bill, and therefore require a response, are listed. The list also does not include reports by committees on estimates or scrutiny of annual reports, unless recommendations are made that require a response.

A guide to the legend used in the 'Date response presented/made to the Senate' column

* See document tabled in the Senate on 28 November 2012, entitled Government Responses to Parliamentary Committee Reports—Response to the schedule tabled by the President of the Senate on 28 June 2012 for Government interim/final response.

** Report contains administrative recommendation – any response to those recommendations is to be provided to the JCPAA committee in the form of an executive minute.

<table>
<thead>
<tr>
<th>Committee and title of report</th>
<th>Date report tabled</th>
<th>Date response presented/made to the Senate</th>
<th>Response made within specified period (3 months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Certain Maritime Incident (Senate Select)</td>
<td>23.10.02</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Report on a Certain Maritime Incident Agricultural and Related Industries (Senate Select)</td>
<td>20.8.09</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Pricing and supply arrangements in the Australian and global fertiliser market—Final report</td>
<td></td>
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<tr>
<td>Australia's Food Processing Sector (Senate Select) Inquiry into Australia's food processing sector</td>
<td>16.8.12</td>
<td>-</td>
<td>No</td>
</tr>
</tbody>
</table>

1 See House of Representatives Hansard, 26 June 2008, p6131 and 4 December 2008, p1263, and Journals of the Senate, 4 December 2008, p1447
<table>
<thead>
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<th>Response made within specified period (3 months)</th>
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<tbody>
<tr>
<td>Australia’s Immigration Detention Network (Joint Select) Final report</td>
<td>10.5.12 (presented 30.3.12, tabled HoR 21.5.12)</td>
<td>29.11.12</td>
<td>No</td>
</tr>
<tr>
<td>Annual reports (No. 2 of 2012)</td>
<td>12.9.12</td>
<td>-</td>
<td>Time not expired</td>
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<tr>
<td>Low Aromatic Fuel Bill 2012</td>
<td>9.10.12 (presented 26.9.12)</td>
<td>-</td>
<td>Time not expired</td>
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<tr>
<td>Community Affairs References The social and economic impact of rural wind farms</td>
<td>23.6.11</td>
<td>13.9.12</td>
<td>No</td>
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<tr>
<td>Disability and ageing: Lifelong planning for a better future</td>
<td>6.7.11</td>
<td>19.11.12 (presented 5.11.12)</td>
<td>No</td>
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<tr>
<td>The effectiveness of special arrangements for the supply of Pharmaceutical Benefits Scheme (PBS) medicines to remote area Aboriginal Health Services Inquiry into Commonwealth funding and administration of mental health services</td>
<td>11.10.11 *(interim)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>The regulatory standards for the approval of medical devices in Australia</td>
<td>1.11.11</td>
<td>20.9.12</td>
<td>No</td>
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<tr>
<td>Commonwealth contribution to former forced adoption policies and practices</td>
<td>22.11.11</td>
<td>13.9.12</td>
<td>No</td>
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<tr>
<td>The role of the Therapeutic Goods Administration regarding medical devices, particularly Poly Implant Prothese (PIP) breast implants</td>
<td>18.6.12 *(interim)</td>
<td>*(interim)</td>
<td>No</td>
</tr>
<tr>
<td>The factors affecting the supply of health services and medical professionals in rural areas</td>
<td>22.8.12</td>
<td>-</td>
<td>No</td>
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<td>Palliative care in Australia</td>
<td>10.10.12</td>
<td>-</td>
<td>Time not expired</td>
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<td>Committee and title of report</td>
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<tr>
<td>Corporations and Financial Services (Joint Statutory) Inquiry into aspects of agribusiness managed investment schemes</td>
<td>8.9.09 (tabled HoR 7.9.09)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Statutory oversight of the Australian Securities and Investments Commission</td>
<td>22.6.10 (tabled HoR 21.6.10)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Access for small and medium business to finance</td>
<td>16.6.11 (tabled HoR 23.5.11)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Statutory oversight of the Australian Securities and Investments Commission</td>
<td>12.9.11 (tabled HoR 25.8.11)</td>
<td>*(interim)</td>
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<tr>
<td>Statutory oversight of the Australian Securities and Investments Commission</td>
<td>7.2.12 (tabled HoR 24.11.11)</td>
<td>Not required</td>
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<tr>
<td>Inquiry into Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011</td>
<td>7.2.12 (presented 2.12.11, tabled HoR 13.2.12)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Corporations Amendment (Future of Financial Advice) Bill 2011 and Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011</td>
<td>1.3.12 (tabled HoR 29.2.12)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Report on the 2010-11 annual reports of bodies established under the ASIC Act</td>
<td>13.3.12</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Inquiry into the collapse of Trio Capital</td>
<td>18.6.12 (presented 16.5.12, tabled HoR 21.5.12)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Inquiry into the Superannuation Legislation Amendment (Stronger Super) Bill 2012 and the Superannuation Supervisory Levy Imposition Amendment Bill 2012</td>
<td>18.6.12 (presented 13.6.12)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Statutory oversight of the Australian Securities and Investments Commission</td>
<td>21.8.12</td>
<td>Not required</td>
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<td>Inquiry into the Australian Charities and Not-for-profits Commission Bill 2012; the Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012; and the Tax Laws Amendment (Special Conditions for Not-for-profit Concessions) Bill 2012</td>
<td>10.9.12</td>
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<td>Report 433—Annual report 2011-12</td>
<td>28.11.12 (tabled HoR 26.11.12)</td>
<td>Not required</td>
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<td>Report 434—Annual public hearing with the Commissioner of Taxation—2012</td>
<td>28.11.12 (tabled HoR 26.11.12)</td>
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<td>Time not expired</td>
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<td>Public Works (Joint Statutory)</td>
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<td>Public works on Christmas Island</td>
<td>31.10.11 (tabled HoR 13.10.11)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Report 1/2012—Referrals made September to October 2011—Proposed construction of a new Australian Embassy complex including Chancery and Head of Mission residence in Bangkok, Thailand—Proposed HMAS Albatross redevelopment, Nowra, NSW—Proposed Royal Australian Air Force Base East Sale redevelopment, Sale, Victoria—LAND 17 Phase 1A Infrastructure Project</td>
<td>27.2.12 (tabled HoR 14.2.12)</td>
<td>1.3.121</td>
<td>No</td>
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<tr>
<td>Report 4/2012—Referrals made May 2012—Proposed integrated fit-out of new leased premises for the Australian Taxation Office at the site known as 913 Whitehorse Road, Box Hill, Victoria— Proposed development and construction of housing for Defence members and their families at Lindfield, NSW—Proposed development and construction of housing for Defence members and their families at Weston Creek, ACT</td>
<td>21.8.12 (tabled HoR 20.8.12)</td>
<td>23.8.122</td>
<td>Yes</td>
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<tr>
<td>Final report 2010</td>
<td>28.9.10 (presented 24.9.10)</td>
<td>*(interim)</td>
<td>No</td>
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<tr>
<td>Rural Affairs and Transport References</td>
<td></td>
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<tr>
<td>Rural and Regional Affairs and Transport Legislation</td>
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<td>Air Navigation and Civil Aviation Amendment</td>
<td>22.3.12</td>
<td>*(interim)</td>
<td>No</td>
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<td>Rural and Regional Affairs and Transport References Implications for long-term sustainable management of the Murray Darling Basin system—Final report</td>
<td>11.8.09 (presented 25.6.09)</td>
<td>*(interim)</td>
<td>No</td>
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<td>The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef—First report</td>
<td>18.3.10 *(interim)</td>
<td>No</td>
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<tr>
<td>The possible impacts and consequences for public health, trade and agriculture of the Government's decision to relax import restrictions on beef—Final report</td>
<td>23.6.10 *(interim)</td>
<td>No</td>
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<tr>
<td>Operational issues in export grain networks</td>
<td>10.5.12 (presented 16.4.12)</td>
<td>*(interim)</td>
<td>No</td>
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<td>Management of the Murray-Darling Basin—Second interim report: the Basin Plan</td>
<td>9.10.12 (presented 3.10.12)</td>
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<td>Examination of the Foreign Investment Review Board national interest test—Interim report: Tax arrangements for foreign investment in agriculture and the limitations of the Foreign Acquisitions and Takeovers Act 1975 Scrutiny of New Taxes (Senate Select)</td>
<td>28.11.12</td>
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<td>Time not expired</td>
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<td>The carbon tax: Economic pain for no environmental gain—Interim report</td>
<td>11.10.11 (presented 7.10.11) 11.10.11</td>
<td>19.11.12 (presented 15.11.12)</td>
<td>No</td>
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<tr>
<td>The carbon tax: Secrecy and spin cannot hide carbon tax flaws—Final report</td>
<td>1.1.11</td>
<td>19.11.12 (presented 15.11.12)</td>
<td>No</td>
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<tr>
<td>Committee and title of report</td>
<td>Date report tabled</td>
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<td>Treaties (Joint Standing)</td>
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<td>Report 100—Treaties tabled on 25 June 2008 (2)</td>
<td>19.3.09</td>
<td>14.8.12 (presented 9.8.12)</td>
<td>No</td>
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<tr>
<td>Report 125—Treaties tabled on 7 and 28 February 2012</td>
<td>21.6.12</td>
<td>1.11.12</td>
<td>No</td>
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<tr>
<td>Report 126—Treaty tabled on 21 November 2011</td>
<td>27.6.12</td>
<td>28.11.12</td>
<td>No</td>
</tr>
<tr>
<td>Report 127—Treaties tabled on 20 March and 8 May 2012</td>
<td>16.8.12</td>
<td>Not required</td>
<td>-</td>
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<tr>
<td>Report 128—Inquiry into the Treaties Ratification Bill 2012</td>
<td>16.8.12 (tabled HoR 15.8.12)</td>
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<td>No</td>
</tr>
<tr>
<td>Report 129—Treaties tabled on 19 and 26 June 2012</td>
<td>11.9.12</td>
<td>Not required</td>
<td>-</td>
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<tr>
<td>Report 130—Treaty tabled on 14 August 2012</td>
<td>31.10.12</td>
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<td>Time not expired</td>
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<tr>
<td>Report 131—Treaties tabled on 21 August, 11 and 18 September 2012</td>
<td>28.11.12 (tabled HoR 29.11.12)</td>
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<td>Time not expired</td>
</tr>
</tbody>
</table>

i Response provided during motion to approve work, House of Representatives Hansard, 1 March 2012, pp2447-50
ii Response provided during motion to approve work, House of Representatives Hansard, 23 August 2012, pp9730-31

**DOCUMENTS**

**Register of Senate Senior Executive Officers’ Interests**

**Tabling**

The PRESIDENT: I present the register of Senate senior executive officers’ interests incorporating notifications of alterations lodged between 27 June and 27 November 2012.

**DELEGATION REPORTS**

**Parliamentary Delegation to Pakistan**

The PRESIDENT (17:41): I present the report of the Australian parliamentary delegation to Pakistan, which took place from 29 August to 2 September 2012.

**DOCUMENTS**

**Commonwealth Ombudsman Report 2011-12**

**Tabling**

BILLS
Privacy Amendment (Enhancing Privacy Protection) Bill 2012
Returned from the House of Representatives
Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES
Environment and Communications References Committee
Australia's Immigration Detention Network Committee
Government Response to Report
Senator WONG (South Australia—Minister for Finance and Deregulation) (17:42): I present two government responses to committee reports as listed on today's Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.
Leave granted.
The documents read as follows—

Australian Government Response
Senate Environment and Communications Reference Committee Report: The adequacy of protections for the privacy of Australians online
Recommendation 1
2.31 The committee recommends that the government consider and respond to the recommendations in the Cyberspace Law and Policy Centre's report: Communications privacy complaints: In search of the right path, and recommendations from the Australian Communications Consumer Action Network arising from that report.

Government Response
Noted. The report raises a number of relevant issues, with comments on the issues set out below: -

Communications privacy complaints: In search of the right path – Recommendations
(1) There must be a significant improvement in time taken to resolve complaints at the OPC. The have significant resources, skills and expertise in privacy protections, and they only receive a tiny fraction of complaints in the sector. The OPC should aim to resolve the majority of complaints within 30 days.

The Office of the Australian Information Commissioner (OAIC) receives a very small proportion of complaints about telecommunications but those that they do receive are usually complex. They involve issues such as the listing of debts with credit reporting agencies. The nature of such complaints makes them difficult to resolve quickly. Given this complexity, the OAIC has a current benchmark for finalising investigations of 150 days on average.

(2) There must be a significant improvement in the information provided to individuals about resolution times. Information should be consistent (across the website, annual reports and verbal advice). It should be frank – e.g. exact timing targets, or an exact average based on prior complaints. It is very poor practice to accept a complaint without warning the consumer that it may take 6 months to resolve, especially when other avenues for resolution are available.

The information should be consistent and based on average times and the OAIC will look to improve the information it currently provides to complainants.

(3) All three complaint bodies (i.e. Australian Communications and Media Authority [ACMA], the Telecommunications Industry Ombudsman [TIO] and the OAIC) should undertake research to assess the demographic profiles of their complaints, to gain better understanding of special needs such as language and disability access. This research will also identify whether some disadvantaged groups are not utilising the services of these complaints bodies, and this information could be used to design outreach and targeting programs.

The TIO has advised that it has developed a disadvantaged and vulnerable communications
strategy, which identifies some targeted activities to research the needs of, and raise awareness of the TIO among, vulnerable groups in the community. These include culturally and linguistically diverse (CALD) consumers, consumers in rural and regional areas, people with disabilities, indigenous consumers and young people.

The OAIC and the ACMA will look at the resource implications of undertaking such research.

(4) There should be better coordination amongst the three complaints bodies, with the aim of reducing the adverse consequences for consumers of the current disconnection. A formal Memorandum of Understanding should be developed between the three complaint bodies. This agreement should include fair and transparent criteria for the management of complaints and for referrals between the three organisations. A process for sharing the identity of business parties to a complaint should be developed in order to enhance the recognition of systemic issues across the sector.

This recommendation is consistent with recommendation 73-9 from the Australian Law Reform Commission's (ALRC) Report 108 – For Your Information: Australian Privacy Law and Practices, calling for the OAIC to publish its complaint handling policies, procedures and enforcement guidelines, including the roles and functions of the complaints handling bodies under their relevant legislation.

The Department of Broadband, Communications and the Digital Economy (DBCDE) has reviewed the role of the TIO and has recommended that the TIO clarify its jurisdiction over emerging products and services and publish information to establish clear boundaries around the issues, including complaints, that are within or outside its jurisdiction (see http://www.dbcde.gov.au/consultation and submissions/TIO reforms).

The OAIC’s website offers a ‘complaint checker’ tool that assists potential complainants to identify the appropriate jurisdiction and to understand the complaint process and possible outcomes. The OAIC will consider whether the information provided to complainants can be enhanced to provide additional information, consistent with this recommendation.

(5) Consumers should be provided with consistent information about where they should complain. This should include information on jurisdiction issues, but also on timelines and expected outcomes where these differ between the three complaints paths. It should be widely accessible and available to consumers contemplating or initiating complaints.

This recommendation is consistent with recommendation 73-8 from the Australian Law Reform Commission's (ALRC) Report 108 – For Your Information: Australian Privacy Law and Practices, calling for the OAIC to publish its complaint handling policies, procedures and enforcement guidelines, including the roles and functions of the complaints handling bodies under their relevant legislation.

The Department of Broadband, Communications and the Digital Economy (DBCDE) has reviewed the role of the TIO and has recommended that the TIO clarify its jurisdiction over emerging products and services and publish information to establish clear boundaries around the issues, including complaints, that are within or outside its jurisdiction (see http://www.dbcde.gov.au/consultation and submissions/TIO reforms).

The OAIC’s website offers a ‘complaint checker’ tool that assists potential complainants to identify the appropriate jurisdiction and to understand the complaint process and possible outcomes. The OAIC will consider whether the information provided to complainants can be enhanced to provide additional information, consistent with this recommendation.

(6) Industry should be provided with consistent information about compliance. There should be no circumstances where the industry is receiving a message from one complaints body that everything is fine, while another complaints body is issuing warnings or enforcement action for non-compliance. Again this should be widely accessible and available for relevant industry personnel.

This could be one of the matters to be included in a MoU between the three bodies – see recommendations 4 and 5 above.

(7) All three complaint bodies must ensure that they offer (and use) the full range of regulatory tools and remedies. These include:-

1. Compensation for the individual;
2. An apology for the individual;
3. Prompt correction or removal of personal data;
4. A change to business practice at the individual company;
5. A change to broader industry practice for systemic issues;
6. Occasional naming of individual companies as a warning to inform other consumers, and a lesson for industry that reputation consequences may arise from poor complaint outcomes; and
7. Occasional enforcement action in order to promote compliance.

In practice this recommendation will necessitate a change of approach at the OPC, so that they utilise their naming and enforcement powers, and a change of approach at the ACMA so that they offer greater individual remedies (such as compensation and apologies).

ACMA’s recent Reconnecting the Customer inquiry and the DBCDE’s review of the TIO may lead to regulatory change to improve industry behaviour and the end-user experience when seeking redress.

Currently, the OAIC employs a range of regulatory tools in the conduct of complaint handling activities. The Commissioner is able to seek each of the remedial actions listed above. The OAIC regularly seeks remedies 1 to 6, including the naming of respondents in reports of ‘own motion’ investigations and in the OAIC’s annual report. Under the Privacy Act 1988 (the Act) “enforcement action” would necessitate commencing action in the Federal Court to enforce a determination made under section 52 of the Act. The Commissioner also has a power to seek an injunction through the Federal Court to stop a person from engaging in conduct that would constitute a contravention of the Act.

The ALRC recommended and the Government agreed that the OAIC be granted with additional and improved powers to protect consumers in relation to privacy. The Privacy Amendment (Enhancing Privacy Protection) Bill 2012 includes amendments to strengthen the Information Commissioner’s powers to conduct investigations, resolve complaints and promote compliance. These amendments will contribute to more effective and stronger protection of the right to privacy.

3.31 Agreed in principle. Implementation is a matter for the OAIC, taking account of available resources and priorities.

**Recommendation 3**

3.50 The committee recommends that the small business exemptions should be amended to ensure that small businesses which hold substantial quantities of personal information, or which transfer personal information offshore are subject to the requirements of the Privacy Act 1988.

3.51 To achieve this end, the committee urges the Australian Privacy Commissioner to undertake a review of those categories of small business with significant personal data holdings, and to make recommendations to government about expanding the categories of small business operators prescribed in regulations as subject to the Privacy Act 1988.

3.52 The committee further recommends that the second tranche of reforms to the Privacy Act 1988 amend the Act to provide that all Australian organisations which transfer personal information overseas, including small businesses, must ensure that the information will be protected in a manner at least equivalent to the protections provided under Australia’s privacy framework.
Government Responses

3.50 Noted. The Australian Law Reform Commission Report (ALRC) 108, For Your Information: Australian Privacy Law and Practice recommended (R39-1) that the Act be amended to remove the small business exemption. The Government will take the recommendation into account when it considering the ALRC's recommendation to remove the small business exemption.

3.51 Noted. The Government will consider this recommendation in conjunction with its deliberations on recommendation 3.50 above.

3.52 Noted. The Government will consider this recommendation in conjunction with its deliberations on recommendations 3.50 and 3.51 above.

The Privacy Amendment (Enhancing Privacy Protection) Bill 2012 creates the Australian Privacy Principles, a single set of privacy principles applying to both Commonwealth agencies and private sector organisations. Australian Privacy Principle (APP) 8 and new section 16C will provide a framework for the regulation of cross-border disclosures of personal information. Before a cross-border disclosure can occur, the draft APP 8 imposes minimum obligations on an organisation to take such steps as are reasonable in the circumstances (for example, by imposing contractual obligations) to ensure that the overseas recipient does not breach the draft APPs.

In addition, an organisation will remain accountable for the acts and practices of the overseas recipient, unless an exemption applies.

Recommendation 4

3.86 The Committee recommends that the OPC in consultation with web browser developers, ISPs and the advertising industry, should, in accordance with proposed amendments to the Privacy Act, develop and impose a code which includes a 'Do Not Track' model following consultation with stakeholders.

Government Response

Noted. As part of its stage one response to the ALRC recommendations, the Government announced that it supports the development of binding and mandatory codes. Schedule 3 of the Privacy Amendment (Enhancing Privacy Protection) Bill 2012 contains the new provisions on privacy codes. It will be a matter for the Commissioner to consider whether a code is necessary.

Recommendation 5

3.96 The committee recommends that item 19(3) (g)(ii) of the exposure draft of amendments to the Privacy Act 1988 be amended to provide that an organisation has an Australian link if it collects information from Australia, thereby ensuring that information collected from Australia in the online context is protected by the Privacy Act 1988.

Government Response

Noted. As part of its stage one response to the ALRC recommendations, the Government announced that it supports the development of binding and mandatory codes. Schedule 3 of the Privacy Amendment (Enhancing Privacy Protection) Bill 2012 contains the new provisions on privacy codes. It will be a matter for the Commissioner to consider whether a code is necessary.

Recommendation 6

3.109 The Committee recommends that the government amend the Privacy Act 1988 to require all Australian organisations that transfer personal information offshore are fully accountable for protecting the privacy of that information.

3.110 The committee further recommends that the government consider the enforceability of these provisions and, if necessary, strengthen the powers of the Australian Privacy Commissioner to enforce offshore data transfer provisions.

Government Response

Noted. See response to recommendation 3.52.

Recommendation 7

3.116 The committee recommends that the Australian government continue to work internationally, and particularly within our region, to develop strong privacy protections for Australians in the online context.

Government Response

Accepted. The Australian Government has been and will be continuing to work with appropriate international bodies including in particular regional bodies to further privacy protections.
The Government actively participates in the work of the Organisation for Economic Cooperation and Development (OECD) and Asian Pacific Economic Council (APEC) on international privacy issues. Australia has played a leading role in the development of the APEC Cross-Border Enforcement Arrangement (CPEA), which allows participating privacy regulators to share information and provide assistance in relation to privacy matters that have a cross-border aspect. The APEC CPEA commenced in July 2010 and the privacy regulators of Australia, Canada, New Zealand, Hong Kong China, and the United States are currently participants.

The OAIC continues to foster strong ties with other privacy authorities in the region via the Asia Pacific Privacy Authorities group.

Recommendation 8

3.122 The committee recommends that the government accept the ALRC's recommendation to legislate a cause of action for serious invasion of privacy.

Government Response

Noted. In July 2011, following publication of the Committee's report, the Government announced that it will bring forward consideration of those Australian Law Reform Commission (ALRC) Report 108, For Your Information: Australian Privacy Law and Practice, recommendations which relate to a statutory cause of action for serious invasion of privacy (chapter 74 of the ALRC Report). In September 2011, the Minister for Privacy and Freedom of Information Policy, the Hon Brendan O'Connor, MP, released an issues paper as part of a community consultation to inform the Government's consideration of whether a cause of action should be legislated and, if so, how the elements of such a cause of action should be structured. The paper considers the ALRC’s recommendations, relevant recommendations made by the New South Wales and Victorian law reform commissions, the current policy context and the legal position in Australian and other jurisdictions.

The Government will consider submissions received as part of the consultation process before determining whether to legislate for a Commonwealth cause of action and, if so, how legislation for such a cause of action should be drafted.

The Government will take the Committee's Recommendation 8 into account in making this determination.

Recommendation 9

4.74 The committee recommends that before pursuing any mandatory data retention proposal, the government must:

- undertake an extensive analysis of the costs, benefits and risks of such a scheme;
- justify the collection and retention of personal data by demonstrating the necessity of that data to law enforcement activities;
- quantify and justify the expense to Internet Service Providers of data collection and storage by demonstrating the utility of the data retained to law enforcement;
- assure Australians that data retained under any such scheme will be subject to appropriate accountability and monitoring mechanisms, and will be stored securely; and
- consult with a range of stakeholders.

Government Response

Agreed in principle. The Government is committed to an open, transparent and consultative approach and acknowledges the public's interest in these issues.

The Parliamentary Joint Committee on Intelligence and Security is considering a range of measures that will allow law enforcement and intelligence agencies to meet the challenges of rapidly changing technology and the global security environment – including data retention.

The Government has not made a decision about whether or not Australia should have a data retention regime and the Government will consider the Committee's views before making any decisions.

Any proposal must strike an appropriate balance between community expectations regarding individual privacy and the investigation and prosecution of unlawful behaviour, as well as the provision of competitive commercial telecommunications services.
Government Response to Recommendations by the Joint Select Committee on Australia's Immigration Detention Network.

November 2012

Preamble

The Australian Government welcomes the opportunity to respond to the report of the Joint Select Committee on Australia's Immigration Detention Network. The report was presented on 30 March 2012.

The Government has accepted (fully, in principle or partially) 26 of the 31 majority report recommendations made by the Committee. The Australian Government has progressed many of the recommendations. These include:

- the development of new infrastructure and improved security at immigration detention facilities, as well as strengthened contract management and improved quality and availability of training for staff. These measures were outlined in detail in the Minister for Immigration and Citizenship's report to parliament on 20 September 2012 on the implementation of the Hawke Williams Review.

- the Department of Immigration and Citizenship, in concert with its Detention Service Provider and Detention Health Service Provider, has reviewed psychological support programs in detention facilities, seeing a significant decrease in the incidents of attempted and actual self-harm in immigration detention facilities.

- the Attorney General has also recently announced the appointment of an independent reviewer to conduct primary and periodic reviews of adverse security assessments for those persons found to be owed protection but facing prolonged immigration detention due to visa ineligibility.

Since the release of the Committee's report a number of significant policy and legislative reforms related to Irregular Maritime Arrivals (IMAs) have taken place. On 28 June 2012, the Prime Minister announced the establishment of an independent expert panel to examine approaches to deterring asylum seekers from embarking on dangerous boat journeys to Australia. The Expert Panel on Asylum Seekers was led by Air Chief Marshal Angus Houston AC AFC (Ret'd), who was joined by Paris Aristotle AM and Professor Michael L'Estrange AO.

The Expert Panel made 22 recommendations, including measures to implement regional processing to safeguard Australian borders, avert loss of life at sea and offer consistency in affording protection to those in need. The Government endorsed, in principle, all 22 recommendations of the Expert Panel's report.

The Australian Government believes in strong policies and decisive action to prevent loss of life through dangerous irregular maritime passages and ensuring there is no advantage for those who seek to arrive in Australia by such means. The Government has simultaneously increased the opportunities for offshore resettlement in Australia by increasing the Humanitarian Program to a total of 20,000 places each year, making Australia the second highest humanitarian intake country in the world.

The Joint Select Committee on Australia's Immigration Detention Network conducted its inquiry and reported prior to these significant policy changes. As such, references to IMAs contained within the Committee's report, its recommendations and the Government's response pertain to IMAs who arrived in Australia prior to 13 August 2012.

The Government is grateful for the work the Committee has undertaken in respect to this important issue and for all those who contributed with their submissions and evidence to the Committee.

The Government's response to the recommendations made by the Committee follows.

Table 1 – Summary of Government Response to Recommendations

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<td>1 The Committee recommends that the Department of Immigration and Citizenship continue to robustly contract</td>
<td>Accepted</td>
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<td>manage Serco's obligation to provide appropriate activities for detainees.</td>
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<td>2 The Committee recommends that the Department of Immigration and Citizenship consider other accommodation or recreation options for detainees when the amenity of a facility is compromised due to construction or maintenance projects.</td>
<td>Accepted</td>
<td>13</td>
</tr>
<tr>
<td>3 The Committee recommends that the Department of Immigration and Citizenship conduct robust auditing of Serco staffing ratios and training, in line with the recommendations in the Comcare report and the Hawke-Williams review.</td>
<td>Accepted</td>
<td>23</td>
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<td>4 The Committee reiterates the recommendation made by the Commonwealth Ombudsman that the Department of Immigration and Citizenship conduct a review of the quality and management of incident reporting across immigration detention network, and also assess Serco's capacity to monitor its own compliance with the reporting guidelines.</td>
<td>Accepted</td>
<td>23</td>
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<tr>
<td>5 The Committee recommends that the Department of Immigration and Citizenship appoint an independent expert to inquire into the appropriate qualifications for Serco Client Service Officers and make appropriate amendments to its contract with Serco.</td>
<td>Accepted</td>
<td>9</td>
</tr>
<tr>
<td>6 The Committee recommends that the Department of Immigration and Citizenship conduct robust auditing of Serco staffing ratios and training, in line with the recommendations in the Comcare report and the Hawke-Williams review.</td>
<td>Accepted</td>
<td>13</td>
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<tr>
<td>7 The Committee recommends that the Department of Immigration and Citizenship work with Serco and the Detention Health Advisory Group to reform the Keep Safe policy to ensure it is fully consistent with the Psychological Support Program Policy, as soon as possible.</td>
<td>Accepted</td>
<td>10</td>
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<tr>
<td>8 The Committee recommends that the Department of Immigration and Citizenship ensure that Serco provides adequate Detention</td>
<td>Accepted</td>
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<td>Health Advisory Group – endorsed mental health training to Serco officers who implement the Psychological Support Program Policy.</td>
<td>Accepted</td>
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<tr>
<td>The Committee recommends that Serco develop and implement improved proactive procedures to support staff following critical incidents.</td>
<td>Accepted</td>
<td>10</td>
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<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship ensure Serco has appropriate procedures and training in place so that only where International Health and Medical Services personnel are not available can senior Serco managers participate in the secondary dispensing of medication.</td>
<td>Accepted</td>
<td>11</td>
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<tr>
<td>Consistent with the findings of the Hawke-Williams review, the Committee recommends that the government finalise a security protocol between Serco, the Australian Federal Police and local police in each state and territory.</td>
<td>Accepted</td>
<td>23</td>
</tr>
<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship require Serco local managers to apply a consistent practice and procedure protocol to visits across the network, in accordance with the information provided on the department website.</td>
<td>Accepted</td>
<td>13</td>
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<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship continue to improve visitor facilities across the network.</td>
<td>Accepted</td>
<td>14</td>
</tr>
<tr>
<td>The Committee recommends that International Health and Medical Services staff be rostered on a 24 hour a day basis at all non-metropolitan detention facilities.</td>
<td>Not Accepted</td>
<td>11</td>
</tr>
<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship assess, on a case by case basis, the need for International Health and Medical Services staff to be rostered on a 24 hour a day basis at metropolitan detention facilities.</td>
<td>Accepted</td>
<td>15</td>
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<td>16 The Committee recommends that the Department of Immigration and Citizenship work with International Health and Medical Services to pilot regular mental health outreach services in detention facilities.</td>
<td>Accepted in principle</td>
<td>12</td>
</tr>
<tr>
<td>17 The Committee recommends that the Department of Immigration and Citizenship develop a transport capability to transfer detainees with non-acute injuries to remote hospitals.</td>
<td>Accepted</td>
<td>12</td>
</tr>
<tr>
<td>18 The Committee recommends that, as a matter of policy, the Department of Immigration and Citizenship accommodate detainees in metropolitan detention facilities wherever possible, in particular children and families, and those detainees with special needs or with complex medical conditions.</td>
<td>Accepted in principle</td>
<td>18</td>
</tr>
<tr>
<td>19 The Committee recommends that relevant legislation be amended to replace the Minister for Immigration as the legal guardian of unaccompanied minors in the immigration detention system.</td>
<td>Not Accepted</td>
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<tbody>
<tr>
<td>20 The Committee recommends that the Department of Immigration and Citizenship develop and implement a uniform code for child protection for all children seeking asylum across the immigration system.</td>
<td>Accepted in principle</td>
<td>16</td>
</tr>
<tr>
<td>21 The Committee further recommends that the Department of Immigration and Citizenship adopt Memoranda of Understanding with children's commissions or commissioners in all states and territories as soon as possible.</td>
<td>Accepted in principle</td>
<td>16</td>
</tr>
<tr>
<td>22 The Committee recommends that the Australian Government take further steps to adhere to its commitment of only detaining asylum seekers as a last resort and for the shortest practicable time, and subject to an assessment of non-compliance and risk factors, as enunciated by the New Directions policy.</td>
<td>Accepted</td>
<td>18</td>
</tr>
<tr>
<td>23 The Committee further recommends that asylum seekers who pass initial identity, health, character and security checks be immediately granted</td>
<td>Partially accepted</td>
<td>19</td>
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<tr>
<td>Majority Report Recommendations</td>
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<tr>
<td>a bridging visa or moved to community detention while a determination of their refugee status is completed, and that all reasonable steps be taken to limit detention to a maximum of 90 days.</td>
<td>Not Accepted</td>
<td>19</td>
</tr>
<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship be required to publish on a quarterly basis the reasons for the continued detention of any person detained for more than 90 days, without compromising the privacy of the individuals.</td>
<td>Accepted</td>
<td>21</td>
</tr>
<tr>
<td>The Committee recommends that the Department of Immigration and Citizenship consider revising and enhancing its system of quality control to oversee those Refugee Status and Assessment and Independent Merits Review processes still underway.</td>
<td>Partially Accepted</td>
<td>21</td>
</tr>
<tr>
<td>The Committee recommends that the Australian Government move to place all asylum seekers who are found to be refugees, and who do not trigger any concerns</td>
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<tr>
<td>with the Australian Security Intelligence Organisation following initial security checks, and subject to an assessment of non-compliance and risk factors, into community detention while any necessary in-depth security assessments are conducted.</td>
<td>Accepted</td>
<td>22</td>
</tr>
<tr>
<td>The Committee recommends that the Australian Government and the Australian Security Intelligence Organisation establish and implement periodic, internal reviews of adverse Australian Security Intelligence Organisation refugee security assessments commencing as soon as possible.</td>
<td>Not Accepted</td>
<td>22</td>
</tr>
<tr>
<td>The Committee recommends that the Australian Security Intelligence Organisation Act to be amended to allow the Security Appeals Division of the Administrative Appeals Tribunal to review the Australian Security Intelligence Organisation security assessments of refugees and asylum seekers.</td>
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<tr>
<td>29 The Committee recommends that the Department of Immigration and Citizenship consider publishing criteria for determining whether asylum seekers are placed in community detention or on bridging visas.</td>
<td>Not Accepted</td>
<td>20</td>
</tr>
<tr>
<td>30 The Committee recommends that the Australian Government and the Department of Immigration and Citizenship seek briefing on control orders in use by the criminal justice system and explore the practicalities of employing similar measures for refugees and asylum seekers who are in indefinite detention or cannot be repatriated.</td>
<td>Accepted in Principle</td>
<td>20</td>
</tr>
<tr>
<td>31 The Committee recommends that the Department of Immigration and Citizenship continue to work towards implementing all of the recommendations made by the Hawke-Williams review, and that the Minister for Immigration and Citizenship report to the Parliament no later than 20 September 2012 on progress in implementing the review</td>
<td>Accepted</td>
<td>24</td>
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**Coalition Members and Senators Dissenting Report Recommendations**

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<tr>
<th>Coalition Recommendation 1:</th>
<th>Not Accepted</th>
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<tr>
<td>Restore the Coalition's proven border protection regime Coalition Members and Senators recommend that the Government restore the proven measures of the Howard Government, abolished by the Rudd and Gillard Governments, to once again deter illegal boat arrivals to Australia, including, but not restricted to the following measures: Restoration of the Temporary Protection Visa policy for IMAs Re-establishment of offshore processing on Nauru for all new IMAs by reopening the taxpayer funded processing centre on Nauru; and Restoration of the policy to return boats seeking to illegally enter Australian waters, where it is safe to do so.</td>
<td></td>
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<tr>
<td>Coalition Recommendation 2: Coalition Members and Senators recommend that the Australian Government finalise the memorandum of understanding between DIAC, the AFP and state/territory police</td>
<td>Accepted</td>
<td>26</td>
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Coalition Members and Senators Dissenting Report Recommendations
forces and reach a binding agreement that clearly stipulates who is responsible for policing and responding to incidents at Australian Immigration Detention Centres.
Coalition Recommendation 3: Coalition Members and Senators recommend that the AFP and State/Territory police are funded adequately in order to carry out their regular operational policing responsibilities along with policing the immigration detention centres and responding to incidents.
Coalition Accepted 26

Coalition Recommendation 4: Coalition Members and Senators recommend that the Australian Government ensure that security infrastructure, including CCTV cameras, security fences and other essential security elements be operational, ready and be of a high standard of functionality and that DIAC, with assistance from Serco, is to undertake a review of infrastructure (including security infrastructure) across the broader immigration detention network.
Coalition Accepted 26

Coalition Recommendation 5:

Coalition Members and Senators Dissenting Report Recommendations
Coalition Members and Senators recommend that the Australian Government seek advice on amendments and addition to the regulations under the Migration Act to clarify the responsibilities and powers of persons who operate detention centres around the limits on their obligations and powers in relation to use of force, to ensure the good order and control of immigration detention facilities.
Coalition Recommendation 6: Coalition Members and Senators recommend that a minimum quota of 11,000 places of the 13,750 permanent places for the Refugee and Humanitarian program be reserved for offshore applicants, in parallel with the introduction of Temporary Protection Visas for all IMAs.
Coalition Not Accepted 27

Recommendations by Senator Hanson-Young for the Australian Greens
Senator Hanson-Young Recommendation 1: Migration Act to be amended to ensure that a time limit on detention, preferably 30 days, is adhered to, over which time initial health, identity and security checks can be
**Recommendations by Senator Hanson-Young for the Australian Greens**

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<td>conducted to ensure there is no risk to the community.</td>
<td>Not Accepted</td>
<td>28</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 2: Detention beyond the legislated time limit must be justified before a court and subject to periodic review by the court from that point, with the onus on the Department of Immigration to make the application and show why extended detention is necessary for that individual.</td>
<td>Not Accepted</td>
<td>28</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 3: Remote and isolated detention centres should be decommissioned.</td>
<td>Not Accepted</td>
<td>28</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 4: The best interests of the child should be enshrined in the <em>Migration Act</em> as the paramount in decisions regarding the accommodation of all children.</td>
<td>Not Accepted</td>
<td>29</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 5: <em>Migration Act</em> to be amended to remove any mandatory detention of children.</td>
<td>Not Accepted</td>
<td>29</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 6: <em>Migration Act</em> to be amended to place time limits on children and their families being accommodated in low security family appropriate facilities prior to being moved into the community.</td>
<td>Not Accepted</td>
<td>30</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 7: Children should not be subject to ASIO security checks beyond the standard security checks used at airports (i.e. checks against the Central Movement Alert List).</td>
<td>Not Accepted</td>
<td>30</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 8: All asylum seeker children of school age (early childhood, primary and secondary) must be given access to local schooling.</td>
<td>Accepted</td>
<td>31</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 9: Children should only be housed in facilities where all service providers and officers who interact with them have obtained a Working with Children check.</td>
<td>Not Accepted</td>
<td>31</td>
</tr>
<tr>
<td>Senator Hanson-Young Recommendation 10: IAAAS funding to be expanded to cover independent psychological and psychiatric reports.</td>
<td>Not Accepted</td>
<td>31</td>
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**Government Response**

- **Accepted**
- **Not Accepted**
- **Partially**
### Recommendations by Senator Hanson-Young for the Australian Greens

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<tr>
<td>Recommendation 11: Relevant legislation to be amended to ensure that detainees have access to a fair and independent review of a negative ASIO security assessments, with appropriate disclosure of the grounds of the adverse security findings regardless of whether judicial or merits review, and with flexible options for protecting national security on a case-by-case basis.</td>
<td>Accepted</td>
<td>32</td>
</tr>
<tr>
<td>Recommendation 12: Appointment of a special advocate to conduct reviews of negative ASIO assessments where there is concern maintaining confidentiality of sensitive material.</td>
<td>Partially Accepted</td>
<td>32</td>
</tr>
<tr>
<td>Recommendation 13: Legal assistance should be funded at all stages of resolution of people's immigration status, including increased resources for Legal Aid Commissions and IAAAS agents for merits or judicial review.</td>
<td>Not Accepted</td>
<td>32</td>
</tr>
<tr>
<td>Recommendation 14: Where an interview is to be conducted between the Department of Immigration and a minor</td>
<td>Accepted</td>
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### Recommendations by Senator Hanson-Young for the Australian Greens

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<tr>
<td>Recommendation 15: People on community detention or bridging visas must be able to make use of public provision of health services and access public referral services.</td>
<td>Partially Accepted</td>
<td>33</td>
</tr>
<tr>
<td>Recommendation 16: Families and unaccompanied minors who are placed on bridging visas should be automatically also placed on the Community Assistance Support program.</td>
<td>Not Accepted</td>
<td>34</td>
</tr>
<tr>
<td>Recommendation 17: All asylum seekers on bridging visas should be provided with Commonwealth certified photo identification.</td>
<td>Accepted</td>
<td>34</td>
</tr>
<tr>
<td>Recommendation 18: All people on bridging visas should have work rights.</td>
<td>Partially Accepted</td>
<td>34</td>
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RESPONSE TO MAJORITY REPORT RECOMMENDATIONS

DIAC’s contract with Serco

**Recommendation 5**
The Committee recommends that the Department of Immigration and Citizenship appoint an independent expert to inquire into the appropriate qualifications for Serco Client Service Officers and make appropriate amendments to its contract with Serco.

