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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><em>Minister Assisting the Prime Minister on Digital Productivity</em></td>
<td>Senator the Hon Stephen Conroy</td>
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<td><em>Minister Assisting the Prime Minister on Asian Century Policy</em></td>
<td>The Hon Dr Craig Emerson MP</td>
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<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on Mental Health Reform</em></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><em>Minister Assisting the Prime Minister on the Centenary of ANZAC</em></td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<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>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
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<td>Senator the Hon Chris Evans</td>
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<td>(Leader of the Government in the Senate)</td>
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<td><strong>Minister for Small Business</strong></td>
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<td>Minister for Trade and Competitiveness</td>
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<td>The Hon Justine Elliot MP</td>
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<tr>
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Monday, 26 November 2012

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10:00, read prayers and made an acknowledgement of country.

BILLS

Fair Entitlements Guarantee Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (10:01): The Fair Entitlements Guarantee Bill 2012 seeks to enshrine in legislation that which the coalition put forward as the General Employee Entitlements and Redundancy Scheme. This was an initiative of the Howard government. It was an initiative which gave expression to the coalition approach to matters workplace relations—namely, practical solutions for practical problems. What we had, courtesy of the Keating recession that we had to have, was a number of businesses that went broke and did not have appropriate reserves to pay out hard-earned employee entitlements.

We as a coalition at the time believed and we still believe that employees who go through the trauma of losing their employment because of the failure of the business for which they work should not have the double whammy visited upon them by having their entitlements taken away from them as well. That is why the coalition under Mr Howard and, might I say, under Mr Abbott, as the minister for workplace relations at the time, introduced the General Employee Entitlements and Redundancy Scheme. It was a good scheme. It remains a good scheme and it is a scheme that provides protection for Australian workers who have earned and accrued entitlements. As a community, I believe it is appropriate to fund those entitlements in circumstances where people lose their jobs as a result of business failure.

As is the wont with the government, because it was a Howard government initiative, because it is a Howard government success story, what do you have to do? You have to change its name. You have got to obliterate anything that might link it to the Howard era. As a result, you have got to change the name so that, at the next election, Labor will be able to go to the Australian people and say, 'We introduced the Fair Entitlements Guarantee Bill 2012.' Yes, they will be able to say that, but the more discerning punter will know that this is mainly a name change to try to obliterate any of the history which of course is embedded in the coalition's concern for justice for employees who lose their appointment as a result of business failure.

Having said that, there are aspects of this bill which we support and that we can understand, but one thing that we are concerned about—and I will be seeking to move an amendment during the committee stage—is the benefits that are to accrue under this legislation.

The benefits that are being legislated here are, in the view of the coalition, somewhat overgenerous inasmuch as they go beyond the Fair Work Australia standards and they go beyond the Australian Industrial Relations Commission standard in relation to matters redundancy. If the parliament legislates this standard then of course it will make it so much easier for those advocating for more generous redundancy schemes to assert that, if the parliament says that this is a good regime in relation to redundancy, because the parliament has so legislated, it should be part of the relevant modern award or the relevant enterprise bargaining agreement.
It is always, I suppose, the role of the conservatives in politics to sound the warning bell. We regrettably have examples around the world of countries that thought and believed that they could legislate wonderful schemes—for redundancy, retirement et cetera—and when you have a look at those countries today you see them as the PIGS, the Portugals, the Irelands, the Greces and the Spains. They are the countries where weak leadership of years before were willing to hand out benefits that were unsustainable. And, yes, they made heroes of themselves in the day that they handed out the benefits, but they were the architects, ultimately, of the collapse of these economies by promising too much and by giving too much in circumstances where it was clearly unsustainable. So what I would say to the Senate chamber is: be careful what you ultimately wish for because, by providing overgenerous benefits today, you may well be providing the architecture for more business collapses and ultimately economic collapse in the years to come. It will not be tomorrow. It will not be next year. But it will be some years down the track.

Make no mistake: if this becomes the standard, employers—who are the job creators in this economy—will see the cost of employment increasing even further. They will see that a redundancy scheme that is so generous will be something that their business will have to pay for—something that their business will have to set aside money for. What will those businesses do, especially those in the small manufacturing sectors? They will be looking elsewhere for their manufacturing. We talk about the Asian century. I think we know what is happening to manufacturing in this country. It is going to Asia and it is going elsewhere. It is not actually burgeoning within Australia as we speak.

So I simply ask the government: why would you seek to put forward a further impediment? And make no mistake: this standard, if we legislate it, will trickle through the system and will become the accepted standard, and that accepted standard will mitigate against future employment in Australia. It will mitigate against future employment in Australia because it will mitigate against the future viability of these businesses. That is the harsh reality. That is the reality with this legislation.

In your heart of hearts, would you love this to be possible for everybody? Would you love it to be that we could double the redundancy payments? Of course, we would all like to do it, but the question is: is it actually responsible and is it actually doable? One needs to step back and say, 'We as legislators have a responsibility. Do we want to become popular and claim that we are handing out all these goodies, or do we want to be responsible and say that there are consequences of handing out too many lollies too often?' That is basically the question that has informed the coalition's decision to seek to amend this legislation and, in the absence of the amendment getting through, to oppose this bill.

The history of taxpayer funded redundancy entitlements arose as a result of the Ansett collapse, and most people will recall the unfortunate circumstances surrounding that. The chief executive of the Australian Industry Group and others have warned people about this bill. They are concerned as to the consequences of it, and there is no doubt, in the words of Mr Innes Willox, that the bill quite deliberately has the potential to 'fuel union claims for employers to agree to similar redundancy benefits in enterprise agreements.' That is what we see in this bill and, whilst it may be well intentioned, we know that the good intention
of providing these extra benefits will potentially lead to fewer employment opportunities.

The concern we have is that the high bar that this legislation will set is being done outside the Fair Work Act mechanism. This is despite Labor proudly continuing to announce and parrot that the Fair Work Act 'got the balance right'. If the Fair Work Act is as strong and robust as the government claims, and if it is subject to rigorous review as it claims, then why not make the adjustments within the scope of the Fair Work Act? Why do these overgenerous redundancy schemes need to be brought in via a separate piece of legislation? Why can't Fair Work Australia make these determinations, weighing up all the arguments for and against? Why is it that the government is not willing to accept the umpire's decision in relation to these matters?

Indeed, we have been told time and time again, that the National Employment Standards of the Fair Work Act 'got the balance right', 'sets a community standard' and, we are told, is a norm for acceptable community behaviour in relation to redundancy pays. We happen to agree with that. The levels, interestingly enough, put in a schedule would see that, after one year but less than two years of employment, your redundancy payout would be four weeks, and then there is a sliding scale up to at least 10 years where you would get 12 weeks. There is a reduction in redundancy pay from 16 weeks to 12 weeks for employees with at least 10 years continuous service, and this is consistent with a relatively recent—2004—redundancy case decision made by the independent umpire, the Australian Industrial Relations Commission. The coalition supports the community standard in relation to that, as set out, might I add, in the National Employment Standards of the Fair Work Act.

We do not believe that the Labor government should set a new standard, purely for political motivations, of four weeks per year for an unlimited period of time, particularly when this new standard is inconsistent with what is the agreed community standard and which the rest of the community is subject to.

This could also, might I suggest, place the government's much-vaulted but wafer-thin federal budget surplus in some jeopardy as well. As one person submitted in relation to this legislation:

The Bill would lock these very generous benefits into legislation and the insolvency of even one large company with a generous redundancy scheme could be a major hit on the Federal Budget. I trust Labor do not need to be reminded that their federal budgetary position is in no position to take a major hit.

So why would Labor be introducing this other than for pure political motivations? This is a government that has presided over the four largest budget deficits in history and presides over the largest net debt this country has ever seen—in those circumstances, why would a government bring in a bill that could further plunder the budget and send it spiralling even further into debt?

Somebody has to be fiscally responsible, even if the government does not want to be, in this current climate. The coalition can and will make the tough but fair decisions in the national interest. Indeed, with these generous arrangements I am reminded of a former federal Labor Treasurer, Mr Frank Crean, who wisely said that one man's pay increase is another man's job. If you make employment conditions too generous, such as this bill seeks to do, it will ultimately cut into other people's jobs and the job
opportunities that they otherwise may have had. You do not need to listen to somebody from the coalition side as to the unwisdom of this proposal; you can listen to a former Labor Treasurer, Mr Frank Crean, who made that very wise observation whilst he was federal Treasurer.

We have already canvassed the very difficult budgetary position that this country finds itself in. We are spending $20 million a day just to pay the interest on what is already borrowed. In those circumstances the government is bringing in a scheme which seeks to override that which the independent umpire, the Australian Industrial Relations Commission, determined after hearing arguments from all sides of the debate.

We will be moving amendments to this legislation to cap the entitlements that employees may receive in these unfortunate circumstances of job loss at 16 weeks in line with the accepted community standard, and to bring the scheme in line with the redundancy provisions of the Fair Work Act—which, Labor still says, got the balance right. Labor has to make up its mind. Did it get the balance right or did it not get the balance right? You cannot say out of one corner of your mouth that the balance is right and the national employment standards are all good, and then out of the other side of your mouth argue that you are some great reforming party making these changes.

The entitlements of workers is an issue that is vitally important to many people, especially in the current, uncertain times. People are under huge cost-of-living pressures courtesy of the carbon tax and the wasteful spending of this government. Job security is a huge issue for many Australians. In that context you can see that it is a purely political motivation of the government to try to move this type of legislation. What it actually does is undermine job security and, more importantly, future jobs within this country.

Having said that, a reasonable scheme and a proper scheme as determined by the independent umpire, the Australian Industrial Relations Commission, is the scheme that we as a coalition adopt. This is what we adopted when we set up this scheme in the first place; it was a good scheme, it was a workable scheme and it had overwhelming community support. Whilst Labor will continually tell us about the things it has done after 11 years of a coalition government, I simply remind these opposite that the coalition brought in this scheme; we were the architects of this scheme after 13 years of Labor government not doing anything in this space. So we are in fact the authors of this scheme. We were the architects of this scheme. We introduced this scheme. We implemented the scheme. And we administered it in a way that was fair and reasonable to all Australian workers.

What Labor are seeking to do with this bill is get rid of any identifiers that would mark it as a coalition initiative; change the name and make it more generous, but we know what happens with Labor generosity. We have seen it with the National Disability Insurance Scheme; we have seen it with the dental scheme; we have seen it with Gonski. The big promises are always unfunded. Then they scratch their heads and wonder why their budgets blow out from $12 billion to $20 billion to $40 billion deficits. They then wonder why the economy is not going as well as it could be and as it should be.