Accepted
The Government considers that appropriate training and qualification of the Detention Service Provider (Serco) staff is fundamental to the delivery of appropriate services to people in detention.

The Department of Immigration and Citizenship (DIAC) and Serco are currently consulting about the ongoing roles and responsibilities of Serco Client Services Officers in the immigration detention network. Once this consultation is finalised an independent expert will be appointed to inquire into the appropriate qualifications for Serco Client Service Officers.

**Recommendation 9**
The Committee recommends that Serco develop and implement improved proactive procedures to support staff following critical incidents.

Accepted
The Government considers that appropriate staff support is fundamental to the efficient delivery of effective services to people in detention by the Detention Service Provider (Serco).

The Department of Immigration and Citizenship (DIAC) has recommended that Serco develop and implement improved proactive procedures within its current Employee Assistance Program (EAP) to support staff following critical incidents.

Enhanced mental health awareness and mental health policy training (including Psychological Support Program) is also currently being delivered by DIAC and International Health and Medical Services across the detention network to Serco staff. As of 1 September 2012 approximately 975 Serco staff had attended the training.

**Provision of health services to people in detention**

**Recommendation 6**
The Committee recommends that the Department of Immigration and Citizenship effectively contract manage Serco’s implementation of the Psychological Support Program Policy.

Accepted
See response to Recommendation 7 below.

**Recommendation 7**
The Committee recommends that the Department of Immigration and Citizenship work with Serco and the Detention Health Advisory Group to reform the Keep Safe policy to ensure it is fully consistent with the Psychological Support Program Policy, as soon as possible.

Accepted
The Government has a comprehensive health framework and service delivery strategy for people in immigration detention. The provision of health services, in particular mental health services, is subject to regular review and improvement.

The Psychological Support Program policy (PSP policy) for the prevention of self-harm in immigration detention was developed by the Department of Immigration and Citizenship (DIAC) in consultation with the Detention Health Advisory Group (DeHAG).

DIAC, its Detention Service Provider (Serco), and Detention Health Service Provider, International Health and Medical Services (IHMS) have aligned all policies and procedures related to the implementation of the PSP policy and Serco’s "Keep Safe Procedure" (Keep Safe).

DIAC consulted DeHAG in revising the Serco Keep Safe policy and their feedback was incorporated. The revised policies and procedures were rolled-out across the immigration detention network at the end of July 2012.

In addition, DIAC commissioned the IPSOS Social Research Institute to undertake an evaluation of the implementation of the PSP. The final report was delivered to DIAC in August 2012.
Recommendation 8
The Committee recommends that the Department of Immigration and Citizenship ensure that Serco provides adequate Detention Health Advisory Group—endorsed mental health training to Serco officers who implement the Psychological Support Program Policy.

Accepted
All Detention Service Provider services staff are required to undertake mental health awareness training as part of their induction training and at least every two years thereafter.

A joint International Health and Medical Services (IHMS) and Department of Immigration and Citizenship (DIAC) team is delivering mental health awareness and mental health policy training (including Psychological Support Program) across the detention network to staff from Serco, IHMS and DIAC. This training is endorsed by the Detention Health Advisory Group. As of 1 September 2012 approximately 975 Serco staff had attended the training.

Recommendation 10
The Committee recommends that the Department of Immigration and Citizenship ensure Serco has appropriate procedures and training in place so that only where International Health and Medical Services personnel are not available can senior Serco managers participate in the secondary dispensing of medication.

Accepted
The Detention Service Provider (Serco) has a procedure in place entitled Secondary Dispensing of Medication that sets out its contractual requirement and safe practice guidelines to assist in the administration of medications to clients when there are no Detention Health Service Provider, International Health and Medical Services (IHMS), personnel on site.

In addition the Department of Immigration and Citizenship (DIAC) is progressing a review of medication management in immigration detention facilities. This review will be undertaken by a suitably qualified and experienced organisation. The recommendations of the review will be used to inform DIAC in future policy and procedural development, and contractual management in matters relating to medication management, including secondary dispensing of medication.

Recommendation 14
The Committee recommends that International Health and Medical Services staff be rostered on a 24 hour a day basis at all non-metropolitan detention facilities.

Not Accepted
All people in immigration detention are provided access to health care at a standard generally comparable to the health care available to the Australian community and consistent with the duty of care owed to people in immigration detention. Health care services are provided by qualified health professionals and take into account the diverse and potentially complex health care needs of people in immigration detention.

The Department of Immigration and Citizenship (DIAC) acknowledges that it is appropriate to provide 24 hour onsite medical staffing at certain non-metropolitan detention facilities.

At present the Detention Health Service Provider, International Health and Medical Services, (IHMS) provides onsite services 24 hours a day at Christmas Island, Curtin, Scherger, Wickham Point and Yongah Hill Immigration Detention Centres.

DIAC is considering, on a case by case basis, whether it is appropriate to provide 24 hour medical staffing at other non-metropolitan facilities. Factors that are part of the consideration process include the availability and proximity of external medical services including hospitals.

Recommendation 15
The Committee recommends that the Department of Immigration and Citizenship assess, on a case by case basis, the need for International Health and Medical Services staff to be rostered on a 24 hour a day basis at metropolitan detention facilities.

Accepted
The Department of Immigration and Citizenship is assessing, on a case by case basis, the need for 24 hour a day medical staffing at metropolitan detention facilities. Factors that are part of the consideration process include the availability and
proximity of external medical services including hospitals.

**Recommendation 16**
The Committee recommends that the Department of Immigration and Citizenship work with International Health and Medical Services to pilot regular mental health outreach services in detention facilities.

**Accepted in Principle**
Mental health care and support services for people in immigration detention are provided by general practitioners, mental health nurses, psychologists, counsellors and psychiatrists. This care is provided or co-ordinated by the Detention Health Services Provider, International Health and Medical Services (IHMS).

Since the implementation of the Bridging visa program enabling Irregular Maritime Arrivals who meet identity, health, character and security requirements to live in the community while their claims for protection are being processed, the self-harm rates for the population in detention have significantly reduced.

The Department of Immigration and Citizenship will consult with its service providers about the feasibility of IHMS providing mental health outreach services in detention facilities once the review of Psychological Support Program policy is completed (see recommendation 7 for further details).

**Recommendation 17**
The Committee recommends that the Department of Immigration and Citizenship develop a transport capability to transfer detainees with non-acute injuries to remote hospitals.

**Accepted**
A number of Immigration Detention Facilities (IDFs) are located in remote communities. The Government is committed to ensuring that health care is delivered to people in immigration detention in a manner that minimises the impact on local health resources.

The Detention Health Service Provider, International Health and Medical Services (IHMS), is contracted to provide a comprehensive range of health services to those in immigration detention. These services include primary and mental health services.

Local ambulance services are only used for critical injuries or as a last resort when no other transport resources are available. IHMS is responsible for determining whether an injury or medical condition is critical or non-critical.

A range of regional-specific arrangements to address transport arrangements for clients in immigration detention are in place or are being negotiated; for example, the Department of Immigration and Citizenship is negotiating with the Northern Territory Government to provide additional resources to ambulance services, so that ambulance service provision to IDFs will have minimal impact on the local community.

Other strategies implemented or under consideration at various facilities across the network include the Detention Services Provider (Serco) having a dedicated vehicle for non-emergency hospital transports and the extension of IHMS clinic hours.

**Reforms to the existing network**

**Recommendation 1**
The Committee recommends that the Department of Immigration and Citizenship continue to robustly contract manage Serco’s obligation to provide appropriate activities for detainees.

**Accepted**
The Government recognises the importance of providing a program of meaningful activities for clients in immigration detention.

The Detention Service Provider (Serco) is contracted to develop, manage and deliver structured and unstructured programs and activities (Programs and Activities) designed to provide educational and recreational opportunities, as well as meaningful activities that enhance the mental health and wellbeing of individuals in immigration detention.

Clients in immigration detention have access to a wide range of services and activities including access to the internet, libraries, religious activities, sports facilities, excursions and educational classes.

Since the Serco contract was first executed, there has been significant change in the immigration
The range of types of accommodation and detention facilities across Australia has also increased.

The Department of Immigration and Citizenship (DIAC) is working with Serco to improve the quality and appropriateness of Programs and Activities delivered in the current immigration detention environment.

At the beginning of 2012, Serco appointed a national senior manager focused on introducing more meaningful Programs and Activities. DIAC has also established a Programs and Activities Framework to provide further guidance to its service providers on the development of an enhanced Programs & Activities operating model.

The programs and activities delivered at each facility are monitored against contractual requirements on a monthly basis.

Recommendation 2
The Committee recommends that the Department of Immigration and Citizenship consider other accommodation or recreation options for detainees when the amenity of a facility is compromised due to construction or maintenance projects.

Accepted

The expansion of the immigration detention network during 2011 and 2012 has enabled more flexibility in the use of facilities and placement of clients across the network.

The Department of Immigration and Citizenship works closely with contractors and service providers to manage the impacts of construction and maintenance work at immigration detention facilities where this temporarily reduces the amenity of a facility.

For example, the redevelopment of Villawood Immigration Detention Centre will be completed in stages. While the detention centre will remain operational during the redevelopment, the managing contractor has prepared a staging plan to support the security, amenity and safety of the centre for the life of the project.

In addition, the Detention Services Contract requires Serco to develop, manage and deliver both structured and unstructured programs and activities, including supervised external excursions.

When the amenity of a facility is compromised due to construction or maintenance projects, a flexible schedule that allows for a higher proportion of unstructured activities and supervised external excursions will be utilised.

Recommendation 12
The Committee recommends that the Department of Immigration and Citizenship require Serco local managers to apply a consistent practice and procedure protocol to visits across the network, in accordance with the information provided on the department website.

Accepted

The Department of Immigration and Citizenship (DIAC) is working with the Detention Service Provider (Serco) to apply consistent practice and procedure protocols to visits across the network.

DIAC has requested that Serco senior management issue reminders to local site managers regarding the importance of a consistent approach and strict adherence to visitor protocols, as outlined on DIAC's website.

In addition, DIAC is undertaking an internal Quality Assurance Review of the process. The objectives of the review include:

- establishing whether procedures and practices in managing visits are efficient, effective and consistent across all immigration detention facilities
- establishing whether DIAC's and Serco's procedural advice and training provide adequate support to staff managing visits processes
- improving service delivery.

The review is scheduled to be finalised by end of November 2012.
Recommendation 13

The Committee recommends that the Department of Immigration and Citizenship continue to improve visitor facilities across the network.

Accepted

The Department of Immigration and Citizenship (DIAC) has recently completed upgrades to the visitor areas of the Melbourne Immigration Transit Centre, Sydney Immigration Residential Housing facility and Villawood Immigration Detention Centre (VIDC). A new visitor area is currently being developed at the Curtin Immigration Detention Centre.

Visitor areas have been incorporated in the design of both Wickham Point and Yongah Hill. As part of the V IDC redevelopment, an indoor/outdoor visits area forms part of the works and will be completed in July 2013.

As acknowledged in the Committee's report, DIAC is working to improve visitor amenities at immigration detention facilities and has already implemented much of this work.

Children in detention

Recommendation 19

The Committee recommends that relevant legislation be amended to replace the Minister for Immigration as the legal guardian of unaccompanied minors in the immigration detention system.

Not Accepted

The Immigration (Guardianship of Children) Act 1946 (IGOC Act) provides that the Minister for Immigration and Citizenship (the Minister) is the guardian of certain unaccompanied non-citizen minors who arrive in Australia with the intention of becoming permanent residents. This includes, but is not limited to, unaccompanied minors within the immigration detention system.

The Minister's guardianship responsibilities are delegated to officers within state and territory child welfare agencies and/or certain Departmental officers.

As part of deliberations on addressing the perceived conflict of interest between the Minister's responsibilities as guardian under the IGOC Act and his other powers and duties under the Migration Act 1958, the Department of Immigration and Citizenship (DIAC) has engaged the services and expertise of a consultant who has extensive experience in the field of children's issues.

DIAC is currently taking advice on options and proposals to use the IGOC Act in a more effective way to further the best interests of children within its scope.

The government is committed to ensuring the needs of unaccompanied minors are met, and is focusing on reviewing and updating existing programs, policies and procedures that directly impact upon the wellbeing of these children.

Key initiatives being progressed by DIAC to improve the day-to-day wellbeing and experience of minors include:

- delivering on the government's commitment to moving unaccompanied minors not subject to the new legislative amendments for regional transfer arrangements into community-based accommodation as a matter of priority – as at COB 1 July 2012, the Minister had approved 4112 clients for residence determination including 1918 children (823 unaccompanied minors), since the announcement to expand the community detention program on 18 October 2010;
- the development and implementation of the Refugee Youth Support Pilot, to test new models of settlement services for older unaccompanied minors that recognises their ability, in most cases, to quickly transition to independent living, with a view to implementing more tailored settlement service models for unaccompanied minors within the next 12 months;
- the development of a more consistent national approach to the care of unaccompanied minors who have been granted protection visas. This is a joint initiative with the Community and Disability Services Ministers’ Advisory Council. A sub-committee of this advisory council has been created to facilitate discussion specifically on guardianship issues, and work towards improved national consistency of guardianship policies and procedures for unaccompanied minors. Membership includes representation from each state and territory child welfare agency, DIAC
and the Department of Families, Housing, Community Services, and Indigenous Affairs;
- amendments to the Immigration (Guardianship of Children) Regulations 2001 to strengthen day-to-day care arrangements by custodians;
- the review and update of various policy and procedure manuals and training materials, including the Community Detention Operational Framework, to ensure clear and appropriate guidance on guardianship issues; and
- the development of a revised framework on programs and activities for immigration detention facilities which would enhance health and wellbeing of minors. The Immigration (Guardianship of Children) Act 1946 (IGOC Act) provides that the Minister for Immigration and Citizenship is the guardian of certain unaccompanied non-citizen minors who arrive in Australia with the intention of becoming permanent residents; this includes unaccompanied minors within the immigration detention system.

Recommendation 20
The Committee recommends that the Department of Immigration and Citizenship develop and implement a uniform code for child protection for all children seeking asylum across the immigration system.

Accepted in Principle
The Australian Government recognises that children are a vulnerable group and has policies, procedures and programs in place to address this. The Department of Immigration and Citizenship (DIAC) requires that its employees and service providers immediately refer any suspicion or allegation relating to child welfare covered by mandatory reporting laws to the relevant state or territory welfare authority.

There is currently no single national framework setting out the requirements for working with children checks or police checks, as each state and territory has their own requirements and procedures. However, as part of the National Framework for Protecting Australia's Children, the Commonwealth and states and territories are working towards enhancing national consistency in working with children checks. DIAC delivers services to clients across Australia and it is desirable to have a nationally consistent approach to screening of DIAC personnel. To this end, and in anticipation of more uniform working with children screening processes across Australia, DIAC is currently developing a policy requiring appropriate nationally consistent checks for all DIAC personnel who work with children in vulnerable circumstances.

The Privacy Act 1988 governs DIAC's ability to provide government agencies with personal information to facilitate a child's care and protection outside of mandatory reporting laws. In some instances, state law binds the Commonwealth. This allows for the lawful disclosure of personal information to a state or territory child protection agency on a case by case basis, however, this is not consistent across all states and territories.

To broaden the circumstances in which we can lawfully share relevant public information with state and territory child protection agencies, DIAC is developing a Public Interest Determination proposal for consideration by the Information Commissioner. If agreed to, DIAC could disclose information to certain state and territory governments to facilitate a child's care and protection in certain circumstances, such as if there is a threat to their life, health or welfare.

DIAC is currently exploring the best way to facilitate the sharing of this information in the event that the Public Interest Determination is agreed by the Information Commissioner. Options may include:
- becoming a party to the Information Sharing Protocol between the Commonwealth and the eight State and Territory Child Protection Agencies, or
- signing protocols with each State and Territory Child Protection Agency.

Recommendation 21
The Committee further recommends that the Department of Immigration and Citizenship adopt Memoranda of Understanding with children's commissions or commissioners in all states and territories as soon as possible.
Accepted in Principle

As state and territory child welfare agencies are responsible for investigating concerns about child welfare, it would be more appropriate for protocols to be established with those agencies rather than with children's commissioners. This approach is consistent with the advice provided to the JSC by the Australian Children’s Commissioners and Guardians.

The Department of Immigration and Citizenship (DIAC) is currently exploring ways to improve its ability to work more cooperatively with state and territory child protection agencies, outside mandatory reporting requirements.

The Privacy Act 1988 governs DIAC’s ability to provide government agencies with personal information to facilitate a child’s care and protection outside of mandatory reporting laws. In some instances, state law does bind the Commonwealth, allowing for the lawful disclosure of personal information to a state or territory child protection agency on a case by case basis, however, this is not consistent across all states and territories.

To broaden the circumstances in which we can lawfully share relevant information with state and territory child protection agencies, DIAC is developing a Public Interest Determination proposal for consideration by the Information Commissioner which, if agreed, would enable DIAC to disclose information to state and territory child welfare agencies to facilitate a child's care and protection in certain circumstances, such as if there is a threat to their life, health or welfare.

DIAC is currently exploring the most effective mechanism to outline agreed protocols with state and territory governments on the sharing of information for child protection matters, in the event that the Public Interest Determination is agreed by the Information Commissioner. DIAC is consulting with states and territories on this issue as part of the sub-committee on unaccompanied humanitarian minors established under the Community and Disability Services Ministers' Advisory Council.

Possible options under consideration include:

- Becoming a party to the Information Sharing Protocol between the Commonwealth and the eight State and Territory Child Protection Agencies, which has formally established processes to facilitate the sharing of information to assist child protection agencies where there are concerns about a child’s welfare; and/or
- Signing separate protocols with each State and Territory Child Protection Agency.

Reforms to detention policy

Recommendation 18

The Committee recommends that, as a matter of policy, the Department of Immigration and Citizenship accommodate detainees in metropolitan detention facilities wherever possible, in particular children and families, and those detainees with special needs or with complex medical conditions.

Accepted in principle

Decisions regarding placement of people across the immigration detention network are made by the Department of Immigration and Citizenship (DIAC) in consultation with the Detention Service Provider (Serco) and the Detention Health Service Provider (IHMS).

Placement decisions take into account individual client circumstances, such as family composition, age and gender, immigration status, individual security risks and ongoing health issues, as well as broader operational requirements such as accommodation availability and the security and good order of the facility.

While recent expansion of the immigration detention network has resulted in an increase in accommodation options in metropolitan locations, at this time, there is insufficient accommodation across these sites to enable all clients to be located at a metropolitan facility.

Regardless of where a client is placed within the network, all people have access to a broad range of health, support and services.

The immigration detention network will continue to be used in a flexible way to manage changes in the client composition. DIAC has designated some sites to assist with the management of clients that have particular care needs, such as
children and people who require ongoing access to specialist health care or have physical disabilities.

**Recommendation 22**
The Committee recommends that the Australian Government take further steps to adhere to its commitment of only detaining asylum seekers as a last resort and for the shortest practicable time, and subject to an assessment of non-compliance and risk factors, as enunciated by the New Directions policy.

**Accepted**
Government policy is that all unauthorised arrivals are subject to mandatory detention for the management of any health, identity or security risks to the community. This is in contrast to those who arrive in Australia lawfully and have been assessed during the visa application process in relation to matters such as identity, security, bona fides and health.

Ongoing Department of Immigration and Citizenship, and Commonwealth Ombudsman reviews consider the appropriateness of a person’s detention, their detention arrangements and other matters relevant to their ongoing detention and case resolution.

Significant reforms in the use of community placement options for irregular maritime arrivals (IMAs) whose immigration status has not been resolved have been introduced. This includes the expanded use of community detention announced jointly by the Prime Minister and Minister for Immigration and Citizenship in October 2010 and expanded use of Bridging E visas announced by the Minister in November 2011. This is to progressively allow people who satisfy health, identity and security requirements to be considered on a case by case basis for release from detention while their protection claims are assessed.

**Recommendation 23**
The Committee further recommends that asylum seekers who pass initial identity, health, character and security checks be immediately granted a bridging visa or moved to community detention while a determination of their refugee status is completed, and that all reasonable steps be taken to limit detention to a maximum of 90 days.

**Partially Accepted**

To support the integrity of Australia’s immigration program, all unauthorised arrivals will be subject to mandatory detention for the management of any health, identity or security risks to the community.

The Government is committed to minimising the length of time a person is subject to immigration detention. The period of time a person is detained is dependent on assessment of risk factors and varies according to individual circumstances. Immigration detention is subject to regular review but is not time limited.

Significant reforms in the use of community placement options for irregular maritime arrivals (IMAs) whose immigration status has not been resolved have been introduced. This includes the expanded use of community detention announced jointly by the Prime Minister and Minister for Immigration and Citizenship in October 2010 and expanded use of Bridging E visas announced by the Minister in November 2011. This is to progressively allow people who satisfy health, identity and security requirements to be considered on a case by case basis for release from detention while their protection claims are assessed.

Expanded community-based detention arrangements (formally known as residence determination) for IMAs has also enabled significant numbers of unaccompanied minors and vulnerable family groups to be relocated from immigration detention facilities to community-based accommodation.

The Department of Immigration and Citizenship is continuing to work on moving significant numbers of children and vulnerable family groups out of immigration detention facilities and into community-based accommodation.

The Government has not prescribed timeframes for the transfer of IMAs to community-based accommodation as placement is at the discretion of the Minister for Immigration and Citizenship, and will only occur once a client has satisfied health, identity and security requirements. However, the Government is committed to moving children into the community as soon as possible.
IMAs who are not eligible for community placement because they present risks to the community in terms of identity, security or character concerns will remain in facility-based detention.

**Recommendation 24**
The Committee recommends that the Department of Immigration and Citizenship be required to publish on a quarterly basis the reasons for the continued detention of any person detained for more than 90 days, without compromising the privacy of the individuals.

**Not Accepted**
The Immigration Detention Statistics Summary, published by the Department of Immigration and Citizenship (DIAC) on a monthly basis, provides a breakdown of the length of time people are held in immigration detention facilities.

Reasons why people are required to remain in immigration detention beyond 90 days vary depending on a wide range of individual circumstances. For privacy reasons it would be inappropriate to publish this information.

Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the type of accommodation and services provided, are subject to regular review, including by the Commonwealth Ombudsman.

**Recommendation 29**
The Committee recommends that the Department of Immigration and Citizenship consider publishing criteria for determining whether asylum seekers are placed in community detention or on bridging visas.

**Not Accepted**
Under the Migration Act 1958 (the Act) the only powers that can be used to allow an Irregular Maritime Arrival (IMA) to live in the community (residence determination) or to grant an IMA a Bridging visa are non-compellable powers that can only be exercised by the Minister of Immigration and Citizenship (the Minister) personally, if the Minister thinks it is in the public interest to do so. As such, there are no set criteria as it is for the Minister to decide what is in the public interest.

The Department of Immigration and Citizenship's (DIAC) case managers recommend suitable placement options for clients in immigration detention on a case by case basis. These are referred to the Minister for his consideration, however the Minister is not bound to accept these referrals.

**Recommendation 30**
The Committee recommends that the Department of Immigration and Citizenship seek briefing on control orders in use by the criminal justice system and explore the practicalities of employing similar measures for refugees and asylum seekers who are in indefinite detention or cannot be repatriated.

**Accepted in principle**
Where persons found to be owed protections are not eligible for a visa due to an adverse security assessment, the Government will continue to explore the possibility of third country resettlement for the individual.

The Government has been briefed on the control order regime under the Criminal Code Act 1995.

Control orders are only available where a person has trained with a terrorist organisation listed under the Criminal Code or where a control order would substantially assist in preventing a terrorist act. The conditions attached to the control order must each be necessary to protect the community from a terrorist act. These are high legal thresholds, and it is not expected that Criminal Code control orders would be readily available.

The Government is responsible for the protection of national security, and any options that might involve release of persons with adverse security assessments into the community raise complex issues that would need to be carefully considered.

**Reforms to processing of protection claims and security assessments**

**Recommendation 25**
The Committee recommends that the Department of Immigration and Citizenship consider revising and enhancing its system of quality control to oversee those Refugee Status and Assessment and Independent Merits Review processes still underway.
Accepted

The Government is committed to ensuring rigorous decision making for refugee status determinations so that sound, defensible decisions are made in accordance with relevant law, Australia's international obligations and government policy.

As of 24 March 2012 all primary refugee processing occurs through a single onshore Protection visa (PV) process. This process applies to Irregular Maritime Arrivals (IMAs) arriving on or after 24 March 2012 and before 13 August 2012, and to all those IMAs who had not had a primary interview before 24 March 2012.

The Department of Immigration and Citizenship (DIAC) has had in place a formal Quality Assurance (QA) framework for primary refugee decision making since September 2010. The purpose of this framework is to identify opportunities to improve the quality of primary refugee status decision making, based on the findings from a methodical and structured arm's length review of finalised decisions.

This framework has been used to assess the quality of decisions within the Refugee Status Assessment (RSA) and Protection Obligations Evaluation (POE) processes, and for the current single onshore PV process. There are no longer any RSA processes underway.

Between September 2010 and December 2011, six QA reviews were undertaken. This includes two RSA QA reviews, one POE QA review and three PV QA reviews.

These reviews assessed the consideration of the key components in determining refugee status, including:

- the use of country of origin information to support findings
- the identification of the correct Convention ground/s
- the correct consideration of the key components within the Refugee Convention, such as 'persecution' and 'well-founded fear'
- the assessment of credibility

Findings from these reviews have indicated steady improvements across most of the quality measures. They have also provided an evidence base for continued investment in remedial action, including targeted training, strengthened supervisor arrangements and strengthened procedures.

DIAC will continue to refine and strengthen its QA framework and its supporting tools to ensure that QA and QC findings are accurate and to enable continuous improvement.

Recommendation 26

The Committee recommends that the Australian Government move to place all asylum seekers who are found to be refugees, and who do not trigger any concerns with the Australian Security Intelligence Organisation following initial security checks, and subject to an assessment of non-compliance and risk factors, into community detention while any necessary in-depth security assessments are conducted.

Partially Accepted

The Government has not prescribed timeframes for the transfer of IMAs to community-based accommodation as placement is at the discretion of the Minister for Immigration and Citizenship, and will only occur once a client has satisfied health, identity and security requirements.

The period of time a person is detained is dependent on assessment of risk factors and varies according to individual circumstances. IMAs who are not eligible for community placement because they present risks to the community in terms of identity, security or character concerns will remain in facility-based detention.

Recommendation 27

The Committee recommends that the Australian Government and the Australian Security Intelligence Organisation establish and implement periodic, internal reviews of adverse Australian Security Intelligence Organisation refugee security assessments commencing as soon as possible.

Accepted

The Government has announced that it will establish a mechanism for periodic and primary review of adverse security assessments furnished to the Department of Immigration and Citizenship in relation to all persons found to be owed
protection who remain in prolonged immigration detention. The Independent Reviewer of Adverse Security Assessments will provide regular 12 month periodic review of adverse security assessments for people owed protection who remain in immigration detention.

The Government notes that periodic review of Australia Security Intelligence Organisation (ASIO) security assessments would, ordinarily, be an unusual requirement. A security assessment is ASIO's security related advice to a Commonwealth Agency on an individual at the time it is furnished. The security advice can include a recommendation that the Agency take or refrain from taking specific prescribed administration action on security grounds (for example, in relation to the grant of a protection visa). It is open to ASIO to furnish a further security assessment where security-related changes in the person's circumstances are assessed by ASIO to support the provision of further security advice. It would not ordinarily be appropriate to periodically review security assessments (being advice given at a particular time). However, in circumstances where the practical outcome of an adverse security assessment is prolonged immigration detention (due to visa ineligibility), periodic review will provide a basis for the regular review of the security grounds underpinning detention. Other factors that have a bearing on the person's ongoing detention will also be kept under review. This includes the circumstances that form the basis of the protection obligations and options for third country re-settlement.

**Recommendation 28**

The Committee recommends that the Australian Security Intelligence Organisation Act be amended to allow the Security Appeals Division of the Administrative Appeals Tribunal to review the Australian Security Intelligence Organisation security assessments of refugees and asylum seekers.

**Not Accepted**

The Government agrees with establishing a review mechanism for persons found to be owed protection who receive adverse security assessments, but rather than extending the Administrative Appeal Tribunal's jurisdiction, the Government has established an alternative review mechanism. The Government has appointed an independent reviewer to conduct efficient and cost effective reviews of adverse security assessments furnished to the Department of Immigration and Citizenship in relation to all persons found to be owed protection who remain in prolonged immigration detention.

**Implementation of Hawke–Williams Recommendations**

**Recommendation 3**

The Committee recommends that the Department of Immigration and Citizenship conduct robust auditing of Serco staffing ratios and training, in line with the recommendations in the Comcare report and the Hawke-Williams review.

**Accepted**

The Department of Immigration and Citizenship (DIAC) ensures that the performance of the Detention Service Provider (Serco) is rigorously monitored. Monthly performance reviews are conducted and Serco is subject to penalties or sanctions where it does not meet the standards set out in the Detention Services Contract.

**Staffing**

Serco staff ratios for immigration detention centres and other facilities are not mandated. However, the Detention Services Contract requires that Serco ensures that personnel levels at facilities are adequate to deliver the required services.

DIAC and Serco work together to plan and manage staff capability, consistent with changes to client and centre risk profiles and service delivery demands.

**Training**

Serco must ensure that all its personnel are trained and qualified in accordance with the Detention Services Contract and related state and territory law.

Serco is required to maintain a national training database with records of training undertaken by its staff. Using this information as a basis, Serco provides quarterly reports to DIAC and retains, at each immigration detention site, details of training undertaken by rostered staff. Further
work is underway to enhance record keeping in this area.

Serco has advised that a complete audit of qualifications has been undertaken, and it is improving its performance in this area. DIAC commenced a review of qualification, certification and storage of Serco staff records in May 2012.

**Recommendation 4**

The Committee reiterates the recommendation made by the Commonwealth Ombudsman that the Department of Immigration and Citizenship, conduct a review of the quality and management of incident reporting across immigration detention network, and also assess Serco's capacity to monitor its own compliance with the reporting guidelines.

**Accepted**

The Department of Immigration and Citizenship completed a review of the quality, accuracy and timeliness of incident reporting and post-incident reviews, in relation to the Detention Service Provider (Serco's) contractual obligations, at the end of June 2012.

**Recommendation 11**

Consistent with the findings of the Hawke-Williams review, the Committee recommends that the government finalise a security protocol between Serco, the Australian Federal Police and local police in each state and territory.

**Accepted**

On behalf of the Government, the Department of Immigration and Citizenship (DIAC) is negotiating a Memorandum of Understanding (MoU) with the Australian Federal Police (AFP) and state and territory law enforcement agencies for the provision of policing services to immigration detention facilities (IDFs).

The MoU formalises arrangements currently in place and also enables state and territory law enforcement agencies to build adequate capability and capacity to respond to incidents at IDFs without impacting on the provision of policing services to the local community.

Individual state and territory specific annexures will sit under the MoU. These annexures enable the jurisdictions in a position to sign onto the agreement, in advance of others, to do so. It also allows the agreements to be tailored to the specific requirements of each jurisdiction.

The Detention Service Provider (Serco) is not a party to the MoU. However, its roles and responsibilities when responding to an incident are clearly articulated within an Implementation Protocol which is attached to the MoU. Serco has been closely consulted on this protocol.

**Recommendation 31**

The Committee recommends that the Department of Immigration and Citizenship continue to work towards implementing all of the recommendations made by the Hawke-Williams review, and that the Minister for Immigration and Citizenship report to the Parliament no later than 20 September 2012 on progress in implementing the review recommendations.

**Accepted**

The Department of Immigration and Citizenship (DIAC) has worked to implement the recommendations made by the Independent Review into the Incidents at the Christmas Island and Villawood Immigration Detention Centres as a matter of priority. The majority of the recommendations have been implemented and, in many instances, DIAC has gone beyond its stated commitments in order to comprehensively address the broader issues raised by the Review and to facilitate improvements across the detention network.

The implementation of these measures has resulted in significant improvements in the management of clients, infrastructure and service providers in the immigration detention network. DIAC has developed new infrastructure and enhanced security at existing facilities, significantly developed its critical incident management response capabilities, improved the quality and availability of training to staff, strengthened contract management and put in place broader incident prevention strategies.

The Minister for Immigration and Citizenship reported to the Parliament on the progress made implementing the Review recommendations on 20 September 2012.
Coalition Members and Senators Dissenting Report Recommendations

Coalition Recommendation 1

Restore the Coalition's proven border protection regime Coalition Members and Senators recommend that the Government restore the proven measures of the Howard Government, abolished by the Rudd and Gillard Governments, to once again deter illegal boat arrivals to Australia, including, but not restricted to the following measures:

- Restoration of the Temporary Protection Visa policy for IMAs
- Re-establishment of offshore processing on Nauru for all new IMAs by reopening the taxpayer funded processing centre on Nauru; and
- Restoration of the policy to return boats seeking to illegally enter Australian waters, where it is safe to do so.

Not Accepted

Following the parliamentary impasse on the Migration Legislation Amendment (The Bali Process) Bill 2012, the Prime Minister announced on 28 June 2012, the establishment of an independent expert panel to examine approaches to deterring asylum seekers from embarking on dangerous boat journeys to Australia. The Expert Panel on Asylum Seekers was led by Air Chief Marshal Angus Houston AC AFC (Ret'd), who was joined by Paris Aristotle AM and Professor Michael L'Estrange AO.

The Expert Panel made 22 recommendations, including that a number of principles should shape Australian policy making on asylum issues. The key principle is the implementation of a strategic, comprehensive and integrated policy approach that establishes short, medium, and long-term priorities for managing asylum and mixed migration flows across the region. The Expert Panel also clearly articulated that there are no quick or simple solutions to the policy dilemmas surrounding asylum issues.


In accordance with recommendation 7 of the Expert Panel's report, the Government introduced legislation to support the transfer of people to regional processing centres, which received Royal Assent on 17 August 2012. The Government is now working with the governments of Nauru and Papua New Guinea to establish regional processing centres in those countries (in line with recommendations 8 and 9 of the Expert Panel's report).

The Expert Panel also recommended that the Government "continue to develop its vitally important cooperation with Malaysia on asylum issues" and that the Malaysia Arrangement should "be built on further, rather than being discarded or neglected". Accordingly, the Government remains committed to the Malaysia Arrangement as it provides a genuinely effective approach to deterring people from taking dangerous boat journeys, while also providing durable solutions to genuine refugees who have been in Malaysia for many years.

The Expert Panel noted that it is currently not possible to effectively, lawfully or safely turn back irregular vessels carrying asylum seekers to Australia. The Panel's report also noted that public statements by a number of senior Indonesian Government officials indicate that Indonesia's reaction to a turn-back policy is likely to be negative. The Government will not turn back boats on the high seas at this time as it is neither safe nor viable.

The Expert Panel did not recommend reintroducing Temporary Protection Visas.

Coalition Recommendation 2

Coalition Members and Senators recommend that the Australian Government finalise the memorandum of understanding between DIAC, the AFP and state/territory police forces and reach a binding agreement that clearly stipulates who is responsible for policing and responding to incidents at Australian Immigration Detention Centres.

Accepted

On behalf of the Government, the Department of Immigration and Citizenship is negotiating a Memorandum of Understanding (MoU) with the Australian Federal Police (AFP) and state and
territory law enforcement agencies for the provision of policing services to immigration detention facilities.
See the response to recommendation 11 for further details.

**Coalition Recommendation 3**

*Coalition Members and Senators recommend that the AFP and State/Territory police are funded adequately in order to carry out their regular operational policing responsibilities along with policing the immigration detention centres and responding to incidents.*

**Accepted**

The Department of Immigration and Citizenship is working closely with the Australian Federal Police and individual state and territory law enforcement agencies to put in place Memorandums of Understanding with regard to the provision of policing services to immigration detention facilities. As part of these agreements, provisions have been (where signed) or will be (negotiations are ongoing) included to ensure state and territory enforcement agencies are appropriately funded so the delivery of such services does not impact on regular police operations.

See the response to recommendation 11 for further details.

**Coalition Recommendation 4**

*Coalition Members and Senators recommend that the Australian Government ensure that security infrastructure, including CCTV cameras, security fences and other essential security elements be operational, ready and be of a high standard of functionality and that DIAC, with assistance from Serco, is to undertake a review of infrastructure (including security infrastructure) across the broader immigration detention network.*

**Accepted**

The Department of Immigration and Citizenship (DIAC) and the Detention Service Provider (Serco) continually monitor the security infrastructure of immigration detention centres across the network to ensure that infrastructure is functional and fit for purpose.

DIAC ensures that appropriate security is in place and consistent with the security risk of the clients accommodated at the facility. Physical infrastructure upgrades and security improvement works are being implemented at a number of sites across the immigration detention network.

In addition to modifications to the physical security infrastructure, a number of changes have been made to enhance security through operational arrangements across the detention network. This includes more regular checks of the security infrastructure and closer monitoring of client risks identified through internal intelligence activities.

**Coalition Recommendation 5**

*Coalition Members and Senators recommend that the Australian Government seek advice on amendments and addition to the regulations under the Migration Act to clarify the responsibilities and powers of persons who operate detention centres around the limits on their obligations and powers in relation to use of force, to ensure the good order and control of immigration detention facilities.*

**Accepted**

The Minister for Immigration and Citizenship is seeking advice to determine whether there is a need to amend the *Migration Act 1958* and regulations to allow the use of reasonable force to maintain the good order of an immigration detention facility where reasonable belief exists regarding a direct threat to the physical safety of an officer, a detainee or a third party.

The Department of Immigration and Citizenship is also well advanced in the negotiation of a Memorandum of Understanding (MoU) with the Australian Federal Police and state and territory law enforcement agencies for the provision of policing services to immigration detention facilities.

The Detention Service Provider (Serco) is not a party to the MoU. However, its roles and responsibilities when responding to an incident are clearly articulated within an Implementation Protocol attached to the MoU.

**Coalition Recommendation 6**

*Coalition Members and Senators recommend that a minimum quota of 11,000 places of the 13,750 permanent places for the Refugee and Humanitarian program be reserved for offshore*
applicants, in parallel with the introduction of Temporary Protection Visas for all IMAs.

Not Accepted
On 23 August 2012, the Prime Minister and the Minister for Immigration and Citizenship announced that in response to the recommendations of the Expert Panel on Asylum Seekers, that the Humanitarian Program would be increased immediately to 20,000 places. The expanded Program will continue to provide places for both people resettled from overseas and those already in Australia who have sought protection.

The expanded Program provides 6,250 additional places (a 45 per cent increase) and is the biggest boost to Australia's refugee intake in 30 years.

Recommendations by Senator Hanson-Young for the Australian Greens

Senator Hanson-Young Recommendation 1
Migration Act to be amended to ensure that a time limit on detention, preferably 30 days, is adhered to, over which time initial health, identity and security checks can be conducted to ensure there is no risk to the community.

Not Accepted
The Government is committed to treating asylum seekers and refugees humanely and fairly while managing risks to the Australian community. Immigration detention of all unauthorised people arriving at the border is mandatory for the purpose of determining any health, identity or security risk they may present.

While the Government expects the Department of Immigration and Citizenship to resolve all matters associated with determining a person's immigration status as quickly as possible, it does not support the introduction of a mandatory timeframe for the release of individuals from immigration detention.

Senator Hanson-Young Recommendation 2
Detention beyond the legislated time limit must be justified before a court and subject to periodic review by the court from that point, with the onus on the Department of Immigration to make the application and show why extended detention is necessary for that individual.

Not Accepted
The Government's intention is that immigration detention be for the shortest period possible while appropriately managing risks to the Australian community. Ongoing reviews by the Department of Immigration and Citizenship and the Commonwealth Ombudsman consider the appropriateness of the person's detention, their detention arrangement and other matters relevant to their ongoing detention and case resolution.

A person in immigration detention may seek merits or judicial review of most visa decisions that result in them becoming unlawful and liable for detention. They may also seek judicial review on the lawfulness of their detention with the Federal or High Courts.

Given the availability of merits and judicial review as outlined above and the broader use of residence determination (community detention) arrangements and Bridging visas transitioning irregular maritime arrivals into the community, the Government does not support periodic review of immigration detention by the courts.

Senator Hanson-Young Recommendation 3
Remote and isolated detention centres should be decommissioned.

Not Accepted
The expansion of the immigration detention network in 2011 and 2012 has provided the Government with a range of flexible options to accommodate people required to be taken into immigration detention to manage community or program risks. The Government continually monitors immigration detention accommodation requirements and makes adjustments as required.

Senator Hanson-Young Recommendation 4
The best interests of the child should be enshrined in the Migration Act as the paramount in decisions regarding the accommodation of all children.

Not Accepted
Consistent with Australia's obligations as a party to the Convention on the Rights of the Child 1989, the best interests of the child are a primary consideration in the Government's engagement with children. This includes consideration of the
child's individual circumstances and the welfare of the child, as well as other factors, such as maintaining family unity and access to education. As such, the Government does not regard the recommended changes to the Migration Act 1958 (Migration Act) as necessary.

In accordance with section 4AA of the Migration Act, and the Key Immigration Detention Values announced by the Government in July 2008, children are not held in immigration detention centres. Outside of community-based detention arrangements, minors are accommodated at low-security sites, such as immigration transit accommodation and immigration residential housing, or other alternative places of detention, which includes commercial accommodation such as motels.

**Senator Hanson-Young Recommendation 5**

*Migration Act to be amended to remove any mandatory detention of children.*

**Not Accepted**

The Government firmly believes that the best place children can be supported during immigration processing is in the community and high priority is given to moving unaccompanied minors, children and their families into community-based accommodation wherever possible.

There will, however, always be a period of time after their unauthorised arrival in Australia when children and their parents and carers will be detained while identity, health and security checks are undertaken. There will also be a small number of children who may not be able to be placed in the community due to particular risks associated with their parents or carers. Children, including unaccompanied minors, are accommodated in alternate places of immigration detention and not in immigration detention centres. Children and young people in immigration detention are processed as a matter of priority to resolve their immigration status as quickly as possible.

The Government considers that this measured approach strikes a balance between operating a migration program with integrity while protecting the welfare of children.

**Senator Hanson-Young Recommendation 6**

*Migration Act to be amended to place time limits on children and their families being accommodated in low security family appropriate facilities prior to being moved into the community.*

**Not Accepted**

The transfer of unaccompanied minors and children with families from held immigration detention to community detention or a Bridging visa is a Government priority.

Before a child or family can be transferred from a detention facility into the community, mandatory health, identity and security checks must be completed, suitable housing be sourced, and in the case of unaccompanied minors, appropriate carer arrangements must be put in place.

The Department of Immigration and Citizenship continues to transfer significant numbers of children and vulnerable family groups who arrived as Irregular Maritime Arrivals before 13 August 2012 out of immigration detention facilities and into community-based accommodation as soon as they have completed mandatory health, identity and security checks.

While the Government expects that eligible children will be transferred into a community option as quickly as possible, it does not support the introduction of a mandatory timeframe for the placement of children and their families in community-based accommodation.

**Senator Hanson-Young Recommendation 7**

*Children should not be subject to ASIO security checks beyond the standard security checks used at airports (i.e. checks against the Central Movement Alert List).*

**Not Accepted**

The Government's responsibility is to ensure that Australia's security is not compromised. The Australian Security Intelligence Organisation (ASIO) rarely conducts security assessments on minors, but this option must remain open where security concerns are identified. Where asylum seekers arrive without documentation it may be difficult to establish conclusively whether a person is a minor. It is also important to recognise that minors may occasionally be involved in
activities of security concern and make provision for such situations.

ASIO has a range of policies and procedures in place to address the particular circumstance of dealing with minors, including additional authorisation and internal oversight. External oversight is maintained by the Inspector-General of Intelligence and Security.

**Senator Hanson-Young Recommendation 8**

*All asylum seeker children of school age (early childhood, primary and secondary) must be given access to local schooling.*

**Not Accepted**

The Government is committed to ensuring that children accommodated in immigration detention facilities and under community-based detention arrangements have access to education in line with community standards and relevant State and Territory laws.

The Department of Immigration and Citizenship (DIAC) arranges for children housed in alternate places of detention to have access to education facilities either through education services provided by its Detention Service Provider (Serco) or where agreed with a state or territory government education authority through public education in the local community.

Where clients are placed into community detention, DIAC has arrangements in place to enrol children in local schools. Children in community detention arrangements who are four years of age (below compulsory school age) may participate in an early childhood education program. For those asylum seeker children who are not in detention, schooling is a matter for the relevant State or Territory government.

**Senator Hanson-Young Recommendation 9**

*Children should only be housed in facilities where all service providers and officers who interact with them have obtained a Working with Children check.*

**Accepted**

The Government requires the Detention Service Provider (Serco) to meet state and territory child protection laws including working with children checks and mandatory reporting requirements. Serco also works proactively with the Department of Immigration and Citizenship (DIAC) to maintain a child safe environment.

DIAC ensures that child protection provisions for all external contracts are accountable through reporting and auditing mechanisms. As a minimum, all new contracts with service providers must include a clause that meets the child protection legislative requirements in the state or territory in which they operate.

There is currently no single national framework setting out the requirements for working with children checks or police checks, as each state and territory has its own requirements and procedures. However, as part of the National Framework for Protecting Australia's Children, the Commonwealth and states and territories are working towards enhancing national consistency in working with children checks. DIAC delivers services to clients across Australia and it is desirable to have a nationally consistent approach to screening of DIAC personnel. To this end, and in anticipation of more uniform working with children screening processes across Australia, DIAC is currently developing a policy requiring appropriate nationally consistent checks for all DIAC personnel who work with children in vulnerable circumstances.

**Senator Hanson-Young Recommendation 10**

*IAAAS funding to be expanded to cover independent psychological and psychiatric reports.*

**Not Accepted**

The Immigration Advice and Application Assistance Scheme (IAAAS) provides publicly funded, free independent advice and assistance to asylum seekers, including Irregular Maritime Arrivals, for the processing of their refugee claims.

Under the IAAAS Deed of Agreement, IAAAS providers receive funding based on the category of the service provided. IAAAS providers have the discretion to seek independent psychological and psychiatric reports if they determine this would assist the client's application. However, any costs associated with the provision of these reports must be absorbed within the existing funding. The Government does not support expanding the funding arrangements.
Senator Hanson-Young Recommendation 11

Relevant legislation to be amended to ensure that detainees have access to a fair and independent review of a negative ASIO security assessments, with appropriate disclosure of the grounds of the adverse security findings regardless of whether judicial or merits review, and with flexible options for protecting national security on a case-by-case basis.

Partially Accepted

The Government agrees with establishing a review mechanism for persons found to be owed protection who receive adverse security assessments, but rather than extending the Administrative Appeal Tribunal's jurisdiction, the Government has established an alternative review mechanism. The Government has appointed an independent reviewer to conduct efficient and cost effective reviews of adverse security assessments furnished to the Department of Immigration and Citizenship in relation to all persons found to be owed protection who remain in prolonged immigration detention.

When an eligible person makes a request for independent review, the Australian Security Intelligence Organisation will provide an unclassified written summary of reasons for the decision to issue an adverse security assessment to the Independent Reviewer on the basis that it will be provided to the eligible person. The reasons will include information that can be provided to the eligible person to the extent able without prejudicing the interests of security.

Senator Hanson-Young Recommendation 12

Appointment of a special advocate to conduct reviews of negative ASIO assessments where there is concern maintaining confidentiality of sensitive material.

Partially Accepted

The Government agrees with establishing a review mechanism for persons found to be owed protection who receive adverse security assessments, and has appointed an independent reviewer to conduct efficient and cost effective reviews of adverse security assessments furnished to the Department of Immigration and Citizenship in relation to all persons found to be owed protection who remain in prolonged immigration detention. This mechanism will take into account the need to afford appropriate procedural fairness, while also protecting sensitive national security information, and applicants will be entitled to legal representation. The Government does not consider it necessary for special advocates to conduct the review of negative Australian Security Intelligence Organisation assessments.

Senator Hanson-Young Recommendation 13

Legal assistance should be funded at all stages of resolution of people's immigration status, including increased resources for Legal Aid Commissions and IAAAS agents for merits or judicial review.

Not Accepted

Under the National Partnership Agreement on Legal Assistance Services, migration, where assistance is not available from services funded by the Department of Immigration and Citizenship, is a Commonwealth legal aid service priority. Eligibility criteria apply to grants of legal aid, and include merits and means tests. The Government continues to monitor the migration litigation workload.

Senator Hanson-Young Recommendation 14

Where an interview is to be conducted between the Department of Immigration and a minor that will have ramifications on visa assessment, there must be a legal advocate present or an accredited Independent Third Person present.

Accepted

The Government already provides this type of support to minors through the Immigration Advice and Application Assistance Scheme (IAAAS) and the presence of independent observers.

Immigration Advice and Application Assistance Scheme

The IAAAS provides publicly funded, free independent advice and assistance to asylum seekers, including Irregular Maritime Arrivals (IMAs), for the processing of their refugee claims.

IAAAS service providers are registered migration agents or officers of Legal Aid Commissions with experience in protection visa legislative, policy and procedural requirements. They are assigned
to asylum seekers prior to the commencement of the assessment of their claims.

Under the terms of the contractual arrangements between the Department of Immigration and Citizenship (DIAC) and the IAAAS service providers, the service providers have a responsibility to help their clients with the completion and submission of visa or protection obligations determination applications. This includes accompanying their clients to departmental interviews, liaising with DIAC, providing advice on immigration matters, explaining outcomes of applications and providing information and advice on further options available in the event of a refusal decision.

When IAAAS service providers are providing assistance to minors, DIAC has issued a general instruction that the service provider should act in the best interest of the child.

IAAAS assistance is also available at the merits review stage, but is not available to those seeking judicial review or ministerial intervention.

In the case of IMAs in immigration detention in remote locations, DIAC also funds travel for the IAAAS service provider to attend an initial meeting and interview with their clients soon after referral, and ensures appropriate interpreters are available to support all interactions between the IAAAS service provider and their client.

Legal Assistance for Judicial Review

While the Minister for Immigration and Citizenship does not personally provide legal assistance for judicial review to unaccompanied minors for whom he is guardian, they receive information to assist them to seek legal assistance, including accessing Legal Aid Services.

Independent observers

DIAC engages independent observers to attend formal interviews and, at DIAC's discretion, informal meetings and discussions between unaccompanied minors and DIAC and/or other agencies, where concern exists regarding the adult relative's understanding of processes and capability of acting in the best interest of the minor with regards to their physical and emotional wellbeing.

DIAC gives consideration to the ongoing presence of an independent observer for a person who has recently turned 18, particularly where there are concerns regarding the person's level of maturity or level of comprehension of the process.

The role of the independent observer is to act in the best interest of a minor and ensure that DIAC's and other agencies' treatment of a minor during certain immigration processes is fair, appropriate and reasonable.

Senator Hanson-Youn...
services equivalent to those provided under Medicare and the Pharmaceutical Benefits Scheme.

**Senator Hanson–Young Recommendation 16**

*Families and unaccompanied minors who are placed on bridging visas should be automatically also placed on the Community Assistance Support program.*

**Not Accepted**
The Department of Immigration and Citizenship’s (DIAC) case management service assists clients who hold Bridging visas to understand their immigration position and work towards gaining a timely resolution of their immigration status. Case managers assess whether a client has support needs and are eligible for the Community Assistance Support (CAS) program, and will refer a client to CAS if necessary.

The CAS program provides access to community-based services that provide health and wellbeing support. In the event that a family is placed in the community on a Bridging visa, their needs would be assessed by their case manager and a decision made as to whether they should be referred into CAS.

**Senator Hanson–Young Recommendation 17**

*All asylum seekers on bridging visas should be provided with Commonwealth certified photo identification.*

**Accepted**

The Department of Immigration and Citizenship (DIAC) has commenced work on the development of a secure "Evidence of Immigration Status (EIS)" card for all humanitarian entrants and protection visa applicants who are granted a Bridging visa. The EIS will standardise the documentation provided to these clients, strengthen the bond between the card and the card holder and prevent misuse through enhanced security features and use of biometric data. The cards will contain security features that are commensurate with standards articulated in the whole-of-government National Identity Security Strategy.

The Secure Card Project is prioritised for implementation in April 2013.

**Senator Hanson-Young Recommendation 18**

*All people on bridging visas should have work rights.*

**Partially Accepted**

A Bridging visa is granted to a person to allow them to remain in the community while they resolve their immigration status. In many cases the appropriate resolution of status for a Bridging visa holder will be departure from Australia. In such circumstances, providing permission to work may encourage individuals to resist departure or encourage frivolous applications for substantive visas, even those which do not themselves confer the permission to work, in the expectation of delivering work rights while they await an outcome. Granting of work rights may also encourage people on substantive visas without work rights to overstay in the hope of being granted a Bridging visa with work rights. Nonetheless, it is already possible for Bridging visa holders who have compelling reasons to be granted work rights. For example, the Prime Minister and Minister for Immigration and Citizenship jointly announced in November 2011, the expanded use of Bridging E visas with work rights for Irregular Maritime Arrivals.

**BILLS**

**Maritime Powers Bill 2012**

**Explanatory Memorandum**


**DOCUMENTS**

**Murray-Darling Basin Plan**

**Order for the Production of Documents**

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:43): I table a document relating to the order of the Senate for the production of documents relating to the Murray-Darling Basin Draft Plan.
Special Purpose Flights
Tabling
Senator WONG (South Australia—Minister for Finance and Deregulation) (17:43): I present a schedule of special purpose flights for the period 1 January to 30 June 2012.

BILLS
Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012
First Reading
Bill received from the House of Representatives.
Senator WONG (South Australia—Minister for Finance and Deregulation) (17:44): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.
Senator WONG (South Australia—Minister for Finance and Deregulation) (17:44): I table the 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—
The Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 is the third tranche of legislation implementing the Government’s MySuper and governance reforms as part of Stronger Super.
This Bill amends the Superannuation Industry (Supervision) Act 1993, the Superannuation Guarantee Administration Act 1992 the Corporations Act 2001 and the Fair Work Act 2009 to implement the remaining measures relating to MySuper, as well as introduce data collection and publication powers for APRA and disclosure requirements for trustees that were announced as part of Stronger Super.
MySuper is a key part of the Government’s Stronger Super reform package.
Stronger Super also includes reforms to:
- make the process of everyday transactions in the super system easier, cheaper and faster through the SuperStream package of measures;
- improve the governance and integrity of the superannuation system;
- improve integrity and increase community confidence in the self-managed superannuation fund sector.
MySuper will provide a simple, cost-effective default product that all Australians can rely on.
MySuper will be limited to a common set of features to make it easier for members, employers and other stakeholders to compare performance across MySuper products, placing downward pressure on fees.
The Bill comprises seven schedules.
Schedule 1 has new fee rules for superannuation funds that mean conflicted remuneration, such as commissions, cannot be charged in relation to MySuper products, that ban entry fees and limit exit fees, switching fees and buy/sell spreads to cost recovery in all superannuation funds and imposes parameters that must complied with when a trustee agrees to a performance-based fee with an investment manager in relation to a MySuper product.
These rules ensure that members of MySuper products do not pay unnecessary fees, that a trustee does not enter into performance fee arrangements that are not in the member’s best members and limits certain fees to ensure that they do not unfairly inhibit a member from making active choices.
Schedule 2 covers the insurance arrangements for MySuper products. Trustees will be required to provide members of a MySuper product with life and TPD insurance on an opt-out basis.
This provides an important safety net to members in MySuper that may not actively consider their insurance needs.
Schedule 3 implements new data collection and publication powers for APRA in relation to superannuation and imposes new disclosure obligations on trustees including publishing their full portfolio holdings and a product dashboard on their website.

Transparency of key performance information is crucial to a competitive and efficient superannuation system. For this reason, APRA will have new data collection and publication powers in relation to superannuation.

Members are entitled to information about their investments, therefore, superannuation funds will be required to disclose their full portfolio holdings and a product dashboard to provide key information to members at a glance.

The Government will consider broadening this requirement to other managed investments as part of its response to the parliamentary inquiry into the Trio collapse.

Schedule 4 makes consequential amendments to the Fair Work Act to ensure that only a fund that offers a MySuper product may be nominated in a modern Award or enterprise agreement.

This will ensure that employees that have their contributions directed to a fund nominated in a modern award or an enterprise agreement will benefit from having their contributions placed in a MySuper product if they do not wish to choose another superannuation product.

Schedule 5 exempts defined benefit funds and defined benefit arrangements from the requirements of the MySuper regime. This will allow defined benefit funds to continue to be used as a default fund by employers.

Defined benefit members are entitled to benefits that are not altered by the charging of fees or the investment strategy adopted. Therefore, the MySuper regime is not designed to apply to defined benefit arrangements.

Schedule 6 requires trustees of superannuation funds to transfer the accrued default amounts of members to a MySuper product by 1 July 2017.

Moving existing balances to MySuper will ensure that members are able to obtain the benefits of MySuper, in particular a ban on commissions, for their existing superannuation balance as well as for future contributions.

I am aware that there are some concerns with the definition of the amounts that must be transferred to MySuper.

However, the Government’s approach is consistent with the recommendations of the Cooper Review and will allow many funds to simply convert their existing default investment options to a MySuper product.

Treasury estimate that the definition in the Bill could result in $90 billion more being moved to MySuper than the approach suggested by stakeholders. Based on the assumptions of the Cooper review, this translates to approximately $100 million per annum in fees being saved.

Further, all members will be notified before a transfer occurs and will have the right to opt-out of the transfer. Therefore, no member is forced to transfer their balance to MySuper if they do not want to. Trustees will have up to four years to communicate with members about their options.

Schedule 7 introduces new authorisation requirements for eligible rollover funds.

This will ensure that APRA is able to assess that eligible rollover funds are meeting their intended objective of reconnecting members with their lost superannuation and are promoting the financial interests of members.

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

Senator CORMANN (Western Australia) (17:45): The Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 is another case study on how this government can seriously mishandle something that is actually a pretty good idea in principle. The concept of legislating basic consumer protection requirements that are important for superannuation products for people who have not made active choices in relation to superannuation arrangements is appropriate. The coalition have supported it in principle for some time. But of course with matters superannuation the devil is always in the detail. If you do not get your set-up right, it can have pretty devastating and significant
consequences and significant implications for Australians who are saving for their retirement.

The Cooper review recommended the creation of a legislated default superannuation product, which the government has called MySuper. So far, so good. We have been critical in the past of the disjointed nature in which the government has pursued this pretty significant reform. Rather than introduce one package in one go so that we can assess the merits of this particular change as a whole package, we have had tranche after tranche after tranche dealing with various bits. Some of the bits in this tranche are pretty significant, certainly in the way the bill was initially introduced.

We are talking here of a bill which is more than 100 pages long and it will make some pretty fundamental and, in parts, controversial changes to Australia's superannuation retirement system. The Minister for Financial Services and Superannuation introduced a bill initially, which was in terrible shape and which included provisions which would have had some terribly devastating consequences for people in superannuation funds across Australia. For example, more than one million Australians would have been exposed to an automatic transfer of their superannuation funds—about $43 billion worth of superannuation savings—out of their chosen fund, into the government's legislated MySuper default fund product, without being asked for their prior approval.

That is of course entirely inappropriate. No government should be able to shift people's money out of their chosen superannuation fund into a legislated MySuper default fund without, in particular, seeking people's prior approval, given some of the costly adverse consequences that can flow from that.

Just to start at the end, yesterday in the House of Representatives Minister Shorten completed and totally backed down from the most controversial change in this legislation, which the coalition criticised from the outset, which was the proposal to force super fund trustees to shift people's superannuation savings, including out of funds where they had exercised active choice, into legislated MySuper default fund products without seeking people's prior approval. He totally backed down. He moved a comprehensive amendment which protected the interests of those Australians, an amendment which had been sought by the coalition as a condition for us not opposing this legislation.

But why did Minister Shorten get it so fundamentally wrong? Minister Shorten got it so fundamentally wrong for a range of reasons. Firstly, there is his general ideological blind spot, which means that he does not see straight when it comes to superannuation. He takes advice from one segment of the superannuation market when he puts these things together initially and then, when things come apart, he is forced to fix things up as he goes.

But let me talk through the lack of process here, because we have the Minister for Finance and Deregulation in the chamber here. One of the areas of responsibility that Minister Wong has relates to the Office of Best Practice Regulation. One reason why Minister Shorten gets things wrong, whether it is with FoFA, with MySuper or with a range of other things, is that he does not follow proper process.

I will give you one example: whenever there is a significant regulatory change that is unlikely to pass the government's procedural requirements around regulatory impact assessments, what does he do? He seeks an exemption from the regulatory impact assessment process. Whenever there is a
piece of legislation that imposes inappropriate excessive red tape, inappropriate excessive costs, inappropriate and excessive adverse consequences for people across Australia, which should be scrutinised through a proper regulatory impact assessment and a proper cost-benefit analysis, what does Minister Shorten do? He writes to the Prime Minister: 'Can you please give me an exemption from having to submit this piece of legislation through the process that we promised the Australian people we would go through'—and this bit is not written—'because, essentially, I don't think this legislation would pass that sort of scrutiny.' Minister Shorten introduces flawed legislation. If he had gone through proper consultation with appropriate and representative organisations—not just his friends in the union-dominated industry super funds movement but across the board—and if he had sought proper advice in an unbiased fashion, then he would have been able to pick up some of those flaws much earlier.

This whole MySuper process has been going on for years. But then Minister Shorten introduced the third tranche of this legislation back in October. Initially, he did not want to have any parliamentary inquiry into it. Initially, he said, 'There is no need for an inquiry.' When we wanted to refer it to the Parliamentary Joint Committee on Corporations and Financial Services he did not want that to happen. When it did happen then, all of a sudden, the Labor members on that committee did not want to have a hearing. They wanted to have it all done within a week.

We had to suggest to them that, if there was not a proper hearing, we would report that to the parliament and seek the support of the crossbenchers to judge the merits of this legislation as a result—and that changed their mind. In the end they rolled over on that. In the end the PJC had a half-day hearing where we were able to hear from very important witnesses like the Financial Services Council and others for just 30 minutes each. There were half a dozen people wanting to ask questions about a bill that is making substantial changes to people's superannuation arrangements, with significant consequences for the way their retirement savings develop into the future, and we had 30 minutes per witness in a half-day hearing. It was completely and inappropriately rushed.

It gets worse. This is all on the public record. Labor members of the committee in their majority report said, 'Just pass the bill.' It came down to coalition members of the Parliamentary Joint Committee on Corporations and Financial Services to identify the many and serious flaws that needed fixing. Yesterday, at the last possible minute, the government rolled over and made the sorts of changes that we were after. This was a significant policy victory for us on behalf of Australians who are planning for their retirement and were at risk of having their savings transferred automatically and without their prior approval to a government legislated MySuper account.

This bill, the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill, requires that trustees transfer so-called accrued default amounts to a MySuper product. These are supposed to be retirement savings where a member has not exercised choice, but the bill as originally drafted went much further than that. It would have changed the investment strategy of many Australians by forcing the transfer of potentially large amounts of money from funds where individuals had made a clear and active choice about their
superannuation to a MySuper default product without the need for prior approval from the individual concerned.

Yesterday in the House of Representatives, the coalition secured comprehensive amendments from the government to resolve this and other issues. Why didn't Labor members on the Parliamentary Joint Committee on Corporations and Financial Services see the overwhelming evidence that there were serious flaws in this legislation? Why didn't Senator Thistlethwaite look at the evidence that was before us when we went through this inquiry? Why didn't government members see what we all could see and what the Minister for Financial Services and Superannuation finally had to concede—that what the government was proposing was entirely inappropriate?

Quite frankly, if an individual Australian has made any sort of choice in relation to their super fund arrangements, it is none of the government's business to force transfer of their superannuation savings into any other account without seeking people's prior approval. The only exception to that that the parliament has agreed to in the past is in relation to very small amount accounts—accounts of less than $1,000—where, of course, the issue of fees and so on arises and where there is a public benefit in merging people's accounts in order to minimise the level of fees. But, as a general rule, if in the past somebody has been contributing, year in, year out, with their superannuation contributions paid by their employers into a superannuation fund that they have chosen specifically, it is none of the government's business to interfere with that.

In our view, the truth of the matter is that Bill Shorten has shown once again that he is not on top of his portfolio. Maybe he has too much on his plate. He is the minister for unions and the minister for union dominated super funds. Then, of course, he is the minister who has to run the occasional defence for the Prime Minister and who has to do a whole series of other political things as he continues to climb that Labor ladder of opportunity. He fought against having any inquiry into this bill when the coalition tried to have it referred to the corporations and financial services committee. Despite the rushed inquiry, coalition members on the PJC identified serious flaws which the government now has had to acknowledge and act upon with significant last minute amendments. Bill Shorten should have done his homework from the start. Labor members of the parliamentary joint committee should have recognised that the evidence about massive flaws in Mr Shorten's initial MySuper bill was overwhelming. Minister Shorten had seven weeks from the time the committee reported to draft his amendments. Instead, he has waited until the second last day of sitting for the year to start consulting with industry about an actual government amendment. So there was quite a flurry of activity yesterday to get the amendment right. Why did it take so long? This process has been going on for years. At the last minute, having rejected the need for an inquiry, he has completely and utterly rolled over and fully accepted all of the coalition's sensible and very constructive recommendations to fix this bill, as set out in our dissenting inquiry report.

This is no way to run a portfolio, especially a portfolio that deals with the retirement savings of Australians. Without the changes secured by the coalition, many Australians with superannuation in affected accounts would have faced costly adverse consequences, including being exposed to transaction costs and fees as assets had to be sold and repurchased in the new fund as the forced transfer was happening, potentially
being placed into a fund with lower returns or higher fees, potentially being placed into a fund with a higher risk investment profile, and being exposed to the risk of losing life and/or total and permanent disability insurance.

The coalition succeeded yesterday in forcing the government to amend this bill and so the bill that is before the Senate now is the amended bill, as amended by the House of Representatives, so that a member who has previously exercised choice cannot be automatically transferred into a MySuper product by having previous contributions defined as an accrued default amount. The coalition has also achieved amendments to the legislation to avoid a potentially serious constitutional issue.

The bill as drafted did have the potential to break existing contractual arrangements and there was potential for legal challenge for breaching section 51 of the Constitution, the section that deals with the acquisition of property on just terms. Whilst the government has seen sense at the very last minute, this mess could have been avoided by proper process and proper consideration before the legislation was put before the parliament. It again shows, as I said at the beginning, that Bill Shorten's approach to running his portfolio is rather shambolic and disorganised, and that is why he has to keep fixing things on the run.

There is, of course, another problem with this bill. The government is introducing this MySuper default product but says at the same time—and it was said yesterday by the government in the debate about the changes to the Fair Work Act—that these products are not good enough as default products. I see Senator Thistlethwaite over there looking a bit intrigued and concerned about the fact that somebody on the government side would have said that, but that is exactly what Senator Jacinta Collins said yesterday. She said that to allow employers to choose any MySuper product as a default product for their employees would actually expose those employees to the risk that the employer would not act in the best interests of the employees in the MySuper product of their choosing.

Our argument here is that we support the creation of this default fund product, legislated as we are progressing it here today. But we think any product that qualifies for registration as a MySuper default fund product, because it complies with all the consumer protection requirements the government thought were necessary and that have hence been included in this legislation, should be able to compete freely in the default fund market. There is no need for an additional level of red tape, for an additional level of government intervention on top of that.

If the government believe they got this legislation right, if the government believe that this legislation has in it all the consumer protection requirements that are necessary for a default fund product, then why are they scared of competition between any such product that qualifies for registration as such a default fund product? And of course the reason is very clear. It is because the process the government put in place when the Fair Work Act was first established is a process that inappropriately favours union dominated industry super funds. It is a widely discredited process through Fair Work Australia that is anti-competitive and closed-shop. It is a process that is littered with inherent conflicts, with conflicted parties who act at the same time as delegates for unions for employer bodies and as super fund trustees in the super funds listed on the modern awards.
Even the government, in the lead-up to the last election, had to concede that it was an inappropriate process, which is why they made a promise, in August 2010—and Senator Thistlethwaite, I encourage you to have a look at the Labor Party's superannuation policy in the last election—in the lead-up to the last election that they would change it. They recognised that the system, the way it was, was broken and inappropriate and that there was a need for an open, transparent and competitive process for selection of default funds on the modern awards and other relevant industrial instruments, and that they would do that. It took Minister Shorten forever, but eventually he got around to calling a Productivity Commission review. But of course, as the Productivity Commission was halfway through their process, he intervened and made sure that the Productivity Commission understood that free and open competition was not an option. He stopped them in their tracks after they recommended genuine competition in the interim report. He responded to the review before it had finally reported in order to prevent the opening up of default super fund arrangements to genuine competition.

That is why the coalition will move amendments again here today to ensure that any MySuper product can compete freely in the default super fund market. It is because, strangely, the coalition has more confidence in the MySuper product structure than the Labor Party seems to have. The Labor Party seems to think that Fair Work Australia has to do another check on the MySuper products that are registered under this legislation. It is just a ridiculous proposition, which is why we are moving our amendments.

Senator THISTLETHWAITE (New South Wales) (18:05): It is appropriate that one of the final bills that this Senate debates in the course of this year is a further addition to the government's reforms to superannuation. This bill, the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012, is the third tranche in a series of reforms aimed at strengthening our superannuation system, providing greater transparency, accountability, efficiency and ultimately productivity for members and funds throughout the country. Before this, the Senate approved the Superannuation Legislation Amendment (MySuper Core Provisions) Bill and the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill. Each of these two bills includes elements to implement the Stronger Super arrangements, to implement a low-cost and simple superannuation product that will replace the existing default superannuation funds.

This bill introduces a number of very important reforms to superannuation, particularly in relation to the abolition of fees relating to commission payments and the establishment of the rules for intrafund advice and for collection of disclosure of information by APRA and greater information for members.

In respect of fees relating to commission payments, an applicant for a registered superannuation entity applying to offer a MySuper product must elect that they will not charge any member a fee regarding the MySuper product, that relates directly or indirectly to conflicted remuneration to a financial service licensee. Importantly, there is a second part of that election, and that requires the applicant to prohibit a registered superannuation entity licensee from paying premiums on insurance policies that have embedded commissions.

In respect of performance based fees this law sets five criteria that must be contained
in the terms of an arrangement the fund has with an investment manager. Those criteria include that fees are appropriate to the investment to which they relate, measured by performance of a similar investment product; are determined on an after-cost or after-tax basis; and include disincentives for poor performance.

In respect of intrafund advice—this is advice which is dispensed to members for which the cost can be covered across the full membership of the fund—restrictions on the types of personal advice that superannuation trustees can charge across the membership are introduced. A trustee is not able to charge across membership for personal advice if the person has not acquired a beneficial interest in the fund or the advice relates to a product other than a pension fund or a cash management facility, or the advice relates to consolidation, or if the advice relates to ongoing personal advice.

Collective charging for advice is allowed if it is related to a pension fund, a related insurance product or a cash management facility. Built into these laws are regulations for further circumstances to be added with respect to intrafund advice. So, again, we are tightening up the criteria for the charging of intrafund advice so that members of superannuation funds are not burdened with unnecessary costs.

General fees can only be charged in respect of an advice fee, an activity fee and an insurance fee. But all must be charged on a cost-recovery basis. Entry fees, under this legislation, will be banned and certain buy-sell spreads, switching fees and exit fees can only be charged on a cost-recovery basis. The bill also, importantly, deals with insurance in relation to MySuper products, and it stipulates that the trustee must provide MySuper members with death and permanent incapacity insurance to a minimum level unless the member opts out or the fund permits a lower level of life insurance.

One of the highlights and strengths of this bill is greater disclosure and collection powers for APRA with respect to information that relates to super fund members. Superannuation is a compulsory system of retirement savings, so it is entirely appropriate that superannuation licensees do everything that they reasonably can to ensure that there is complete transparency for financial product members in respect of the fund that they have an equitable interest in. To achieve this, APRA will be given additional powers to collect additional data from superannuation licensees. And APRA will be required to publish this data on a quarterly basis on their website and ensure that information relating to returns, fees and costs of all MySuper products is available to the public.

The bill also introduces the notion of a product dashboard—an easy, simple to understand, publicly available portal that superannuation funds must provide to their members and members of the public. The information that will be required to be provided on the product dashboard will include the investment return target, the number of times the current target has been met in the last 10 years for the particular fund, the level of investment risk, the statement of liquidity of the fund and the average amount of fees and other costs. Funds will also have to disclose the remuneration of directions and executive officers of the fund.

So, once again, we are improving the amount of information and the transparency associated with the management of the fund for members. The bill deals with the listing of particular MySuper funds in modern awards. Senator Cormann has made some
comments about this and the fact that the opposition still cannot get over the fact that industry super funds offer better value for money, lower fees, better net investment returns and lower commissions for members.

This has been proven over many years, and when the coalition sought to introduce choice of superannuation fund legislation they believed that there would be an exodus from superannuation funds that were managed by industry bodies and those that involved joint management, but again they were wrong. In fact, people tended to move to industry funds because of their superior performance.

What the government has done with respect to modern awards in this bill is adopt the recommendations of the Productivity Commission. In conjunction with the reforms that have been passed by the Senate relating to the Fair Work Act, that will provide for default funds to be listed in awards that must be authorised to provide a MySuper product.

The point that Senator Cormann fails to recognise and disclose to the Senate is the fact that every employee has the choice of which fund they pay their superannuation into. When anyone begins a job these days they get two forms—an employment declaration form relating to a tax file number and a choice of superannuation fund. Even when we begin as senators here we get a choice as to which superannuation fund we contribute. It is a choice all Australian employees have. Employees have the choice as to which fund they pay into; it just happens to be the fact that most employees choose to pay into industry based funds because of their superior performance.

The bill also deals with defined benefit funds, and exempts certain employers from making contributions into MySuper funds if their employees are being looked after in terms of their contributions being made into a defined benefit fund. Importantly, the bill also deals with the process of transition from current default funds into the MySuper regime. These transitional provisions ensure that by 1 July 2017 all employees in default superannuation funds have made the transition into a lower cost, more competitive and efficient MySuper product. The amounts that are transferred are referred to as ‘accrued default amounts’. The amounts that will be transferred as accrued default amounts will be amounts where a member has not exercised investment choice or amounts held in a default investment option for the fund.

As Senator Cormann has mentioned, the government has agreed in the House of Representatives to amendments to the original legislation that would exclude funds held in cash, in particular funds where the member has directed the fund to hold those funds in cash for whatever period. Of course a member can opt out of the transfer process in writing at any time. The provisions also deal with eligible rollover funds and their basis as a temporary repository for the interests of members who have lost connection with their superannuation accounts. Schedule 7 of the bill amends the SI(S) Act to require trustees to obtain authorisation from APRA to operate an eligible rollover fund.

That is a summary of the provisions of the bill. Again, they deliver on this government’s commitment to make superannuation in this country simpler, more affordable, more efficient and easy to understand. It is part of the government’s commitment to providing a stronger superannuation system; to ensuring that as our population ages, as it places more and more pressure on our social security system, we are growing the nest egg of retirement savings, but we are also doing that in a manner that is fair for employees and provides greater efficiency for members of
superannuation funds and, indeed, the business community as a pool of investment funds. I commend this very important bill to the Senate, and I congratulate Minister Bill Shorten for his excellent stewardship of the government’s MySuper reforms over the course of this year.

Senator BOYCE (Queensland) (18:17): I was about to congratulate Senator Cormann for his ability to fix the legislation that was so poorly put together by Minister Shorten in the first place. We have, yet again, a piece of incompetent legislation. The only thing we can say about this legislation is that in the form it is now in, with the coalition’s amendments to it accepted, it is a far better attempt at legislation than the unclaimed moneys legislation was.

But I would like firstly to look at a couple of the points that Senator Thistlethwaite made. As I pointed out, this bill in its original draft would have changed the investment strategy of many Australians by forcing the transfer of potentially very large amounts of money from funds where individuals had made a clear and active choice about their superannuation to a MySuper default product without the need for prior approval from the individual concerned. The coalition has now got some amendments to resolve this and other issues.

As for congratulating Minister Shorten, we need to keep in mind that this legislation, Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill, was originally introduced in September this year into the House of Representatives. It was only that Minister Shorten was forced to look at how bizarre some of his suggestions were, how anti-competitive they were and how they were quite likely to lead to constitutional challenges that forced him, finally, to have a look at the amendments that we were suggesting. We have a timetable on this legislation, the stronger superannuation legislation, of which this is the third tranche, which started with regulatory impact statements being done in September 2011. Long before any of the final versions of the legislation were available, some aspects of the legislation were quite deliberately exempted from the regulatory impact statement. The Office of Best Practice Regulation points out:

The Prime Minister granted exemptions from the requirements for regulatory impact analysis in relation to the ability of funds to offer tailored MySuper products to employees with more than 500 employees, and extension to the date by which trustees will be required to have transferred the balance of existing default funds into MySuper products.

So we have the regulatory impact statements in September 2011, long before original legislation of any type was available—particularly in relation to this third tranche. This bill was brought into the House of Representatives on 19 September 2012 and now, on the last day of sitting, we have bills being gagged so that Minister Shorten can get this piece of legislation through to please his friends in the industry funds.

I do not think any of that is a matter for congratulations. Nor is the fact that, as deputy chair of the Parliamentary Joint Committee on Corporations and Financial Services, there was an attempt made for an inquiry not to be held into this legislation on the basis that we had already had lots of inquiries into Stronger Super. Every time a new piece of legislation with new requirements in it is brought to this house, I believe that the corporations and financial services committee, which has in the main had a long and proud reputation of examining legislation in a bipartisan way, should review it.
Certainly our review of this legislation, very brief as it was given the highly truncated reporting period that Minister Shorten allowed on the bill, found serious flaws, which finally the government has acknowledged and has now acted on with these five to midnight amendments. At least they are earlier than the 10 past midnight changes that need to occur with the unclaimed money bill. Minister Shorten should have done his homework from the start. This is a mess.