What this country needs is sound, stable, secure government, willing to make the right decisions, the right calls, the balanced calls. In doing so, government sometimes have to take off the populous hat and put on the responsible hat. As the coalition seeks to prepare itself for government, in the event that the Australian people give us that
privilege at the next election, we want to place firmly on the record that we will be responsible as opposed to populist. (Time expired)

Senator WRIGHT (South Australia) (10:21): I rise today to make some brief remarks in support of the Fair Entitlements Guarantee Bill 2012. This bill will replace the existing General Employee Entitlements and Redundancy Scheme, also known as GEERS, and enshrine the entitlements guarantee in legislation. Those employees who are unfortunate enough to lose their job, when their employer becomes insolvent or bankrupt, should not lose their entitlements as well. They have enough to worry about. In addition to the trauma of unemployment, they should not be concerned about being paid what they have already earned and are justly entitled to.

The Australian Greens support this bill to protect employees' entitlements where they may be at risk through no fault or risk of their own. It is only fair; it is only right. Legislating to protect unpaid entitlements—including redundancy, annual leave, long-service leave, wages, and payment in lieu of notice—is something that we welcome and something many Australians may be surprised to know does not already exist. The bill closes this gap and ensures that redundancy entitlements are paid up to four weeks per year of service.

We understand that there are some changes required to ensure that outworkers are covered and to ensure that claims can be made when there is a long contracting chain; however, we understand that these will be addressed through regulations and amendments at a later date.

I note that the bill has broad support from the union movement and the Greens are happy to facilitate its passage this year. I commend this bill to the Senate.

Senator BILYK (Tasmania) (10:23): I rise to speak on the Fair Entitlements Guarantee Bill 2012. The Gillard government made an election commitment in 2010 to better protect the entitlements of Australian employees impacted by the insolvency or bankruptcy of their employer. I am disappointed that the opposition voted against this bill in the other place and that it is their intention to vote against it here. It just goes to show that the opposition care little about Australian workers who are affected by the failure of the free market system.

The Protecting Workers' Entitlements package is set to provide the strongest protection of employee entitlements working Australians have ever seen, and I am glad that the Senate is debating this today as the Fair Entitlements Guarantee Bill 2012. The changes in this bill will replace the General Employee Entitlements and Redundancy Scheme, GEERS, which is currently in place.

Losing your job is a situation no Australian worker wants to face. It obviously has a devastating impact on your life, on your family, on your self-esteem and on your economic health. It can affect your ability to pay your rent or your mortgage, and it can affect the education of your children. The situation is made worse when the company that you have worked and sweated hard for fails and you lose not only your job but also sickness pay, long service leave, redundancy, payment in lieu of notice, holiday pay and parts of your superannuation, which are all entitlements.

As a former organiser for the Australian Services Union, I have seen this happen. It is unjust and it is plain wrong. I remember that when Ansett collapsed in September 2001 I was working for the ASU, and the ASU represented around 4,500 Ansett employees. I saw how the collapse had a dramatic
impact on the lives of those former Ansett employees. They were owed more than $750 million in employment entitlements, and the battle to reclaim these entitlements was very long and very protracted. While Ansett employees eventually received around $727 million of the money they were owed, they only just last year received their final entitlements payments, some 10 years after Ansett collapsed. No Australian workers should have to face that.

It is wrong that here in the 21st century Australian workers have to face this situation, and it is wrong that those on the other side of the chamber refuse to make the guaranteeing of workers' entitlements the priority when a company collapses. This bill seeks to rectify this injustice. The bill will provide certainty for Australian employees who find themselves without a job and left out of pocket when their employer becomes insolvent or bankrupt and cannot pay the workers the employment entitlements they are owed. This bill will protect Australian employees under circumstances which are brought about through no fault or choice of their own, and it will ensure that Australian employees who are victims of employers' insolvency or bankruptcy, where employment entitlements are owed, are supported by a government that actually supports Australian workers.

The Gillard Labor government is introducing a three-part package to enhance the protection of workers' entitlements. This includes the Fair Entitlements Guarantee we are debating today, the Securing Super package and the strengthening of corporate and taxation law. The Fair Entitlements Guarantee will protect redundancy pay up to a maximum of four weeks for each year of service. This will mean that almost all Australian workers will receive all of the redundancy entitlements they are owed.

The Fair Entitlements Guarantee will replace the former coalition governments GEERS scheme, as I have said. The previous speaker said that he thought this was a name change only and that it was being done for political purposes. Can I say that under GEERS a worker is entitled only to a maximum of 16 weeks redundancy pay even if they have worked for the same company for decades. This means that, under the current GEERS arrangements, approximately one in five eligible workers do not receive their full redundancy entitlements. For workers who have been with the same company for many years or even decades, this could be a difference of tens of thousands of dollars—and, of course, not receiving that money means their futures are changed forever. In contrast, it is estimated that under the Fair Entitlements Guarantee about 97 per cent of eligible workers will receive all the redundancy payments they are owed. However, directors, family members of directors and contractors are also excluded from eligibility.

The Fair Entitlements Guarantee will also cover eligible employees for unpaid wages of up to 13 weeks. It is only right that employees should be covered for unpaid wages. They have done the work; they should be paid. Eligible employees will also be eligible for a payment in lieu of notice capped at five weeks. They have rent or mortgage payments, car repayments and electricity, gas and education costs that do not go away just because the company they worked for has gone bust. A guarantee of payment in lieu of notice will allow them to still meet their bills while searching for alternative employment. Eligible employees will also be covered for unpaid annual leave and long service leave. Assistance will not be provided to support any form of business restructure or where it is expected that there
will be funds available to pay the person's employment entitlements within 112 days.

This bill will allow the Gillard Labor government to enshrine the Fair Entitlements Guarantee in law, and this will improve on GEERS, which is an administrative scheme that can be amended or abolished with the stroke of a pen. The Fair Entitlements Guarantee will cost an additional $60.8 million over four years, and funding for this commitment will be fully offset over the forward estimates, consistent with the Gillard Labor government's commitment to return the budget to surplus in three years.

Key changes this bill establishes also include removing eligibility requirements associated with deed of company arrangements and mirroring bankruptcy arrangements; extending eligibility for entitlements that crystallise after the appointment of an insolvency practitioner, which is essentially to cover that portion of the entitlement that the insolvency practitioner is not obliged to pay; simplifying transfer of business rules from 1 July 2014; and removing discretion to accept claims that are not made within 12 months of the later of the following events: the end of a person's employment or the appointment of an insolvency practitioner. The bill includes arrangements for ministerial and/or departmental discretion to be used in a number of specific non-routine circumstances where the act of discretion supports the objects of the bill.

Australians work hard and deserve to know that their wages, superannuation and other entitlements are safe. After years—and, quite often, decades—of working for a company, a worker deserves the certainty of knowing that their entitlements are covered in the unfortunate event of that company going bankrupt. This bill provides greater certainty for affected employees than the current General Employee Entitlements and Redundancy Scheme.

As I have said, the opposition have stated that we are doing this for political purposes. I think we have just seen that there will not be any support for workers should the coalition become the government. All they will do is resurrect Work Choices—and I do not think that will be to the benefit of Australian workers. This bill enshrines Labor's commitment to the Australian sense of a fair go, and I commend the bill to the Senate.

Senator URQUHART (Tasmania) (10:30): Today, Labor moves to enshrine in legislation, through the Fair Entitlements Guarantee Bill 2012, the protection of worker's entitlements when their employment is terminated and their employer cannot meet these obligations, and when people's hard-earned entitlements such as annual leave, redundancy, payment in lieu of notice, unpaid wages and long service leave have been wrongly spent and are gone.

Since 2001 in Australia, workers made redundant whose company could not meet its obligations were covered under the General Employee Entitlements and Redundancy Scheme, GEERS. Initially, GEERS only guaranteed redundancy payments of up to eight weeks pay, depending on an employee's length of service. This was despite many workplace agreements mandating redundancy payments well in excess of this—agreements that workers and management had negotiated in good faith and both sides were expected to deliver upon.

Of course, this initial move was welcomed as it at least provided some compensation to redundant employees of insolvent businesses. But the trade union movement did not let this matter rest. Only in 2006 did the coalition amend GEERS to provide for up to 16 weeks redundancy payment. While
once again this improvement was welcomed, it was still an injustice to the many thousands of working Australians whose lives had been up-ended through no fault of their own.

An election commitment from the 2010 federal election titled the 'Protecting Workers Entitlements Package' was released by Prime Minister Gillard in July 2010 at the AMWU national conference. The Prime Minister promised to change GEERS to provide workers' full entitlements as specified in their industrial agreement. In one of their first actions after re-election, the then Workplace Relations Minister, Chris Evans, and parliamentary secretary Jacinta Collins amended GEERS to fix the redundancy pay issue from 1 January 2011. This has meant that, since then, workers made redundant by a company that could not meet its obligations could receive a redundancy payment as specified in their industrial agreement of up to four weeks per year of service.

On this side of the chamber, we believe that redundancy is a tough enough issue to deal with emotionally and economically without the added stress of missing entitlements. Importantly, today's debate is also about making the Fair Entitlements Guarantee a legislative rather than administrative instrument. At the 2010 AMWU conference, Prime Minister Gillard promised to replace GEERS, which is an administrative system—meaning that it can be changed overnight by the minister—to the Fair Entitlements Guarantee, which will be enshrined in legislation to ensure it cannot be easily abolished or watered down.

I have represented working Australians for over 30 years. Through those years my union, the AMWU, and I have campaigned for improvements to Australia's workplace relations system across a range of areas. For a lot of my time representing workers in Australia's manufacturing industry, fighting for the payment of entitlements to redundant workers has been a significant campaign.

So why does this protection need to be legislated? Australians know from the amendment proposed by those opposite that if they were to take office, one of Senator Abetz's first actions as workplace relations minister would be to re-introduce a low cap on redundancy payments under GEERS. What other changes they might make is a scary thought.

The opposition are proposing an amendment to cap redundancy payments at 16 weeks.

As I have already outlined, it was capped at a measly eight weeks when they enacted GEERS in 2001. That is only two months redundancy payment for workers who had negotiated an agreement to provide for a decent payout when the average span of unemployment after being made redundant is much higher than that. In justifying their decision and their desire to penalise workers for the poor decisions of management, the opposition try to take the moral high ground. A coalition talking point used is 'an acceptable community standard for redundancy pay'. In the other place, opposition members were even stooping as low as to claim that the sixteen-week cap under the old administrative arrangements was overly generous and out of step with community standards.