I was somewhat displeased to hear Senator Thistlethwaite doing a free advertisement for industry funds and recreate the fable around the cheapness, efficiency etcetera of industry funds. He probably belled the cat in terms of the fact that this government would love to force everyone into industry funds. That would be their optimum way of proceeding, because that way there would be so much more money available for unions to conduct business however they like, not what is in the best interests of employees or employers—or in fact the economy of the country.

The mistake that was going to come through under the original 'accrued default amount' definition in this legislation was that all existing default fund accounts, as well as the balances of individuals who had previously exercised choice of fund but who remained in the default investment option of their chosen fund, would be swept up into the new default MySuper product. Minister Shorten and others initially claimed that this is because this is what the Cooper review has said. But the Financial Services Council submission to the very brief inquiry that the Corporations and Financial Services Committee held pointed out that in fact what the government was proposing had gone way past what was proposed in the Cooper review. I quote from the FSC submission:

Through the Cooper Review and the Stronger Super … consultation in 2011, it was not contemplated at any time that choice superannuation funds would be subject to default/MySuper transitional arrangements.

According to the Cooper Review:

The major difference in the choice architecture model is the clear distinction to be made between MySuper and choice products, as either may be offered by large APRA funds. The Panel's broad starting point in relation to the choice architecture model is that, as far as is reasonably possible, if the trustee of a large APRA fund does not wish for a product to comply with MySuper or ERF criteria, the product should continue to operate much as it currently does.

We are talking about APRA approved funds. The FSC submission continued:

A choice product trustee would be able to determine the extent to which it differs from a MySuper product in relation to the offer of investment choices, intra-fund advice or retirement products, among other features. This is appropriate and will allow the creation of a competitive choice sector.

Well, the last thing this government wants is competition in this area or for people to have the ability to make their own choices about where their superannuation goes. It is just obscene the efforts that are being put into forcing as much of employees' superannuation funds as possible into the industry funds and therefore into the supporters of the Labor government.

We only need to look at some of the current cases to suggest why this is not a good idea. For example, we have the CFMEU telling Cbus, CFMEU's superannuation vehicle, that if they do not stop investing in Grocon the CFMEU will go and find a different superannuation provider. Well! Every individual shareholder in Australia has the right to look at the ethics of the investment strategy of the body that they are involved in and choose to pull out their funds. But it is quite a different matter when
a union attempts to blackmail an industry fund because of what they choose to invest in. It is quite fine for a shareholder to look at the ethical propositions put in terms of investment by a superannuation fund or any other body, but only to look at the ethical framework, not to start saying, 'If you invest in company A or company B we will pull our money out.' Of course, the CFMEU directing that all their members' funds come out and an individual shareholder pulling out of a company are quite different.

It is one of the many, many reasons that we currently need far better legislation to look at industry funds and look at the way they are regulated—and to consider that in fact they should have the same need to be overseen as public boards. It is a really serious problem that we currently have in this area. It just adds to the concerns that are raised by other problems that have developed within the Health Services Union and the AWU in recent weeks that suggest that we really do need to have a full judicial inquiry into the way the unions and industry funds run their association at the present time. There is just too much room there for corruption and for lack of transparency.

This government legislation, before it was amended, certainly was in no way assisting in developing transparency; it was only designed to assist the growth of industry funds and to do it—believe it or not—without even the approval of individuals being sought when their superannuation was moved out of one fund into another. It is beyond belief that the government thought they would get away with this.

Some people have suggested that this is very rushed legislation on Minister Shorten's part. I think in fact it was quite a deliberate strategy that he hoped no-one would pick up. I am pleased to say that he was completely wrong in that and that there has been a lot of concern, particularly about the constitutionality of what he initially proposed in this area.

**Sitting suspended from 18:30 to 19:00**

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (19:00): Madam Acting Deputy President Boyce, could I just take this opportunity before I start talking on the bill to wish you and all the other senators a very merry Christmas and all the best for next year. Could I also mention the staff, not only the staff who work so hard for the senators in this place but also the Senate staff, those who help with the operation of this establishment, who really work hard. It has been a great learning experience for me in my 4½ years, coming from the farm and small business and so on, always having the attitude of, 'Oh, public servants. They do nothing.' That was until I came to this place and saw them walk in at seven in the morning and walking out at 11 pm and midnight. They are also so professional in their work, and I would like to thank the Clerk and all associated staff for the wonderful work they do here in the Senate.

The Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 is the third tranche of legislation implementing a recommendation of the Cooper review into Australia's superannuation system to introduce a new, low-cost superannuation product known as MySuper to replace existing default superannuation fund products. I will commend the Labor government for introducing superannuation many years ago, and, of course, following governments for maintaining it. I believe we are now heading towards $1.4 trillion put away in superannuation—a huge amount of money. Sadly, after the global financial crisis set in in 2007-08, with the crash of the stock
market the value of that superannuation went down enormously.

Hopefully, with good times ahead, good government, and a return to success in the private sector we will see those shares return to some of their higher levels. No doubt by the time those who are very young, 20, 21 and 22, come to retire at the age of—who knows: 67, 70—they will have a good stack of money put away to get them through their retirement and relieve the burden from the taxpayer. We know now of the shortage of government money. We see the government debt. We see, sadly, lack of business confidence in Australia. This is largely a result of many of the things this government has done, but hopefully that business confidence will return. Even growth has been forecast for next year and the year after, according to Westpac's economists. Hopefully we will return to those days of growth where people could fulfil their life's dream of owning their own home, putting enough away in their super and retiring where they could be financially secure without relying on the fellow taxpayers of our nation.

It is quite alarming, I know, being in small business and employing people. Super does cost. Of course, when it was phased in, workers did sacrifice wage increases to get their super in line. I want to make a point here about the talk of raising super from nine to 12 per cent and, even as former Prime Minister Paul Keating suggests, to 15 per cent. The former Prime Minister is suggesting a two-phase superannuation system, with phase 1 there to support those of the ages from 60 to 80 in retirement and phase 2 going from 12 per cent to 15 per cent, where three per cent of that money will be put into a government backed longevity fund to help pay for the needs of the over-80s. I have some serious reservations about that.

People work and put their super together. Who is going to pay for it to rise to 15 per cent under former Prime Minister Keating's plan? You cannot make business pay. Already we are seeing too many businesses in Australia trying to compete against overseas businesses where the labour is very cheap—places like China and other parts of Asia, as well as Africa, where we have a high Australian dollar which has been brought by money pouring into our country and being invested in Treasury bonds to finance the $253 billion gross debt that this government has built up. We see money coming here as our Reserve Bank cash rate is still over three per cent, when many of the official cash rates around the world are zero or just a bit above. So investors see Australia as somewhere they can get a good return, hence the market of the Australian dollar. The sentiment has been bullish for many years now and we have seen the Australian dollar trading by parity, making it very hard for people in rural and regional Australia who rely on income from exports, whether it be the grains industries, the export beef market or even the dairy industry, which produces some nine billion litres of milk each year. In Australia we only consume around 4½ billion litres a year, so we rely heavily on exports and that high Australian dollar is hurting us.

The point I make is that when we are tinkering with super and talking about increases, we cannot make the businesses pay for it. I remember when I was in small business that I paid my employees' super but I did not have any myself. A lot of people in small business are like that. As they should, they pay award and often above award wages to their workers. But often the owner of the business gets the smallest slice of the cake. They do not receive wages from the business when times are tough and they do not have super. I came into this place at the age of 53
years old with $1,650 worth of super, which is not much when you get to the age of 53. I put $4,000 away in a super fund during the wool boom of the late eighties–early nineties. Then I could not contribute anymore, and that $4,000 just shrunk down with fees until I cashed it in and put the little bit left, $1,650, in with my AGEST super.

Getting back to this legislation. The bill, as originally drafted, would have changed the investment strategy of many Australians by forcing the transfer of potentially large amounts of money from funds where individuals have made a clear and active choice about their superannuation to a MySuper default product without the need for prior approval from the individual concerned. That is concerning.

However, on this occasion the coalition has scored a significant policy victory for Australians planning for their retirement who were at risk of having their savings transferred automatically, without their prior approval, to a government-legislated MySuper account—just automatically. The coalition has secured amendments from the government to resolve this and other issues.

Minister Bill Shorten wanted to rush this flawed legislation through in early October. But the Parliamentary Joint Committee on Corporations and Financial Services held an inquiry and reported on 9 October. This is one of the huge criticisms I have with this government: rushing things. We look at the stimulus package, and the crazy $42 billion, where money was simply rushed out into the economy. We go back to the $900 handouts, which was to stimulate the economy. Sadly, much of that money went into poker machines or buying things like televisions and luxury items, most of which—in fact, I could say with confidence: all of those electrical items—were made overseas. It was a stimulus package for China; that is what the stimulus package was. And it was rushed, of course, through the school buildings program; with the absolute mess in New South Wales by the previous government managing that school buildings stimulus package. Small buildings, which I would say would be worth about $120,000, were being constructed at a cost of $330,000 and more.

There has been plenty of toing and froing over amendments in this legislation. That is what you get when a minister tries to rush legislation through. It was all too rushed. I ask the question: why rush in the MySuper? Is it about the super funds that the unions are involved with that seem to be very friendly to the Australian Labor Party? Is that what was behind the original rush of Minister Bill Shorten, when he attempted to bring this legislation in some time back?

The current process for the selection of default funds under modern awards, initiated by this government and run by Fair Work Australia, lacks transparency. It is littered with inherent conflicts and inappropriately favours union dominated industry super funds. And that is a great concern: the union dominated industry super funds. I was a member of a union once—in February 1978. We had a drought in 1977 in South Australia and I went out shearing to pay the bills. It was not long after a state election in South Australia when the then Premier Don Dunstan was re-elected, and his campaign was 'Unionism is not compulsory'. So we were shearing at Carriewerloo Station, 17 miles out of Port Augusta, from memory—in fact, the shearing shed where they made the film Sunday Too Far Away, with Jack Thompson, which I am sure many people have seen. When the rep came in he said to me, 'Have you got a union ticket, mate?' I said no. He said, 'Do you want me to take it out of your wages or do you want to pay me now?' I said no. He said, 'The Premier said unionism is not compulsory.' He said, 'Well, it's not
compulsory—either buy a ticket or leave the shed; take your pick.'

Senator Jacinta Collins: Sounds like an AWA!

Senator WILLIAMS: The Australian Workers Union, AWU.

Senator Jacinta Collins: No, a workplace agreement.

Senator WILLIAMS: No, this was compulsory unionism under the Dunstan government. So, anyway, they took the price of a ticket out of my wages and ironically, next shed, they made me the union rep! This bloke came up to me and said, 'I haven't got a ticket; will you get me one?' I said, 'I wouldn't know where to get them, mate; get your own.' That was my 12 months in the Australian Workers Union. I saw how the union movement worked then: it was hold a gun at your head or leave the shearing shed—as simple as that. If you did not join the union, you had to leave your job. It was a terrible situation. Of course, the then Labor Premier Don Dunstan, now the late Don Dunstan—

Senator Jacinta Collins: A great man!

Senator WILLIAMS: I won't take that interjection—I will get into an argument!

The ACTING DEPUTY PRESIDENT (Senator Boyce): That is good, Senator Williams—don't!

Senator WILLIAMS: And of course he was wrong with his election campaign that unionism was not compulsory. I found from personal experience—which is all I have to offer this place at any time—that unionism was compulsory.

We talk about transparency. Remember the last election? This government would be honest, transparent, tell-all, true to the Australian people—I think that during the campaign we saw the real Ms Julia Gillard. We had seen a few Ms Julia Gillards as the weeks had gone on, and people like Mark Latham were doing a good job in regard to the coalition's campaign; others were leaking here, there and everywhere—and transparency was the big thing.

Union members must ask themselves a question these days: what do they get from their union? I wonder what the lady tonight working in the country hospital cleaning the toilets and the bathrooms, and a member of the Health Services Union, is getting for her union fees. These are the battlers, the essential ones who work in our hospitals. They must be absolutely disgusted with what has been revealed has happened to their funds—absolutely disgusted. And no doubt in the future, if it is not happening now, we will see a mass walk-out of the union movement because of the disgusting and dreadful way that their members are being treated. I won't go onto the Australian Workers Union—I was a member for 12 months, remember. I also remember a bloke telling me, 'You must resign when you are a financial member or they'll sue you.' I said, 'Sue away, you can't get blood out of a stone.'

But back to the legislation. Even Labor has had to finally recognise that, in its 2010 pre-election policy on superannuation, when they promised the introduction of an open, transparent and competitive process to select default funds under modern awards. I take a lot of credence out of what Senate committee reports do—a good part of this place is the Senate committee inquiries into legislation. This piece in the coalition's dissenting report struck me. I will read it out to you, Madam Acting Deputy President. This is from the dissenting report of the coalition senators into the inquiry into this legislation:

Only a half-day hearing was set aside—
That is how important this legislation is: have a half-a-day hearing for the Senate committee to inquire into it.

with witnesses limited to just 30 minutes for each organisation—

If we talk about the rush, look at how you have rushed the Senate committee inquiry into this. Half a day for the hearing, 30 minutes for witnesses.

meaning the full range of issues has not been publicly canvassed.

It is as simple as that.

Worse still, committee members have only had days in which to assess the very complex evidence presented and draft reports and recommendations.

Transparency? Honesty? Those are words we hear from the Prime Minister at election time. Rush it through with a half-day hearing and 30 minutes for witnesses. It looks to me as though the government did not want this legislation to be scrutinised. That is what I must conclude. Surely, why not a proper Senate committee investigation? This is a big new paradigm we were told we would get when the Greens and the Independents propped up the Labor government. Mr Oakeshott said, 'It's going to be ugly but it's going to be beautiful. It's going to be a wonderful government.' Yes, let's rush things through.

Today, the government gives us just 90 minutes to debate this legislation. There are 76 senators in this place who potentially might wish to speak on this bill. But no, the guillotine will drop in 90 minutes. The bill is 100 pages long, so we are giving 90 minutes to a bill a hundred pages long—that is not even a minute a page.

**Senator Edwards:** Even less: it is 45 minutes.

**Senator WILLIAMS:** Forty-five. It has been reduced now. Back to that dissenting report, and I quote:

Given the significant implications of this legislation, including adverse financial consequences for a material number of individual super fund members, Coalition members and senators recommend that:

The government withdraw this bill pending further consultation across the superannuation industry to address the serious flaws identified in this rushed inquiry and to allow for the preparation of a full Regulatory Impact Statement for the whole bill actually before the parliament, which is compliant with the government's own best practice regulation requirements.

But no. It has been a rushed inquiry, half a day of hearings, 30 minutes to witnesses and rush, rush, rush. This was a mess from the start when Minister Shorten tried to rush it through some time back. Luckily, the coalition under the guidance of my colleague Senator Cormann have made some sensible alterations to this legislation, sensible amendments that will make a rushed program perhaps a little bit better.

In conclusion, superannuation is vital. As our population grows, with the baby boomers being the biggest sector of our population, if they cannot fund themselves in retirement it means more drain on the taxpayers—the working people of Australia. Those taxpayers already have enough drain on them because they have one hell of a debt to pay for now, with interest. The shadow Treasurer Joe Hockey says it could be up to $12 billion a year in interest only—$12,000 million must be found before one public servant is paid, before one Australian soldier receives any sort of entitlement, before one age pensioner receives $1. That is the financial stress we have been put under under this government. That is why we need people in the future to be self-sufficient in their retirement. Let us hope that the confidence to the private sector, to the stock market does return. I do feel sorry for those who have just gone into retirement claiming their super after the crash of the global financial crisis,
brought about by ridiculous, stupid bank lending in the United States.

Senator IAN MACDONALD (Queensland) (19:19): I am very pleased to contribute to this debate on the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012. Unfortunately, I will have to curtail my time because I know there are so many of my colleagues who want to make a contribution to what is a very particular piece of legislation, one that requires far more scrutiny than we are able to give it in the very constrained time that has been allowed by the government and the Greens political party.

It is good to see at least that the Greens are in the chamber for the debate. I say to Senator Ludlam that we are constrained in this debate, because you and your Labor Party mates have guillotined this and many other bills through the parliament. Senator, I am not sure whether you were here but in the Howard government’s time when we, on about five occasions, time managed a bill we would then have hour-long contributions by the then Senator Brown, your former leader, and, I think, from Senator Ludlam about how awful and how undemocratic it was, and how the world was coming to an end, because the Howard government time managed two or three bills when those were essential for Australia.

Senator Ludlam: I was here.

Senator IAN MACDONALD: You were here? You were. Well, have a look at the hours spent on Work Choices. Have a look at the hours spent on the Regional Forestry Agreements bill. At any suggestion of curtailment you would have the Greens up one after the other telling the Senate how undemocratic, how awful the coalition was and yet here, in this year of the record number of guillotines, have you heard one peep from the Greens? Not one peep! In fact, that is not unusual because they were there providing the majority for the Labor Party.

Why do Australians take no notice of the Labor Party? Because they are led by a Prime Minister—a leader of the Labor Party—who deliberately told untruths to the Australian public before the last election. Why are Australians no longer listening to the Greens?—if you need evidence of that have a look at even the ACT election—because they see the complete hypocrisy of the Greens political party. If the coalition does something, it is bad, evil, the end of the world, but if the Labor Party does exactly the same thing then it is okay and they will support it.

Senator Ludlam: Madam Acting Deputy President, on a point of order, I wonder if you would care to draw Senator Macdonald’s attention to the question that is actually before the chair.

The ACTING DEPUTY PRESIDENT (Senator Boyce): There is no point of order. Senator Macdonald is speaking to the bill. However, Senator Macdonald, I would ask you to direct some of your comments, please, to the actual bill itself and the content of the bill.

Senator IAN MACDONALD: Madam Acting Deputy President, thank you for that. When I was interrupted I was saying this bill is all about MySuper. One element of it is converting more superannuation when people do not know that it is happening to the union super fund. I have not noticed those from the Labor Party who have spoken declare conflicts of interest, I might say. I know at least one senator who was at the top end of town—he sat on the board of directors of these very big insurance companies. And I suspect there are many others. Perhaps during the course of the debate Labor senators will indicate which of them as union
officials, for no other reason—none of them had any great expertise in the superannuation or insurance industry—than that they were union bosses, suddenly ended up in the boardrooms of some of the biggest financial companies in Australia. They were all getting quite substantial fees.

How do I know that? Because the wink-and-nod arrangement was that, if you were a union official who sat on the board of one of these super companies, the only reason you were there—it was not the quota in that instance—

*Senator Conroy interjecting—*

**Senator IAN MACDONALD:** I can talk about quotas over there. You were only there because you were a union official. The rule was that, if you got $40,000, $50,000, $60,000, $70,000 or $150,000—I do not know what they got—as a director because you were a union official the money was to go into the union. But of course a couple of them—who can blame Mr Thomson—got a little greedy and did not follow the rules. The money they got, and I think in that case—I should not mention it because I am not sure of the facts; I thought it was over $100,000 but it might have been $80,000—

*Senator Conroy:* The one you need to speak to is Kathy Jackson—your heroine.

*The ACTING DEPUTY PRESIDENT:* Order! Senator Macdonald, ignore the interjections.

*Senator Conroy interjecting—*

**The ACTING DEPUTY PRESIDENT:** Stop the interjections, please, Senator Conroy.

**Senator IAN MACDONALD:** Senator Conroy will have an opportunity later, and I hope he uses that. It seems to me that he is defending Mr Thomson. I do not know whether it is true or not. But Fair Work Australia, which Senator Conroy and his team set up and filled up with ex-union officials, even said Mr Thomson was using lowly paid member's money for brothels and free trips around the world. That is not from me—I would not make those allegations. Fair Work Australia, made up of union officials that Senator Conroy and his mutes appointed have determined that, not me. And in the shades of that, this case that I am talking about went to court. The union sued this director of a company because he did not follow the arrangement to put the money into the kit.

*Senator Conroy:* Do you think he kept it in plastic bags in his backyard?

**Senator IAN MACDONALD:** It got to an interesting stage in the court case, and then do you know what happened? It was settled. Would you believe that? It was settled.

*Senator Conroy interjecting—*

**Senator IAN MACDONALD:** So the full facts could not come out, there was not a full-scale court case, and we were never to know what the deal was, who got it. Senator Conroy, if I am wrong on this, please use your opportunity in the debate to tell me this court case that I relate did not happen. You might tell me how it ended up; I do not know, because it just sort of disappeared.

This bill in part of its operations has the impact of favouring the union super funds. I would like to know how many of my colleagues opposite were actually directors of these union super funds.

*Senator Cormann:* Mr Shorten was.

**Senator IAN MACDONALD:** Mr Shorten was. I do not know that; I take your word, Senator Cormann. I am pretty certain he would have been. I wonder how much he got paid in a top-end-of-town job as a director of a very big insurance company.
Senator IAN MACDONALD: Senator Conroy, you can tell me whether he did the right thing and put his director's fees into whatever union he was representing at the time. I would be interested in that. I think it is relevant to this bill, because since this government has been in power there has been quite a number of pieces of legislation dealing with the superannuation industry and the insurance industry.

In fact, I know all of us, including Labor members, were approached by groups of financial advisors, people who deal in the superannuation industry—honest, God-fearing family men, many of them in small businesses in small country towns like the town where I live—who were offended that the Labor Party were saying they were all crooks. As they brought in this legislation that we are debating now, there was a slur cast on these people, who in many cases I know are pillars of the financial advice industry. They are good people. It was a good industry. They gave good and valuable advice. But the Labor Party, and one can only surmise why, were hell-bent on making the public wary of these small businessmen and women.

When you see legislation like this, when you see union officials and former senators sitting in the big end of town around the boardroom table getting big director's fees for their involvement in union super funds, you can only wonder about the rash of legislation before us.

I did want to start my contribution by laughing at Senator Thistlewaite's congratulations for Mr Shorten on this bill. Anything funnier I do not think I have heard, though someone said Julia was honest and I found that pretty funny.

The ACTING DEPUTY PRESIDENT: Senator Macdonald, you must use the correct title of the member.

Senator IAN MACDONALD: Someone said the Prime Minister was honest and we all know that before the last election she showed anything but honesty.

The ACTING DEPUTY PRESIDENT: Senator Macdonald, you need to be careful not reflect on the character of a person in the other house.

Senator IAN MACDONALD: Perhaps I should relate the facts. Here is a leader of the Labor Party who promised hand on heart that there would be no carbon tax under a government that she led and then the first bit of legislation is a carbon tax. If she had not made that promise on the eve of the election, she knows as I know that she would never have been elected. In fact, the Labor Party would have been annihilated. We hear all the comments about how important global warming is, how importance it is that Australia does something and how necessary the carbon tax is. To Senator Conroy, if it is so necessary why did you promise before the last election not to bring it in? I would love to hear an answer to that, even by way of interjection.

Mr Shorten is the architect of this bill, and Senator Thistlethwaite said he has done a great job on it. I only have a few minutes more to speak, unfortunately, but I could spend 20 minutes and then another 20 minutes saying how good Senator Mathias Cormann is. He is in the chamber, sitting at the end of the bench. He was the one who turned this awful piece of legislation into something that is mildly okay. I give credit and thanks to Senator Cormann here.

This legislation was amended yesterday. I have a report here from all the Labor Party people, including Senator Thistlethwaite, who said the bill was great as it was. Were there any Greens on that committee? I am told there were. Senator Ludlam, I do not know who it was, but they said that the bill
as it stood was a great bill and should be passed. Yet, just yesterday, Mr Shorten accepted Senator Cormann's amendment, the amendment in the coalition's dissenting report that the minister had been alerted to seven months ago.

Senator Cormann: Seven weeks.

Senator IAN MACDONALD: Sorry, seven weeks ago. I was not on the committee, clearly. So the coalition alerted Mr Shorten to the flaw. Even if you accept the bill, the way it was presented was wrong. The coalition committee members pointed that out. Did the Labor Party or the Greens members on that committee understand or agree? No. 'Pass the bill as it is,' they said. Thankfully, the coalition put in a dissenting report and they persisted. To give credit where credit is due, Madam Acting Deputy President, I think, you were on that committee too. On our side, we have people who actually understand these things, follow them, have a bit of business experience and a very great understanding of the insurance and the superannuation industry. They were able to see through this while the Labor people all said: 'The minister said it is good. Yes, it's good. Put it in the report.' The majority report was supported by the Greens, who said that the bill should be passed as it is. Thanks to Senator Cormann, an evil bill, if I can call it that, has been made mildly okay.

We are going to move some amendments. I know that you, Madam Acting Deputy President, and Senator Cormann, amongst others, are very keen to progress those amendments. I hope you can speak quickly because at the rate we are going you are going to have about 30 seconds to move three amendments and explain them to the Senate and to people who might be listening to this as to why these are good amendments and should be adopted.

The Greens and the Labor Party have curtailed this debate. I will be voting for those amendments but, like most senators who will be voting on this, I would like to have them explained because I was not on the committee. I would like to question Senator Cormann when he moves the amendments to find out whether they are good amendments, though I am sure they are, but I would like to satisfy myself of that. I am not going to get that opportunity, am I? Of course not. Thanks to the Greens, who joined with the Labor Party, debate on this very, very important piece of legislation will be curtailed.

I am conscious time is running out. I know my colleagues are very keen to make a contribution. I have pages of material here I would like to do it during the second reading stage, I would like to do it in the committee stage of the bill. Senator Ludlam, will there be a committee stage? No. You and your party have ensured that there will no committee stage. The Greens show all their piousness—'Oh, this has to be looked through.' Not a lot of the senators today were here in the days when the Greens used to spend hours telling us how important committee stages were, how important the Senate was and how important full discussion and accountability was. Yet, when they have the ability to make a difference today, what do they do? They join with their mates in the Labor Party to curtail proper assessment of these important pieces of legislation.

I would to say a few more things, but I know my colleagues are very keen to speak, so I will leave it there and urge the Senate to support the amendments which I think are good, though I am never going to find out for sure. They will be moved by Senator Cormann to try to make this bill better.
Senator CASH (Western Australia) (19:36): I rise to speak on the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012. As Senator Macdonald has indicated, despite the fact that there is a list of coalition senators who would like to make a contribution on the record about this bill, they will not be able to because earlier the Labor Party in conjunction with their alliance partners, the Greens, voted to ensure that the bills we are debating today in the Senate will be subject to the guillotine. As such, at 8 pm tonight the guillotine will fall and no further debate will be had in the second reading stage on this bill.

This is, as the Senate would be aware, the second superannuation bill that we have dealt with today. The first was the Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012 and again there were many senators on this side who wished to participate in the debate but were unable to because that bill was also guillotined. I listened to my colleague Senator Ian Macdonald's comments on that bill. It was an exceptionally eloquent speech. The one thing he said that really hit home in relation to that particular bill was this: by that legislation the Labor Party had sunk to a whole new depth. They were now legalising theft as a way of paying off their huge deficit in Australia. They have legalised the fact that they can steal Australian taxpayers' money, because they have no other way now of paying off the debt that they themselves have created.

Then we turn to this bill. This bill in its original form highlighted what is the fundamental ideological difference between the Australian Labor Party and their little alliance partners, the Greens, and those on this side of the chamber. As Liberals, our fundamental belief is that we believe in freedom of choice. We believe in the inalienable rights of freedom and of all peoples. Unlike those on the other side, we believe in a lean government that minimises interference in our daily lives and maximises individual and private-sector initiative. Unlike those on the other side, we believe in the individual. We believe on this side of the chamber in offering the individual an ability to make a choice that suits their own circumstances.

The Labor Party's little alliance partners, the Greens, getting littler by the moment—in the ACT they were all but wiped out—are still able to be bought. We cannot forget that the Greens can always be bought. As I said earlier today when I addressed the Senate in relation to the fact that the Greens had clearly been bought on the guillotine motion, we all know that the Greens can be bought because the Greens were the political party that accepted what is now recorded in Australian political history, and that is saying something, as the largest political donation a political party in Australia has ever taken. You can only imagine when they got the phone call from Graeme Wood of wotif and he said, 'Guess what: $1.7 million is coming your way.' You can just imagine all their morals ran out the door. They did not run back to Hansard to see when they had stood up in this place and condemned the Australian Labor Party for taking donations, condemned the coalition for taking donations, because that is bad, apparently—very bad. But when you are the Greens and Mr Graeme Wood offers to buy you for $1.7 million, apparently that is okay.

Senator Bushby: That is a lot of money.

Senator CASH: It is not just a lot of money, and that is the point. History now records it as being the largest political donation ever taken—

Senator Ludlam: Madam Acting Deputy President, I raise a point of order. I seek your
advice on whether that was a fairly clear impugning of improper motives to the entire Greens Parliamentary team. If it was not, I would like some kind of ruling on how that was not. Accusing the parliamentary team in this place of being bought by donation is a very serious allegation and I call for your ruling on that.

The ACTING DEPUTY PRESIDENT (Senator Boyce): As far as I am aware, Senator Cash was referring to the Greens party organisation. I will take some advice on that. I have now spoken with the Clerk and, as far as I was understanding what Senator Cash were saying, she was referring to a broad organisation, not to the individuals actually elected into this place. But I would ask Senator Cash to ensure that she does not reflect on any of the individuals in this parliament.

Senator CASH: Thank you, Madam Acting Deputy President. As I was saying in response to the interjection from Senator David Bushby, a good friend of mine, it was not just a large amount of money—history now records it as the largest political donation ever given to a political party in Australia. So the next time the Australian Greens stand up in this place and seek to condemn a member of the coalition or seek to condemn a member of the Australian Labor Party in relation to the taking of donations, perhaps they need to reflect on the fact that it is they themselves that received $1.7 million from Mr Graeme Wood, the founder of wotif.

As I stated, the first superannuation bill that was discussed by the Senate earlier today, as Senator Ian Macdonald said, was the legalisation of theft. The Labor Party are now just blindly robbing the people of Australia in order to pay off their debt. What they do with this bill here is almost as bad, almost as evil. The bill as originally drafted would have changed the investment strategy of many Australians not by choice but by forcing the transfer of potentially large amounts of money from funds where individuals have made a clear and active choice—so I as an individual have made a choice in relation to where my superannuation is going to go—to a MySuper default product. What is worse is that the way the bill was drafted the Australian government did not have to tell me prior to forcing my superannuation into their fund, an industry fund, that they were doing it. The Labor government wanted to force an Australian citizen who has exercised choice in relation to their superannuation fund to have that money transferred into the MySuper default product, and they did not even have the guts to tell the individual that that is what they were going to do.

Senator Cormann: It's theft.

Senator CASH: I will take that interjection: it is basically theft; that is exactly right. This was also canvassed in the joint committee inquiry that looked into the bill, albeit on a very, very limited basis. The FFC's submission to the corporations and financial services committee inquiry made a strong argument that the government had clearly got it wrong—and not only that. The government initiated the Cooper review and even the Cooper review said, 'Good grief, you can't actually do this; you've gone way too far.' This is what the FFC submission said: 'Through the Cooper review and the Stronger Super Paul Costello consultation in 2011, it was not contemplated at anytime that choice superannuation funds would be subject to default MySuper transitional arrangements'—not 'was contemplated' but 'not contemplated'. But that does not stop the Australian Labor Party. The mere fact that a review has given certain recommendations does not stop the Australian Labor Party
from doing the exact opposite of what the review has stated.

I stood up in this place only yesterday in relation to amendments to the Fair Work Act, where again the Australian Labor Party spent $1 million of taxpayers' money putting together a review—they handpicked their own panel and cherry pick their mates to sit on the panel to provide recommendations to them as to how they might improve the Fair Work Act. And yet, when push came to shove, where were the recommendations when the legislation came before the Senate yesterday? Oh, conveniently they just were not there because the Labor Party did not like what the review panel had come back with. It is the same with this. The Labor Party did not like what a review came back with, so they decided to do something entirely different.

One of the other interesting parts of this bill, had Senator Cormann not actually negotiated amendments with Minister Shorten, was this: the bill had potential implications for insurance within superannuation. Many Australians take out all types of insurance, but they do so on the basis of their own personal circumstances. This is what this legislation, had it not been amended by Senator Cormann, would have done: the MySuper death and total and permanent disability cover is likely to be less. This is coming from the party that talks about the better off overall test, remember. 'No Australian can ever be worse off.' But this is exactly what this legislation was going to do in relation to insurance. The cover is likely to be less than that currently enjoyed by a member of a choice default fund. Some people who have been covered within their chosen fund for a long time may not be able to qualify for life insurance—and, remember, the government is doing this to you without actually asking if they can do it to you—or they will only be able to qualify on inferior terms given the changes in their personal circumstances since the original cover was taken out in their existing fund.

Again, the Labor Party was trying to force upon individual what they wanted the individual to have, regardless of the fact that the individual had exercised a personal choice. But, worse than that, they were doing it by pushing a piece of legislation through the parliament which stated that they would then be able to do that without seeking the individual's prior consent. It was rushed through a committee. Despite the fact that the bill was rushed through a committee, Senator Cormann has been talking to the industry now for over two years. If you can say one thing about Senator Cormann it is that he knows more about superannuation now than do most people in Australia and he certainly knows more about superannuation than does Minister Shorten. Senator Cormann was the one who identified the very serious faults in this bill. Do you know why we know they are serious? It is exactly as Senator MacDonald said. You have got a report that comes out that says the bill is fantastic. The Labor senators, given their instructions by Minister Shorten, say, 'No worries, the bill is fantastic.' The Greens obviously just fall into line; there is no two ways about that; they probably did not read the bill. But that is fine; they also say the bill looks good. But Senator Cormann and the coalition members of the committee put in a dissenting report highlighting certain issues.

It may have ended there, but yesterday you could almost be assured that the Labor Party were told there were serious problems with its bill and they had better go to Senator Cormann and work out a way they can accept this amendment and change this bill. One of the serious flaws of the bill was that it was potentially going to break existing contractual arrangements and face potential legal challenges for breaching section
51(xxxi) of the Constitution. Well done to the Australian Labor Party! They were introducing a bill that may well have seen a legal challenge because it breached the Constitution. But the good news for the Australian people is that Minister Shorten has accepted Senator Cormann's amendments—

Senator Cormann: At the last minute!

Senator CASH: He only accepted them yesterday. That is why you know there was a problem with the bill: because the Australian Labor Party could not let the bill go through the other place in its existing form. They also could not tell us that they were going to accept the amendments a few days ago because that would have looked bad. But, at the very last minute, they clearly realised that this was a piece of unworkable legislation and, as such, what was a very, very bad bill was made slightly better. But that was not as a result of anything Minister Shorten, the Australian Labor Party or the Greens did; it was only through the due diligence of those of us on this side of the chamber.

As I commenced my remarks I said the guillotine will fall at 8 pm tonight. On that basis, whilst I have a lot more that I could say about this legislation and the fact that if it had not been amended by the coalition there would have been some extremely detrimental consequences for the people of Australia, I will end my remarks here so that another colleague of mine has a brief time to put some comments on the record.

Senator EDWARDS (South Australia) (19:52): I rise tonight to talk about the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 as my colleagues have done. I thank Senator Cash for drawing my attention to a number of other things to which I should refer, but in leaving some time for Senator Bushby tonight I will not revisit them. They are points which I did not know about and, if we were able to go into a committee session before this bill is ruthlessly guillotined tonight—as Senator Macdonald expressed his frustration about earlier—we would be able to flesh out these points so that all the 76 senators in this place were fully aware of what was going on in this important area for all Australians.

I referred to Senator Macdonald: I wish him all the best for his birthday today, and get that on the record. I congratulate him for his win in the Queensland Senate preselection, which will take him to another term here in this place. He will serve the Queensland people well, as he has done dutifully and faithfully for the last two decades.

It is no surprise that we yet again see another example of Labor bringing defective legislation to the debate on superannuation. It was only earlier today that we saw a number of bills go through; namely, the Wheat Export Marketing Amendment Bill. Without the amendments of many of those in the chamber the government would not have been able to get that one right. In an effort to ensure that we did get that legislation right, everybody except the government banded together, got some reasonable outcomes for the wheat industry and were able to push forward in what would otherwise have been—to use a topical expression for this time of year—a very big mince pie.

This government continues to blunder in its inability to provide for the economic wellbeing of each Australian, which each Australian works so hard to achieve. How much does this government expect this country to face with continued financial decline? We are very lucky in this chamber, and they say that every government is only as good as its opposite number: Minister
Shorten is blessed to have Senator Cormann on the other side keeping good government in place—keeping good policy coming forward. It has been pointed out on numerous occasions during this debate that Senator Cormann has been able to remind Minister Shorten of what good policy is, and save him from what would be very embarrassing legislation.

Most significantly detrimental in this bill is the intention to take away an individual's choice in deciding how to handle their hard-earned savings. The effect of this bill, in introducing a new, low-cost superannuation process known as MySuper, is that without approval from an individual large amounts of money from an individual's choice of fund will be automatically transferred to a MySuper default product.

Earlier today we saw another Treasury bill that went through which takes the automatic transfer of inactive accounts from seven years down to one. Why is that? Why would the government want to transfer or co-opt the money on inactive accounts? It is because it cannot balance its budget. It is because it cannot deliver a surplus. It is a cruel hoax. It says it will deliver a surplus in 2013, and that is unlikely. As our colleague in the other place, the member for Longman, Wyatt Roy, said recently, Labor has never delivered a surplus in his lifetime. That is so true. It is a disgrace for the Labor Party.

My colleagues on this side today made clear how flawed this piece of legislation is, and I cannot stress enough the damaging consequences guaranteed to flow on to individuals and businesses. Without choice an individual is exposed to risks of transaction costs, lower returns, higher fees and, potentially, higher risk investment profiles. Again, we are seeing the negative impacts of poor Labor decision making. Labor continues to handle poorly the issue that is most important to Australians—their future security.

This government continues to focus on the concerns of everyday Australians, most notably their costs of living. This is people's own money. This is the nine per cent, soon to go to 12 per cent, that is their money, and it is going into accounts. Why is it that it gets transferred? 'We arbitrarily say that. We're from the government; we know what's good for you.' Labor has a list of failed management policies in the Australian economy, and it is by no means brief. One of the government's clear current economic embarrassments is its failure to produce that budget surplus. Now that the Labor has run up the four biggest deficits in Australia's history—following on from the Howard government's four biggest surpluses—it has spent $173 billion more than it has raised in revenue.

Prime Minister Gillard's recent announcement of her government reopening another 700 onshore detention beds, plus opening thousands more places for community release, is a clear admission that this government cannot stop the boats and has no viable solution to follow. What is the government's solution? Its solutions of Nauru and Manus Island are full. I raise this because it is another example of not being able to get it right. We on this side have had to go to those opposite and counsel them about how they need to amend this bill so that they can get a good policy—an early Christmas present that Senator Cormann has delivered to Minister Shorten!

And we are getting a little sick and tired of doing it. In the 30 seconds I have left remaining—and I am sorry, Senator Bushby, I have not been able to honour you with some time on this. There is obviously so much going on, that we have to get out of here. We will move on to the gambling bill.
shortly—it is only a national gambling bill. What are we allowed for that one? An hour to debate the bill, and we will not even get to the committee session. So, Mr Deputy President, I will sit down—

The DEPUTY PRESIDENT: Order! The time allocated for consideration of this bill has expired. The question now is that this bill be read a second time.

Question agreed to.

Bill read a second time.