Given their desire to utilise acceptable community standards in this debate, I would like those opposite to recall again the journey of the 105 redundant workers at the ACL factory in Launceston—recall what a sixteen-week cap meant to them. In August 2009 ACL entered into voluntary administration, placing the jobs of up to 300 Tasmanian workers at risk—not to mention the flow-on loss of jobs. However the ACL voluntary administration was unique: as the
company was the sole supplier of engine bearings for Ford Australia it sought to continue trading with a receiver manager. Unfortunately, the receiver manager quickly deemed that 105 redundancies were necessary.

As an organiser at this factory for a number of years, I got to know a lot of the workers very well and days like that were terribly disappointing. The shock of redundancies was one thing; discovering that the bank was empty and no funds were available for entitlements was a whole extra shock. ACL's director, Ivan James, had used his employees' entitlements as a high-risk, short-term loan, which the company had no capacity to pay back. This left ACL's redundant staff with nothing from the company.

Most of the people had worked at ACL for many years—some over 40 years. They had collectively gone without pay rises and taken on fewer hours so that they could all keep their jobs and keep the company going. At the same time, Mr James contributed to the issues the company was facing by reducing his income to a dollar a week for a short time, as he advertised on SBS Insight around that time. However, once the company received government assistance, Mr James went back to his voluptuous salary of over $7,000 a week. But that was not enough: he then awarded himself a rise of $2,000 per week, putting his salary around $9,000 a week. Some would say this was to make up for lost time. The workers saw it as a massive kick in the guts.

The government somewhat assisted these workers through GEERS, and I say 'somewhat' because these workers were given a redundancy payout of up to sixteen weeks pay when some of these employees had been with ACL for decades. Their enterprise agreement provided for four weeks pay for every year of service in the event of a redundancy with a cap of 96 weeks for workers who had in excess of 25 years employment. There was one worker, who had over 40 years of service, who would have been owed about $110,000 but, because of the limits of GEERS at the time, got only $28,000—that is a worker whose family missed out on over $80,000, a payment that could have seen this worker enjoy a decent retirement; a payment that would have been a respectful end to his years of commitment and hard work he had given to the factory.

Earlier this year the workplace relations minister, Bill Shorten, made an administrative decision to provide up to an additional eight weeks pay per employee. This extra redundancy payment for almost 100 former ACL workers, some of whom have not had regular full-time work since, means that while they are unlikely ever to recoup their full entitlements, that they received some additional assistance to help with the day-to-day cost of living pressures.

The story of ACL also includes 33 workers made redundant in mid-2011. Thanks to the Gillard Labor government, the federal Labor member for Bass, Geoff Lyons, and the AMWU there was a positive light for these workers. While they were faced with the terrible news that they were being made redundant, the amendments made to the GEERS operational arrangements in January 2011 saw them receive their full redundancy entitlements: four weeks for every year of service up to a cap of 96 weeks.

Given the amendment put forward by the opposition, working Australians should have no doubt that a vote for the coalition means a vote for lower wages and conditions. On this side we seek to empower Australians, to provide opportunities for all Australians. Those opposite are today continuing with
their antiworker ways by not only proposing an amendment in the House to reduce entitlements for long serving but no doubt here today voting against the legislation. From today we will finally have a fair redundancy entitlements system in this country enshrined in legislation, a system that is only possible with a Labor government—a government that puts the interests of hardworking Australians at the fore of our being every day. I commend the bill to the Senate.

**Senator THISTLETHWAITE** (New South Wales) (10:40): I support the passage of the Fair Entitlements Guarantee Bill 2012. The employment contract is at the heart of any modern market economy. Through this contract the employer agrees with an employee to provide a position and remuneration in exchange for an employee providing their labour and wares in a skilful and diligent manner. Over time, law and tradition in this country have recognised the fact that when an employer can no longer provide that position or remuneration because a role is no longer needed or, indeed, because a company can no longer trade, then the employer is obliged to provide a form of redundancy pay to ensure that the employee is not disadvantaged financially during the period in which they may be seeking other work in the wake of having exclusively provided their labour to a particular employer.

That is the fair system that has developed in this country. Unfortunately, there have been holes in the system. I have sat with employees and their families and met with them on occasions when employers have breached their obligations under that contract. They have betrayed the good faith that has often been entered into between employer and employee by either trading insolvency and not informing the market and the employees before it is too late, or having employees get in the line of creditors and wait for a payout in redundancy and unpaid entitlements. I have seen in the eyes of those employees when these situations occur the sense of hopelessness for how they are going to continue to run a family, to pay school fees, to buy enough food or to pay their mortgage. This bill seeks to ensure that that hopelessness no longer exists in our economy, and in 2010 the Gillard government made an election commitment to better protect the entitlements of Australian employees impacted by the insolvency or bankruptcy of their employer.

This bill will replace the existing General Employee Entitlements and Redundancy Scheme, or GEERS, with a fair entitlements guarantee in legislation. This bill is about giving Australian workers a fair go by providing peace of mind and security when situations of insolvency and redundancy occur. This bill will protect Australian employees under circumstances which are brought about through no fault of their own choice or through their employment contract.

Under this bill eligible employees will be covered for unpaid entitlements, including redundancy, annual leave, long-service leave, wages and payments in lieu of notice. The bill will protect redundancy pay up to a maximum of four weeks per year of service, a rate considered fair by most industrial agreements and awards in this country. This will mean that most employees will receive all the redundancy entitlements that they are owed. The bill will enable payment of unpaid wages for up to only 13 weeks and will provide payment in lieu of notice at five weeks.

The bill also strengthens the recognition of eligible entitlements for employees who continue to be employed following the appointment of an insolvency practitioner. From now on, if you are an employee in this
situation you will be entitled to receive unpaid entitlements accruing right up until your last day of working. An important element of this bill is that it does not offer employers an opportunity to shirk their responsibilities to their workforce. Under this bill employees will be eligible for an advance only in genuine cases where they have lost their job or as a result of the insolvency or bankruptcy of their employer. Importantly, no assistance will be available to support any form of business restructure or where funds will be available to pay entitlements within a reasonable period.

The key changes established under this bill aim to reduce operational barriers and to avoid unnecessary delays. For example, simplifying transfer-of-business arrangements will simplify the assessment process and reduce complexity. Under this bill, the discretion may only be exercised in specific circumstances which relate to non-routine matters that support the objectives of the bill. Key areas where discretionary powers are retained include the ability to make payments in administration and prior to liquidation, the decision to make an early instalment of an advance and a regulation-making power to enable regulations to be made to facilitate payments to people who are not employees. The bill provides enough flexibility to support the objectives of the bill, whilst not undermining the aim of providing greater certainty and continuity in establishing the legislative framework.

This bill is a fair and reasonable response by this government to an election commitment that was made in 2010. It provides security and certainty for employees and for employers, importantly, in circumstances where redundancy, insolvency and liquidation occur. I commend the bill to the Senate.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (10:46): I take this opportunity to thank all—

Senator Abetz interjecting—

Senator FARRELL: I was just about to wish you well on your recuperation, Senator Abetz, until that comment.

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

Senator FARRELL: I will address remarks through you to Senator Abetz, then, Mr Acting Deputy President. I do wish him well in his recuperation, and it is good to see him back in fine form here in the Senate.

Senator Abetz: Thank you.

Senator FARRELL: I also thank Senators Wright, Bilyk, Urquhart and Thistlethwaite, who also contributed to this debate on the Fair Entitlements Guarantee Bill 2012.

Let me say, though, that the government opposes the opposition amendments. In 2010 we made a commitment to strengthen protections for employee entitlements, and we fully intend to honour that commitment. This government recognises fully the importance of protecting the entitlements of Australian employees who suffer the effects of the insolvency or bankruptcy of their employer. This bill implements the Fair Entitlements Guarantee, one of the key elements of the government's 2010 election commitments: the Protecting Workers' Entitlements package, a package that ensures the strongest protection ever for working Australians whose employers become insolvent and cannot meet their obligations to pay employee entitlements.

Importantly, ensuring the Fair Entitlements Guarantee in legislation means employees can now rest assured that this
protection for their entitlements cannot be scrapped on a whim. It provides certainty and some comfort for employees at a time when they are down on their luck and vulnerable through no fault of their own. The bill replaces the existing General Employee Entitlements and Redundancy Scheme and strengthens protection of unpaid entitlements, including redundancy, annual leave, long service leave, wages and payment in lieu of notice.

The bill represents a significant strengthening of the protection of Australian employees—and their entitlements—who are victims of employer insolvency or bankruptcy. Contrary to the views of the opposition, the bill does not create a new community standard for redundancy entitlements nor does it favour unionised workplaces. The bill simply ensures that where an employee's industrial instrument says that they are entitled to redundancy and to four weeks' pay for each year of service, and where their employer becomes insolvent, they will retain that redundancy entitlement. It does not set a new standard and say that every employee should get that level of redundancy pay; it just says that the employees who have that level of entitlement should not be short-changed, thus protecting a working Australian's entitlements. The opposition would like longstanding employees to go without any recognition of their loyalty, and to cap their entitlement at 16 weeks. This government does not treat longstanding employees with that contempt, and it certainly appreciates their loyalty—and I am sure the employers did over many years of employment.

Contrary to other criticisms, the bill does not represent a moral hazard risk. There are strong safeguards within the bill to ensure that people do not take advantage of this scheme of assistance by bumping up entitlements that would otherwise not be sustainable work costs to the employer if they continued in business. There is no more of a financial risk to the government than there is with any other scheme of financial assistance for Australians. It sets reasonable entitlements in place and imposes reasonable caps, such as the maximum wage threshold for payment of entitlements to ensure that the costs incurred under the scheme remain at a reasonable level.

I am pleased to honour the government's election commitment through this bill and to deliver on our promise for a clear and fair legislative framework to provide certainty and protection for all Australian workers. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (10:51): by leave—I move opposition amendments (1) and (2) together on sheet 7303:

(1) Clause 23, page 20 (line 8), after "that employment", insert "up to a maximum of 16 weeks' pay".

(2) Clause 23, page 20 (line 11), after "employer", insert "and the 16 weeks' maximum in subparagraph (i) has not been reached".

The coalition will be brief in relation to this amendment: the points were made during the second reading debate.

I would only make this one observation: Senator Urquhart's speech in the second reading debate was a devastating tour de force in destruction of Labor's own National Employment Standards, which were legislated in the Fair Work Act, which was authored by Ms Gillard herself.

The coalition, as I indicated, implemented the forerunner to this scheme. Labor has anxiously changed its name to remove any of
the initiating features that came from the coalition; that is one aspect. Good luck to them with the name change. The aspect the coalition is concerned about is that the scheme should only cover redundancies in line with the wider community standard, which at present—and I want to stress this—is set out under the National Employment Standards of the Fair Work Act. Who are the authors of the National Employment Standards? Who are the authors of the Fair Work Act? None other than the Australian Labor Party and Ms Gillard herself. And where did they get those National Employment Standards from—the standards that they thought were so good, the standards that were legislated in relation to the issue of redundancy? A decision of the independent umpire, the Australian Industrial Relations Commission.

So the coalition does not believe that this bill should set a new standard of four weeks per year for an unlimited period of time, as clearly it will set a new standard which will be very difficult to meet for many employers. It will undoubtedly be used to argue for more generous redundancy arrangements in enterprise agreements and modern awards. Can I also say that after 10 years of service there is a long-service leave entitlement that cuts in.

Parliamentary Secretary, is it the intention of the government to set this legislation up as a new high bar, as a new standard, for the purposes of negotiating enterprise agreements and modern award arrangements?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (10:54): I can assure Senator Abetz that indeed it is not the government's intention to establish a new minimum standard. Perhaps I can use this as an opportunity to correct some of the errors that occurred in the debate on the second reading of this bill.

Whilst Senator Abetz refers to the provisions in the Fair Work Act he is referring solely to the provisions in relation to the standard for redundancy.

As Senator Abetz well knows, they are the minimum standard and the Fair Work Act provides for enhanced entitlements through other industrial instruments that these measures seek to address. I also noted that in his second reading contribution Senator Abetz referred to the forerunners of GEERS and the Ansett arrangements, but I would like to take this opportunity to remind the chamber that perhaps the first forerunner was the arrangements for Stan Howard and his business and the redundancies involved there. I would also like to take this opportunity to remind the chamber that in the Stan Howard arrangements 100 per cent of entitlements—not minimum entitlements but 100 per cent of full entitlements—were paid out. So these arrangements certainly do have an interesting history, but perhaps the most significant point is that the enhanced arrangements—the removal of the 16-week cap—have been in place for almost two years now, and the fears that have been raised and the issues that have been canvassed have not come to the fore during that period.

I will move specifically to Senator Abetz's question—which is, I suppose, canvassed in a range of different ways. Perhaps I will deal with one that had been raised earlier in discussions in relation to this bill and that, similarly, the Australian Industry Group had canvassed as a concern: won't the generous redundancy entitlements create a greater propensity for moral hazard risks in the scheme? The bill addresses concerns related
to moral hazard by including a provision that allows changes to improve the terms and conditions of employment in the six months prior to insolvency to be disregarded where, at the time the change was made, it was not reasonable to expect that the employer could continue to employ the person on those more favourable terms. In the event this provision is used, the Fair Entitlements Guarantee claims would be determined on the terms and conditions that applied before the improvements were made. An equivalent provision has been a feature of the General Employee Entitlements and Redundancy Scheme since 2006, and in that time it has been used only a handful of times. The government intends to strengthen this provision through government amendments in the House that made it clear that the provision also applies to improvement in redundancy and payment in lieu of entitlements.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (10:57): I thank the parliamentary secretary. Can I also ask: will this bill provide employees with the potential of receiving greater benefits than they would otherwise have received under their existing arrangements—their enterprise agreement or their modern award?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (10:57): I think that question is actually confusing two different issues. What these provisions will provide for is for an employee to receive their full entitlement under the Fair Entitlements Guarantee. That does not enhance what their entitlement may be. You made the point earlier about employees who may have an entitlement that is greater than the minimum entitlement established under the NES. Those employees have that entitlement regardless of whether their redundancy falls within the scope of the Fair Entitlements Guarantee or whether the employer is able to meet those entitlements themselves without drawing on the Fair Entitlements Guarantee.

The TEMPORARY CHAIRMAN (Senator Fawcett): The question is that opposition amendments (1) and (2) on sheet 7303 be agreed to. A division is required. Due to the provisions of no divisions before 12.30, the committee will report progress and note that a division is required.

Progress reported.

Fair Work Amendment (Transfer of Business) Bill 2012 Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (10:59): The Fair Work Amendment (Transfer of Business) Bill 2012 was one of the stunts that we have now come to expect from the would-be Prime Minister and current workplace relations minister, Mr Bill Shorten.

Senators may recall that the genesis of this legislation was Mr Shorten’s rushed trip to Queensland to try to make very cheap, nasty, ugly, political capital out of the tough decisions needed to be taken in the state of Queensland by the newly elected premier. Queensland had an unsustainable—still has—debt burden, and I will go through the details of that later on.

Having been confronted with an eight-week illegal blockade and strike at the Queensland Children’s Hospital, Mr Shorten saw no need to visit Queensland and call off that dispute. He saw no need to go to Queensland to argue for justice for the workers who actually wanted to go to work at the Queensland Children’s Hospital. But,
oh yes, it was vitally important for him to go to Queensland to announce the Fair Work Amendment (Transfer of Business) bill. It gives you an indication of the minister's quite warped priorities and what his political motivation is: an eight-week illegal strike blockade, not to be worried about, not worthy of a visit, but to try to slap Premier Newman around the face—that is most definitely worthy of a visit to announce a bill that did not have the normal consultative process applied to it.

This bill is wrong in principle, and will in fact have a perverse outcome for Australian workers. That is the shameful thing about this bill: those public servants, in Queensland in particular, who have been made redundant will find the opportunity of gaining employment so much harder. Allow me to briefly encapsulate that at the commencement of my remarks before going into the details of the bill.

What the bill seeks to do is to say that any public servant, even if they accept a voluntary redundancy from the Public Service, if they are picked up by a private employer that then provides services back to the Queensland public service, will be entitled to all their entitlements that they had as a public servant if they are employed within three months of that redundancy; even a voluntary redundancy—namely, that they voluntarily resigned, accepted the conditions and then tried to gain employment with an employer that might be providing services back to the state government.

I have specifically asked the government and, unusually, they have responded quite clearly. So if I as a prospective employer of a redundant public servant said to that public servant, 'I'd love to employ you but I'd have to employ you on public service conditions. I can't do so. I will not do so. Therefore you won't get the job,' that ex public servant will have no redress in any way, shape or form. So the question is: how does this legislation actually benefit those that it is alleged to protect? It does not. It was a rushed stunt with the perverse consequence of making redundant Queensland public servants and other public servants less employable than they otherwise would be, as a result of which their difficulty will simply be enhanced courtesy of this legislation.

So despite their rhetoric, the government is wrong in relation to motivation behind this bill.

Yes, it certainly helps trade union bosses—and you would expect nothing less from a Labor government made up predominantly of former union officials—but it will leave workers worse off and see employees finding it harder to sell themselves in the employment market as a result.

At the time of the introduction of the then Fair Work Bill the coalition warned:
The Bill as drafted proposes a radical new approach to established transmission of business principles. It replaces the accepted approach of ‘asset transfer/business character’ with a broader concept of ‘transfer of work’. This has the practical effect of overturning the High Court authorities …

Here we have yet another Labor bill deliberately designed to overcome that which the independent umpire determined was a fair and reasonable thing. In this case, it was the highest umpire in the country: namely, the High Court. The Australian people can ask themselves a very simple question: is the collective wisdom of the High Court in relation to these matters to be accepted over and above the wisdom of one Mr Bill Shorten, ex-trade-union-boss? I have no doubt where the majority of Australians would place their faith. They would place their faith in the judgement of the High Court of Australia rather than with this
particular decision of Ms Gillard's and Mr Shorten's. 

At the time the bill was introduced, we observed:

… the Bill widens the circumstances in which an industrial instrument transfers with the relevant employees affected by a business sale or restructure. The potential also exists for such industrial instrument to form the basis of employment for any new employee that commences after the business has been transferred.

The reason for such a fundamental shift from universally accepted and well settled principle—a definition settled by the High Court—is unclear.

It is equally as unclear today.

The proposed transfer of business provisions are at best problematic and economically restrictive, and at worst they are a disincentive to achieve ongoing employment for affected employees. Indeed, Labor’s chief or preferred business advisers at the Australian Industry Group were unequivocal about the detrimental affect of the new provisions and had this to say:

The provisions are anti employment and would create a huge incentive for companies not to employ workers of businesses they take over.

That is, of course, what was found by the Labor government’s own Fair Work Act review. Remember that hand-picked panel of Labor sympathisers and the skewed terms of reference designed to force a particular outcome? Even they were mugged by the reality that the existing transfer of business provisions were a disincentive for re-employment. Even they came to that conclusion, yet Mr Shorten, instead of acting on the Fair Work Act review, went backwards even further. One has to wonder what the motivation is.

As recently as this month, on 6 November, Mr Shorten received a letter from the Australian Industry Group Chief Executive. He wrote:

I am writing to communicate Ai Group’s strong concerns about the Fair Work Amendment (Transfer of Business) Bill 2012 which was introduced into Parliament—and I stress this—without any consultation with industry, despite the fact that the legislative amendments will have a major impact upon many Ai Group member companies and other private sector employers.

The Government dispensed with the usual process and did not refer the Bill to the Committee on Industrial Legislation (COIL) before introducing it into Parliament. The Bill was introduced into the House of Representatives and voted upon extremely quickly which did not provide the opportunity for adequate scrutiny. This is very disappointing.

I would be pleased to hear from the government what the urgency is in relation to this legislation that they did not consult, did not go through COIL and did not undertake the normal consultations, and why it had to be forced through the parliament in such an inappropriate manner.

With the introduction of this legislation, the government has yet again confirmed that it does not understand our job creators. Let me remind the Senate: governments do not create jobs; employers do. Governments have a role in creating an environment in which businesses are able to flourish, do business and employ people. This legislation does the exact opposite of that.

The transfer of business provisions have created a disincentive for an incoming employer to retain employees engaged within a business. In other words, it is a lose-lose. The business taking over the other business loses the corporate knowledge of the employee and the employee loses the opportunity of ongoing employment. It is a lose-lose. That is what the Fair Work Act review itself found. But, oh, no; Mr Shorten
knows even better and wants to cement this inequity even further.