The PRESIDENT: The question now is that amendments (1) to (3) on sheet 7323, circulated by the opposition, be agreed to:

(1) Schedule 4, item 5, page 54 (line 22), omit "for defined benefit members".

(2) Schedule 4, item 5, page 54 (before line 23), before subsection 149A(1), insert:

(1A) A modern award must include a term that permits an employer covered by the award to make contributions, for the benefit of an employee covered by the award who is a default fund employee, to any superannuation fund that offers a MySuper product.

Note: An employer may make contributions under this term even if the superannuation fund to which the contributions are made is not specified in the modern award.

(3) Schedule 4, item 6, page 55 (line 20), omit "section 149A", substitute "subsection 149A(1)".

The Senate divided. [20:05]

(The President—Senator Hogg)

Ayes....................31
Noes....................35
Majority...............4

AYES

Macdonald, ID
Mason, B
Parry, S
Ruston, A
Scullion, NG
Williams, JR

NOES

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Thistlethwaite, M
Waters, LJ
Wong, P

PAIRS

Boswell, RLD
Carr, RJ
Evans, C
Heffernan, W
Lundy, KA
Thorpe, LE
McKenzie, B
McKenzie, B
Ronaldson, M
Farrell, D
Sinodinos, A
Thorp, LE

Question negatived.

Third Reading

The PRESIDENT (20:07): The question now is that the remaining stages of the bill be agreed to and the bill be now passed.

Question agreed to.

Bill read a third time.
National Gambling Reform Bill 2012
National Gambling Reform (Related Matters) Bill (No. 1) 2012
National Gambling Reform (Related Matters) Bill (No. 2) 2012

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (20:08): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (20:09): I table a revised explanatory memorandum relating to the bills and move:

That these bills 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—

NATIONAL GAMBLING REFORM BILL 2012
SECOND READING SPEECH

These Bills represent the first time that a national government has legislated to help tackle gambling addiction. The reforms they deliver will help problem gamblers take control of their addictions, and help their families take back control of their lives.

This Bill, together with the National Gambling Reform (Related Matters) Bill (No. 1) 2012 and the National Gambling Reform (Related Matters) Bill (No. 2) 2012, delivers on the Government's commitment to reduce the harm caused by gaming machines to problem gamblers and those at risk of harm, their families and communities.

These Bills enact a series of reforms to help problem gamblers, including the requirement that pre-commitment technology be implemented on gaming machines.

These reforms build on the May 2011 agreement of the Council of Australian Governments Select Council on Gambling Reform to support the infrastructure for pre-commitment in every gaming venue in the country.

The Bills were released as exposure drafts on 17 February 2012, and are informed by consultations since their release with key industry groups, manufacturers, state and territory governments and community groups.

These Bills are based on the evidence and recommendations of the Productivity Commission.

Of course, we know that many Australians enjoy the occasional bet. Gambling is a legitimate industry that provides recreation for many Australians and is a major employer.

For most people, gambling is a form of entertainment that is enjoyed responsibly – whether it's a flutter at the races, buying a lottery ticket, a turn on the pokies or a night out at the casino.

For some people, however, gambling can be highly destructive. Up to half a million Australians are at risk of becoming, or are, problem gamblers.

The evidence is clear. Problem gambling can – and does – ruin lives and destroy families.

Australians spend nearly $12 billion a year on poker machines.

Three-quarters of problem gamblers play the pokies. And one in six people who play the pokies regularly has a severe gambling problem.

Problem gamblers lose an average of $21,000 a year on their addiction. That's about a third of the average annual salary – hard-earned money
that isn't being used to pay bills, the mortgage or put food on the table.

But this isn't just about the money lost. It's the harm problem gamblers inflict on themselves and their families.

Problem gamblers suffer mental and physical health problems, can find it difficult to hold down a job, and struggle to maintain relationships.

People with gambling problems are six times more likely than non-gamblers to get divorced – and they are four times more likely to suffer from alcohol abuse.

The actions of one problem gambler has negative impacts on the lives of between five and 10 other people. This means there are up to five million Australians who could be affected by problem gambling each year – including friends, family and employers of people with a gambling problem.

We also know that the children of problem gamblers are up to ten times more likely to become problem gamblers themselves than children with parents who don't gamble.

And we know that only about 15 per cent of problem gamblers seek help.

We must act to make gambling on poker machines safer. We must act to help protect people whose addiction is hurting themselves and others.

And this Parliament has a duty to act – which is why this legislation is so important.

The Bills brought before the chamber today will reduce the harm caused by gaming machines to problem gamblers.

They respond to the Productivity Commission's 2010 Inquiry into Gambling, into the harm arising through the use of poker machines.

The National Gambling Reform Bill requires that gaming machines in larger venues must be part of a state-wide voluntary pre-commitment system and display electronic warnings from the end of 2018.

We understand of course, that small pubs and clubs, many of them in regional areas, just aren't the same as the big gaming venues in the city. So we have provided for longer implementation timelines for small venues.

Venues with between 11 and 20 gaming machines will have an extra six years – until the end of 2022 – to bring in pre-commitment technology on their gaming machines.

And the very small venues – those with 10 or fewer gaming machines – will be able to implement the technology as they replace their machines in their usual replacement cycle.

All new gaming machines that are manufactured or imported from the end of 2014 will be required to have pre-commitment capability. This means that machines that are turned over from the end of 2014 will already have the functionality required and be 'pre-commitment ready'.

Pre-commitment lets pokie players decide themselves how much they are willing to lose, set a limit before they play – and stick to it.

Under these Bills, people who play gaming machines can choose to register for pre-commitment. Once registered, they can set a 'loss limit' on the amount that they are prepared to lose during a chosen period – known as a 'limit period'.

Once the person reaches that loss limit, the person is prevented from using gaming machines in the state or territory within the pre-commitment system for the rest of their defined limit.

We know that a big part of the problem with gambling addiction is that some people can get into what is called 'the zone'. They sit down with the intention of spending an amount they can afford – but, once they start playing, they get stuck in a destructive cycle they can't get out of.

Getting into the zone can be dangerous – and it can happen quickly.

We know that no one sits down to lose their whole pay cheque, or the week's grocery budget. And that's what pre-commitment helps to protect against. It gives people a tool to help them take control of their own spending.

A player registered for the pre-commitment system will be able to choose not to set a loss limit, and still be able to access transaction...
statements and other player information to help them to track and review their play. Where requested, transaction statements can be provided in electronic form to help players track their play. The Bill also provides that it will be the personal choice of a user whether to register or use the pre-commitment system. However, it requires that all gaming machines be linked to a pre-commitment system. If a person does register for the pre-commitment system, they will also be able to exclude themselves by setting a loss limit of zero.

This will complement existing arrangements currently operational across Australia, which allow some users to exclude themselves from gaming venues.

The Bills protect the privacy of players, by making clear that biometric processes cannot be used in registration for, or access to, a pre-commitment system. The Bill also makes clear that a national database of player information must not be established.

The Bills establish minimum requirements for harm minimisation for gaming machines. States and territories will be able to impose stronger measures, and the minimum requirements can work concurrently with state or territory laws. States and territories will also continue to be able to determine the distribution and number of gaming machines in their jurisdiction.

The Bills also introduce a number of other reforms to support problem gamblers to take control of their addiction.

In addition to requiring gaming machines to be linked to a pre-commitment system, the Bills require all machines to provide electronic warnings to players about their use of gaming machines, and the potential harm caused. These changes will be introduced on the same timeline as pre-commitment, with the same concessions for smaller venues.

We know that warning messages can be an effective way to change people's gambling behaviour, and that dynamic warnings can have a greater effect on people than posters or stickers. This Bill requires warnings to be electronic, so they have a greater influence on player behaviour.

The Bills also introduce a $250 per day automatic teller machine withdrawal limit for gaming machine premises – other than casinos and exempted premises in smaller communities, where access to cash is not readily available from non-gaming outlets. This will take effect from 1 February 2014.

This change responds to the recommendation of the Productivity Commission that a daily limit of $250 could help address gambling harm without overly affecting non-problem gamblers and other patrons. An analysis of ATM transactions shows that 85 per cent of withdrawals from ATMs in venues with gaming machines are below the proposed $250 limit. The Productivity Commission also suggested that the daily withdrawal limit should be adjusted periodically to account for inflation – and this is provided for by the Bills.

The Bills also provide for the monitoring and investigation of compliance with the new legislation, which will be undertaken by the Regulator or their delegate.

The Bills also provide for two inquiries by the Productivity Commission – one into the results of the proposed trial of mandatory pre-commitment, and a separate inquiry to assess the progress made by gaming machine premises towards complying with the proposed reforms as well as a number of other matters regarding specific aspects of the proposed legislation.

These additional matters were raised by the Joint Select Committee on Gambling Reform in its inquiry on the Bills, and were adopted by the Government as part of its ongoing commitment to ensure meaningful reforms to tackle problem gambling are delivered.

Further, the Bills establish a new Australian Gambling Research Centre within the Australian Institute of Family Studies to undertake and commission research into gambling, and to build the capacity for research into this area.

The Centre will be guided by an independent Expert Advisory Group on Gambling, consisting of members of the academic community.

This delivers on recommendations of the Productivity Commission and of the Parliamentary Joint Select Committee on
Gambling Reform, and it is the first time an Australian Government has committed to advancing an independent, national gambling research agenda.

The package of measures outlined in these Bills is supported by two levies – the supervisory levy and the gaming machine regulation levy. These two levies are imposed, respectively, by the National Gambling Reform (Related Matters) Bill (No. 1) 2012 and the National Gambling Reform (Related Matters) Bill (No. 2) 2012.

The gaming machine regulation levy forms a part of regulatory regime to encourage compliance with the legislation, and will only be applied where relevant bodies (non-constitutional corporations) contravene the Act.

The purpose of the supervisory levy is to cover the costs of the regulating the reforms. The Government listened to the concerns raised by industry, and agreed to impose a $10 million annual cap on the supervisory levy amount, with the opportunity adjust it down where the costs of regulating the reforms are reduced.

The Bills also provide that the Regulator may charge a fee for services, such as for application fees associated with becoming an approved pre-commitment provider, which would be likely to reduce the supervisory levy.

These reforms represent the first time the Commonwealth is legislating to help problem gamblers and their families. They will help problem gamblers take control of a harmful and destructive addiction.

And they will help the people who may fall victim to problem gambling in the future.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (20:09): I rise to speak on the package of gambling bills. From the outset, the coalition acknowledges that gambling is a major problem. I think that is a view shared by all colleagues in this place. The coalition does indeed support measures that will effectively tackle problem gambling and help to prevent and address gambling addiction. Any response to problem gambling has to recognise that most Australians gamble responsibly and that many Australians also rely on the sector for their jobs. The coalition supports voluntary precommitment, as do the states. Labor's approach in this matter seems to depend on whom they have done a political deal with most recently and what the particular month of the year is.

The government's proposed legislative package has a fairly sordid history. It has its origins in the political deal that the Prime Minister did with the member for Denison in order to keep the keys to the Lodge. It then moved on to the betrayal of the member for Denison and, now, it has moved on again to the capitulation of the once proud Australian Labor Party to the Australian Greens. We have seen this pattern from the government before, where the Australian Labor Party ultimately capitulates to the Greens. It is never an edifying spectacle, but it is one that we have become quite used to in this term of parliament.

The coalition is pretty concerned about the lack of time the government has permitted for proper consultation and review of this legislation. We are concerned because we have seen before the damage that is caused by rushed legislation, the mess that is left in the wake of ramming bills through this place and the inevitable need to go back and fix the problems that the government itself has created. We know that we are being rushed because in this chamber there is a guillotine hanging above our heads—including yours, Mr Deputy President—which is due to come down. This always happens with this government: as we get towards the end of a period of sitting, it is as certain as night following day that Senator Collins will reach for the cord, pull the guillotine blade up to the top and then let it drop at the hour of her and the Australian Greens' choosing.

Above all else, we add our voice to the calls of many others that legislation of such
alleged significance to addressing problem gambling in our community deserves much greater scrutiny and much greater community consultation. That is why we believe that a more thorough inquiry should have been undertaken, and that is why we tried to have the bill referred to the Senate Finance and Public Administration Legislation Committee. Indeed, I sought to amend the Selection of Bills Committee report on the floor here to see that happen and the Labor Party and the Greens combined to stop that happening.

The reality is that, despite all of the complexity and despite the clear fact that states and territories will be compelled to play a key role in the new duplication arrangements for regulation, the government has steamrolled ahead with next to no consultation with other jurisdictions. Of even more concern is the fact that the government has wilfully ignored all the warnings from agencies and organisations who are expert in this area. As for the industry itself, the thousands of business owners and clubs involved in the hospitality sector have been not only ignored but locked out.

There can be no clearer example of just what lengths this government will go to in order to cling to office than the package of legislation we see before us. These bills would see a further extension of Commonwealth influence over state and territory jurisdictions. Gambling has—historically, traditionally—always been something that has been regulated by the states. We believe that merely creating regulatory duplication and legislating in an area that falls within the purview of the states is not going to help problem gamblers.

The government has also sought to gloss over what will be a significant impost on pubs and clubs throughout Australia, and that is the cost of implementation for those organisations. For smaller venues in rural and regional Australia—areas which I concede the Australian Labor Party do not have a lot of experience in, because they do not have many members or senators who represent those areas or are based in those areas—these new laws would have a direct impact on financial viability. That in turn means that there will be an impact on employment. Manufacturers and operators of machines have also warned of the dangers of widespread noncompliance and about the fact that the government’s own time frames are unachievable. We need only look at the soon-to-start so-called trial of precommitment in the ACT to realise just how disconnected this government is. The trial has not started, but already the government’s plan—its intention, its time line—has come undone.

Over the last year or so many of us in this place have travelled around Australia and visited many of the thousands of clubs around the nation. The clubs are of all shapes and sorts and sizes. They form local community hubs and are run for the benefit of the community, whether they are sporting clubs, surf-lifesaving clubs, RSL clubs or workers clubs. They fund important programs, social activities, sporting activities and youth events in their local communities. They are, in effect, significant philanthropic organisations, and they support many good causes.

So, if there is a simple message from the coalition to the Labor Party in relation to this legislation it is to stop fighting ideological battles on behalf of the Australian Greens and stop attacking good community organisations that do much that is positive in our community. I think one of the reasons we find ourselves in this situation is that not everyone appreciates and understands the club culture, which is particularly strong in New South Wales and Queensland and is
unique in those states. We do see the club culture throughout Australia, but it is particularly strong in those states. I do wonder whether having a Victorian Prime Minister might be one of the reasons there is not a greater appreciation of the club culture in New South Wales and Queensland. I am a Victorian Senator, it is true, but I did spend most of my secondary schooling and university and had my first job in Sydney, so I do have a very good appreciation of the club culture in New South Wales. Of course, a well-rounded politician, regardless of the state they come from, should be in a position to have a good feel and sense of the Australian culture in all its guises and in all states, but that is something that seems to be a challenge for this government and for this Prime Minister in particular.

Labor’s obsession with mandatory precommitment means that, if given the opportunity, they would flick the switch and turn it on. This legislation, although it is under the guise of establishing only voluntary precommitment, really is the basis and the infrastructure for mandatory precommitment. The government pretend that they are not interested in mandatory precommitment, but we know what their true agenda is. Tackling problem gambling requires a measured response that does not just look at poker machines but looks at the underlying problem of gambling addiction.

Senator Xenophon: Blaming the players now, are you?

Senator FIFIELD: I don’t think I blame players at all, Senator Xenophon. I will take the interjection, but I cannot see what I said that sounds as though I am blaming players. I do concede that there is a strong element of self-responsibility for any individual in our community and that every individual has choices. Some people make good choices and some people make bad choices, but that is not to deny the reality of gambling addiction. I do not think they are mutually exclusive points to make in this debate. Obviously counselling is important and support services are important, and the coalition is committed to addressing problem gambling. But what we are not interested in is dealing with an issue such as gambling on an ideological basis. As I have said before, I do not think duplicating regulation with the states is necessarily an answer.

But let me be clear again: the coalition does support voluntary precommitment. The states support voluntary precommitment. The territories support voluntary precommitment. The sector—the industry—also supports voluntary precommitment. But, as I mentioned before, Labor have already tried to legislate mandatory precommitment. They tried, but they failed.

In my opening remarks I warned of the dangers of rushing this sort of legislation, as is occurring today. The dangers of doing that were on display in the other place a mere few hours ago, where, moments after this bill passed the House, the government sought to bring the bill back to the House because they had discovered that there were 20 or so amendments that they had realised, at the death knock, were needed to fix the legislation which had already passed the House. I cannot say that that gives me a high level of confidence as to the efficacy of this bill in achieving its stated objectives. It is a worry. I wish that this chamber had taken the opportunity that the opposition sought to provide for this legislation to be referred to the Senate Standing Committee on Finance and Public Administration for further scrutiny.

The manufacturers say that the time lines are unrealistic and that there are serious technical deficiencies. Industry has voiced concerns that the time lines will force mass
compliance. Again, as I have said before, rural and regional venues will struggle to finance and cope with the costs that government seek to force upon them. The government's objective is really mandatory precommitment. They want the technology in place but they tell venues that it will not be switched on. On the other hand they tell advocates of mandatory precommitment that machines will be mandatory-ready. The government is trying to play both sides.

Let me take a moment to highlight just one issue—that being the government's approach to their trial in the ACT, and whether that trial and the compensation measures in place will pump money into Labor clubs in the ACT and where that money might end up. As I have said before, the trial in the ACT has been delayed. The clubs say that it is proving difficult. If the government cannot even properly plan the regulation of a trial then it is reasonable to wonder how the government might endeavour to regulate an entire industry across the nation.

The Labor Party do not understand how positive an impact clubs have in Australia and particularly, as I have said, the importance of them in New South Wales and Queensland. The clubs do good work. They are run by good people and they make an important contribution. But I come back again to the need to look at the causes of problem gambling. We are committed to doing what can reasonably and responsibly and effectively be done to help problem gamblers and to prevent problem gambling.

As I reach the end of my time in this debate it is important for me to reflect on the numbers of people who are employed in the gaming industry. We know it is a major employer with around 67,000 staff directly involved in gaming activities, a further 105,000 nongaming staff are employed in casinos, hotels and clubs that offer gaming and almost 50,000 are employed in the racing industry. It is also important in closing to put the issue of gaming in perspective. Approximately four per cent of Australians gamble weekly and approximately 15 per cent of that group are problem gamblers. The Productivity Commission estimates that less than one per cent of the population, all up, are problem gamblers. That is not, for one minute, to diminish the significant impact of problem gambling in the lives of those individuals or the effects on their families. Not for one second do I or anyone in the opposition seek to do that, but I do think it is important to have the context of this issue carefully presented.

In summary, the coalition has identified six areas of concern with the government's legislation: the extension of Commonwealth influence over state and territory jurisdictions; the lack of time given to industry to prepare effectively for implementation of the new measures; the cost of implementation; the negative impacts on industry and employment, especially on smaller venues, those in rural and regional areas and those premises already experiencing financial hardship; the risk of widespread noncompliance; and a number of matters associated with the use of ATMs.

As I conclude I want to acknowledge the sincerity of Senator Xenophon in these matters. While we may have different conclusions as to the best way to tackle the issue of problem gambling, I think it is appropriate to acknowledge the long interest that Senator Xenophon has taken in these issues—not just here in the Australian Senate, but also beforehand in the South Australian parliament. I do not know, but he might be the world's first person elected on an anti-pokies platform. He may enlighten us about that. What causes concern to those of
us on this side of the House is that the government have absolutely no consistency in relation to issues of gaming and gambling. Senator Xenophon does, but the government do not. Their position changes depending on their fortunes in the House of Representatives. They did obtain an extra vote in the form of Mr Slipper, and that seemed to have a dramatic effect on their view. We will be opposing this legislation.

Senator DI NATALE (Victoria) (20:29): We are talking about the National Gambling Reform Bill 2012 and related bills today because poker machine addiction destroys people's lives. Lives like that of Katherine Natt from Adelaide, a young mum who committed suicide because of her pokie addiction. It destroyed her marriage, it cost her financially and it cost her her family. She left behind two children, the youngest two years old. The South Australian coroner found that Katherine Natt's suicide:

... was a direct result of her inability to cope with a poker machine addiction.

And there are many, many more.

Thankfully, there are others whose stories do not end quite as tragically as Katherine's. There are people like Tom Cummings, a 41-year-old father of three girls. Tom says:

I started gambling as a young man, in my mid twenties. The pokies were my poison of choice, and over a number of years I threw away close to $100,000. I also threw away my self respect, my state of mind and several relationships with people who had been very close to me.

Thankfully, Tom has used his experience to educate others and is now a blogger and a vocal advocate for gambling reform.

These people are typical of the many thousands of Australians who are addicted to poker machines. Australians are really big gamblers. We gamble $19 billion every year, which works out to about $1,200 for every single person in the country. Two-thirds of that—$12 billion—goes into the pokies. We have over 200,000 poker machines in Australia, and New South Wales has almost half of them. We have the seventh-highest number of these machines in the world. We like to think of ourselves as punching above our weight in many areas but, when it comes to poker machines, by world standards, we do punch above our weight. Many opponents of pokies say, 'Well, we should be focusing on online gambling, because that is where the real problem is.' But when 60 per cent of all gambling money goes into the pokies, unless you are prepared to do something about the pokies, you are not serious about problem gambling.

The reason we are having this debate is because poker machines are so addictive. For those of us who have not had the experience of falling under the pokies' spell—or any addiction, for that matter—it is hard to understand. We probably have as much difficulty imagining ourselves as pokies addicts as we would as heroin addicts or as crystal meth addicts, but the pokies have the capacity to ensnare anybody, because they are engineered to do so. They are manufactured by an industry that has spent literally billions of dollars in ensuring that their product is as addictive and as profitable as possible.

It is worth reflecting on how gambling addiction works. Gambling works on the brain in the same or a similar way as otheraddictions, such as drugs like nicotine, cocaine and so on. Just like addictive drugs, gambling hijacks the brain's pleasure centre. That is why so many people lose self-control. It manipulates our brain circuitry, which has evolved to produce a pleasurable response to things such as food and so on—things that are necessary for the survival of our species. But the pleasure centres in our brain do not just respond to a reward. It is actually the anticipation of the reward that
counts, so a surprise reward is much more powerful than a pleasurable experience that occurs at regular intervals. Animal experiments have shown this time and time again.

Pokies exploit this evolutionary wiring in our brain. Whenever you win on the pokies, what is happening is you are activating those cells in the pleasure centre of your brain, the ones that anticipate future rewards and that are looking for some sort of pattern. The catch with the pokies is that there is no pattern, because the rewards from pokies occur randomly. That means that our brains go into overdrive and, when we get the occasional unexpected win, we get huge pleasure from it, precisely because it is unexpected. You will sometimes hear of problem gamblers talking about entering a trance-like state and experiencing a sense of euphoria with each win, and that is the reason for it. It is because our brains are wired in that way.

The pokies industry understand this process all too well. That is why they design the machines in the way that they do. The frequency of wins, the notion of losses dressed up as wins, the sounds and the visual displays—all of those things have a very specific intent: to make you stay longer, to make you come back more often and to make you experience that sense of euphoria until it becomes an compulsion you cannot control. The tactics of the pokies industry are essentially like those of the tobacco industry. In the same way that the tobacco industry looked at cigarettes as nicotine delivery devices, the pokies industry sees pokies as a form of delivering electronic hypnosis, if you like, designed to empty the pockets of problem gamblers.

The pokies industry has very similar tactics to the tobacco industry. In the 1950s and 1960s the tobacco industry tried to immunise themselves from any government regulation by funding things like medical research centres and hospitals. It is unthinkable now, but that is how it worked back then. It was a very deliberate tactic. Whenever regulation was proposed in the way of tobacco control, they were labelled an attack on the health sector and all of the things that the tobacco industry funded. The pokies industry today does the same thing. It throws a few crumbs out at the pubs and clubs and it makes the same arguments. And, just like the tobacco industry, the pokies industry will lie, deceive and manipulate to get its way and to protect its profits ahead of vulnerable people. It does not only ignore the established facts; it creates its own. It creates new facts.

Thankfully, we have got a sound body of research in this area. We know that up to 15 per cent of the people who gamble weekly are 'problem gamblers'. We know that 40 per cent of the $12 billion lost to pokies every year, which comes to about $5 billion, comes from problem gamblers. And for every problem gambler there is a family suffering. There are young kids who are going hungry at night, there are businesses going bankrupt and there are marriages breaking down. That is what problem gambling means, yet the industry continues to dispute the facts.

The industry are clever; they know who to target. You just need to look at a map of where poker machine losses are highest. It is essentially a map of social disadvantage. The people who are losing most on pokies are those who can least afford it. In my home state of Victoria, the city of Greater Dandenong has the lowest median weekly earnings of any Melbourne municipality, but that is where each of its 944 poker machines takes in over $120,000 every year. That is $1,100 per person in that area.
The industry argues that this is just another form of entertainment, but what other forms of entertainment exist where you can lose thousands of dollars every hour? They say, 'Well, you are regulating; it's the nanny state gone mad.' But what choice do problem gamblers have when they find themselves in the grip of an addiction because their brain chemistry is going haywire.

People in this place do not understand addiction. Addiction is a disease. It is a medical process, a disease where people do not have choice. In that context, regulation is critical. The industry argues that cost is a huge barrier to reform—it is too expensive. How do they justify it? They pluck numbers from thin air. One day it is going to cost $3 billion to introduce mandatory precommitment. The next day it is $5 billion. When they are pressed about their costings, what do they say? 'Well, that is the cost of implementing mandatory precommitment on all machines immediately.' But no-one is suggesting that. What they have done is create their own policy; they have costed it and they have used it as a defence to say that reform is too expensive. A wonderful tactic!

Just like the tobacco industry, this is an industry that knows no shame. Thankfully, the Productivity Commission has managed to debunk many of these myths. They conducted a detailed examination of Australia's gambling industries. They handed down their findings in February 2010 and their analysis of the harms of poker machines makes for hair-raising reading.

Poker machines scattered around Australian towns and suburbs are right out of Las Vegas. The amount of money you can lose on them suits a casino high roller but it has no place in the local community. Machines can accept bets of $10 a spin—that is, $10 every couple of seconds—until you have lost thousands of dollars every hour. Sometimes the losses are even higher. Poker machines are not harmless fun. Clubs and pubs talk about them as a friendly, community activity. These are community hubs. But the reality is that these are mini casinos. Australian pokies are called casino-style poker machines in other countries for that reason. If you go into a casino you can spend $50 a spin on a machine. These are the semiautomatic weapons of the gambling world, and in the hands of problem gambler they are dangerous.

The jackpots offered by the machines are also engineered for maximum profit. You get high jackpots, more volatility, greater losses in a typical session. Remember what I said about unexpected rewards? That makes it even more addictive because you get a huge rush when you do win. Yes, it is true: most people do not spend $10 a spin. But the ability for a problem gambler to ramp up to such huge losses is a terrible risk, and it is a huge risk for those people who have an addiction.

We say, why should these machines be available at all? If most people bet a dollar or less per spin—90 per cent of recreational gamblers—then why have them? What is the point? In fact, the Productivity Commission said precisely the same thing. If you want to minimise the impact of problem gambling, you put dollar bet limits on all machines. You do not impact on recreational gamblers but what you do do is take away these semiautomatic weapons out of the hands of problem gamblers. We know it is the simplest, cheapest, most cost-effective method of addressing the problem. Why don't we have it? Because the industry hates it.

I pay tribute to my fellow senators, Nick Xenophon and Senator Madigan, for joining me in supporting a dollar betting limit on
new machines. We will be amending this bill in order to make all machines $1 bet ready. We hope we can get the support of the parliament for that amendment.

In countries like New Zealand, the UK and others, there are strict limits on bets and jackpots. In the US, high-intensity machines—those casino-style machines—are restricted to casinos. That is where they belong. In Victoria, my home state, we were able to introduce bet limits, reducing the limit from $10 to $5. There was no outcry from the industry, it happened quickly, and we made a serious impact on problem gambling.

I acknowledge that we are having this debate today because of the unique nature of this parliament. Power-sharing governments do bring together people with different perspectives, people who can put issues that have been ignored by mainstream parties on the national agenda—and that is their strength. But the history of this reform is a case study in why people have lost faith with our mainstream political parties. We had the government and the opposition with the unique opportunity to get behind a reform, supported by the great majority of the Australian community, to improve the lives of problem gamblers. Instead, we saw the government renge on its promise to install mandatory precommitment and we saw it fold in the face of a relentless campaign from the pokies industry. I acknowledge that many good people in the ALP fought the good fight for meaningful reform and I especially acknowledge Minister Macklin for doing her best to achieve reform. But the sad fact is that many people within the ALP lacked the courage to take up a cashed-up lobby group, to take on the big end of town and to have the fight. If there was ever more evidence of a party that has been dominated now by the soulless apparatchiks of the New South Wales Right, people who stand for nothing, then this was it.

As for the opposition, they showed themselves once again to be a party with nothing positive to say, no positive contribution to the national debate and their only intention being to bring down the government. What was their response? Establish a working party, write a discussion paper and come up with a document that reads more like a brochure from the pokies industry than a serious contribution to the issue.

I listened with interest to Kevin Andrews, the member for Menzies, today saying that we need to respect the rights of the states to legislate in this area—this from the man who introduced the bill to overturn the Northern Territory’s euthanasia laws. Hypocrisy knows no bounds when it comes to the opposition.

When legislation was finally presented before the parliament it was a sad, pale, watered-down version of the government’s initial proposal, and we initially rejected it. I rejected it because I was worried that, by supporting the legislation, we would take it off the national agenda and move it to the never-never. I also thought we needed some time to try to negotiate a better outcome. On the first point it was pretty clear to me that the issue moved off the national agenda rather quickly. I had not realised how quickly in this place today’s great moral challenge can turn into yesterday’s news. It was clear to me that, without some more action on this bill, this issue was dead in the life of this parliament. In trying to negotiate something better we managed to get the establishment of a national research gambling institute, but it was clear that we were not going to get any more than that. Ultimately we did decide to support the bill because it is a small step in the right
direction. It does not go anywhere near far enough, but I think its real strength is that, for the first time, the federal government has a role in poker machine reform.

There was a little twist in the story over the past few days. We saw again the industry stalking the corridors, managing to talk to MPs in this place and water down the bill a bit further, but to the industry I say thank you for showing me just how desperate you were to sink the bill. Knowing how hard you were fighting gave me some comfort that this legislation, as weak as it is, still means something. So thanks to the pokies industry for that.

This amended bill ultimately means that we will end up with mandatory-precommitment-ready machines for all new machines by 2014 and, by 2018, all machines old and new, with some exceptions for smaller venues. It means that at some point a government can turn on mandatory precommitment. It means the machines are networked and opens the door to a number of other reforms. We get a national gambling regulator, which gives a precedent for national involvement for a future government that will have the tools necessary to tackle the problem when they need to. The ATM limits are a positive step forward, although I do note that in Victoria we have no withdrawals in ATMs from poker machine venues. If the trial of mandatory precommitment goes ahead and we get the Productivity Commission analysis of the results, again we get more evidence to support the case that this is a reform that will work. With the establishment of the national gambling research centre we get to keep this issue on the national agenda and we get further evidence to counter the claims of this dishonest, grubby, dirty industry.

Problem gambling can be a wrecking ball through the life of a family. It can cost marriages. It can cost people's jobs. It can cost the family home. It drives people to crime and to suicide. There are clear public health and social justice imperatives to tackle pokies reform. The cost to the wider industry is also well known. It costs the nation billions of dollars each year—billions of dollars that could be going to much more productive pursuits. Poker machines have been carefully designed by the industry to be highly addictive—

**Senator Xenophon:** By design.

**Senator DI NATALE:** You are absolutely right, Senator Xenophon—and to efficiently empty the pockets of their customers. They are designed to create addiction. They are designed to create misery.

I thank many of the people in the community—the churches, those people who campaigned hard to get this reform through, the academic researchers like Charles Livingstone and his colleagues, people who have contributed in very positive ways in this debate—but in the end what we need is more courage from our politicians in this parliament. Cashed-up lobby groups can afford to patrol the corridors in this place. Problem gamblers cannot. We have to decide whose interests we are representing. I therefore commend the bill.

**Senator XENOPHON** (South Australia) (20:49): At the outset it would be remiss of me if I did not thank my legislation adviser Hannah Wooller for the tireless work she has done on this bill. I think she will be glad to at least see this phase of this legislative program dealt with. But let's go to the bill itself. The term 'Hobson's choice' comes to mind when considering this package of bills. The story is that that phrase comes from Thomas Hobson, who owned a livery stable in 16th- and 17th-century England. To take
the use of his horses he gave his customers a supposed choice: they could either take the horse in the stall nearest the door or take none at all. So a Hobson's choice is an ostensibly free choice when in fact there is only one option on offer: take it or leave it. That in a sense is what the government has done here. I say 'in a sense' because this legislation is worse than a Hobson's choice, because initially the government offered something much better, something tangible and substantial in gambling law reform, something that actually would have made a difference in the lives of problem gamblers hooked on poker machines and, as importantly, could have prevented many thousands of Australians becoming problem gamblers in the future.

It is a matter of public record that on 23 June 2010 the Productivity Commission handed down its final report into gambling in Australia. It followed in form and substance the landmark 1999 report from the commission that set an international gold standard in analysis, methodology and sheer thoroughness in reaching its conclusions. Both reports essentially found that some 40 per cent of Australians' losses on poker machines—currently some $5 billion of the $12 billion in actual gambling losses each year—come from problem gamblers. The 1999 report made the chilling finding that, for every problem gambler, on average seven other lives are affected. That finding was not altered more than a decade later. Based on the available evidence, the commission found that there are between 80,000 and 160,000 Australian adults suffering significant problems from their gambling, with a further 230,000 to 350,000 experiencing moderate risks that make them vulnerable to a full-blown addiction. Overall, the overwhelming majority—up to 80 per cent—of Australians who have a gambling problem have that problem because of poker machines.

The 2010 Productivity Commission report made a number of key recommendations. Principally, it was recommended that poker machines, an unambiguously product for too many Australians, be made much safer by implementing a maximum $1 bet per spin and maximising losses at $120 an hour. When coupled with mandatory precommitment, giving individuals the right and choice to set limits on how much they want to lose, the commission made it clear that these measures could make a real and substantial difference in tackling poker machine problem gambling. The impact on recreational gamblers would be miniscule, as Senator Di Natale has mentioned, when you consider the research of the commission showing that, overall, 88 per cent of recreational players and 88 per cent of players do not put more than $1 per spin into the machines.

More recently, the outgoing Chairman of the Productivity Commission, Gary Banks, who participated in both inquiries, reiterated the commission's views on $1 bets at the Dangerous Consumptions Colloquium at Deakin University on 29 May this year. He made it clear that $1 bets satisfied 'good public policy' because it 'predominantly targeted the problem gamblers without having too much collateral effect on the average recreational gambler'. Further, he said, it should be implemented without a trial. But how did the Rudd government respond to the commission's report on 23 June 2010? Most of us had an idea that, when the government announced its response—effectively to ignore the recommendations to minimise harm and to fob them off to the states—it would be one of the last announcements of the Rudd government.
Real gambling reform appeared dead and buried not just by the Rudd government but, unfortunately, by the new Gillard government until Andrew Wilkie was elected to the seat of Denison as an Independent on a strong platform of poker machine reform. In a hung parliament, Andrew Wilkie's views suddenly mattered. In his 2 September 2010 negotiations with the Prime Minister about supporting an ALP government, Mr Wilkie in good faith argued for the $1 bet option as recommended by the Productivity Commission. That was my first option and the first option of my colleagues Senator Di Natale of the Greens and Senator Madigan of the DLP as well. It was the first option to reduce the losses on machines from the current potential of $1,200 an hour or even more. The government rejected that sensible proposal and instead offered mandatory precommitment to be passed by the parliament by May 2012 and to be rolled out from May 2014. It was a second-best but still credible reform option that would alleviate the devastation of poker machine addiction. I agreed with Andrew Wilkie at the time that it was the best that could be negotiated and Mr Wilkie and I were confident that at last there would be real change. The offer was set out in writing and signed by the Prime Minister and Mr Wilkie.

That written agreement was effectively ripped up on 21 January this year in exchange for a watered down and compromised scheme that represents a breach of trust not just with Mr Wilkie but with every poker machine problem gambler and generations of problem gamblers to come. The agreement with Mr Wilkie became expendable when, as Senator Fifield noted, Mr Slipper left the Liberal Party to take the Speaker's chair.

What we are debating tonight is a further weakening of the already diluted legislation promised in January—more delays, more vagueness, more imprecision to further compromise already compromised legislation. I do not blame Andrew Wilkie for this. He acted in good faith all along. I do not blame the Australian Greens, and particularly Senator Di Natale, because they too have acted in good faith all along. I blame deeply cynical politics on the part of the government and, yes, on the part of the opposition too. They have caved in to a campaign of fear and misinformation by the poker machine lobby. I want to make it clear that in good conscience I cannot support these bills as they stand. They need significant and substantial amendment before they can provide any of the necessary reforms to address problem gambling.

Since the Prime Minister's agreement with Andrew Wilkie in September 2010, this issue has been pulled, pushed and battered from a thousand different angles. We have now reached the stage where these reforms have become the proverbial political hot potato, juggled from one hand to another until they can finally be dropped. Personally, I find that to be a tragedy. This is not a political issue. It is not a hot potato, a football or something to be ticked off before the end of the year and the summer holidays. The problem at the very centre of all this wheeling, dealing and arguing—the addictiveness of poker machines—is not a theoretical one, as so well set out by Senator Di Natale. Yes, it can be measured in fiscal amounts like profit, revenue and taxes such as the $4 billion the states rake in from poker machines every year, with 40 per cent of that from problem gamblers, but it must primarily be measured in lives destroyed, in loved ones lost, in broken hearts, in broken promises and in desperation. Senator Di Natale mentioned the terrible, tragic suicide of Katherine Natt. I was the barrister representing Ms Natt's mother pro bono in the Coroners Court. It was harrowing to go through that evidence.
It was harrowing to read the note. It was harrowing to learn how she died.

Ultimately, this is not about the Prime Minister’s backflip on her agreement with Mr Wilkie. It is not about the grossly misleading ‘licence to punt’ campaign by vested interests or the phony fear campaign about a national database recording individuals’ gambling activities. It is not about a nanny state or taking control over people’s lives. This is about people who suffer from problem gambling, their families and communities. It is about how to help them. My great fear is that this legislation quite simply does not do that. In gambling parlance, my fear is that this is a loss disguised as a win. The measures contained in these pieces of legislation are nothing more than a passing nod to the issue but, on the surface of it, it could be argued that something is better than nothing. In this case I believe this something could be worse than nothing.

Believe me, this is a terribly difficult and fraught decision for me. I do not want to see this legislation passed off as some substantial reform, because it is not. I know that Mr Wilkie, Senator Madigan and the Australian Greens have made the commitment that this will be only the first step in reforms and that they will not stop fighting for change, and I will fight with them. The danger is that both the government and the opposition will take the tick-and-flick approach. They will say the matter has been dealt with and will shut down real reform for many years to come. That is my great fear. But I cannot support a bill that does not include the most basic of measures recommended by the Productivity Commission: maximum $1 bets and $120 hourly losses. The government has fallen for the scare tactics of the gambling industry and has presented something so watered down that the only people it could possibly offend are those interested in meaningful reform. But the industry is still protesting. You have to wonder just how weak any kind of reform would have to be before they would accept it.

I thank Senator Fifield for his gracious words about the work I have done. In his contribution he made a point about the contribution that clubs make. I direct Senator Fifield to the work of Charles Livingstone, the Productivity Commission and others. The work of Charles Livingstone shows that clubs claim this massive community benefit. In New South Wales they are returning the equivalent of only 1.3 per cent of their poker machine losses to the communities they claim to support, leaving aside the damage and devastation they wrought on communities.

Voluntary precommitment, central to this legislation, is a joke. It just will not work. Problem gambling is an addiction. It is not as simple as a matter of choice or willpower. It is also incredibly offensive to suggest that problem gamblers could stop if they wanted or that it is about choice. I cannot think of anyone who would choose to lose everything they have or would not want to stop if they could. People who suffer from poker machine addiction need to have meaningful and effective measures in place to help them control their gambling.

We are dealing with a dangerous product. In the most basic sense, the problem with voluntary precommitment is that, no matter how many loss limits a gambler sets or how much the system restricts their activity, there is nothing to stop them pulling their precommitment card out of the machine and continuing to play outside the system. The very fact that the government and the opposition do not seem to understand or appreciate this shows how they have little or no understanding of problem gambling as a whole.
In fact, these pieces of legislation seemed to be based on how people should behave rather than on how people actually behave. Two years ago a study into precommitment prepared for the Nova Scotia Gaming Foundation in Canada reported that voluntary schemes consistently and miserably failed because they relied on the willpower of players—that is, players have to have the willpower not to keep playing outside the system when they reach their limit. A study in South Australia shows something like a 0.7 per cent take-up of precommitment when it is voluntary. Further, the study in Nova Scotia found that high-risk players were less likely to take up precommitment options and would continue to play unless they were locked out of the system completely when they had reached their limit.

I know that some people are arguing we should not be forcing people to set limits and then shutting them out of what is essentially a form of entertainment but, as Senator Di Natale pointed out so well, on what other so-called form of entertainment can you lose $1,200 an hour? On what other so-called form of entertainment can you lose your pay packet in a matter of minutes? On what other form of so-called entertainment can you lose your home, your family and, most tragically of all, your life? If we really want to consider poker machines as entertainment we need to reduce their intensity, one of the things that makes them so addictive. We need to introduce limits on bets, spin rates and the amount of credit a machine will accept at one time.

As I have said, a significant and key recommendation from the Productivity Commission's 2010 report was the introduction of $1 bets and the reduction of maximum hourly losses to $120. It was an unequivocal recommendation. We do not need any trials. Mr Banks from the Productivity Commission made that absolutely clear. To that end, I will be introducing amendments, as Senator Di Natale will, to cap bets at $1, jackpots at $500 and the amount of credit that can be loaded onto a machine at any one time at $20. That is consistent with the bill I have introduced jointly with my colleagues Senator Di Natale and Senator Madigan. The amendments will also require the spin rates of machines to be slowed so that a machine played at maximum intensity for an hour would result in losses of no more than $120. That is the Achilles heel of this legislation.

The government has failed time and again to say why it will legislate to have machines ostensibly mandatory-precommitment-ready but will not make machines $1-bet-ready. The heavily redacted documents that I have obtained from the department through the FOI process failed to explain why $1 bets were supposedly too expensive to implement. The government has failed to justify why it has relied on the vested interests of an industry and not on independent experts to provide costings of the rollout of $1-bet-capable machines. I note from the work that Senator Di Natale commissioned that the real cost would be less than $350 million over a number of years, which pales into insignificance when you consider the Productivity Commission's estimates and other estimates of the cost of problem gambling being over $4 billion a year. In Victoria just last month it was estimated to be $1.2 billion. That is what the cost is to the community. That is what the real cost is.

Parenthetically, when Senator Fifield and the industry talk about jobs created by poker machines, let us look at some independent research conducted by the South Australian Centre for Economic Studies for the Tasmanian Treasury which found that for
every million dollars lost on poker machines, 3.2 jobs are created. A million dollars spent on retailing, however, creates 6.5 jobs, and a million dollars spent on food and meals in hospitality creates 20.2 jobs. So, unambiguously, poker machines are a job killer, not a job creator. The government has failed to justify why it is relying on the industry and not on others, why it is undertaking its own independent research, why it will not even refer it to the Productivity Commission to let the independent umpire look at this.

These are simple, straightforward amendments, they were central to the Productivity Commission's recommendations and they will be relatively easy to implement. If I cannot get support for the implementation of $1 bets, I will move a similar set of amendments that would only require machines to be capable of operating to those limits, with the actual implementation of these measures to be made in regulations. At the very least I hope my colleagues in this place would support the idea of machines being capable of these limits. If we can make them capable of being mandatory pre-commitment ready, why on earth can't we make them capable of being $1 bet ready?

I also have serious concerns about the other measures in this bill, and hopefully in the truncated committee stage we can at least deal with them. The withdrawal limits on ATMs could be a useful step but they are still too broad; there are too many loopholes in that. There is also no limit on the cash that can be withdrawn through EFTPOS, which is a major oversight. Again, the requirement for dynamic warnings on machines is good in theory, but too many details have been left to the regulations.

I also have concerns about the implementation of the penalty provisions and the gaming machine regulation levy: these sections include specific exemptions for paying penalties or a levy where there is not a pre-commitment system operating. While I understand the theory behind these exemptions, there is also no legal requirement in the bill for states or territories to have pre-commitment schemes. It is not unreasonable to imagine that these exemptions could be considered a green light to venues and states and territories to not have a system in place. Judging by the response I received to a question on notice to the department during the committee inquiry, the whole foundation of these reforms lies in the fact that states and territories have agreed to go along with them. That could be a fatal flaw. My question is: what happens if there is a change of government and suddenly that agreement does not exist—what then?

I will be moving a significant number of amendments in the committee stage in an attempt to address these issues—these technical flaws. For me, this legislation is ineffective not just because of the policies underpinning it but because of the lack of detail and consideration in the legislation itself.

Finally, I want to reflect on the words of Leanne Scott, who showed great courage in speaking out about her poker machine addiction just before she was sentenced to two years imprisonment for stealing money from two of her employers. I have been to see her a couple of times in jail and I will see her again next week to see how she is getting on. On 13 July this year, outside of the Adelaide Magistrates Court, just before she was sentenced, she said:

In a few minutes I expect to be sentenced for stealing a lot of money to feed my poker machine addiction. I'm not here to make excuses or ask for sympathy.

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Thursday, 29 November 2012  SENATE  10379
I want to appeal to everyone who has a problem with pokies or is on the road to getting hooked to tell someone, to please, please get help.

I'm so sorry for what I've done but I hope by speaking out just before I go to prison, at least one person out there who's got a problem will get help—because I don't want this to happen to anybody else.

If Leanne Scott can spend the time before she was sentenced to imprisonment thinking of others, not herself, maybe we should try to do the same thing here tonight.

This is not an easy decision for me to make, but when I think about the people I know, the people who have shared their stories with me over so many years, I cannot in good conscience support this bill without the measures and proposed amendments. Otherwise, people like Leanne will continue to be faced with no choice at all.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (21:09): I rise to contribute to this debate on the National Gambling Reform Bill 2012 and related bills and pick up on the points that Senator Xenophon has made. As an original member of the committee, when it was first established under the chairmanship of Mr Wilkie, I too have participated in the hearings and listened to the harrowing stories that have been outlined. Senator Di Natale is quite right when he makes mention of the fact that this is an addiction.

As a Western Australian, where, of course, we do not have poker machines except in the casino, I can look at this somewhat more dispassionately, perhaps, than others can. As the Leader of the National Party and the duty senator has just said, they are a curse. I have no doubt about that. On a matter totally unrelated to this debate this evening, it never ceases to amaze me that we have a circumstance in which some of the states and territories in this country earn up to 10 per cent of their annual revenue from gambling. That in itself is an horrific figure. It worries me enormously that when GST calculations are made, Senator Cash, for some reason that 10 per cent of revenue earned by the states that have poker machines does not seem to be brought to account in the overall calculation. That is irrelevant to the discussion.

My whole professional life has been more about prevention than it has been about treatment. When we speak of addiction, we should first try to focus on those areas where we can prevent it. Nothing I have seen in my membership of the committee or in the documentation that has come out has led me towards any move or thrust by the government or indeed by the committee under its chairmanship of Mr Wilkie which looks at prevention of these problems associated with poker machines.

I go to the concept of voluntary precommitment. It is my understanding that this really is an issue of the states, that all of the casinos in this country do have voluntary precommitment systems. The clubs in the main, if not all, have voluntary precommitment systems and, if the hotels do not, I think they should be dragged if necessary kicking and screaming to ensure that they have them. I know from my days working in the field of hardware and software that it does take a long period of time to actually develop the hardware and software technology, to test it and retest it where it gets to the level of compliance with state and other authority requirements, that you cannot introduce this in a five-minute period. I understand that today's passing of the amended National Gambling Reform Bill 2012 has in fact recognised that it will take a longer period of time to actually develop the hardware and software technology, to test it and vet it where it gets to the level of compliance with state and other authority requirements, that you cannot introduce this in a five-minute period. I understand that today's passing of the amended National Gambling Reform Bill 2012 has in fact recognised that it will take a longer period of time to actually develop the hardware and software technology, to test it rigorously and to ensure that it does meet the statutory requirements of the states and territories. I made it my business to go and visit the manufacturers
and the software developers to establish for myself that in their industry as in the industry with which I was associated—being the retail fuel industry and the credit card industry—those same restrictions do occur.

If anyone thinks for one minute that this is a move on the way towards mandatory precommitment in terms of poker machines, then they are sadly wrong because all of the evidence available to me—and I have the utmost respect for Senator Xenophon—says that mandatory precommitment does not and will not work. My only involvement in this industry in terms of gambling has been in wagering in the horse racing industry. I can assure Senator Evans that I was never involved in the gambling side. In fact, when I was a young veterinarian working in a race horse practice in Melbourne, an elderly trainer once said to me, 'Dr Back, the only way you will ever make money following horses is with a broom and shovel.' I followed that assiduously and I never became a gambler, but I did see those who became addictive problem gamblers. One of the things that I remarked on was the fact that once a person is an addictive gambler the form of gambling they participate in does not matter.

It disappointed me when the Productivity Commission met with us—and I am sure Senator Evans can relate to this—and they said, 'People are very loyal to their form of gambling. They very rarely change. They may go away for a period of time but they will always come back.' The point I made to the Productivity Commission people was: when the casino was first introduced in Western Australia, a whole series of people went away from wagering to casino gambling and they never came back. This point has been evident in Norway and elsewhere when you have in some way limited—in this case poker machine gambling—to the extent that it becomes unattractive to people. They simply move. They move to internet gambling, they move to online gambling—and that was the experience in Norway. Senator Xenophon, Mr Wilkie and I have had spirited discussions about this, but the simple point I want to make is the fact that we have got to arrange a circumstance in which those problem gamblers honour their other commitments to expenditure before they actually have the money to gamble.

The DEPUTY PRESIDENT: Order! Pursuant to order earlier today, the time for this debate has now expired and I am compelled to put the second reading motion. The question is:

That these bills now be read a second time.

The Senate divided. [21:19]

(The President—Senator Hogg)

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

The CHAIRMAN (21:22): Senators, I seek some direction. We have 37 minutes left to debate in the committee stage with a large number of amendments. Minister, do you wish to make any comments?

Senator CHRISS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:22): I think there is a general view by those actively involved in the debate that we might encourage people to speak to their amendments and then perhaps come to the votes at the end of the process. I am happy to respond to those and allow those who want to make an argument for various amendments to make those during the committee stage, putting them towards the end. But perhaps we will just see how we go.

The CHAIRMAN: Shadow minister, do you wish to make a comment?

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (21:23): I am quite relaxed. It is really in the hands of those who have amendments to move.

The CHAIRMAN: Senator Xenophon, do you wish to make any opening remarks there?

Senator XENOPHON (South Australia) (21:23): This might assist my colleagues and expedite the committee stage. I have had discussions with my colleague Senator Di Natale, who also has a number of amendments. In a private discussion with Senator Evans I agreed with the approach that the best thing to do would be to move for divisions on the amendments at the end of the debate, but there are three principal amendments that I am concerned with. One of them is Senator Di Natale's amendment in relation to making $1 machines and $1-bet-capable machines. So I propose to ask a couple of questions of the minister on preliminary matters. I think Senator Di Natale has a number of questions and it could be that Senator Madigan does as well. Then we will discuss those three core amendments and go from there.

The CHAIRMAN: Do Senator Madigan or Senator Di Natale have any opening remarks? If not, we will go straight to Senator Xenophon.

Senator XENOPHON (South Australia) (21:24): My principle question is this: the government is proposing a system where machines will be ready for mandatory precommitment—I think the Prime Minister referred to it as a 'flick of a switch' technology—but there is no proposal. In fact, a proposal was rejected by the government after representations by the Australian Greens and Mr Wilkie to have machines
capable of $1 bets as well. Can the government explain the policy rationale for why it would not agree to have machines $1 bet capable, given that that was a primary recommendation of the Productivity Commission in its 2010 report?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:25): Senator Xenophon would be aware the government does not support the $1 maximum bet proposal. That is as a result of analysis provided to us. In late 2011 the department conducted consultations with various community groups, states and territories on low-intensity options, including $1 maximum bets. We also commissioned independent technical advice to understand the costs of that proposition. The technical advice demonstrates the $1 maximum bet limit as proposed by the Greens and Senator Xenophon is not the simple and affordable solution that many make it out to be and which at first blush would seem to appeal.

The government's technical advice is that precommitment is much more cost-effective to implement than $1 bet limits. Precommitment technology can be connected to a poker machine without the need to make costly changes to the machine itself. On the other hand, implementing $1 bet limits would require new software to be developed and approved out of each state regulatory regime.

This has been a long debate, and I know Senator Xenophon has been directly involved and understands the issues, but the government made a decision to pursue the precommitment response after considering all those issues and has obviously now sought to get a bill through the parliament that makes a difference. It has been a process that has not been easy, but we think this bill will make a positive contribution to dealing with the scourge of problem gambling that exists in our society.

Senator DI NATALE (Victoria) (21:27): Regarding the cost estimates that were provided to the minister, can the minister clarify whether in fact the estimate that was provided was based on the immediate replacement of all machines, which is in fact a policy that was not proposed by the Productivity Commissioner, by Senator Xenophon or by me. And, if the policy that was recommended by the Productivity Commission, which was the phased implementation of $1 bet machines, is implemented would the cost provided to the department have been much lower than the estimate that was given?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:28): What I can advise is that, as I understand it, the independent advice was released under FOI to yourselves and Senator Xenophon and is now in the public arena. So that analysis and costing has been made available, which goes to the issues you raise.

Senator DI NATALE (Victoria) (21:28): Yes. My point is that that analysis was based on a policy that in fact no-one is proposing. In fact, it is the primary rationale that is being given by the government to indicate that $1 bets are not cost-effective. The statement you made a little earlier is based on the fact that a policy was costed that is not the policy recommended by the Productivity Commission. The phased implementation would have resulted in a much lower cost of implementation. I am wondering if any consideration has been given to that issue and whether that would alter the government's thinking around the cost-effectiveness of $1 bets.
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:29): I am sure you have had this debate with Ms Macklin on numerous occasions and, therefore, are well informed, but for the record you are right that the costing and the documents that were released was a point-in-time costing and you are aware of that. And, as I say, those documents are on the public record. But the government did make a decision that on all the advice precommitment was still more cost effective as a policy response.

I acknowledge what you say about the Productivity Commission report, as all this is on the record, but the government took the view that this was a more cost-effective means of tackling this issue and chose therefore to implement a policy response based on that approach of support for precommitment technology. As I say, we have been through the hoops over the last year as we have tried to get through a passage of some legislation that we think will make a difference. I do not think it is anyone's ideal outcome. That is the process of this parliament and any parliament, but we made a decision looking at all the advice, that the precommitment policy response was the most cost effective and one we sought to sponsor in this legislation.

Senator XENOPHON (South Australia) (21:30): My question to the minister is: in relation to the technical advice that he refers to, so that we are not talking at cross-purposes, I sought documents under freedom of information legislation. What I got back looked like something out of Blankety Blanks, it was so heavily redacted. It would be funny if it was not so serious. Can the minister advise that the technical advice he has referred to has been released in full publicly? Further, what is the reason for redacting the documents that I have been provided with? In particular to the technical advice that the minister refers to, has that in fact been released in full to date?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:31): Senator, as you well know, decisions about FOIs as to what is to be released or otherwise are made by the relevant officer authorised under the act. These are not decisions made by the government in the sense that this is a process governed by legislation of the parliament. What has been released is what is in response to the FOI request. I am not sure that I can help you any further than that. You say it was heavily redacted. I have not seen the document; I take your word for that. But that was the decision of the FOI officer and, as you know, those decisions are appealable. It is set down in statute. I cannot help you in explaining the reasoning of the FOI delegate in making the decision that they did on this document.

Senator XENOPHON (South Australia) (21:32): Can the government at least indicate where the source of the costing comes from?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:32): It is an independent advice that we sought. I am told it is from the Toneguzzo Group. It was independent advice commissioned by the government.

Senator DI NATALE (Victoria) (21:33): I am just a little confused. This is a policy option the cost of which will be paid for by industry. Why does cost effectiveness matter, given that the government is not actually implementing the reform? This is a reform that the industry will be implementing.
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:34): I am sorry, I was just distracted while trying to work out how to spell the name I just gave. Would you mind repeating the question?

Senator DI NATALE (Victoria) (21:33): Effectively, the government's response is that mandatory precommitment was more cost effective to government, but this is not a question of cost to government; it is a question of cost to industry. Why is cost effectiveness important?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:34): It is a question of striking the balance about these issues if you are trying to find a cost-effective solution to a problem. It is not just about the cost to government, the cost to industry and how you practically respond. There were policy options, and no one pretends that there were not other policy options from banning gambling altogether to sticking a health warning on the front of the machine. You have to find an appropriate response. We have decided that this is the appropriate policy response. Part of that was looking at the costs of adapting machines to drive the change.

Senator XENOPHON (South Australia) (21:35): My question goes to the issue of precommitment. Does the government still consider that precommitment would be a lower-cost option than $1 bet capable machines if the machines are not already linked before precommitment is implemented? Some states and territories do not link their machines and will have to do so for any precommitment system to work. Further to that, did the government, in considering the cost of implementing $1 bets, look at the experience in Victoria where they actually switched machines from $10 to $5 per spin without any real complaint from the industry and without any real controversy? That was back in 2010.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:36): I think the answer is that we did still regard it as more cost effective, and in making that change in Victoria there was already $5 game technology available. The software change costs were not nearly as high, as I understand it.

Senator XENOPHON (South Australia) (21:37): From people I have spoken to within the industry in Victoria—and I will stand corrected by the government's advisors if I am wrong—my understanding is that when the decision was made there was a software change to machines. It was a question of altering machines to only take a maximum of $5 bets. I think it cost in the order of several hundred dollars, not thousands per machine, for that change. It could be a different matter altogether. I just want to put that on the record.

I am not sure whether my colleagues have similar preliminary issues, but I indicated in my second reading contribution that my understanding is that, in terms of the legislative scheme as it stands, if a state or territory said, 'We don't want to be part of this,' it really needs the consent of the jurisdiction for mandatory precommitment to be switched on. Is it the case that if a state or territory says, 'We don't want to cooperate fully with the implementation of this scheme,' then the Commonwealth could not actually intervene to switch the machines to mandatory precommitment if that is what it was minded to do at some future stage?
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:38): My advice is that a regulatory authority is not over the states but over the venues. I will double-check this, but I think the advice is that it is capable for the Commonwealth parliament to amend legislation to provide for mandatory precommitment, which would bind those venues in all the states. A few people are nodding, so I think I nailed that. So the answer is not the states but the venue and that there is Commonwealth capacity to legislate to that effect.

Senator XENOPHON (South Australia) (21:39): I appreciate the minister's response, but is it the case that, whilst the Commonwealth could legislate, that legislation could not be effective unless the states cooperated to ensure that a precommitment system could be switched on? That is my understanding of how the penalty provisions would read. Perhaps the minister could clarify that. My understanding is that there is a technical problem with the legislation in its current form. If a state or territory were recalcitrant, it could actually mean that there would not be an ability to flick the switch to mandatory precommitment, if that is what the Commonwealth desired. There could be a hitch because of a state or territory being recalcitrant.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:40): My advice is that that is not right, that the Commonwealth is capable of approving the system and that a recalcitrant state, as you say, Senator Xenophon, could not prevent the Commonwealth if it chose to legislate in that way, effectively implementing that measure.

Senator DI NATALE (Victoria) (21:40): I want to pursue this issue of cost effectiveness a little more. I am a little confused about whether we are talking about total costs of the reform as opposed to genuine cost effectiveness. In terms of the cost of the reform, we know that the social costs of problem gambling are about $5 billion every year and we know that the industry gets about $12 billion in profit. So the costs of that are, of course, suffered by the community. I am not sure how we arrive at a cost-effectiveness equation in that context.

I suppose what I am asking is: is this about true cost effectiveness? Are we talking about the relative effectiveness of dollar-bet amendments and mandatory precommitment in terms of their effectiveness on problem gamblers, in changing the behaviour of problem gamblers and reducing the cost to the community relative to the costs of their implementation? I want to know whether any work has been done in that area. Are we actually making a relative judgement between the two different options that are on the table?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:42): As I understand it, the dollar cost has been based on the cost per machine of changing the systems. You, rightly, bring in the broader analysis of what the community cost is et cetera and how you trade those things off and where the balance is. That is a highly complex argument and, in the end, everyone has to find their landing spot on that. I suspect the science around that is not easy, but you make the valid point that there is a human cost to health systems, social welfare and all those other things. But the costs largely referred to are the costs of the conversion.
Can I say, though, as I understand it, neither system has been extensively trialled. So I think judgements about these things are a bit hard to make on costs versus the outcome or the effectiveness of the measures. I think the broader analysis that you are after has not been made and probably is not able to be made at this stage. But, in the end, the government made a policy judgement and, while others may come to a different conclusion, that is what the debate is about. That is the policy decision the government took and that is what is reflected in the legislation. Obviously, others are capable of arguing an alternative policy approach. I am not sure there is much more I can add to the answers about the cost argument.

Senator DI NATALE (Victoria) (21:43): Just to pursue that, you are absolutely right that there is a degree of uncertainty around each of these options. Given that uncertainty, why wouldn't the government, at a time when it is introducing what is a significant reform, leave itself the option of being able to implement either mandatory precommitment or $1 bets? We have an opportunity here to make the machines $1 bet-ready and mandatory precommitment-ready. Essentially we have legislation in front of us that will not enact either of the technologies, but we do have an opportunity to make the machines ready and at least to ensure that, if at some point in the future a government decided to flick the switch on either of them, the cost to industry could no longer be used as a defence for not implementing that reform. So I am just interested. There is some uncertainty. We have two reforms on the table. Why not make machines dollar-bet-ready and mandatory-precommitment-ready and leave ourselves the option of both?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:45): Senator, as I say, you are a bit more involved in this detail than me, so I am sure you know the arguments around this. But for the record, as I understand it, the precommitment technology can be connected to a poker machine without the need to make costly changes to the machine itself. By contrast, I understand that, to implement the $1 bet limits nationally, machines would require the design and development of new software. So that is part of the argument and the policy considerations that help determine the approach the government has adopted.

I would make the point, though—and I think sometimes we flog ourselves in here because we do not have the perfect answer to very complex problems—that this is the first piece of national legislation that seeks to deal with this issue. I think it is a big step by the parliament. It is an important recognition of the problem and the need for the national parliament to engage with it and try to provide some policy responses. So we are all in new territory. I think this legislation will take us down a path that sees us making a serious response to a problem that has not been tackled seriously enough before, and obviously our experience of this will allow us to make other changes. I know Senator Xenophon is already working out how to deal with recalcitrant states as he goes to his amendment bill, which will no doubt be before the parliament in the new year—or yours, Senator.

Senator Xenophon: Or a joint bill.

Senator CHRIS EVANS: A joint bill—all right. But I think this is an important step. We have made a policy decision in that regard. It is based in part on the costs of making changes to the machine and new software. But we, as I say, think this will start us on the road to a very serious policy
response, and no doubt all our views will be shaped by the experience we gain as we see this legislation implemented.

Senator XENOPHON (South Australia) (21:47): Or will it be like the Talking Heads song—will it take us on the road to nowhere? This is what I am concerned about. I do not want to be like a dog at a bone with this, but this is my concern in relation to whether a state or territory could thwart the implementation of the scheme. It is a technical question, and I know the minister has some very capable advisers from the department and from the minister's office. Clause 36 of the bill says that there is no national database of protected information from precommitment systems, so it must not be established. Clause 58 talks about making noncompliant gaming machines available for use and it has, in a sense, penalty provisions. In relation to clause 85, there is a liability for a gaming machine regulation levy. The concern I have is this, and it is not a trick question; it is a genuine question about how the scheme would operate, because my understanding is that the minister is quite right when he says that the Commonwealth could try to impose penalties on venue operators—it could do that using the corporations power and other powers. But, because it relies on having the machines being able to flick onto a mandatory precommitment system, which is what this bill purports to do, you would actually need to have the cooperation of the states to have a system in place—in other words, to have a system where the machines are networked, where they are linked and where you would need some form of database, even the most basic database so that people can be locked out of playing another machine once they have reached their limit in a mandatory precommitment system. That is what I am struggling to understand. If there is a way that those concerns can be allayed, I would welcome hearing that from the minister.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:49): It is quite a detailed and complex question, so I will check to see whether people are nodding or shaking their heads as I deliver the response. But effectively my advice is that your hypothesis relies on an argument that says the states are the ones that would have to supply the system, whereas it could be provided by a private provider, I understand, so there is not a barrier. My advice is that there are a range of systems available. It does not have to come off a central monitoring system, as you refer to it, and it is not necessarily something the states would have to control.

Senator XENOPHON (South Australia) (21:50): I have a final question. I know we have only 10 minutes left, and both Senator Di Natale and I have amendments to move. It is true what the minister says: there could be private system to link the machines. But with the provision that prohibits a national database, with the framework of the legislation, isn't there the potential that the Commonwealth cannot require the states to provide the framework—the architecture, if you like—to roll out mandatory precommitment? The bill could have the effect of machines being ready for voluntary precommitment but not for mandatory precommitment, because of that gap—the states could provide an impediment in relation to the scheme being rolled out on a mandatory basis if that is what a future Commonwealth government was of a mind to do.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of
the Government in the Senate) (21:51): I am always happy to share paranoia about state governments, and most of the time it is warranted. It goes against the grain, but I am advised that the capacity for private provision will not allow the states to do what you say. I cannot provide any further detail on that at the moment. I am happy to ask the minister to provide you with any more detail that she can to try to assuage your fears about this. But my advice is that it can be done and that this capacity to get this provided privately would mean that a lack of cooperation by a state or states would not prevent us moving to the mandatory precommitment if that were the decision of the Commonwealth parliament. But, as I said, if I can get any further information for you, on notice, I will try to get that to you.

Senator XENOPHON (South Australia) (21:52): I appreciate the minister's offer. It is not paranoia—and the minister is from Western Australia, where they know a thing or two about states' rights; the west is wary of Commonwealth power. But in this case I think there are some legitimate concerns, so, if the minister could provide some more details of a technical nature, that would be appreciated. I now seek leave to move amendments (1) to (4) on sheet 7330 together.

Leave granted.

Senator XENOPHON: I move amendments (1) to (4):

(1) Clause 3, page 2 (line 24), after "use of gaming machines", insert "and requires bet limit systems to be in operation for gaming machines".

(2) Clause 5, page 9 (line 30), omit "and 37", substitute ", 37 and 38A".

(3) Clause 19, page 20 (line 27), after "generally.", insert "Under Part 3A, a bet limit system must be in operation for a gaming machine.".

(4) Page 35 (after line 26), after Part 3, insert:

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**Part 3A—Bet limit systems**

**38A When a gaming machine is not compliant**

(1) A gaming machine is **not compliant** if there is no bet limit system in operation for the gaming machine.

Note: For a civil penalty provision for certain gaming machines that are not compliant, see Part 2 of Chapter 3.

(2) A bet limit system is in operation for a gaming machine if:

(a) the gaming machine's maximum bet per spin is $1; and

(b) the maximum amount payable under a jackpot or linked-jackpot arrangement in relation to the gaming machine is $500; and

(c) the gaming machine does not accept additional money or credit from a player when it stands in credit to the player to the value of $20 or more; and

(d) the gaming machine does not accept banknotes of a denomination greater than $20; and

(e) the gaming machine has a spin rate that ensures that, if it were to be played continuously at maximum intensity for 1 hour, the maximum hourly losses would be no more than $120.

These are very similar to the amendments that Senator Di Natale moved. They insert the requirement that, for a machine to be considered compliant, it must have a bet limit system operating. The bet limit system is based on the Productivity Commission's key recommendation in relation to maximum $1 bets per spin. The requirements would be identical, I believe, to those in the bill introduced by Senator Di Natale and Senator Madigan: maximum $1 bets per spin, maximum jackpots of $500 and a restriction on loading more than $500 in credit onto a machine. Associated with this are restrictions on note acceptors so that they do not accept notes of greater denominations than $20. There are also requirements on spin rates so that the combination of spin rates, maximum bets and maximum jackpots results in
average maximum possible hourly losses of $120 on a machine. The intention of these amendments is to make the machines much safer—much less dangerous than they are in their current configuration, where $1,200 or more per hour can be lost. This is based on a key recommendation from the Productivity Commission. I commend these amendments to my colleagues.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:54): I just want to indicate, so as not to appear rude, that the government will not be supporting these amendments. We have indicated before that the proposition we are advancing in the bill does not support a limit on the bet. As to Senator Xenophon's argument, the government made a policy decision based on the Productivity Commission's advice that precommitment was a strong, practicable and ultimately cost-effective option for harm minimisation—I know the senator argues that we should pick up both. The government has made a decision not to do that, and that is why it is not reflected in the legislation.

Senator Xenophon: One-dollar bets was the primary recommendation, though.

Senator CHRIS EVANS: I am not saying you are misleading at all, Senator Xenophon. I am just trying to be brief in my reply. But the government, as you know, has taken a policy decision to pursue that aspect of the Productivity Commission's advice and to seek to get something through this parliament that can make a difference. We are not supporting the amendments you propose; we know the arguments back and forth on that.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (21:55): I just want to indicate that the opposition will not be supporting these amendments. As we have already indicated, we see this legislation as fundamentally flawed and so we are intending to oppose it outright.

Senator DI NATALE (Victoria) (21:56): Mr Chairman, I would like to move amendments—

The CHAIRMAN: No, I am sorry, Senator Di Natale: we already have amendments before the chair.

Senator XENOPHON (South Australia) (21:56): Mr Chairman, can I just get your guidance—perhaps I should have worked this out earlier: I take it we can have divisions at 10 o'clock?

The CHAIRMAN: Yes. At 10 o'clock the remaining stages of the bill must be completed, so we will be calling appropriate divisions, broken up into the areas that we need to have them broken up into. You can divide now on this one, if you wish to.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (21:56): I suggest that Senator Di Natale indicates whether he supports the senator's amendments and maybe makes remarks about his own.

Senator DI NATALE (Victoria) (21:56): Yes, we certainly support Senator Xenophon's amendments. We also understand that the government is not prepared to implement mandatory $1-bet limits immediately, which is why we have decided to move an amendment that would effectively give a future government the option of moving a $1-bet limit. Our amendments (1) to (10) on sheet 7201 effectively mean that a future government has two options. If it decides, perhaps because a trial of mandatory precommitment demonstrates that mandatory precommitment...
may not be as effective as was anticipated, there is always the option of $1-bet limits. On the other hand, if a future government decides, as the Productivity Commission has, that $1-bet limits are the simplest, cheapest and most effective way of dealing with the issue of problem gambling, it can implement mandatory $1-bet limits on all machines immediately. It gives a future government the option. It is for that reason that, if there is no support for mandatory $1-bet limits, we will be moving an amendment that effectively says that all new machines, with some further time given to older machines, be made $1-bet ready.

Senator XENOPHON (South Australia) (21:58): In the one minute and 30 seconds remaining, can I just indicate—this may assist when we are voting on these amendments—that I will also be seeking a vote in relation to amendments (1) to (4), (6), (7), (15), (17), (19) to (27), (30) to (32), (47) to (54), (57) to (60), (67), (72) to (76), which I will be seeking leave to move together, relating to a ban on ATMs and electronic funds transfers. The Productivity Commission, in its 1999 report, made it very clear that easy access to an ATM at a venue was very problematic in terms of accelerating or triggering problem gambling behaviour. That is another amendment that I will be moving.

Can I indicate that, when we get to voting on amendments, once the first four amendments are moved, I will not pursue the other amendments, because I see these amendments as primary amendments to deal with. I am just trying to assist the chamber in relation to that. For any members of the public, or my colleagues, who are interested, the amendments speak for themselves, with a view to strengthening the bill—but, to me, these are threshold amendments in terms of the $1-bet capable machines.

For that reason, I will be seeking to divide on that as I understand my colleagues Senator Di Natale and Senator Madigan will as well. We will not supporting that but we will be supporting the Productivity Commission requirement that there be a $250 daily limit.

The CHAIRMAN: Pursuant to standing orders, the time for the remaining stages of these bills has expired. Senator Xenophon, the amendments will not be put exactly how you have outlined. They will all be put and covered but put in groupings that will not disturb the flow of how the amendments were intended to go. The question is that amendments (1) to (4) on sheet 7330 moved by Senator Xenophon be agreed to.

The committee divided. [22:04]

(The Chairman—Senator Parry)

Ayes ...................... 11
Noes ...................... 41
Majority.................. 30

AYES

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

NOES

Back, CJ (teller)
Birmingham, SJ
Brandis, GH
Bushby, DC
Carr, KJ
Colbeck, R
Crossin, P
Eggleston, A
Fawcett, DJ
Fifield, MP
Gallacher, AM
Kroger, H
Marshall, GM
McLucas, J
Parry, S
Polley, H
Ruston, A

The committee divided.
The CHAIRMAN (22:07): The question now is that Senator Xenophon's amendments (1) to (4) on sheet 7331 be agreed to:

(1) Clause 3, page 2 (line 24), after "use of gaming machines", insert "and allows the regulations to require bet limit systems to be in operation for gaming machines".

(2) Clause 5, page 9 (line 30), omit "and 37", substitute ", 37 and 38A".

(3) Clause 19, page 20 (line 27), after "generally.", insert "Under Part 3A, a bet limit system must be in operation for a gaming machine if the regulations require such a system to be in operation for gaming machines.".

(4) Page 35 (after line 26), after Part 3, insert:

**Part 3A—Bet limit systems**

**38A When a gaming machine is not compliant**

(1) The regulations may require a bet limit system to be in operation for gaming machines.

(2) A gaming machine is not compliant if:

(a) the regulations require a bet limit system to be in operation for gaming machines; and

(b) there is no bet limit system in operation for the gaming machine.

Note: For a civil penalty provision for certain gaming machines that are not compliant, see Part 2 of Chapter 3.

(3) A bet limit system is in operation for a gaming machine if:

(a) the gaming machine's maximum bet per spin is $1; and

(b) the maximum amount payable under a jackpot or linked-jackpot arrangement in relation to the gaming machine is $500; and

(c) the gaming machine does not accept additional money or credit from a player when it stands in credit to the player to the value of $20 or more; and

(d) the gaming machine does not accept banknotes of a denomination greater than $20; and

(e) the gaming machine has a spin rate that ensures that, if it were to be played continuously at maximum intensity for 1 hour, the maximum hourly losses would be no more than $120.

Question negatived.

The CHAIRMAN: The question now is that Senator Xenophon's amendments (1) to (47) and (49) to (81) on sheet 7306 be agreed to:

(1) Clause 3, page 2 (lines 25 and 26), omit "amount of cash that can be withdrawn from an automatic teller machine that is (other than a casino)".

(2) Clause 3, page 3 (after line 26), at the end of paragraph (2) (e), add "and of complying with the bet limit requirements".

(3) Clause 4, page 4 (lines 26 and 27), omit "amount of cash users of gaming machines can access from automatic teller machines", substitute "use of automatic teller machines and electronic funds transfer systems".

(4) Clause 4, page 4 (line 28), omit "(other than casinos)".

(5) Clause 5, page 6 (after line 3), after the definition of authorised person, insert:

**bet limit requirements** has the meaning given by section 6A.
(10) Clause 5, page 7 (lines 24 to 28), omit paragraph (b) of the definition of **gaming machine premises**, substitute:

(b) for the purposes of Part 4 of Chapter 2 (ATM and electronic funds transfer ban), and any other provision of this Act to the extent that it relates to that Part—includes the entire premises (not just that part of the premises where the gaming machines are made available for use) and any area within the boundary of the property on which the premises is located.

(11) Clause 5, page 8 (after line 15), after the definition of **issuing officer**, insert:

   **jackpot**, in relation to a gaming machine, means the combination of letters, numbers, symbols or representations as part of a game on that machine that pays the maximum winnings payable on that machine for any one combination.

(12) Clause 5, page 9 (after line 4), after the definition of **limit period**, insert:

   **Note**: A person may set multiple limit periods for a State or Territory (see section 22A).

(13) Clause 5, page 9 (after line 14), after the definition of **limit period winnings**, insert:

   **linked-jackpot arrangement** means an arrangement under which a single jackpot operates over 2 or more gaming machines.

(14) Clause 5, page 9 (after line 18), after the definition of **loss limit**, insert:

   **Note**: A person may set multiple loss limits for a State or Territory (see section 22A).

(15) Clause 5, page 11 (line 30) to page 12 (line 4), omit paragraphs (a) to (d) of the definition of **reviewable decision**.

(16) Clause 5, page 12 (after line 27), after the definition of **small gaming machine premises**, insert:

   **spin rate**, in relation to a gaming machine, means the interval between spins on the gaming machine.

(17) Clause 5, page 13 (lines 1 and 2), omit the definition of **withdraws more than the cash limit**.

(18) Page 13 (after line 34), after clause 6, insert:

6A **Meaning of bet limit requirements**

   A gaming machine meets the **bet limit requirements** if:

   (a) its maximum bet per spin is $1; and

   (b) the maximum amount payable under a jackpot or a linked-jackpot arrangement is $500; and

   (c) it is not capable of accepting additional money or credit from a player if it stands in credit to the player to the value of $20 or more; and

   (d) it is not capable of accepting banknotes of a denomination greater than $20; and

   (e) it has a spin rate that ensures that, if it were to be played continuously at maximum intensity for 1 hour, the maximum hourly losses would be no more than $120.

(19) Clause 7, page 14 (line 7), omit "withdrawal limit", substitute "and electronic funds transfer ban".

(20) Clause 11, page 15 (lines 9 and 10), omit paragraph (2) (c), substitute:

   (c) automatic teller machines and electronic funds transfer systems that are on gaming machines premises.

(21) Clause 11, page 15 (after line 16), at the end of the clause, add:

   (4) For the purposes of subsection (2), a requirement is not a **stricter requirement** unless it is intended to achieve better outcomes for problem gamblers and/or their families and communities.

(22) Heading to clause 14, page 17 (line 13), omit "requirements", substitute "and electronic funds transfer ban".

(23) Clause 14, page 17 (line 14), omit "withdrawal limit", substitute "and electronic funds transfer ban".

(24) Clause 14, page 17 (line 17), before "that", insert "and electronic funds transfer system".

(25) Clause 14, page 17 (lines 18 and 19), omit the note.

(26) Clause 18, page 19 (line 31), omit "42,.”.

(27) Clause 18, page 19 (line 32), omit "43 or”.

(28) Clause 19, page 20 (lines 17 to 19), omit all the words from and including "indicate, as part of” to and including "loss limit and", substitute "set a loss limit for the State or Territory. If a person".

CHAMBER
(29) Clause 19, page 20 (line 25), omit "or", substitute "and".