Secondly, they encourage the retention of business practices that may be uneconomic or failing. Of course, that is often one of the reasons that one business takes over another—because the existing business that is being taken over does not have a viable business model. This means that employers, as I said, lose corporate knowledge and employees become less employable—both are worse off. That is Labor's double whammy in this bill. They destroy both the employer's prospects and the employee's prospects.

The coalition appreciates that these provisions are intended to be anti-avoidance in nature and reflect evidence highlighting that some inappropriate practices by some businesses have been engaged in in the past and will undoubtedly, if given the opportunity, be engaged in in the future. However, such evidence must be balanced against the need to ensure that workplace relations do not negatively impact upon normal business transactions or operate in a manner that costs jobs and leaves workers and employers worse off.

That is why we as a coalition say that the High Court of Australia actually got the balance right. They got the balance right, but Labor, of course—Ms Gillard and Mr Shorten; intellectual giants that they are—know better than the High Court. Not surprisingly, the Fair Work review has recommended changes to the existing transfer-of-business provisions to bring them back into line with—guess what?—the High Court decision. Indeed, they could not have been clearer. Let me quote:

The Panel recommends that s. 311 be amended to make it clear that when employees, on their own initiative, seek to transfer to a related entity of their current employer they will be subject to the terms and conditions of employment provided by the new employer.

That is the finding of the government's own Fair Work review, which was announced on 20 December last year by the Minister for Employment and Workplace Relations, and the recommendations of the government's own panel are completely at odds with this legislation. This can only mean one thing: the bill and the measures proposed in it are yet again a political measure and not a practical measure.

Further proof, if it is necessary, that this is a political measure rather than a practical measure, as Mr Shorten is so wont to do: the Fair Work review's recommendations did not stop Mr Shorten, in the other place, from strategically using it to try and vindicate this bill. He conveniently cherry-picked certain sentences from the review document, strung them together and—guess what?—they then said what he wanted them to say. Mr Shorten will never let a review's findings get in the way of his spin, even when it is a Labor government's review and the findings are completely at odds with the government's proposals.

As I have indicated, Mr Shorten announced this in the wake of Premier Newman indicating the need for some 10,000-plus redundancies from the Public Service in Queensland. Let me paint the picture: Labor left the state of Queensland in dire financial circumstances and this bill seeks to make a difficult situation so much worse for thousands of workers.

Hard decisions had to be taken—and, might I add, they had to be taken to ensure that Queensland did not catch the Euro-virus and the 'Greek disease'. Make no mistake; Queensland was on that trajectory. Let's look at what Labor did to Queensland. It is no wonder, when you reflect that the former Prime Minister and the current Treasurer are
both Queenslanders, that the Commonwealth books are in the shonky state they are in today.

In Queensland, Public Service numbers increased on a full-time equivalent basis by 40 per cent in the decade between June 2000 and June 2011. Wages growth in the Queensland Public Service outstripped other jurisdictions, with average weekly earnings increasing by 16.7 per cent in real terms since 2000-01 and with the public sector nationally only increasing by 12.7 per cent. As a result, the Queensland public sector became a high-wage jurisdiction over the last decade and was bloated with its 40 per cent increase. But now Queensland is faced with a $62.7 billion debt. To put that into perspective, it is about half the size of the Commonwealth's debt, and that is just in one state of Australia. Queensland represents about 20 to 25 per cent of the population—I am not sure; a Queensland senator might be able to assist with that figure—and has about half of the Commonwealth debt visited upon it because of the mismanagement of state Labor.

So the independent commission of audit predicted that debt in Queensland could balloon out to as much as $100 billion in 2018-19 unless urgent corrective action was taken, and that is what the Queensland government sought to do. In this ill-advised stunt, what Mr. Shorten did not tell the Australian people was that Queensland and New South Wales public sector employees were not covered by the Fair Work Act. Why? Because successive state Labor governments did not refer the powers. Also, Labor's transfer-of-business regime leaves workers and employees worse off—which the Fair Work Act review has found.

Also, Labor's own modelling projects that 4,200 full-time jobs and up to 12,000 jobs will be stripped out of the Commonwealth Public Service. But there is no need for legislation if they are doing it down here in Canberra! No need for it for Tasmanian redundancies! No need for it with South Australian Public Service redundancies! Why? They are Labor governments of course. But, when a coalition government in Queensland does it, it requires a visit from the minister to make merry hell.

But this backfired very badly because, shortly after this announcement by Mr. Shorten, who should sack and make redundant a lot of workers only to harness and outsource some of this work? None other than the ACTU. The Australian Council of Trade Unions made a lot of workers redundant and said that they would then source this workforce from the private sector. Exactly what Mr. Newman did. But did Mr. Shorten fly to Melbourne and stand outside ACTU headquarters to condemn this? Of course not. Mr. Shorten's silence was overwhelmingly deafening. This legislation was a political stunt; it will make employers worse off and it will make workers worse off, and that is why the coalition opposes it.

Senator Waters (Queensland) (11:19): I rise to speak in favour of the Fair Work (Transfer of Business) Bill 2012. The bill ensures that employees will retain the benefit of their existing workplace arrangements and instruments if their employer changes and their work stays the same, such as when their previous employer transfers assets or outsource work or undertakes corporate restructuring. That will bring the system into line towards a more nationally consistent approach, and the Greens support that on that basis.

Hopefully, in my home state of Queensland, this will mean greater protections to outsourced or privatised workers. It will bring those Queensland workers up to the same level of protection as...
they would get under the Fair Work Act. That has been the case in other states for some time and it is appropriate to bring that towards national consistency. The Greens will be supporting this bill because it is a small step in the right direction, but, sadly, it does not go anywhere near far enough to deal with the absolute slaughter that we have seen of the Public Service in Queensland.

It also saddens me that we see this legislation coming from the federal Labor government, which itself has a program, through efficiency dividends and program cuts, of slashing in the order of 12,000 federal public servants. I want the record to reflect that we are quite displeased with that approach from both sides of politics at the federal and state levels.

This bill will provide some assistance if workers are outsourced but, sadly, it will not help them if they are sacked. In Queensland we have just seen Campbell Newman slash 14,000 public sector workers. The threat of redundancy would usually preclude such mass sackings were this to happen in the private sector, but the LNP government in Queensland is simply driven by ideology for small government and blow the consequences. Never mind the cost of redundancies; they are just putting people on the scrap heap. Unfortunately, the Premier has forgotten that those public servants actually provide a public service. Who would have thought? These are teachers, nurses, policemen and women, emergency service workers and transport workers who keep our state running. Sadly, they have been tossed aside by the Premier.

This bill, while it seeks to address this situation, as I have said, unfortunately will not help those people who have been sacked. What the bill does is to really highlight the lack of parity, of equity, between state public sector workers and federal public sector workers. The Greens would like to see that rectified under the Fair Work Act. In Australia state public sector workers have less protection than their federal counterparts, and that seems illogical and certainly unreasonable. The best example of that is probably the Queensland Premier's recent amendment of state laws—the Queensland Public Service and Other Legislation Amendment Bill 2012—which was passed earlier this year. It actually rewrote some of the agreements between employers and employees. It declared some elements of those agreements void—employment security, contracting out, organisational change—which was simply outrageous. We have never seen this before, to my knowledge, where legislation has intervened in the agreement between private parties and simply declared parts of that agreement invalid. I would expect all sides of this chamber would be up in arms if that approach were taken in any other context. Sadly, because they are public servants, both of the old parties see fit to ignore them.

My concern is that that legislation itself is potentially in breach of our international labour obligations. That would enable the federal government to intervene. I think it is a very interesting question as to what part of our Constitution we should be using as the basis to regulate industrial relations. We have moved from the dispute settlement, conciliation and arbitration basis head of power to the corporations head of power and I think it warrants exploration as to the unintended consequences of that move. That is why the Greens are moving today in the other place for an inquiry into these sorts of issues. That is why we will be urging the government and the Independents—even the coalition if they do decide they care about workers—to support this inquiry. It would look into the ability of the federal government to intervene to assist state public
servants, to uphold those ILO obligations and to lift the standards for Queensland workers so that they get the same level of protection as federal public servants. My colleague the member for Melbourne, Adam Bandt, will be moving that tonight.

The inquiry starts off noting with great concern the massive job losses from state governments around the country—particularly in Queensland—and it asks that the Standing Committee on Education and Employment look into and report on the conditions of employment of state public sector workers and the adequacy of protection of their rights—in particular, whether current state industrial relations regimes provide state public sector workers with fewer rights and less protection than it does for workers to whom the Fair Work Act applies. We have seen an indication already that is the case: all the more reason to get some facts on the table.

It would also examine whether or not those interventions by the Queensland parliament to remove clauses within employee/employer arrangements are in breach of the ILO conventions. Likewise, it would examine whether the rendering unenforceable of those elements of those collective agreements is in breach of the ILO conventions. Importantly, it would look at what legislative and regulatory options are available to the Commonwealth to make sure that all Australian workers, including those in the state public sectors, have adequate and equal protection for their rights at work. I think that is a laudable goal.

Whilst we will be supporting this bill for the small increase in protections that it will provide it is important that members in both this place and the other place support this inquiry, and that we start to look at how we at this level of government can help workers everywhere. When we have seen 14,000 Queenslanders tossed on the scrap heap with no warning, and with the Premier assuring everybody before the election that that would not be his course of action, it is all the more important that we in this place do everything we can to help those workers. Likewise, I repeat our concern and dismay at the approach of the federal Labor government with its efficiency dividends and program cuts to see the jobs of the order of 12,000 federal public servants slashed and put on the scrap heap as well.

We will be supporting this bill, but we will be urging all sides to back the inquiry that the member for Melbourne, Adam Bandt, will be moving in the House later today.

Senator BILYK (Tasmania) (11:27): I rise to speak to the Fair Work Amendment (Transfer of Business) Bill 2012. I am proud to be a member of a government that has saved 200,000 jobs during the onset of the global financial crisis and I am proud to be part of a government that also went on to create another 800,000 jobs. I clarify the previous speaker's comments that this government is sacking 12,000 people—she has probably taken that from a media release. She should ring the Special Minister of State's office and check that, because it is not correct.

I am also proud to be part of a government that, when savings needed to be made, focused on efficiency reforms through smarter travel, smarter advertising and smarter use of property and information and communications technology. In other words, not only have we taken action to protect jobs through economic management but we have also made our best efforts to protect jobs in the Australian Public Service.