(30) Clause 19, page 20 (line 28) to page 21 (line 4), omit all the words from and including "Under Part 4" to and including "Part 5", substitute "Under Part 4, automatic teller machines must not be on gaming machine premises, and electronic funds transfer systems on gaming machine premises must not allow a person to withdraw cash, unless there are no other facilities for withdrawing cash within 1 kilometre of the gaming machine premises".

(31) Clause 19, page 21 (line 6), omit "and automatic teller machines", substitute "automatic teller machines and electronic funds transfer systems".

(32) Clause 19, page 21 (line 7), omit "(other than casinos)".

(33) Clause 22, page 23 (lines 2 to 9), omit subclause (1), substitute:

Setting a loss limit

(1) A precommitment system for a State or Territory must require a person, who chooses to register for the State or Territory through that system, to set a loss limit for the State or Territory as part of the registration process.

(34) Clause 22, page 23 (after line 9), after paragraph (1) (b), insert:

Note: A person may set multiple loss limits for a State or Territory (see section 22A).

(35) Clause 22, page 23 (line 18), after "Note", insert "1".

(36) Clause 22, page 23 (after line 18), after the note, insert:

Note 2: A person may set multiple limit periods for a State or Territory (see section 22A).

(37) Heading to subclause 22(3), page 23 (line 19), omit "—if loss limit set".

(38) Clause 22, page 24 (lines 1 to 7), omit subclause (4).

(39) Page 24 (after line 11), after clause 22, insert:

22A Setting multiple loss limits and limit periods for user who chooses to register

(1) A person may, through a precommitment system for a State or Territory, set multiple loss limits and limit periods for the State or Territory.

Note: For example, a person may choose to limit the person's net losses to $50 during 24 hours, $100 during a week and $200 during a month.

(2) The regulations may prescribe requirements for precommitment systems in relation to persons who set multiple loss limits and limit periods.

(40) Clause 23, page 24 (lines 17 to 19), omit subclause (2).

(41) Clause 23, page 24 (line 23), omit "(subject to subsection (2))".

(42) Clause 29, page 29 (lines 2 to 4), omit subclause (3).

(43) Clause 29, page 29 (line 7), omit "(subject to subsection (3))".

(44) Clause 31, page 31 (after line 13), after subclause (5), insert:

Note 1A: A person may set multiple loss limits for a State or Territory (see section 22A).

(35) Clause 22, page 23 (line 18), after "Note", insert "1".

(36) Clause 22, page 23 (after line 18), after the note, insert:

Note 2: A person may set multiple limit periods for a State or Territory (see section 22A).

(37) Heading to subclause 22(3), page 23 (line 19), omit "—if loss limit set".

(38) Clause 22, page 24 (lines 1 to 7), omit subclause (4).

(39) Page 24 (after line 11), after clause 22, insert:

22A Setting multiple loss limits and limit periods for user who chooses to register

(1) A person may, through a precommitment system for a State or Territory, set multiple loss limits and limit periods for the State or Territory.

Note: For example, a person may choose to limit the person's net losses to $50 during 24 hours, $100 during a week and $200 during a month.

(2) The regulations may prescribe requirements for precommitment systems in relation to persons who set multiple loss limits and limit periods.

(40) Clause 23, page 24 (lines 17 to 19), omit subclause (2).

(41) Clause 23, page 24 (line 23), omit "(subject to subsection (2))".

(42) Clause 29, page 29 (lines 2 to 4), omit subclause (3).

(43) Clause 29, page 29 (line 7), omit "(subject to subsection (3))".

(44) Clause 31, page 31 (after line 13), after subclause (5), insert:

Real time information

(5A) At any time while the person is using the gaming machine as a registered user, the precommitment system must allow the person to access real time information about:

(a) the amount of money or credit that the person has spent during the person's current session of use of the gaming machine; and

(b) the matters mentioned in subsection 34(2).

(45) Clause 34, page 33 (after line 17), after subclause (1), insert:

(1A) A person's transaction statement must be able to be accessed by the person both at gaming machine venues and online.

(46) Clause 38, page 35 (line 14), omit "or", substitute "and".

(47) Part 4, clauses 39 to 41, page 36 (line 1) to page 37 (line 28), omit the Part, substitute:
Part 4—ATM and electronic funds transfer ban for gaming machine premises

39 ATM ban for gaming machine premises

An automatic teller machine must not be on gaming machine premises unless there are no other facilities for withdrawing cash within 1 kilometre of the gaming machine premises.

Note 1: For civil penalty provisions for automatic teller machines on gaming machine premises, see Part 3 of Chapter 3.

Note 2: This section is not intended to affect a law of a State or Territory that is capable of operating concurrently (see section 11).

40 Electronic funds transfer ban for gaming machine premises

An electronic funds transfer system that is on gaming machine premises must not allow a person to withdraw cash unless there are no other facilities for withdrawing cash within 1 kilometre of the gaming machine premises.

Note 1: For civil penalty provisions for electronic funds transfer systems on gaming machine premises, see Part 3 of Chapter 3.

Note 2: This section is not intended to affect a law of a State or Territory that is capable of operating concurrently (see section 11).

49 Clause 51, page 42 (after line 11), after paragraph (1)(b), insert:

(ba) the precommitment system will be used for all gaming machines in the State or Territory; and

50 Clause 51, page 42 (line 19), at the end of subclause (1), add:

; and (e) if a precommitment system has previously been approved for the State or Territory—the new precommitment system will provide significant advantages over the previously approved system.

51 Clause 54, page 44 (line 19), at the end of subclause (1), add:

; or (e) another precommitment system has been approved for the State or Territory under subsection 51(1).

52 Clause 57, page 46 (line 8), omit "and automatic teller machines", substitute ", automatic teller machines and electronic funds transfer systems".

53 Clause 57, page 46 (line 21), omit "a non-compliant automatic teller machine", substitute "an automatic teller machine or electronic funds transfer system".

54 Clause 57, page 46 (lines 23 and 24), omit "a non-compliant automatic teller machine", substitute "an automatic teller machine or electronic funds transfer system".

55 Clause 58, page 48 (lines 1 to 26), omit subclauses (2) to (4).

56 Clause 58, page 49, (line 21) omit "(2),".

57 Heading to Part 3, page 50 (lines 1 and 2), omit the heading, substitute:

Part 3—Automatic teller machines and electronic funds transfer systems that do not comply with requirements

58 Clause 60, page 50 (line 12), after "machine", insert "or electronic funds transfer system".

59 Clause 60, page 50 (line 19), after "machine", insert "or electronic funds transfer system".

60 Division 2, clauses 62 to 65, page 51 (line 1) to page 52 (line 25), omit the Division, substitute:

Division 2—Civil penalty provisions

62 Occupying premises containing automatic teller machine or electronic funds transfer system

A person contravenes this section if:

(a) the person occupies premises; and

(b) the premises are gaming machine premises; and

(c) the person allows another person to provide either or both of the following devices (a relevant device) on the premises:

(i) an automatic teller machine;

(ii) an electronic funds transfer system that would allow a person to withdraw cash; and

(d) there is a facility for withdrawing cash within 1 kilometre of the gaming machine premises.
Civil penalty: 5 penalty units in relation to each day on which a relevant device is on the premises.

Note: This section applies whether the person occupies premises alone or together with others (see section 8).

63 Providing an automatic teller machine or electronic funds transfer system

A person contravenes this section if:
(a) the person provides either or both of the following devices (a relevant device) on premises:
(i) an automatic teller machine;
(ii) an electronic funds transfer system that would allow a person to withdraw cash; and
(b) the premises are gaming machine premises; and
(c) there is a facility for withdrawing cash within 1 kilometre of the gaming machine premises.

Civil penalty: 10 penalty units in relation to each day on which the person provides a relevant device.

Note: This section applies whether the person provides a relevant device alone or together with others (see section 8).

64 Civil penalty provision contravened without a person withdrawing cash

To avoid doubt, a person can contravene section 62 or 63 whether or not any person actually withdraws cash using an automatic teller machine or electronic funds transfer system.

(61) Clause 78, page 61 (line 11), at the end of the clause, add "or of meeting the bet limit requirements".

(62) Clause 79, page 62 (lines 8 to 11), omit paragraph (c), substitute:
(c) the gaming machine:
(i) does not comply with any one or more of the requirements prescribed by the regulations in relation to the capability of the gaming machine to provide for precommitment; or
(ii) is not capable of meeting the bet limit requirements.

(63) Clause 80, page 62 (lines 18 to 21), omit paragraph (b), substitute:
(b) the gaming machine:
(i) does not comply with any one or more of the requirements prescribed by the regulations in relation to the capability of the gaming machine to provide for precommitment; or
(ii) is not capable of meeting the bet limit requirements.

(64) Clause 85, page 68, (line 11) omit "(4).". 

(65) Clause 85, page 68 (line 28) to page 69 (line 22), omit subclauses (4) to (6).

(66) Clause 103, page 78 (lines 14 and 15), omit "public areas of".

(67) Clause 103, page 78 (lines 16 and 17), omit "and automatic teller machines", substitute ", automatic teller machines and electronic funds transfer systems".

(68) Heading to Part 4, page 86 (line 1), omit "public areas of".

(69) Heading to clause 116, page 86 (line 4), omit "public areas of".

(70) Clause 116, page 86 (line 5), omit "a public area of".

(71) Clause 116, page 86 (lines 21 to 23), omit subclause (3).

(72) Clause 116, page 87 (line 4), at the end of the definition of regulated device, add:
; or (d) an electronic funds transfer system.

(73) Clause 159, page 128 (line 26), after "automatic teller machine", insert "or an electronic funds transfer system".

(74) Clause 159, page 128 (line 28), after "automatic teller machine", insert "or an electronic funds transfer system".

(75) Clause 177, page 139 (lines 19 and 20), omit "non-compliant automatic teller machine", substitute "automatic teller machine or electronic funds transfer system".

(76) Clause 177, page 139 (lines 25 and 26), omit "non-compliant automatic teller machine", substitute "automatic teller machine or electronic funds transfer system".

(77) Clause 192, page 151 (lines 10 to 13), omit all the words from and including "to determine"
to and including "Territories", substitute "in relation to the requirements of Part 2 of Chapter 2 (precommitment systems)".

(78) Clause 193, page 152 (lines 5 to 11), omit subclause (1), substitute:

(1) This section applies if the Commonwealth agrees that a trial is to be conducted in relation to the requirements of Part 2 of Chapter 2 (precommitment systems).

(79) Clause 193, page 153 (lines 13 to 18), omit subclause (4), substitute:

(4) As part of the inquiry, the Productivity Commission must consider the benefits of a precommitment system that applies to all gaming machine users in a State or Territory, as opposed to a precommitment system that does not apply to all gaming machine users in the State or Territory, in relation to reducing the harm caused by gaming machines:

(a) to problem gamblers, and those at risk of experiencing that harm; and

(b) to the families and communities of problem gamblers and of those at risk of experiencing that harm.

(80) Clause 195, page 154 (lines 16 to 19), omit paragraph (1) (a), substitute:

(a) under paragraph 11(1) (b) of the Productivity Commission Act 1998, specify that the period within which the Commission must submit its report on that inquiry to the Productivity Minister is to be:

(i) 6 months; or

(ii) such longer period, not exceeding 12 months, as the Commission requests and the Productivity Minister agrees; and

(81) Page 157 (after line 6), after clause 197, insert:

**197A Expert Advisory Group on Gambling may obtain information and documents**

**Making of request**

(1) If a member of the Expert Advisory Group on Gambling believes on reasonable grounds:

(a) that a person has particular information or a particular document; and

(b) that the information or document is relevant to the performance of the functions of the Group;

the Director of the Australian Institute of Family Studies, in his or her capacity as a member of the Group, may request the person to give the information, or produce the document, to the Group.

**Form of request**

(2) A request given to a person under subsection (1) must:

(a) be in writing; and

(b) state what information the person must give, or what document the person must produce; and

(c) specify the day on or before which the person must give the information or produce the document (which must be a day at least 14 days after the day on which the Director makes the request); and

(d) specify how the person is to give the information, or produce the document, to the Group; and

(e) include a statement to the effect that failing to comply with the notice is an offence.

**Offence**

(3) A person commits an offence if the person fails to comply with a request given to the person under subsection (1).

Penalty: 60 penalty units.

The committee divided. [22:09]

(The Chairman—Senator Parry)

Ayes ...................... 11
Noes ...................... 42
Majority.................... 31

AYES

Di Natale, R Hanson-Young, SC
Hanson-Young, SC Ludlam, S Madigan, JJ
Milne, C Rhiannon, L
Siewert, R Waters, LJ
Whish-Wilson, PS Wright, PL
Xenophon, N (teller)
The question now is that amendments Nos (1), (2), (5) and (7) to (10) on sheet 7201, circulated by the Australian Greens, be agreed to:

(1) Clause 3, page 3 (line 8), after "precommitment", insert "and of operating in low intensity mode".

(2) Clause 4, page 4 (line 32), at the end of paragraph (2) (e), add "and of operating in low intensity mode".

(5) Clause 5, page 9 (after line 18), after the definition of loss limit, insert:

low intensity mode has the meaning given by section 6A.

(7) Page 13 (after line 34), after clause 6, insert:

6A Meaning of low intensity mode

(1) A gaming machine is operating in low intensity mode if:

(a) its maximum bet per spin is $1; and

(b) the maximum amount payable under a jackpot or a linked-jackpot arrangement is $500; and

(c) it is not capable of accepting additional money or credit from a player if it stands in credit to the player to the value of $20 or more; and

(d) its minimum spin rate is 3.5 seconds.

(2) The regulations may prescribe other requirements in relation to the operation of a gaming machine in low intensity mode.

(8) Clause 78, page 61 (line 11), at the end of the clause, add "or of operating in low intensity mode".

(9) Clause 79, page 62 (lines 8 to 11), omit paragraph (c), substitute:

(c) the gaming machine:

(i) does not comply with any one or more of the requirements prescribed by the regulations in relation to the capability of the gaming machine to provide for precommitment; or

(ii) is not capable of operating in low intensity mode.

(10) Clause 80, page 62 (lines 18 to 21), omit paragraph (b), substitute:

(b) the gaming machine:

(i) does not comply with any one or more of the requirements prescribed by the regulations in relation to the capability of the gaming machine to provide for precommitment; or

(ii) is not capable of operating in low intensity mode.

Question negatived.

The CHAIRMAN (22:11): Just for the information of the Senate, the Greens' amendments Nos (3), (4) and (6) on sheet 7201 will not be considered because they are identical to Senator Xenophon's amendments which we voted upon, and the reason why Senator Xenophon and the Greens are slow in determining whether to divide or not is that we have truncated a lot of amendments into blocks to deal with.

The next block we will now deal with is that division 1 in part 5 of chapter 2 stand as printed:

(48) Division 1, clauses 42 to 45, page 38 (line 3) to page 39 (line 23), TO BE OPPOSED.

Question agreed to.

The CHAIRMAN: The question now is that amendments Nos (3), (4) and (6) on sheet 7201, circulated by the Australian Greens, be agreed to:

(1) Clause 3, page 3 (line 8), after "precommitment", insert "and of operating in low intensity mode".
The committee divided. [22:13]
(The Chairman—Senator Parry)

<table>
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<th>Majority</th>
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**AYES**

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

**NOES**

Back, CJ (teller)  
Birmingham, SJ  
Brandis, GH  
Bushby, DC  
Carr, KJ  
Colbeck, R  
Crossin, P  
Eggleston, A  
Fawcett, DJ  
Fifield, MP  
Gallacher, AM  
Kroger, H  
Marshall, GM  
McLaren, J  
Parry, S  
Polley, H  
Ronaldson, M  
Scullion, NG  
Smith, D  
Sterle, G  
Urquhart, AE

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Question negatived.

Bill agreed to.

Bill reported without amendments or requests; report adopted.

**Third Reading**

The **PRESIDENT** (22:16): The question now is that the remaining stages of these bills be agreed to and the bills be now passed.

**AYES**

Bilyk, CL  
Brown, CL  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Faulkner, J  
Furner, ML  
Hanson-Young, SC  
Hogg, JJ  
Ludlam, S  
Marshall, GM  
McLaren, J  
Moore, CM  
Pratt, LC  
Stephens, U  
Thistlethwaite, M  
Waters, LJ  
Wong, P

**NOES**

Abetz, E  
Back, CJ (teller)  
Bernardi, C  
Boyce, SK  
Bushby, DC  
Colbeck, R  
Edwards, S  
Fawcett, DJ  
Fifield, MP  
Johnston, D  
Kroger, H  
Madigan, JJ  
Nash, F  
Payne, MA  
Ruston, A  
Scullion, NG  
Williams, JR

**PAIRS**

Carr, RJ  
Farrell, D  
Lundy, KA  
Thorp, LE

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Question agreed to.
Bills read a third time.

**Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012**

**Customs Tariff Amendment (Malaysia-Australia Free Trade Agreement Implementation) Bill 2012**

Second Reading

Debate resumed on the motion:
That these bills be now read a second time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (22:23): The coalition supports the free trade agreement, which provides Australia and Malaysia with more liberal access to each other's goods, services and investments markets. We therefore support the Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012, which gives statutory effect to that free trade agreement. In terms of two-way goods and services trade, Malaysia is Australia's third largest trading partner in ASEAN and our 10th largest partner overall. According to the Department of Foreign Affairs and Trade, in 2011-12 the total merchandise trade between Australia and Malaysia was $14.2 billion, with Australian exports of $5 billion and imports of $9.1 billion.

This agreement comes at a time when total two-way services trade in 2011-12 was $3 billion with Australian exports of $1.6 billion and imports of $1.3 billion. The agreement builds on the ASEAN-Australia-New Zealand Free Trade Agreement and allows for significant gains for services and investment through access to increased foreign ownership in key service sectors where Australia has proven capabilities.

Australia has had a long relationship with Malaysia. It dates from the 19th century when Malays participated in the pearling industry in Australia's northern waters—and I fear I am about to be reading another one of Mr James Lambie's erudite and discursive speeches! Australians fought alongside Malaysians in the 1941-42 Malayan campaign in World War II and assisted the newly independent Malaysia in the 1960s during the Confrontation with Indonesia. Australia was also involved during the time of Malayan independence from Great Britain in 1957. A former Governor-General of Australia, Sir William McKell, helped draft the Malaysian constitution and Australia also sponsored Malaysia's subsequent joining of the United Nations. Malaysian troops have also served alongside Australian Defence Force personnel in East Timor. Since that time Australia and Malaysia have enjoyed an enduring and developing trading relationship, which I will speak about in more detail further in my speech, apparently.

This FTA with Malaysia has been underway since May 2005, when former Howard government trade minister, the Hon. Mark Vaile, commenced negotiations with our Malaysian counterparts. On 22 May 2012, the Malaysia-Australia Free Trade Agreement was signed in Kuala Lumpur with the intention that they would aim for the agreement to enter into force on 1 January 2013. Australia's major merchandise exports to Malaysia include crude petroleum, copper, coal and aluminium. Australia is also one of the major providers of education services to Malaysia. Malaysia is a major exporter of crude petroleum to Australia as well as monitors, projectors, televisions, computers and telecommunications equipment and parts.

Under this agreement, both countries will cut tariffs on a wide range of goods as well as make administration for trade simpler whilst addressing other barriers to trade. Australia will eliminate all tariffs on goods
from Malaysia from day one. Malaysia will eliminate tariffs on 97.6 per cent of goods imported from Australia from day one, which will then rise to 99 per cent in 2017.

Many prominent Australian industries are set to benefit from this new trade agreement with Malaysia, including the Australian dairy industry. The Australian dairy industry's current exports to Malaysia are valued at $260 million per year and a liberalised licensing arrangement will allow larger volumes of milk to be exported and, for the first time, the opportunity to export high-value drinking milk in retail packs. In Dairy Australia's annual report for 2011-12 it is stated:

Dairy products have become an increasing part of the consumer's diet in Malaysia. Demand will only grow stronger and Australia is well placed to help meet this growing need.

The Australian automotive industry will see an elimination of all tariffs on large cars and nearly all tariffs on automotive parts imported from Malaysia, with the elimination of all tariffs on small cars by 2016. Malaysia will immediately exempt Australian cars from its global limit on imports. The Australian wine industry will receive a guarantee of the best tariff treatment from Malaysia under the new agreement. Mr Steve Guy from Wine Australia has said:

There were 136 individual Australian wine exporters to that market last year, which sends a message that maybe the small wine producers in Australia can find a niche in Malaysia. Given the proximity of Malaysia to Australia and the overall preference for more expensive red wine, it makes it an attractive market for smaller producers strengthened further by this agreement.

The agricultural industry believes this agreement is a step in the right direction. Currently, Malaysia is Australia's fourth-largest sugar market and fifth-largest wheat export market. National Farmers Federation Vice President Duncan Fraser said the Malaysian market is worth about $1 billion in Australian agricultural exports and that these commodities can be boosted through the free trade agreement. Notably, there will be open access arrangements from 2023 for the rice industry, with all tariffs to be eliminated by 2026. This is a significant development for the Australian rice industry, which has traditionally struggled to get a foothold in Asian markets.

Other industries that stand to benefit include plastics, processed foods, chemicals and a range of manufactured products where all tariffs will be eliminated immediately. Also, tariffs on 96.4 per cent of steel and iron exports to Malaysia will be eliminated by 2016, then 99 per cent by 2017 and 100 per cent by 2020, which, I suppose, is as good as you can get. To implement the agreement in Australia requires amendments to the Customs Act 1901, the Customs Tariff Act 1995 and the Customs Regulation Act and the enactment of a new customs regulation for the product-specific rules set out in annex 2 of the agreement.

I now turn to the content of the two bills. First let me turn to the amendments of the Customs Act. The Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012 amends the Customs Act 1901 to enact the rules of the Malaysia-Australia Free Trade Agreement. I pause to observe that I believe the Customs Act 1901 was the second piece of legislation ever passed by the Commonwealth parliament after the Service and Execution of Process Act 1901, so it is good to see it being kept up to date.

These rules are essential for determining whether imported goods from Malaysia are eligible for preferential rates of customs duty in accordance with the agreement. These new rules are similar to other FTA
arrangements and include provisions as to (1) when goods can be considered wholly obtained or produced (2) when goods are produced entirely from originating materials and (3) when goods are produced from non-originating materials only or from non-originating materials and originating materials. It includes a definition about what counts as a consignment and when goods are either accessories, spare parts, tools or instructional or other informational materials imported with goods.

Let me turn to the amendments to the Customs Tariff Act. The Customs Tariff Amendment (Malaysia-Australia Free Trade Agreement Implementation) Bill 2012 amends the Customs Tariff Act 1995 by (1) providing free rates of customs duty for goods that are Malaysian originating goods in accordance with the new division 1H of part VIII of the Customs Act (2) amending schedule 4 of the Customs Tariff Act to maintain customs duty rates for certain Malaysian originating goods in accordance with the applicable concessional item and (3) inserting a new schedule 9 in the Customs Tariff Act to maintain excise equivalent rates of duty on certain alcohol, tobacco and petroleum products. These rates are equivalent to the rates of excise duty payable on the aforementioned goods when locally manufactured.

In conclusion, the bilateral trade relationship between Australia and Malaysia has reached a significant cornerstone with the signing of this FTA. The agreement will help to diversify the trading relationship by opening up access to markets on both sides. This agreement will strengthen economic links between our two countries, and consumers in both countries will reap the benefits of liberalisation as prices drop and choice expands The coalition welcomes the opportunity to renew our bilateral relationship with Malaysia, and I commend the bills to the Senate.

Before I sit down, may I take this opportunity, since I believe this is the very last piece of legislation which will be considered by the parliament in 2012, to thank you, Madam Acting Deputy President Stephens, and the other acting deputy presidents, the Deputy President, the President and other colleagues for their cooperation and forbearance during 2012, an exciting but difficult year. I wish the compliments of the season to all my senatorial colleagues as well as to the staff. I see the indefatigable Mr Pye sitting at the table as Deputy Clerk: to him and to the Clerk of the Table Office I wish all a very happy Christmas. For some reason I cannot explain, I am reminded at this moment of my favourite children's book, The Little Red Caboose. The Little Red Caboose always came last, but the Little Red Caboose saved the train.

Senator WHISH-WILSON (Tasmania) (22:34): I thank Senator Brandis for his benefits-only analysis of the Malaysia free trade agreement in this debate on the Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012 and the related bill—a hard act to follow, and I probably need some time to consider it.

I have absolutely no doubt that a Malaysia free trade agreement will bring benefits to some Australian businesses. It is a significant trading partner of Australia. But the world is not that simple. When we get market exchanges and voluntary exchanges, which of course make up trade, we also have costs associated with free trade agreements. That is not just the view of the Greens; it is also the view of the recent Joint Standing Committee on Treaties inquiry and its
recommendations on the Malaysia free-trade agreement. Recommendation 1 is very clear: That prior to commencing negotiations for a new agreement, the Government table in Parliament a document setting out its priorities and objectives including … the anticipated costs and benefits of the agreement.

That recommendation is based on the Productivity Commission report of 2010, which in fact looked at all free trade agreements in terms of what benefits and what costs they brought to the Australian community and the Australian economy. Speaking here purely in economic terms, it is actually not that simple to say that free trade agreements do bring benefits because, until the costs are actually looked at and weighed against the benefits, we cannot say that with any confidence. We are dealing with very complex arrangements and with a large number of countries with overlapping trade agreements.

For example, one cost that the Productivity Commission focused on was trade diversions. Trade diversions are pretty simple and, God knows, I have lectured on that matter enough to students at university. When we have limited capacity and limited resources in our economy and we allocate them to one country under a preferential trade agreement then we do not know what the opportunity costs are for diversion of trade away from other countries and other potential agreements. These are just one of the many economic factors that were looked at by the Productivity Commission.

I know it is late at night and everybody wants to go home, so I am not going to keep talking on this matter for too much longer. The Greens have been steadfast on this issue in terms of our views on free trade agreements. When we look at voluntary exchanges and the transactions that we get in trade, it is like anything that occurs on a market—there is a value we can assign to these transactions. However, quite often those market transactions do not factor in the things that are important to parties such as the Greens, such as economic costs in environmental terms and social costs. Senator Milne will be talking about that very shortly. But I do want to say that this is also well-established in theory on free trade agreements. In fact, the discipline of economics does not even agree on what is a free trade agreement. The WTO has its own agreement and it is often misunderstood—that it relates purely to barriers on the physical free trade of goods and services across national boundaries. However, that is not really the case. It really looks at what is a level playing field. And that takes us into a whole minefield of complexities. In fact, sometimes free trade agreements are anything but that. They can impose extra barriers to trade, such as we see with monopoly rights on things such as intellectual property.

So it is not an easy thing. Put simply, free trade agreements bring economic benefits. That is in dispute. We have considerable concerns about not just this free trade agreement but others and we would like to see the recommendations from the committee implemented at a government level for all future free trade agreements. Notwithstanding that there will be industries that will benefit from this agreement—Senator Brandis talked about the dairy industry—we feel that good policy in future should always, at least, set out in advance what the costs and benefits are. And, importantly, as also emphasised by the Productivity Commission, over time those recommendations can be a set of benchmarks that we can actually go back to and have a look at and with which we can back-test whether these agreements are actually bringing the benefits that we expect they do.
Before I finish up I would like to highlight chamber attendant John Brown, who told me this afternoon that he raised a considerable amount of money for Movember. Given we are the only two guys in the chamber with moustaches, I thought it worth getting that on record here tonight.

The ACTING DEPUTY PRESIDENT (Senator Stephens): Senator Xenophon, Welcome back!

Senator XENOPHON (South Australia) (22:39): I was actually at the back of the chamber, making a phone call to my office when that unseemly reference was made to where Senator Whish-Wilson thought I was. Having said that, this is an important issue. There is no question that Malaysia and Australia have a long and positive history. Senator Brandis outlined the fact that Malayan and Australian troops fought together in World War II, Australian troops fought against the Malaysian communist insurgency in the 1950s and our former Governor-General Sir William McKell was one of the four jurists that helped draft Malaysia’s constitution.

The Department of Immigration and Citizenship estimates that as of June 2012 there were approximately 116,000 Malaysian-born people living in Australia. Further, approximately 300,000 Malaysians in total have undertaken courses in Australian educational institutions. That is an unambiguously good thing. The establishment of a free trade agreement between these two close friends is in theory something we should welcome, but I believe we need to consider other issues in the context of this free trade agreement.

In April this year I was in Malaysia as part of the fact-finding mission of an international observers group on Malaysia’s electoral system. The group consisted of representatives from India, Germany, Indonesia, the Philippines, Pakistan and Australia and met with representatives of the Malaysian government, the election commission, the ruling coalition, the opposition and the clean elections movement led by the group Bersih, which we met with a co-founder, Ambiga Sreenevasan, who was here in Australia not so long ago. We invited her to speak to MPs about the parlous state of Malaysian democracy and the impending elections that could be held at virtually any time between now and April of next year.

The group’s final report raised a number of serious concerns, including the lack of free and fair access to the media and widespread gerrymandering. To give an example, there are some seats controlled by the government with as few as 10,000 voters and seats controlled by the opposition with over 100,000 voters. The gerrymander is extraordinary. There is also the issue of vilification and slander of candidates. There is also the potential for fraud in the verification of voters. The potential for fraud is not just with the electoral roles but also with the postal voting system. The group also met with a retired senior military officer who basically pointed out that, when Malaysian troops are voting, they can effectively be told how to vote. These are important issues.

I have previously raised these concerns and more in this place. When I was most recently in Kuala Lumpur and met with the opposition leader Anwar Ibrahim, he provided me with a handwritten note: a personal plea to the foreign minister, Senator Bob Carr. That plea was not for intervention, as it has been characterised in the media, but for Australia, as a longstanding friend of Malaysia and one of the best friends Malaysia has, to take an interest in the Malaysian elections. There is a real fear of electoral fraud.
On *AM* with Tony Eastley on 21 November—just last week—Anwar Ibrahim, the opposition leader, was asked:

You have fears that the election will be fraudulent and that it won’t reflect the will of the Malaysian people. What evidence do you have to back this?

Anwar Ibrahim said:

We have produced and submitted specific evidence based on the electoral role prepared by the election commission where we showed a few hundred thousand people who are ineligible to vote, not allowed to vote, or some who are not eligible, who are 12 years old or two years old, in the electoral list.

Yesterday the election commission in a private discussion with the members of parliament admitted they were at fault.

Tony Eastley asked:

These voter inconsistencies you mention - false names, underage voters and ghost voters - who is behind this alleged rigging?

ANWAR IBRAHIM: Well election commission is supposed to be independent. But right now of course they, in their statement, in their public announcement, seem to represent the ruling UMNO party.

That gives you an idea of what is at stake. This is one of our closest neighbours, our closest friends, that we are seeking to enter into a free trade agreement with. The opposition leader there as well as the Bersih movement, which I believe has an impeccable reputation for being impartial in these matters, has raised very serious concerns about the Malaysian election system. The response of the foreign minister, Senator Bob Carr, in relation to Mr Ibrahim’s concerns, his pleas for assistance, can be found in an interview on the *World Today* program on 21 November in an interview by Sabra Lane. I think it is fair to say that the response has been unfortunately lauded, and misleadingly lauded, in the Malaysian media controlled by the ruling coalition.

There is nothing to prevent Australia from taking an active interest in the Malaysian elections—not to interfere but to send an observer group. In the lead-up to those critical elections for Malaysia’s democracy, there is a very real concern that those elections will be fixed, that they will not be free and fair. I question why the government is interested in engaging in free trade with Malaysia, which can bring significant benefits to both countries, but is not interested in promoting democracy in Malaysia.

It is our 10th-largest trading partner, and trade between the two nations is valued at $16 billion in 2011. There is no question that Malaysia is an important trading partner. But we must be listening to all sides of Malaysian politics. As a democratic nation and a friend of Malaysia, we have a positive role to play—not to interfere but to ensure that elections in Malaysia are free and fair.

I believe that the passage of this free trade agreement should be, must be conditional on our support of free and fair elections in Malaysia. What has been raised by opposition leader Anwar Ibrahim both in our national media and in his note to Foreign Minister Senator Bob Carr indicates a pressing case for Australia to play a constructive role as a friend of Malaysia to ensure that the upcoming Malaysian national elections are free and fair.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (22:47): I rise to make some comments on the Malaysia-Australia free trade agreement. The Greens have had a longstanding position that free trade agreements are not what they are cracked up to be. We think that there ought to be level playing fields and that free trade agreements do not deliver level playing fields.
The reason for that is that they might be free trade agreements but they are frequently not fair trade agreements and I have argued that, no matter how efficient an Australian farmer is, they cannot compete against farmers in other economies if farmers in other economies do not have to bear the cost of compliance with environmental laws and standards or compliance with labour standards; and that we cannot have free trade agreements in the future unless they take those things into account; otherwise, we are going to have the situation we now have where we sign up to these free trade agreements. There is no assessment—no real assessment—of the impact on Australian producers and Australian manufacturers in relation to what then comes back as cheap imports from overseas that have not had those two issues that I mentioned.

Our farmers have to comply with the law. We want farming to be sustainable. We want it to be ethical, and there are costs associated with producing food in that way. If you add to that the costs associated with paying people appropriately and the standard with which they are treated in terms of the labour force, you cannot exploit workers in Australia and be legally able to do so under the law; however both those things—

Senator Xenophon: And illegal logging.

Senator MILNE: Illegal logging, of course—not to mention that. There are many ways of looking at this, and the Greens have argued many times that free trade agreements are overblown in their claims of the benefits to Australian agriculture in particular. The National Farmers' Federation always comes out, without exception, saying what marvellous things free trade agreements are, and then afterwards nobody does the analysis to see whether the claims that were made are anywhere near the truth. That is why I was very pleased when the Productivity Commission did their assessment of the free trade agreements, in particular the Australia-United States Free Trade Agreement. I will never forget the minister of the day, Mark Vaile, standing up there saying that there would be 300,000 jobs coming out to Australia as a result of the Australia-United States Free Trade Agreement. What a joke! What a disaster that free trade agreement has been! None of the benefits that were claimed for rural Australia came to pass.

In fact, now we have the Americans coming back under the proposed Trans-Pacific Partnership free trade agreement trying to get what they did not get under the Australia-United States Free Trade Agreement, particularly when it comes to pharmaceuticals and things like local media content. And we know that Monsanto is coming via the Trans-Pacific free trade agreement because they want to get rid of any blockage to GMOs—genetically modified organisms. Let's not kid ourselves with all this talk that comes out of the departments about the marvellousness of free trade agreements; they turn out to actually be about strategic and diplomatic reasons. I would argue the Trans-Pacific Partnership free trade agreement is not about trade but about the United States's intention to come back into the Pacific to build up a bloc that excludes China and to actually engage in the strategic policy of the region much more so than it is anything to do with free trade or any trade outcomes. The Greens have strongly argued that before we get into these free trade agreements there needs to be a commitment to have in them chapters and rules pertaining to labour standards and environmental compliance and that before negotiations go into play on free trade agreements the government should be expected to come and place in the parliament a document which shows some sort of
strategic analysis of why or whether the parliament would agree that these free trade agreements should then go on to be negotiated.

I am very pleased to say that in discussions with Minister Emerson he has agreed that this free trade agreement—if we put it through here this evening—will be the last because of an absence of any documents coming before the parliament before free trade agreements are negotiated. The minister has agreed as a result of negotiation with the Greens that prior to commencing negotiations for a new agreement the government will table in parliament a document setting out its priorities and objectives including the anticipated costs and benefits of the agreement. This is a recommendation that was made by the JSCOT committee, and it has come out of the Productivity Commission assessment of free trade agreements; it was not on the table to be implemented, but I am glad to say that the Greens negotiating with the minister has led to his agreement. I am very pleased because this actually advances public policy in Australia, because from now on governments are going to have to table that document and set out for the parliament the priorities and objectives, including the costs and benefits. This will be incredibly important with the Trans-Pacific Partnership free trade agreement, because, as I indicated, I cannot see the benefit to Australia one which way at all, and I think it has got far more to do with Australia's decision to facilitate the United States back into the region. The United States dropped the ball in the Asia-Pacific region in the last decade; President Obama has recognised that it has got a problem, and the US is trying to move straight back into the region, which is why the Labor government has facilitated a base out of Darwin, is trying to facilitate access to the Indian Ocean and the like. So that is a real issue for the Greens, and I think the Trans-Pacific Partnership is part of that strategic engagement and more about trying to include Japan and exclude China—however, we will get to that. At some point we will get this document on the Trans-Pacific Partnership free trade agreement, and farmers, for the first time, will get a real insight into what claims are being made as to what will benefit them in terms of trade.

I accept that Western Australian dairy farmers have been waiting for the Malaysia free trade agreement to go through because of the benefits that they will have in getting rid of those tariffs. They are trying to build a fresh milk market into Asia and in particular into Malaysia. This would not have gone through tonight if we had not engaged in that negotiation with the minister. The Greens do not support this free trade agreement in the context that it does not have environmental compliance or labour standards provisions. We are prepared to facilitate it being debated in the parliament because we are aware that the majority of people here do support it and that, if it did not come into effect on 1 January, it would be delayed until we came back in February. There are certain sectors of the community who are wanting to take advantage of it in the short term.

It would have been far better if we had had the engagement with labour standards and environmental compliance costs. Frankly, I cannot see how we are going to keep Australian farmers on the land if we continue to facilitate cheap imports to compete against them without engaging in the negotiations to make sure that the costs faced by Australia farmers and not farmers elsewhere are taken into account to achieve a level playing field. That is where we are coming from on this. I welcome the negotiations with the minister and I am glad that from now on we can get this document into the parliament for discussions before
free trade agreements are negotiated. It is another example of what can happen when parties decide to sit down together and work out ways to not only facilitate the business of the Senate but also get better outcomes for the parliament and the people of Australia because that is what we are here to do.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (22:57): On behalf of the government, I thank senators for their contributions to this debate and for facilitating consideration of it this evening. I particularly thank Senator Milne for making that possible. I acknowledge her contribution to the debate but also the understanding she has reached with Minister Emerson. As she is aware and as many senators are, the members of the Joint Standing Committee on Treaties reviewed the Malaysia-Australia Free Trade Agreement and provided some important findings for the government regarding the scrutiny process for free trade agreements.

The government intends to agree to implement the following JSCOT recommendation: that is that prior to commencing negotiations for a new agreement, the government table in parliament a document setting out its priorities and objectives, including intervention analysis of the anticipated costs and benefits of the agreement. Such analysis should be reflected in the national interest analysis accompanying the treaty text. Additionally in the new year, the Minister for Trade and Competitiveness, Dr Emerson, will have good faith negotiations with the Greens about Australia adopting in the China-Australia Free Trade Agreement negotiations a policy that China should reduce to zero the tariffs that currently apply to Australian live thoroughbred breeding horses. The aim is to replicate the treatment that New Zealand obtains in its FTA with China and that this issue be given priority by Australia in upcoming negotiation rounds under the FTA process. Due to the lateness of the hour, I will conclude my remarks there. I thank again the Senate and senators for their support for dealing with this legislation tonight at this late hour so as to ensure passage and implementation early in the new year. With that, I conclude my remarks.

Question agreed to.

Bills read a second time.

Third Reading

The PRESIDENT: As no amendments to the bills have been circulated I call the minister to move the third reading, unless any senator requires that the bills be considered in the Committee of the Whole.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (22:59): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Wheat Export Marketing Amendment Bill 2012

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES

Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples Committee

Appointment

The PRESIDENT (23:00): I have received a message from the House of
Representatives informing the Senate of the appointment of members to the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples.

**ADJOURNMENT**

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (22:59): I move:

That the Senate, at its rising, adjourn till Tuesday, 5 February 2013, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator.