Creating and protecting jobs is part of Labor's DNA—unlike those on the opposite side, who opposed the stimulus package and...
would, if they had their way, have sent 200,000 Australians back to the dole queues. Not only do we believe in protecting jobs but we also believe in jobs that deliver fairness to workers. That is why we abolished WorkChoices and introduced the Fair Work Act, restoring the rights of millions of workers across Australia.

It is unfortunate that not every government in Australia believes as fervently as we do in job security. It is unfortunate that not every government believes in fairness and in protecting the entitlements of Australian workers. Right now, across Australia, there is a war being waged on workers, and it is being waged by the Liberal-National governments. It is being waged against public servants who are being sacked in their thousands and who are having their rights trampled on. The LNP government in Queensland, led by Premier Campbell Newman, has announced that it will cut 14,000 public sector jobs. The Queensland government has also legislated to override employment security provisions and to put limitations on the use of contractors in state public sector agreements. It is clear that Mr Newman is paving the way for outsourcing public sector jobs so that he can cut the hard-won wages and conditions of Queensland public servants.

Mr Newman is following the leads of his mates in Victoria and New South Wales. In New South Wales the O'Farrell coalition government has cut 15,000 jobs in two budgets, including 800 jobs in the TAFE sector as a result of its $1.7 billion education cuts.

And in Victoria, Premier Baillieu has given executives in the Department of Premier and Cabinet bonuses over $600,000, while proposing to sack 4,200 public sector workers. The Baillieu government's main target is the training sector, where they have proposed $300 million in cuts—particularly to TAFE. I think that is a complete shame. This is at a time when the Gillard government is making record investments in education and training.

There is an emerging pattern here. When coalition governments come to power they immediately start to attack hardworking, decent public servants. The actions of Messrs Newman, Baillieu and O'Farrell are a portent of what is to come if a federal coalition were elected to government. Mr Abbott's party has already committed to slash 12,000 public service jobs—and may need to cut more if they are to fill their $70 billion budget black hole.

I know those opposite cry foul at the claim that they would take the slash-and-burn approach of the Newman, Baillieu and O'Farrell governments, but just look at their form. They opposed the stimulus package, which helped save thousands of jobs during an economic crisis. They have already announced that in government they would halt the construction of the National Broadband Network, abolish the trade training centres program and cut essential health services like the GP superclinics, eHealth and the after-hours GP hotline. Leading up to the 2010 election they proposed to cut $1 billion from vocational training and apprenticeships programs. Not only are these essential, vital public services but they are also primarily provided by public servants, who take pride in the work they do and many of whom have families to support.

I mentioned the federal opposition's plans to slash jobs in the context of this bill because this bill is about protecting workers affected by state government cuts, and it is clear that under an Abbott-led government they would have no protections whatsoever. Unfortunately, we cannot stop the likes of
Mr Newman and others gutting the public services in their states. But what we can do is protect the entitlements of those workers where they are re-engaged as contract workers.

The transfer-of-business provisions of the Fair Work Act protect employee entitlements where a business changes hands and the new employer employs the old employer's workers to do the same job. These provisions currently only operate where both the old and new employers are covered by the national workplace relations system—in other words, by the Fair Work Act. The Fair Work Amendment (Transfer of Business) Bill 2012 will ensure that where there is a transfer of business from a state public sector employer to a new employer in the national workplace relations system, that the employees will see their existing terms and conditions protected, their accrued entitlements protected and their prior service recognised.

The transfer-of-business provisions already apply where employees are transferred from the public services in the Australian Capital Territory, the Northern Territory and Victoria, because these employees are already part of the national system. However, it is important that public sector employees in other states have their benefits and entitlements protected when that state decides to transfer assets for outsourced work.

Let me remind the Senate what the transfer-of-business provisions of the Fair Work Act are intended to do. They are designed to stop employers restructuring their business in such a way that they can undermine employee entitlements. The recent post-implementation review of the Fair Work Act strongly endorsed the transfer-of-business provisions. The panel considered that there is a clear need to protect employees in transfer-of-business situations and found that transfer of business, as defined in the act, provided better protections for employees than the previous arrangements. However, there are no protections under the current Fair Work Act should a state government decide to restructure its operations, such as by outsourcing.

This bill creates a new federal instrument called a 'copied state instrument'. The instrument will copy the existing terms and conditions of employment for a transferring employee where those terms are derived from a state award or agreement. The bill ensures that a term of copied state instrument has no effect if it is detrimental to the employee when compared to the entitlement of the employment under the National Employment Standards. The bill would also generally ensure that the employee's service with the old employer counts as service with the new employer for the purpose of determining the employee's entitlements.

As a previous industrial officer for the Australian Services Union, one of the entitlements I campaigned hard for was the portability of long service leave entitlements between local governments. So I understand the importance of this provision. It is particularly important in this scenario because we are talking about employees who are transferred not by their own choice but by that of their employer.

This bill sends a strong message to those Australians working in state, territory or Australian public services, and that message is that only Labor will protect and strengthen the public service and only Labor will uphold their rights, entitlements and working conditions. In contrast, the Newman, Baillieu and O'Farrell governments have declared war on their public servants.
It is clear to me and it should be clear to workers in the Australian Public Service that this is the same sort of approach that an Abbott-led coalition government would take. We just need to look at the behaviour of their state colleagues, their election commitments in the past and the $70 billion black hole they will need to make up for should they form government.

For those Australian workers out there, including federal public servants, who hear the opposition say they are not planning to declare war on public servants, who hear them say that WorkChoices is dead, buried and cremated, just remember that the war on workers declared by Messrs Newman, O'Farrell and Baillieu was not declared by any of those gentlemen prior to their election as premiers.

If that is not enough evidence, we can also point to the fact that the coalition voted against this bill in the other place and will oppose it today in the Senate. Not only do they oppose this bill but just a couple of hours ago they opposed a bill that would protect the entitlements of workers affected by the bankruptcy or insolvency of their company. It just goes to show that those opposite, the party of WorkChoices, have no commitment to protecting the rights and entitlements of Australian workers. As always, it falls on a Labor government to protect workers against the attacks on them by the Liberal-National coalition. I commend the bill to the Senate.

Senator XENOPHON (South Australia) (11:35): I indicate that I have got serious concerns about the Fair Work Amendment (Transfer of Business) Bill 2012. For the record, I believe that the previous bill that Senator Bilyk has referred to in relation to entitlements for a business that has gone broke and the government stepping in to ensure the entitlements of workers is a worthy bill. I am broadly supportive of that bill but I have concerns in relation to this bill, because I think that it will have some completely unintended consequences.

Secondly, I believe that the process by which this bill has been introduced is terribly flawed. Thirdly, I think we need to look at the overarching issue of productivity in this nation in terms of our workforce. I would like to refer to a recent article by emeritus professor in economics Richard Blandy, which I think is worthy of note.

Firstly, in relation to the processes of this bill, my understanding is that this bill did not come out of the Fair Work review at all. This is something that has come out of nowhere in a sense in that it has not been part of due process or appropriate process. I note that Senator Abetz, the Leader of the Opposition in the Senate, made note that the Australian Industry Group is very concerned about this in terms of a lack of consultation with one of Australia's leading industry groups that represents many thousands of employers, representing many hundreds of thousands of jobs. I do not think under any reasonable characterisation the Australian Industry Group could be described as an enemy of the government. I think they have played quite a constructive role with the Gillard and formerly Rudd governments in terms of issues of industrial policy, manufacturing and other policies in relation to broader public policy issues affecting their members. The process appears to be deeply flawed, but I think the outcome is even more flawed.

It is worth referring to an article by Gary Johns, a former ALP minister—I know that his politics seem to have shifted somewhat in recent years. In the Australian on 25 September 2012, his opinion piece bears some note. What he is suggesting is—and I will quote from Mr Johns:

Employer evidence suggests the changes to the former transmission provisions make it less, not
more, likely that a purchaser would keep existing employees. This is because the changes make it difficult for a purchaser to restructure the business, including altering inefficient work practices.

The unintended consequences of the changes are that new employers are reluctant to employ any of the previous employees so as not to be bound by the previous industrial agreements. So much for looking after state public servants.

Mr Johns also makes reference to surveys the Australian Human Resources Institute has undertaken. I have looked at those surveys this morning, and the Australian Human Resources Institute has indicated that some 37 per cent of respondents claim that the transfer of business provisions had a negative or very negative impact on business. Overall, this will have the effect of doing the opposite of what it is intended to do: this will actually kill off jobs. This will make it harder for state public servants to find employment, because they will be at a relative disadvantage compared to other employees, which is not what this bill is intended to do: this will actually kill off jobs. This will make it harder for state public servants to find employment, because they will be at a relative disadvantage compared to other employees, which is not what this bill is intended to do. But, in fact, the way that this bill is structured, the way that it has been drafted and the way that it is meant to operate indicate that it will have these huge unintended consequences.

The point that Mr Johns makes, I think, is a very telling one, and I would like to ask the parliamentary secretary to comment either in the response to the second reading contributions and the summing up or, indeed, in the committee stage. I am conscious that we have a very, very heavy legislative agenda this week and that we need to deal with matters as expeditiously as possible, but this is important. Mr Johns makes the assertion that these transfer provisions were not in place when the Hawke-Keating government sold off Trans-Australia Airlines, the Commonwealth Bank, the Commonwealth Serum Laboratories and many more. The tests then in place were a balance to allow the new employer the chance to do better with the existing workforce or, failing that, to move on nonperformers, according to Mr Johns. So my question to the government is this: is the government asserting that these transfer-of-business provisions are equivalent or identical to what the Hawke-Keating government did during their time in office? I have to say that I think history has shown that the Hawke-Keating government struck a pretty good balance between improving productivity and protecting workers' rights. So is what this government is doing quite a departure from the Hawke-Keating era? It seems that it is. It seems that what is being proposed here is radically different from what the Hawke-Keating government did, which I thought struck that balance between productivity and the rights of workers in those formerly state-owned enterprises.

The final matter I want to touch on is the bigger picture of what this means for us as a nation in terms of productivity. I think it is quite disturbing, and I think it is worth referring to comments made by Emeritus Professor Richard Blandy, who is a professor in economics and someone who I have known for many years. Before he is pigeonholed by anyone as being in some way anti-Labor or against the labour movement, I say that Professor Blandy and I got to know each other quite well during the privatisation process of the Olsen Liberal government in South Australia in the late 1990s. Professor Blandy was critical of that privatisation for a number of reasons, including the impact on consumers and the way it was structured—leaving aside the issue of mandate.

It was a bit like the Gillard government saying, 'We'll never, ever have a carbon tax.' John Olsen, as Liberal Premier of South Australia, said, 'We'll never, ever privatise the state's electricity assets,' and bingo—a
couple of months after getting into office he said, ‘Things have changed and we’ve got to privatise.’ Leaving that aside, Professor Blandy received enormous political heat as an academic because he was critical of the way the Liberal government in South Australia was structuring the privatisation of the electricity assets. In his predictions—along with the predictions of Frontier Economics and Danny Price, the economist who has given advice to the coalition on an emissions trading scheme—he was very critical of what the then Liberal government in South Australia was doing, and I think Professor Blandy’s concerns were borne out.

What Professor Blandy has said in a very well-researched opinion piece in the Australian on 24 October of this year is:

... Australia’s long-term slow rate of growth in productivity (and high rate of growth in unit labour costs) compared with other countries has seen us slip behind. He said:

Australian productivity growth is the third lowest among the 10 countries that he analysed—just nosing Spain into second-last spot. South Korea’s rate of productivity growth has been 3.5 times Australia’s across the past 20 years. Finland and Sweden’s rate of productivity growth has been about double Australia’s, and that of the US about 70 per cent faster.

I mention Finland and Sweden because no one could consider those to be low-growth countries that do not have strong protections for their employees. They are taking an innovative approach to industry, to manufacturing, to value-adding and to having those high-paid, highly productive, innovative jobs. So I think we need to heed the warnings of someone like Professor Blandy—someone who has raised the ire of both sides of politics in what I think is a fearless approach to analysing public policy.

So, I have very real concerns about this legislation. I think it is bad policy, the process has been flawed and, above all, what it is intended to do—and that is supposedly to protect workers—through these transfer-of-business provisions will actually have the opposite effect. My challenge to the government is to say here and now: are these transfer-of-business provisions equivalent to, identical to or substantially the same as what the Hawke-Keating government were doing in relation to their transfer-of-business provisions when they privatised a number of state-owned assets? I dare say that the government cannot credibly say that that is the case. For those reasons I have very real concerns about this legislation and I have real difficulty in supporting it.

Senator KIM CARR (Victoria—Minister for Human Services) (11:45): I would like to thank senators who contributed to this important debate on the Fair Work Amendment (Transfer of Business) Bill 2012. In particular, I want to acknowledge the important contributions of those who will actually be supporting the government’s legislation.

The bill delivers on the government’s commitment to introduce legislation to extend the existing transfer-of-business protections of the Fair Work Act 2009 to certain former state public sector employees whose transition to the national system was as a result of a transfer of business. The policy intention guiding this legislation is clear: the government does not accept that these employees should be worse off or that they should have their entitlements put at risk simply because their employer changes as a result of an outsourcing of work or an asset sale, but where their work stays the same.

The bill gives effect to this policy by ensuring that these employees generally
retain the benefits of their existing terms and conditions of employment, where a transfer of business occurs between their former state employer and an employer covered by the national workplace relations system. The bill provides a more nationally consistent set of transfer-of-business protections for former state public sector employees. Employees in the Commonwealth, Victorian, Australian Capital Territory and Northern Territory public sectors are already covered by the transfer-of-business protections in parts 2 to 8 of the Fair Work Act. This bill simply extends these protections to certain public sector employees in the remaining jurisdictions: in New South Wales, Queensland, Western Australia, South Australia and Tasmania.

The bill does not seek to regulate how states conduct their own administrations. However, the Commonwealth is responsible for matters within the national workplace relations system, and this bill ensures that, when a transfer of business occurs between certain state public sector employers and an employer in the national workplace relations system, transferring employees will retain the benefits of their existing industrial instruments and have their hard-earned entitlements protected.

I note that some have criticised the bill for going too far, while others have said that the bill does not build in sufficient protections for former state public sector employees. To those who argue that the bill goes too far and will discourage new employers from hiring former state public sector employees, such as Senator Abetz has put to us in his contribution, I note that the recent post-implementation review of the operations of the Fair Work Act considered a number of submissions on the issues and was not convinced on the evidence before it that the transfer-of-business provisions had had that effect. To the contrary, the panel concluded that the scope for employers to determine the appropriate outcome for their business on application to Fair Work Australia provided sufficient flexibility. I note that the transfer-of-business provisions in parts 2 to 8 of the Fair Work Act already apply to transfers of business between certain public sector employers, including the Commonwealth, Victorian, Australian Capital Territory and Northern Territory governments and the national system employers. As the government has stated on many occasions, the bill is simply extending these protections to certain former state public sector employees in the remaining jurisdictions.

And to those who say that the bill does not go far enough: the government policy intent is clear, and that is to apply the current transfer-of-business provisions to former state public sector employees moving to the national workplace relations system through a transfer of business. Our view is that the bill strikes the right balance between in-practice employees' terms and conditions and the interests of employers in running their businesses efficiently. The government established the transfer-of-business framework currently in the Fair Work Act to ensure fairness and flexibility to both employers and employees and to replace the old, out-of-date and complex provisions.

The government has continued to listen to those and to consult with various stakeholders, including states and territories and unions and businesses on the provisions of the bill. As a consequence, the government will move a number of minor amendments to the bill. Before I go to those, I will deal specifically with the concerns of Senator Xenophon in regard to the transfer-of-business provisions in the Fair Work Act.

These were introduced by the government as part of the fair work reforms. The provisions are different to those previously
in Commonwealth industrial law. They are designed both to broaden the circumstances where protections are provided to employees and to ensure flexibility and fairness to employees and employers by providing a clearer and simpler provision than those in the previous Commonwealth legislation. This is an extension of existing provisions and has come about as a direct consequence of an attempt to improve the old system that was in place under previous governments, including the Hawke-Keating governments.

The amendments that the government will move go to four broad categories. Firstly, the government proposes amendments to align more closely Fair Work Australia's powers to make orders in respect of a transfer of business within the scope of the bill with powers currently provided in the Fair Work Act. Secondly, the government proposes amendments to further clarify the coverage of the bill, which applies to certain former state public sector employees only and which does not extend to local government employees. These amendments reflect the intended coverage and the application of the bill as was announced by the minister.

Thirdly, there will be an amendment proposed to clarify the operation of the bill to ensure that the same rules that currently apply to transfer of business under the Fair Work Act in relation to the operation of the general protections provision are also applied to the transfer of business under the new proposed provisions of this bill. Finally, there will be a number of consequential amendments that deal with cross-referencing and numbering.

The bill establishes a more nationally consistent set of rules governing the transfer of business, based on ensuring protections for certain former state public sector employees whose jobs are outsourced and who end up doing the same job for a different employer. The government is very clear that it respects the work of 1.7 million public sector workers around Australia, and it simply cannot condone public servants in some states receiving fewer protections when there is a transition into the national system as a result of a transfer of business than those in other jurisdictions who already have the benefits of these protections. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (11:53): If I may, I have five general questions before we get to the specific amendments. The first question I have for the Parliamentary Secretary is: can the government guarantee that no worker will be left worse off as a result of this bill?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (11:54): Before I respond to Senator Abetz's question, I might commence by tabling a supplementary explanatory memorandum relating to government amendments to be moved to this bill. I now move to the general discussion.

The government is interested in protecting employees' entitlements. On the basis of there being disadvantage, that is obviously not a component of the government's approach here.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (11:55): That was not the question. The question was: can the government guarantee that no worker will be left worse off? As I pointed out in my second reading speech, uncontradicted
anywhere thus far, an employee who takes a voluntary redundancy can, in fact, be denied employment by a national scheme employer because they would be bringing with them terms and conditions that would not make it favourable for being employed by the new employer. As a result, this would leave that person without a job. We might be able to conclude that that worker would, in fact, be worse off having been made redundant and denied the opportunity of a new job.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (11:57): Again, it bemuses me that Senator Abetz suggests it is less than disingenuous, because the amendments that he is proposing go beyond what was recommended by the independent panel which reviewed the Fair Work Act. Similarly, any justification for those amendments would be as disingenuous if you are interested in withdrawing them.

This bill seeks to apply as far as possible the current provisions of the Fair Work Act. Let me go to the existing transfer-of-business rules and the suggestion that they do not work. The government completely rejects any suggestion that current transfer-of-business rules operate unfairly or act as a disincentive to hiring transferring employees. The recent review of the act looked at transfer of business in detail and found that the evidence shows that the existing business arrangements deliver a balanced framework that provides both fairness and flexibility to both employees and employers. What finer statement could you find in terms of the standing of those existing provisions which we are seeking to progress here?

Specifically, the review panel said:
… there is a clear need to protect employees in transfer of business situations. The alternative is to allow employees to be exploited by the structuring of businesses and contracting arrangements. On the basis of stakeholder submissions, academic advice … analysis of cases under the provisions and an examination of the provisions themselves, the broader legislative definition succeeds in providing better protections for employees than the previous arrangements did.

Finally, it said:
… the scope for employers to determine the appropriate outcome for their business on application to FWA provides significant flexibility.

The government is committed to protecting the rights of Australian workers and takes
very seriously any attempt by an employer to restructure its business operations in a way that would undermine employees' or future employees' entitlements.

There are some who might say that this bill is unnecessary because employers can already agree in the course of contractual negotiations for transferring employees to maintain their existing terms and conditions of employment with the new employer. However, that approach does not provide certainty for employees and it does not provide guaranteed protection for their hard-earned and negotiated entitlements.

The transfer-of-business rules in part 2-8 of the Fair Work Act only apply where both the old and new employers are covered by the national workplace relations system. This includes transfers of business that affect employees in the Commonwealth, Victorian, Northern Territory and ACT public sectors but not in the other jurisdictions. Without these reforms, public sector employees in other jurisdictions are at risk of losing their existing terms and conditions of employment, negotiated in good faith, because of a decision by a state government employer to sell assets or outsource work. That is why this bill is necessary and a priority. I stress the time limits issue here; it is a priority for the government, given decisions by some state governments.

In broader policy discussions about the current transfer-of-business provisions in the Fair Work Act the minister continues to discuss the review panel's report and recommendations with stakeholders and he has publicly confirmed that none of the remaining recommendations are ruled in or ruled out.