Mr President, in doing so, can I indicate that if you try to bring us back earlier there will be serious repercussions, and I speak for the whole Senate.

Question agreed to.

**BUSINESS**

**Leave of Absence**

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (23:01): I move:

That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question agreed to.

**STATEMENTS**

**Valedictories**

**The PRESIDENT** (23:01): I take this opportunity on the last sitting day for 2012 with the conclusion of a very busy parliamentary year to acknowledge and express my personal gratitude to the following. Firstly, I thank the Clerk of the Senate, Rosemary Laing, for her outstanding professionalism and commitment to this very important institution in our democracy, the Australian Senate; the Deputy Clerk, Richard Pye; and all the senior officers of the Department of the Senate for their ongoing support and advice. I thank all senators, and I would like to make special note of the Deputy President and Chair of Committees, Senator Stephen Parry. I wish to once again acknowledge the excellent working relationship that we have established since the start of the Senate term, and I must say that I would be lost without the support that he has given. The mutual respect there is a wonderful thing indeed.

To the temporary chairs of committees, I thank them. I also wish to thank the Usher of the Black Rod, Brian Hallett; the Director of Senate Services, John Baczynski; Assistant Director Glenn Krause; and the staff of the Black Rod’s Office. As I do every year, I make a special mention of, and I thank, Ian and Peter at the transport office, who continue to look after our transport needs so efficiently. And I extend my thanks to COMCAR drivers. I also wish to acknowledge the staff of the Clerk’s Office, the Table Office, the Procedure Office and the Committee Office, and thank them for their hard work, dedication, patience and forbearance.

I thank the chamber support staff, in particular the chamber attendants and the mail attendants, and the staff of the Senate IT in 2020, who have assisted me on more than one occasion in getting the information and communication technology which we are provided with to work. I also thank the Secretary of the Department of Parliamentary Services, Carol Mills, and her staff, most of whom work in the background providing the essential services that enable the parliament to function. In particular, I thank the ground staff and gardeners who
make Parliament House such a showpiece for the nation and those who work in Security and in the Protective Services at Parliament House. I also thank the Health and Recreation Centre staff; the staff of HRG, who make our travel arrangements; the cleaners, who keep this place so immaculately clean and tidy; the staff of IHG and Aussies, who provide the coffee and food to all building occupants and visitors; the Parliamentary Library and Research Service under the direction of the Parliamentary Librarian, Dianne Heriot; and the International and Community Relations Office for their dedicated work with outgoing and incoming delegations and in managing our Interparliamentary Relations and International Parliamentary Assistance Program.

The Parliamentary Education Office do an extraordinary and very important job teaching young Australians about our parliament. In 2012 they taught more than 91,000 young Australians from 1,605 schools. I would like to thank the former Speaker of the House of Representatives and his staff, as well as the Clerk, Bernard Wright, and officers of the Department of the House of Representatives. I welcome the election of the new Speaker, Anna Burke, and the Deputy Speaker, Bruce Scott, and I look forward to working with them again in the new year.

I am especially grateful to the staff from my office here at Parliament House, as well as to my electorate staff in Queensland. I acknowledge and thank all the other people I have not mentioned personally who work in Parliament House and in electorate offices right around Australia. I extend from what I have written before me, to say that I note the dedication of the staff right across the senators and members in this place. Their dedication to their work is second to none, and I think sometimes that is overlooked in the work that goes on in Parliament House.

In conclusion, I extend my best wishes to all colleagues and staff for the upcoming festive season and I look forward to seeing everyone back here in 2013. I thank the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (23:06): I have a deal with Senator Abetz, which I hope he honours, that we keep our remarks very short at this late hour and do not go through the performance that occurs in the House of Representatives every year, which seems to go on forever. I think we have again led in procedure in this chamber.

On behalf of the government, I do want to thank all the staff and senators for their contributions and their commitment to our parliamentary democracy. I particularly want to acknowledge the Senate and other parliamentary staff. Their unfailing commitment to public service and capacity to remain polite in dealing with senators and their staff under the most extreme provocation is a great credit to their professionalism, and we all are very well served by the parliamentary staff.

I thank senators and their staff for their cooperation throughout the year. On a personal note, I thank in particular the women in charge on my side of the parliament: Senator Anne McEwen, the Government Whip, and Senator Jacinta Collins, the Manager of Government Business in the Senate. I do not pretend to run the show; I always acknowledge who is in charge. I appreciate the way they have so efficiently conducted the government’s business.

To all, it is a great pleasure to be finishing in November. We traditionally used to sit
much, much later in the year. I think in my first year here we dealt with the native title legislation—I nodded off during Christmas lunch; I was awoken by a sound rap across the back of the head by someone who exerts influence in the home environment—but we seem to have been much more civilised about our sitting hours and our program this year. I think we have made some improvements there.

I do wish all senators and their staff a good break, with the capacity to reconnect with their families and their constituents and to recharge their batteries before coming back next year in February. I make the point that, unlike what most people see on the evening news, the vast majority of interactions between senators and their staff and other players in this parliament are positive and cooperative. Generally people act with decency and politeness towards each other. That is something that is not seen as much as it should be, but I think we all know that it exists. But it is also true to say that this year has been a particularly rough year in the way politics has been conducted in this country.

I do not say that with any political commentary other than to say we would all do much better if we treated each other with more respect on all occasions. I think we are all guilty of failing the standards that might be desirable. It is worth us all reflecting on, because I think the Australian public find some of the conduct distasteful and not what they expect of us. I make the point that I think most of the interactions we have amongst ourselves, across the chambers and between the parties are positive and constructive. As I say, it is not something that is generally seen.

I wish all senators and their staff a good break. I hope they get a chance to discover some normality in their lives before returning as the fly-in fly-out workforce that characterises our work. On behalf of the government, thanks everyone for their cooperation and I wish senators and staff all the best for the Christmas-New Year period.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (23:10): As the Senate considers adjourning for the Christmas break, it is appropriate to reflect on what we are actually celebrating. Christmas is an integral part of our nation’s heritage and ethos, built as it is on the Christian ethic of forgiveness, reconciliation and goodwill. The Christmas break is a time for spiritual, physical and personal renewal.

On behalf of my colleagues in the coalition, I thank all staff who make this place operate as smoothly as it does. I also thank somebody who has not been mentioned, and that is the Reverend Peter Rose, who is the parliamentary Christian fellowship chaplain, for the work that he does amongst all the parliamentarians.

I thank especially my colleagues for the privilege they have given me to allow me to serve them as their leader. I also thank my deputy leader, George Brandis, for the fantastic work that he does; the Nationals leader, Barnaby Joyce, and our Nationals colleagues; the whip, Helen Kroger; Mitch Fifield, the Manager of Opposition Business; and all my colleagues.

On behalf of the coalition, I also thank our families and close, significant others. We are the volunteers; they are the conscripts, and they often have to put up with a lot as a result of our behaviours, our decisions or what other colleagues might say about us from time to time. We could not do our jobs without their support. On behalf of the coalition, I say thank you to political spouses and children.

It has been an immense privilege to serve under the leadership of Tony Abbott for the
past 12 months. In short, on behalf of the coalition, I wish all senators, Senate staff and our individual staff a blessed Christmas, and God bless.

Senator MILNE (Tasmania—Leader of the Australian Greens) (23:12): I rise this evening to join Senator Evans and Senator Abetz on behalf of the Greens in saying to everybody here that I hope they have a happy, healthy and safe Christmas and holiday period and have an opportunity to enjoy some time with friends and family. That is what we are looking forward to, I am sure.

I want to take this opportunity to thank my fellow senators and, in particular, Senator Siewert, who doubles as our whip and manager of business. She does an extraordinarily good job, although I have urged her to try and see if she can account the numbers to get a few more numbers from time to time! Nevertheless, she does very well, but we rarely get past 11. We try very hard and we are encouraging her in this pursuit.

I also want to thank our whips clerk and deputy whips clerk, Emma Bull and Alice Ruxton. They work extremely hard to try to negotiate the smooth running of the Senate in the management of business and try to get good outcomes. They help us to stay sane in the management of the way the Senate works.

I want to also thank the Senate staff and the attendants in particular, and of course the Comcar drivers, Ian and Peter, who are organising the transport.

I also thank Hansard—they do a fantastic job for us. The wonderful thing about all of the Senate staff—the attendants, Hansard, Comcar, 2020 and the Clerk’s Office—is it is always courteous, it is always helpful and it is always pleasant. We have a stressful life in this job, and it is so good to come in here where everybody is treated in exactly the same way. People go out of their way to try to make sure that we have what we need and to facilitate that at all times. I am, on behalf of all the Greens, really appreciative of the efforts that everyone makes to make this parliament as good as it can be, from the Clerks right through to the attendants, Hansard, Comcar and so on.

I especially thank the gardeners. Gardening is a passion of mine, and one of the joys of being able to work in a beautiful building like this is to be able to look through so much glass around the place into beautiful nooks and crannies in the gardens. It certainly lifts your spirits. There is a beautiful courtyard just near here which, in the Spring, has the most amazing display of azaleas and rhododendrons, camellias and flowering cherries. For two or three weeks of the year it is magnificent. It is a classic example of a thing of beauty being a joy for ever. As I look around the gardens and watch the changing of the seasons I acknowledge and appreciate the efforts of the gardeners, which are maybe not articulated often. I appreciate what they do in bringing joy to our lives in the way that they keep the building and in enabling us to have those moments of sheer enjoyment.

Thanks to everyone, and I hope you all have a really wonderful Christmas break. I look forward to seeing you all in what will be a very big year for every one of us.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (23:16): It is always the art form of the valedictory speech to find someone that the other person has not thanked, and by thanking them to trump them. So I would like to thank the security people, who I think have done a splendid job. No-one has been assassinated this year, and it is not from want of trying. I also thank the maintenance men.
In all seriousness, starting with you, Mr President, thank you very much. I concur with the remarks of Senator Evans that if the Australian public only knew that in the vast majority of times when we are off this political football field we all get along in quite a civil manner. The Australian people should be aware of the fact that, once we walk out the door, people treat people with dignity. This is the political football paddock and out there is civvy street, and we know the difference between the two.

I thank the attendants for the wonderful work they have done. I thank Ian and Peter at the shuttle for allowing my car to stay when they should have told it to go. I thank my colleagues Senator Abetz and Senator Brandis—you have done a spectacular job. I have already acknowledged Senator Evans, who has occupied his post with dignity. I thank Senator Milne for the work she has done as leader of her party. I thank Senator Xenophon, Senator Madigan and the whips, Wacka, Helen, Ann and Rachel, who keep us all in line—the polar attraction of dignity. I thank the deputies—one just walked in: where were you? We will talk about that later on. I also acknowledge people that Senator Abetz has acknowledged—people we never see, such as the Reverend Peter Rose, for the marvellous work he does behind the scenes for those who are under the pump a bit and need someone to have a yarn to. In my own particular way, as someone who lives so remotely, I thank squadron 34: so often when I cannot get home the professionalism of that group is absolutely impeccable, and if it were not for them there would be times when I would not see my family for months.

Thanks to everybody else, and to the most important group in this parliament that we do not see: the families who put up with this rather peculiar and chaotic life that we live. I do not know how they do it. To my—and everybody else's—ever-suffering family, whatever form they are in, thank you very much. To everybody, merry Christmas and God bless.

**Senator XENOPHON** (South Australia) (23:19): Mr President, I endorse everything that everyone has said in relation to this and I thank you for putting up with me for another year!

**The PRESIDENT:** That is a presumption, is it!

**Senator XENOPHON:** Well, it is a brave presumption! Away from the sound and fury of this place, there is a common decency that pervades this place in the way we treat each other. I think we have a fundamental respect for each other, whatever differences we have, and that is something that the public does not see. I think it will be a hell of a year next year, with an election coming up, but I would like to think that that basic civility, that basic decency that we show to each other will continue.

I also thank Hansard. They make us look and sound much better than we actually do, at least in the printed form. I also want to thank my team. I do not have a party machine behind me and I have my party room meetings in front of the mirror each morning while I am having a shave, but I am very grateful to my very hardworking team—all of them and, in particular, Hannah, Sally and Skye, who have been in Canberra this week. I could not do it without them. I think behind any good politician there are some very surprised advisers and staff. I join with others to wish everyone a wonderful Christmas, a refreshing break and for all to come back at least refreshed for what will be an interesting and exciting year.

**ADJOURNMENT**

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of
I move:

That the Senate do now adjourn.

East China Sea: Diaoyutai Islands

Senator FURNER (Queensland) (23:21): I rise this evening to inform the Senate of a matter that I have been involved in for some time as a result of my participation on the Joint Standing Committee on Foreign Affairs, Defence and Trade. It is in relation to the East China Sea and, in particular, the Diaoyutai Islands. Through my capacity on that committee I have had the opportunity to have ambassadors before the committee and to question them on the results of and, in particular, how that dispute is being handled.

The Diaoyutai, or Senkaku, Islands have a long history which dates back to the Ming Dynasty, from 1368 to 1644, when the islands were discovered by the Chinese. The islands consist of five uninhabited islands located in the East China Sea north-west of Taiwan. Over time, the islands have proved to be a popular fishing spot for fishermen from Taiwan and a favourable place for shelter during storms. In addition, medical herbs were gathered there.

Lately, controversies in the East China Sea about the Diaoyutai Islands have seen the government of the Republic of China, Taiwan, reiterate that the Diaoyutais are an island group that belongs to Taiwan and are therefore an inherent part of the territory of the Republic of China. As I understand it, the Republic of China's consistent position has been that the Diaoyutais were returned to the Republic of China, along with Taiwan, based on the Cairo Declaration, the Potsdam Proclamation, the Japanese Instrument of Surrender, the Treaty of San Francisco and the Treaty of Peace between the Republic of China and Japan.

Notwithstanding, the Republic of China understands that all parties concerned hold conflicting standpoints and that this is the cause of longstanding disputes and the recent rise of tensions in the region. With respect to the Diaoyutai issue, the government of the Republic of China has consistently affirmed its position of:

... safeguarding sovereignty, shelving disputes, pursuing peace and reciprocity, and promoting joint exploration and development.

With the Diaoyutai Islands being located in the East China Sea, they are an important air and sea transportation hub in the Western Pacific and therefore have clear significance for security and peace in the Asia-Pacific region and in the world as a whole.

For an Australian government, the maintenance of peace, stability and prosperity in our region is of vital interest. This government is committed to seizing the opportunities for Australia as the world's economic and strategic power shifts towards our region. This commitment was expressed recently in the government's Australia in the Asian century white paper. North Asia is particularly important to us because China, Japan, Korea and Taiwan are all among our top trading partners. Australians naturally welcome any initiatives that could reduce tensions in the region and promote the peaceful resolution of disputes. Taiwan's President, Dr Ma Ying-jeou, has set out some valued principles in this regard in his East China Sea Peace Initiative, including refraining from antagonistic actions, shelving controversies and not abandoning dialogue; resolving disputes through peaceful means and in accordance with international law; and exploring ways to cooperate on exploring and developing resources in the East China Sea.

As a matter of foreign policy and principle, Australia does not take sides in complex territorial disputes between countries that are our friends. The Australian federal government hopes goodwill and
common sense will prevail in the East China Sea in reaching an amicable settlement. Having built strong relationships with the Taiwanese people here in Australia and abroad, I am confident this is possible. On that note I must say, Mr President, that particularly in Brisbane, as you would possibly know, we hold the greatest diaspora of Taiwanese people in this country, in particular around the Sunnybank region and in the seat of Moreton, where the member for Moreton, Mr Graham Perrett, does an amazing job in his communication and dialogue with the Taiwanese communities in that seat.

I also wish to thank the Taipei Economic and Cultural Office in Australia and, in particular, Ambassador Katharine Chang, Steve Chang and Wen Cheng Sung, along with Anthony Lin, both from the Brisbane office, for their friendship and education about that wonderful country, Taiwan. Having listened to them before I was fortunate enough to have the chance to visit that country recently as part of a delegation of five from the Senate—Senator Thistlethwaite, Senator Gallacher, Senator Brandis, Senator Ryan and me—I must say that their stories about the opportunities and the business ventures Taiwan has to offer are amazing. You don't really appreciate it until you travel to a country and see what those sorts of initiatives and business enterprises can deliver firsthand; it is only when you see it through your own eyes that you see what an amazing country it is. We travelled from the north to the south and saw a steel manufacturing plant beyond my wildest possible imagination. We also saw the coal fired power station very close to the steel plant. The plant receives coal from Australia—one of our greatest exports to that particular country. It was amazing to see the technology and the efficiencies that they have as a country in terms of the relationship they have with their employees. It is one of the opportunities I recognised firsthand.

In the very few days we had there, I went into a nuclear power station for the first time ever and saw firsthand its operation. I do not have a position either way on nuclear power, but it certainly enlightened me as to the beneficial nature of that type of power, and the efficiency was amazing: 2c per kilowatt hour is delivered out of that power station up there in the north of Taiwan. So I just want to acknowledge those people in particular.

I want to thank the other senators on that delegation. It was certainly helpful to have the likes of Senator Thistlethwaite, who speaks reasonable Mandarin, to communicate with a number of the ministers and officials over there. It certainly made our opportunity for communication with those people a lot easier. I still am amazed by the fact that they are such a warm and friendly, amazing people with whom I am honoured to have an association—and, certainly, through my role as a senator for Queensland, I will continue my involvement with the Taiwanese communities out in the southern suburbs of Brisbane. Quite often I will get involved in activities with them, raising money for tragic events that happen around the world. I went to a fundraiser with them once where we raised thousands of dollars for the tsunami victims in Japan. Their hearts go out as a group, as a community, to anyone in the world. This is the type of people that we are fortunate to have in our country—whom I refer to as Australians; they migrated here over many years. As I reflected on recently in this speech, we have the greatest diaspora of Taiwanese people in Brisbane and it is an absolute honour and a privilege to have them as part of our community in Australia.
Parliamentary Democracy
Murray-Darling Basin
Rural and Regional Health Services
Defence

Senator FAWCETT (South Australia) (23:31): I rise tonight at the close of what has been a remarkably brutal year, in political terms, to talk a little bit about the institution of the parliament and our democracy behind it. The Lowy Institute took a poll earlier this year and it found that only around 60 per cent thought that democracy was the best form of government. Disturbingly, for people aged between 18 and 29, the poll showed that only about 39 per cent thought that democracy was the best form of government, and some were open to other forms. Yet around the world people lay down their lives to have the right to have a say in how their country is run.

I would like to touch briefly on the fact that, behind the zoo that people see here in question time sometimes and the headlines they see in the papers, the institute that this parliament brings to make democracy work is actually working for the nation. There are three examples I would like to touch on. The first is the Water Act this year. Alfred Deakin, one of the men who drove the Federation in Australia—an irrigator, and the second Prime Minister—said about 110 years ago:

… this is probably the most complex—I might almost say the most obscure—part of the whole Constitution; and it will be extremely difficult to determine—first, what are our rights and powers and next, the most tactful and effective way of asserting them?

He was certainly right, Mr President—it has taken a long time. Right back in 1881 the various states were staking out their claims for the river. Initially, it was around making sure that you could still navigate ships and boats on it, because that was a way to open up the states, certainly from South Australia's perspective.

The years of the great drought that only ended in 1902 were a crisis that for the first time brought people together and made them talk, and in 1915 the River Murray Waters Agreement was finally agreed. It took until 1960, though, for people to start talking about water quality as opposed to just quantity, and it was not until the 1980s that people started talking about the environment. In 2004 the Howard government had the Intergovernmental Agreement on a National Water Initiative and in 2007 the National Water Security Plan.

This year I give credit to Minister Burke and to my colleague Senator Simon Birmingham for the work they have done to bring the respective parties together. We now have, in the Water Act this year, something that has been the culmination of 120 years' work. Is it perfect? No. But does it help the environment? Yes. Does it take account of the 2.1 million people who live along the basin and make their livings and create their communities there? Yes, it does. Is it a basis for further development? Yes, it is. And is it a good example of where people from all parties have come together, and even if they have not completely agreed have found a position of cooperation, in some cases compromise, to work to move forward in the national interest. I think that is a credit to this parliamentary institution and our democracy. Many of the speakers here tonight in their statements have talked about the civility that occurs outside the zoo of question time, and this act is a good example of that.

Another good example is the Senate Community Affairs References Committee looking at the factors affecting the supply of health services and medical professionals in rural areas. This is something that tremendously affects people in country areas.
yet very rarely makes the headlines. Very rarely do you hear it debated in question time. But here you have a committee of this Senate involving people from the Nationals, the Liberal Party, Labor and the Greens, working very constructively together, travelling around the country, taking submissions, hearing from people who are involved with the delivery, the training for or the governance of health services in rural areas. It was a really cooperative committee with good recommendations. It is a good example of how this Senate works for the benefit of the people of Australia.

A lot of policy is developed on the east coast where the demographics are quite different. For example, my state of South Australia has a very concentrated population in Adelaide, so a lot of the assumptions on the east coast about rural centres and the opportunities for training places and training hospitals are just not relevant in South Australia. One of the benefits of having a bicameral system, and the opportunity for senators to come together and work on an issue, is that we can make sure the interests of states that are different in their demographics are taken account of through those reports. So that community affairs committee report I think is a good example of the institution of the parliament working to the benefit of the people of Australia.

One of the areas that I spend most time on in this place is Defence. People are used to headlines about things in Defence, the good work that our people in Defence do—in natural disasters and in operations. But there are also the headlines that people shake their heads at, when they look at procurement, some of the waste and the projects that have not gone well in that area. Here again there was an inquiry that ran over 18 months with Independents like Senator Xenophon, the Greens, the Labor Party and the Liberal Party working together to develop and table a report that was unified in its recommendations to government. That is a good example of things that are in the long-term national interest, where people in this place put aside their political differences.

Politics is important; politics is about holding the executive to account; politics is about making sure that the people who are entrusted with government do the right thing by the taxpayer and invest their money wisely. But, behind the scenes, behind that political level, the institution of this parliament is working and working effectively for the people of Australia. I think it is a shame that we do not see more of that highlighted in newspapers, on talkback radio and in other opportunities so that when the Lowy Institute do those polls, people go: 'You know what? This democracy is worth defending. This democracy is worth supporting, because this Senate is working for the benefit of the people of Australia.'

Mr President, as we come to the end of this year I want to echo the remarks of colleagues by thanking you, the Senate staff, Hansard and everyone who makes this place work. I also want to thank my own staff: Mignon, Cristy, David, Bev, Josh, Cassie; and my family Lorna, Alexandra and Emily for their incredible patience with the lifestyle that members in this place have to lead.

As we think of families I think it is also important that we pause and remember that there are many families that will be separated this Christmas. I think it is important to remember our service men and women who are overseas, and remember their families. Remember also those who have lost husbands or brothers or sons, who will not be at the Christmas table this year.

Finally it is important to remember the reason for the Christmas season, which is the birth of Christ, God's gift to this world. Mr
President, to you and yours, I wish a blessed Christmas.

**Senate adjourned at 23:39 until Tuesday, 5 February 2013 at 12.30**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

- **Defence Act**—Determinations under section 58B—Defence Determinations—
  2012/66—Senior officer transitional bonus – amendment.
  2012/67—Carer’s leave – amendment.
- **Financial Management and Accountability Act**—Financial Management and Accountability Determinations Nos—
  2012/29—Section 32 (Transfer of Functions from HEALTH to NHPA) [F2012L02275].
  2012/30—Section 32 (Transfer of Functions from DPP to AFP) [F2012L02277].
  2012/32—Section 32 (Transfer of Functions from DISRTE to DEEWR) [F2012L02276].
- **Fuel Tax Act**—Correcting Fuel Error Determination (No. 1) 2012 [F2012L02279].
- **Parliamentary Entitlements Act**—Parliamentary Entitlements Regulations—Advice of decision to pay assistance under Part 3, dated 22 November 2012 [2].
- **Payment Systems (Regulation) Act**—Variation to Standards Relating to Merchant Surcharging [F2012L02271].
- **Transport Safety Investigation Act**—Select Legislative Instruments 2012 Nos—
  263—Transport Safety Investigation Amendment Regulation 2012 (No. 1) [F2012L02278].
  264—Transport Safety Investigation Amendment Regulation 2012 (No. 2) [F2012L02280].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Community Affairs: Supplementary Budget Estimates**

(Question No. 2397)

Senator Abetz asked the Minister for Human Services, upon notice, on 30 October 2012:

With reference to questions asked during the 2012-13 Supplementary budget estimates hearing of the Community Affairs Legislation Committee held on 18 October 2012, relating to the arrangement between Telstra and the Government:

1. Did the request for tender specifically ask for proposals relating to free rate mobile calls.
2. Did the agreement with Telstra require Telstra to free rate calls from mobiles; if so, why.
3. Was a consideration paid by the Government to Telstra to achieve the outcome of free rate calls from mobiles, and was this service part of the overall consideration.
4. Were other mobile telecommunication providers asked to put forward proposals to provide free calls from mobile phones to the designated 1-800 numbers; if not, how does the Government determine whether it has achieved value for money.
5. Was any price comparison performed across mobile telecommunication providers to determine whether encouraging low-income and disadvantaged Australians who are clients of the department to use Telstra services would result in an increase in their average phone bills; if not, why not.
6. Does the Government believe that it has a duty of care to its clients in this regard.
7. Did the Government take into account the fact that Telstra increased the costs of calls to services on 1-300 numbers from fixed phones, from 30 cents to 35 cents, as of 1 October 2012.
8. Did the Government undertake any analysis on the average savings low-income or Government beneficiary users may make on mobile calls to key services that are free under this deal, as opposed to the increased costs they may bear from the prices Telstra charges for calling other key services.
9. Was any cost benefit analysis performed; if so, what did it show.
10. Did Telstra agree to free rate phone calls to the Kids Helpline; if not, why not.
11. Did the Government consider it to be an important consideration whether or not clients could access the Kids Helpline as a free rate call from Telstra mobile phones.
12. Did other mobile telecommunication providers offer a free rating for the Kids Helpline.
13. Has the Government received any correspondence from any Commissioner for Children expressing concern that Telstra would not free rate calls to this telephone service; if so, can a copy of the correspondence from the relevant Commissioner or Commissioners and the Government response be provided.

Senator Kim Carr: The answer to the honourable senator's question is as follows:

1. No.
2. During the negotiation phase of the tender process the Department of Human Services (the Department) explored opportunities for Telstra to provide additional benefits to support rural and remote and disadvantaged citizens.

The final contract agreement reflected the outcomes of the negotiations that were agreed between the parties. The contract agreement provides for free mobile calls from Telstra mobile phones for five selected inbound numbers operated by the Department.

3. No. There is no additional cost to the Department as Telstra waives the per minute call charges for Telstra mobile phone customers.
(4) No. During the negotiations with Telstra, Telstra advised they would provide free calls from Telstra mobile phones to the designated 1-800 numbers as part of their offer.

(5) No. The Department does not have access to information relating to arrangements made between individuals and their telecommunication providers on their mobile call plans. These arrangements would vary depending on the individual's circumstances and requirements and would make any comparison difficult.

(6) The Department believes that the individual is best placed to determine their own arrangements for mobile phone plans and their provider of choice.

(7) No.

(8) No.

(9) Standard cost benefits analysis was conducted in line with Commonwealth Procurement practices to determine value for money. The outcome of the cost benefit analysis conducted as part of the procurement exercise is reflected in Telstra being selected as the successful tenderer.

(10) No. This service is not operated by the Department. The Department is unable to comment.

(11) No. Refer to the response to question ten above.

(12) No. This service is not operated by the Department. The Department is unable to comment.

(13) Neither the Minister for Human Services nor the Department has received any correspondence from any Commissioner for Children.

Asylum Seekers
(Question No. 2506)

Senator Cash asked the Minister representing the Minister for Home Affairs, upon notice, on 2 November 2012:

(1) Have Sri Lankan authorities, including the Sri Lankan Navy, ever informed Australian officials of illegal boats arriving in or on their way to Australia; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(2) Have Sri Lankan authorities ever expressed a view that a boat or boats, of which the authorities may have informed Australian officials, should be returned to Sri Lanka, or that the authorities would be willing to aid in the return of the boat/s; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(3) Did the Minister, Minister's office or any agency instruct the Australian Customs and Border Protection Service to intercept any boat before it entered Australian waters; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

Senator Ludwig: The Minister for Home Affairs has provided the following answer to the honourable senator's question:

(1) Yes. Operational information is provided by the Sri Lankan authorities to the Australian authorities on a confidential basis.

(2) Customs and Border Protection are not aware of any requests from Sri Lankan authorities to return suspected irregular entry vessels to Sri Lanka.

(3) No. Customs and Border Protection did not receive any instruction to intercept any boat before it entered Australian waters.
Asylum Seekers
(Question No. 2509)

Senator Cash asked the Minister representing the Minister for Home Affairs, upon notice, on 2 November 2012:

With reference to reports dated 18 October and 19 October 2012, that a boat from Sri Lanka with alleged pirates on board was on its way to Australia:

(1) Was the Australian Customs and Border Protection Service (Customs and Border Protection) instructed to deploy air and/or sea assets to locate this vessel before it entered Australian waters; if so, can details of the date, time and instructions be provided.

(2) Did Customs and Border Protection communicate with Sri Lankan authorities about the location of this vessel; if so, can details of the communications be provided; if not, why not.

(3) Did Sri Lankan authorities communicate to Customs and Border Protection that they wished for the return of passengers on board the vessel to Sri Lanka; if so, can details of the time, date and content of communications be provided.

(4) Did Sri Lankan authorities express to Customs and Border Protection their desire that this vessel not be allowed to enter Australian waters; if so, can details of the time, date and content of communications be provided.

(5) Did the Minister, Minister's office or any agency instruct Customs and Border Protection to intercept this boat before it entered Australian waters; if so, can details of the time, date and content of communications be provided; if not, why not.

Senator Ludwig: The Minister for Home Affairs has provided the following answer to the honourable senator's question:

(1) No. Customs and Border Protection did not receive any instruction to intercept any boat before it entered Australian waters.

(2) Customs and Border Protection did not communicate with Sri Lankan authorities about the location of this vessel prior to its interception. Following its interception in the vicinity of Cocos (Keeling) Islands, Customs and Border Protection advised the Sri Lankan Coast Guard of the interception of the vessel, in accordance with standard procedure for the arrival of suspected irregular entry vessels from Sri Lanka.

(3) No. Sri Lankan authorities did not communicate to Customs and Border Protection that they wished for the passengers on board the vessel to be returned to Sri Lanka.

(4) No. Customs and Border Protection did not receive this advice from Sri Lankan authorities.

(5) No. Customs and Border Protection did not receive any instruction to intercept the vessel before it entered Australian waters.

Employment and Workplace Relations
(Question No. 2524)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 6 November 2012:

Can a full list be provided detailing the meeting dates, locations and attendees for the following groups, since 1 January 2012, the: (a) Committee on Industrial Legislation; (b) National Workplace Relations Consultative Council; and (c) Workplace Relations Ministers' Council (COAG Select Council on Workplace Relations).
Senator Wong: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

a) The Committee on Industrial Legislation (CoIL) has met twice since 1 January 2012. Details on meeting dates, location and attendees for these meetings are attached below.

b) There have been two NWRCC meetings convened since 1 January 2012. Details on meeting dates, location and attendees for these meetings are attached below.

c) The COAG Select Council on Workplace Relations (SCWR) has been convened twice since 1 January 2012. Details are attached below.

Committee on Industrial Legislation (CoIL)
CoIL – Fair Work Amendment Bill 2012 – 1st Tranche,
9.00 AM – 3.00 PM, Friday, 19 October 2012, DEEWR National Office, Canberra

<table>
<thead>
<tr>
<th>Attendees</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>Mr Stephen Smith</td>
<td>Australian Industry Group</td>
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<tr>
<td>Mr Peter Burn</td>
<td>Australian Industry Group</td>
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<tr>
<td>Professor Breen Creighton</td>
<td>Business Council of Australia</td>
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<tr>
<td>Mr Brian Duggan</td>
<td>National Farmers' Federation</td>
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<tr>
<td>Mr Richard Calver</td>
<td>Master Builders Australia</td>
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<tr>
<td>Mr Tim Lyons</td>
<td>Australian Council of Trade Unions</td>
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<tr>
<td>Mr Trevor Clarke</td>
<td>Australian Council of Trade Unions</td>
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<tr>
<td>Mr Mark Morey</td>
<td>Unions New South Wales</td>
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<tr>
<td>Ms Melissa Donnelly</td>
<td>Community and Public Sector Union</td>
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<tr>
<td>Mr Tom Roberts</td>
<td>Construction, Forestry, Mining and Energy Union</td>
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<tr>
<td>Mr Tim McCauley</td>
<td>Australian Manufacturing Workers Union</td>
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</table>

Representatives from the Department of Education, Employment and Workplace Relations and the Minister for Employment and Workplace Relations

CoIL – Fair Work Amendment Bill 2012 – Default Superannuation amendments to the Fair Work Act 2009, 3.30 PM – 5.00 PM (via teleconference), Wednesday 24 October 2012

<table>
<thead>
<tr>
<th>Attendees</th>
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<tbody>
<tr>
<td>Mr Daniel Mammone</td>
<td>Australian Chamber of Commerce and Industry</td>
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<td>Mr Dick Grozier</td>
<td>NSW Business Chamber</td>
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<tr>
<td>Mr Stephen Smith</td>
<td>Australian Industry Group</td>
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<td>Mr Peter Burn</td>
<td>Australian Industry Group</td>
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<td>Mr Richard Calver</td>
<td>Master Builders Australia</td>
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<tr>
<td>Mr Tim Lyons</td>
<td>Australian Council of Trade Unions</td>
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<tr>
<td>Mr Michael Fisher</td>
<td>Australian Council of Trade Unions</td>
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</table>

Representatives from the Department of Education, Employment and Workplace Relations and the Minister for Employment and Workplace Relations

National Workplace Relations Consultative Council (NWRCC)
NWRCC 114, 2.00 PM – 4.00 PM, Friday, 25 May 2012, DEEWR National Office, Canberra
QUESTIONS ON NOTICE

Attendees

<table>
<thead>
<tr>
<th>Attendees</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>The Hon Bill Shorten MP, Minister for Employment and Workplace Relations</td>
<td>Commonwealth</td>
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<tr>
<td>The Hon Jacinta Collins, Parliamentary Secretary for School Education</td>
<td>Commonwealth</td>
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<tr>
<td>Ms Lisa Paul AO PSM, Secretary</td>
<td>Department of Education,</td>
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<td></td>
<td>Employment and Workplace Relations</td>
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<tr>
<td>Mr Peter Anderson</td>
<td>Australian Chamber of Commerce and</td>
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<td>Industry</td>
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<tr>
<td>Mr Daniel Mammone – Observer</td>
<td>Australian Chamber of Commerce and</td>
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<td>Industry</td>
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<tr>
<td>Mr Innes Willox</td>
<td>Australian Industry Group</td>
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<td>Mr Stephen Smith – Observer</td>
<td>Australian Industry Group</td>
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<tr>
<td>Ms Maria Tarrant – Observer</td>
<td>Business Council of Australia</td>
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<td>Mr Brian Duggan</td>
<td>National Farmers' Federation</td>
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<td>Mr Richard Calver</td>
<td>Master Builders Australia</td>
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<td>Mr Dave Oliver – Observer</td>
<td>Australian Council of Trade Unions</td>
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<td>Ms Susan Hopgood</td>
<td>Australian Council of Trade Unions</td>
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<td>Mr Tim Lyons</td>
<td>Australian Council of Trade Unions</td>
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<tr>
<td>Mr Mark Lennon</td>
<td>Australian Council of Trade Unions</td>
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<tr>
<td>Representatives from the Department of Education, Employment and</td>
<td>Commonwealth</td>
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<tr>
<td>Workplace Relations and the Minister for</td>
<td>Commonwealth</td>
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NWRCC 115, 10.30 AM – 12.30 PM, Monday 15 October 2012, Commonwealth Parliamentary Offices, Melbourne
### QUESTIONS ON NOTICE

#### COAG Select Council on Workplace Relations (SCWR)

**SCWR 1, 11.30 AM – 2.30 PM, Friday 6 July 2012, 11.30 AM – 2.30 PM, Commonwealth Parliamentary Office, Melbourne**

<table>
<thead>
<tr>
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<td>The Hon Bill Shorten MP, Minister for Employment and Workplace Relations</td>
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<td>The Hon Jacinta Collins, Parliamentary Secretary for School Education and Workplace Relations – Observer</td>
<td>Commonwealth</td>
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<tr>
<td>The Hon Gregory Pearce MLC, Minister for Finance and Services</td>
<td>New South Wales</td>
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<tr>
<td>The Hon Richard Dalla-Riva MLC, Minister for Employment and Industrial Relations</td>
<td>Victoria</td>
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<tr>
<td>The Hon Jarrod Bleijie MP, Attorney-General and Minister for Justice</td>
<td>Queensland</td>
</tr>
<tr>
<td>The Hon Russell Wortley MLC, Minister for Industrial Relations</td>
<td>South Australia</td>
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<tr>
<td>The Hon Simon O’Brien MLC, Minister for Commerce</td>
<td>Western Australia</td>
</tr>
<tr>
<td>Dr Chris Bourke, MLA, Minister for Industrial Relations</td>
<td>Australian Capital Territory</td>
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<tr>
<td>The Hon Kate Wilkinson MP, Minister of Labour</td>
<td>New Zealand</td>
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<tr>
<td>Mr Brendan Flynn – Deputy Secretary, Department of Treasury and Finance – proxy for the Hon Gordon Rich-Phillips MLC, Assistant Treasurer</td>
<td>Victoria</td>
</tr>
<tr>
<td>Ms Laurene Hull, Executive Director, NT Worksafe – proxy for Dr Chris Burns MLA, Minister for Public Employment, and Attorney-General (via teleconference)</td>
<td>Northern Territory</td>
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<tr>
<td>Representatives from the Department of Education, Employment and Workplace Relations and the Minister for Employment and Workplace Relations</td>
<td>Commonwealth</td>
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**SCWR 2, 10.30 AM – 12.30PM, Friday 17 August 2012, Commonwealth Parliamentary Offices, Melbourne**

<table>
<thead>
<tr>
<th>Attendees</th>
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<td>The Hon Bill Shorten MP, Minister for Employment and Workplace Relations</td>
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<tr>
<td>The Hon Richard Dalla-Riva MLC, Minister for Employment and Industrial Relations</td>
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<td>The Hon Jarrod Bleijie MP, Attorney-General and Minister for Justice</td>
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<tr>
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<tr>
<td>Dr Chris Bourke, MLA, Minister for Industrial Relations</td>
<td>Australian Capital Territory</td>
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<tr>
<td>Ms Vicki Telfer, Executive Director, NSW Industrial Relations</td>
<td>New South Wales</td>
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<tr>
<td>– proxy for the Hon Gregory Pearce MLC, Minister for Finance and Services</td>
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<tr>
<td>Ms Cheryl Winstanely, Acting Director, Office of the</td>
<td>Northern Territory</td>
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<td>Commissioner for Public Employment – proxy for the Hon</td>
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<td>Daniel Robert Knight MLA, Minister for Justice and Attorney-General</td>
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<td>(via teleconference)</td>
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<tr>
<td>Ms Jetta Hikuroa, Deputy Director, Ministry of Business,</td>
<td>New Zealand</td>
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<td>Innovation and Employment – proxy for the Hon Kate</td>
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<tr>
<td>Wilkinson MP, Minister of Labour (via teleconference)</td>
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<td>Representatives from the Department of Education,</td>
<td>Commonwealth</td>
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<td>Employment and Workplace Relations and the Minister for</td>
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