Finally I want to touch on the point Senator Abetz made about any potential discouragement for new employers from employing former state employees. This claim is often bandied about, that the transfer-of-business provisions are some kind of barrier to new employers hiring transferring employees. This issue was considered in some detail in the recent review of the Fair Work Act. It was argued that the transfer-of-business provisions reduced the employment prospects of workers. However, after all of the evidence put to the Fair Work review panel, they were not convinced that the provisions have had the negative effect that Senator Abetz proposes. To the contrary, the panel concluded that the scope for employers to determine the appropriate outcome for their businesses on application to Fair Work Australia provided significant flexibility.

The government's policy in relation to the transfer-of-business provisions in the Fair Work Act has been consistently clear—that is, employees should be able to retain the benefit of their terms and conditions of employment and their entitlements if their employer changes but the work they perform stays the same. This bill maintains that policy and extends it to certain former state public sector employees to also ensure that their terms and conditions of employment are protected where a transfer of business occurs between a state public sector employer and a national system employer.

On any measure, there is a clear need to protect employees' transfer-of-business situations. The alternative is to allow employees to be exploited by the structuring of businesses and contracting arrangements. If the opposition does not support the current transfer-of-business provisions, what is their alternative? The alternative is to go back to the old and complex transmission-of-business rules which sometimes resulted in employees losing the benefit of their industrial instruments even though they were performing exactly the same work for the
new employer. The government does not support a return to those rules.

As under existing transfer-of-business provisions, where employers have concerns about transferring workplace instruments they can apply to Fair Work Australia for orders to ensure that the transferring workplace instruments better align with their business operations. The Fair Work Act report noted that of the 142 applications made to Fair Work Australia under the Fair Work Act transfer-of-business provisions up until March 2012:

... generally settled quickly, with hearings generally less than an hour long, and regularly less than half an hour. Almost all applications were granted, with a small proportion adjourned for various reasons and a smaller proportion dismissed on their merits.

The report makes clear that the application process is working efficiently and did not recommend any changes to these provisions.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:04): I am sure that if Senator Collins ever loses her employment in this place—

Senator Jacinta Collins: I already have; remember?

Senator ABETZ: she will be more than gainfully employed as a cherry picker, because all I would invite her to do is have a look at pages 205 and 206 of the Fair Work Act review panel report in relation to this matter.

If everything were so good in relation to the current transfer-of-business regime, why would this hand-picked panel with few terms of reference nevertheless make recommendation 38? In relation to what the test ought be, we make no apology that we believe that the collective wisdom of the High Court in this area was a collective wisdom that should not be thrown out and scoffed at as lightly as the minister has done just now, and as Mr Shorten and Ms Gillard have in relation to the legislative framework. We make no apology for saying we believe the High Court—ultimately, the highest independent umpire in the country—got the balance right. Labor can say Ms Gillard and Mr Shorten, both previously trade union operatives, have got the balance right between themselves, or that the High Court actually might have got the balance right. Chances are, most Australians would take a punt on the High Court having got it right, rather than Ms Gillard and Mr Shorten.

If the recommendations of the panel were to be implemented, would employees in state governments who take a voluntary redundancy be covered by this bill, or would the requirements of a transfer, as defined in the bill, not be met?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:06): We are still consulting on the review recommendations. It does not directly pertain to what is before us here.

Senator ABETZ. (Tasmania—Leader of the Opposition in the Senate) (12:06): This is one of the difficulties when you rush in legislation which does not come from anywhere other than a political agenda in either the office of the Prime Minister or the minister. The issues that are in this bill were not canvassed in the 250 submissions before the Fair Work Act Review Panel. The Fair Work Act Review Panel did not recommend this legislation, but the panel did make a recommendation in relation to voluntary redundancies, which is exceptionally important. I understand that in Queensland, out of the roughly 12,000 redundancies that have been announced, 10,400 are expected to be voluntary redundancies—and very
generous redundancies. Here we have the government legislating one thing which is going to fly in the face of its own hand-picked review panel. We are asking: where is the justification for this when you have a firm recommendation from the review panel against what you are doing?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:08): If one point Senator Abetz makes is critical it is the one for timeliness: the need for employees in Queensland to have a clearer understanding of their circumstances as they contemplate what the Queensland government forecasts may indeed be voluntary redundancies and how those circumstances may impact upon them. In response to Senator Abetz’s other issues, the government’s policy in relation to transfer-of-business protections has been consistently clear—that is, that employees should be able to retain the benefit of their terms and conditions of employment and their entitlements where their employer changes because their old employer has decided to sell assets or to outsource their jobs but where the work they perform stays the same. However, where an employee has already received a redundancy payment then the employee’s period of service will not be counted again for the purpose of calculating the entitlement with the new employer—that is, the bill ensures that employees cannot double dip.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:09): Can the minister explain why Public Service redundancies made by the previous Queensland Labor government did not warrant this legislation, but redundancies by the LNP government now somehow do require this legislation? What is the moral difference between a Labor redundancy and an LNP redundancy other than cheap political point-scoring?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:10): There is no moral difference between a Liberal National Party redundancy and a Labor state government redundancy, Senator, and that is why we are taking a national approach to these measures rather than, as I think you suggested earlier, in this case specifically a cherry-picking states approach. Any observer to this debate, given the circumstances that have played out through at least a couple of the state governments, would understand the scale and magnificence that is relevant here. You referred to claims by the Queensland government that a significant proportion of the redundancies would be voluntary—I think there are many Queenslanders that might have a different view.

The government has been concerned for some time that announcements by certain state governments to outsource work and sell assets could unfairly impact on employees’ terms and conditions of employment and their existing entitlements. That is why in September of this year, the government announced that it would amend the Fair Work Act to ensure that employees’ terms and conditions of employment are protected where the transfer of business occurs between state public sector employer and national system employer. The government understands that business restructuring is a legitimate and often necessary task. However, the government does not accept that employees’ terms and conditions of employment should be undermined or entitlements put at risk where the employer changes but the work stays the same.
The principle also applies to employees whose jobs are outsourced by state governments where employees in Commonwealth, Victorian, Northern Territory and ACT public sectors are already covered by the Fair Work Act and have had the benefit of transfer-of-business protections for almost three years. The bill is merely extending this benefit to other former state employees not of any political character in the remaining states. How can anyone take any serious issue with that?

Without these reforms, public sector employees in other jurisdictions are at risk of losing their existing terms and conditions of employment negotiated in good faith because of a decision by a state government employer to sell assets or outsource work, many recent announcements of which have occurred. That is why this bill is necessary and a priority for the government.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:12): If I may quickly correct the record, I understand that all the Queensland state Public Service redundancies will in fact be voluntary redundancies. Are we to believe that this legislation was not necessary for redundancies initiated and announced by state Labor in Queensland because they were fewer in number than those announced by Mr Newman, the LNP Premier of Queensland, so the government's only rationale for not having brought this vital piece of legislation in earlier is that it was the numbers in Queensland?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:13): I think that if Senator Abetz looks at my earlier comment he will see that I said he had offered us some interesting numbers in Queensland but that it was the announcements principally of both the New South Wales government and the Queensland government.

I am interested that Senator Abetz highlights, at least at this point in time, that the Queensland government suggests that all of the redundancies will be voluntary. I do not personally recall that it was a component of their initial announcement. It obviously concerned many people in Queensland and the concern, particularly from my awareness of education cuts, is still moving throughout New South Wales as well.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:14): It is quite obvious that the motivation for this legislation is: Labor redundancies are okay; LNP redundancies are not okay. This is why this legislation was rushed in and why it was done in such a hashed way. So possibly the minister can explain to the chamber the reason this bill was forced through the House of Representatives so quickly only to now have an amended explanatory memorandum and the need for four tranches of government amendments.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:14): I think I have covered the issues around timeliness here and the number of job losses that have been highlighted in recent times by both Queensland and New South Wales governments.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:15): Before introducing this bill did the minister provide state governments with the three months notice that they are required to provide under the Intergovernmental Agreement for a National Workplace
Relations System for the Private Sector? If not, why not?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:15): The government is of the view that it complied with the obligations under the Intergovernmental Agreement for a National Workplace Relations System for the Private Sector. The government was concerned to introduce the bill as a matter of urgency to ensure that appropriate protections were in place as soon as possible for affected employees transitioning into the national system. On 21 September Minister Shorten wrote to state and territory ministers and members of the National Workplace Relations Consultative Council advising them of the government's proposal to amend the Fair Work Act to extend transfer of business protections and invited their views. On 2 October departmental officials met with state and territory officers, excluding the ACT, which was unable to attend. On 3 October departmental officials met with representatives of the ACTU, Ai Group and ACCI. On 15 October departmental officials met with officers from Fair Work Australia and the Fair Work Ombudsman.

ACCI, Ai Group, the BCA, Western Australia, Queensland and New South Wales have written to the minister on various dates expressing opposition to the bill and concerns about consultation. On 15 November Minister Shorten wrote to his state and territory counterparts advising that the Australian government intended to move government amendments to the bill. On 16 November draft provisions were circulated to senior state and territory officials for comment by 19 November. Only New South Wales and Victoria have responded to that invitation to date and, amongst other things, New South Wales reiterated strong concerns about lack of consultation on the issue of importance to the states, but Victoria did not express any concerns at the departmental level.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:17): Those time frames are very interesting. Do they fit within the three-months-notice period that is required under the intergovernmental agreement? Clearly not, so why not?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:17): The government is confident that it has met the terms of the IGA.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:17): Well, that is one of those obfuscating answers, so let us do this in a painfully slow manner. Minister, can you advise the first time that a state government was advised of the government's intention to move this bill?


Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:18): I am a bit slow. If the minister could repeat the first date, I would be much obliged.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:18): It was 21 September.
Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:18): Does the minister agree with my maths that three months from 21 September takes us through to 21 December? The government is supposed to provide three months notice under the intergovernmental agreement. How does she assert that the government is not in breach of the intergovernmental agreement when with my state school maths I work out that three months from 21 September takes us to 21 December before any legislation should be introduced?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:19): Senator Abetz, you might seek to delay a matter as important as this by counting down exactly three months but the critical reason I gave you all of the dates and the background was to highlight the fact that, even though it was some small bit short of three months, sufficient time was allowed for notice to be provided to state governments and relevant parties and sufficient time has also been there for those parties or state governments to respond and indeed inform government amendments to the bill.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:20): So why do we have this three-months notice period in the intergovernmental agreement if you believe that you can just break it willy-nilly, as you clearly have, in relation to this legislation? In relation to informing state governments on 21 September, can you advise how that occurred? I suggest it was by media release on 21 September.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:20): No, Senator Abetz, it was not by media release; it was by correspondence. The government does not advise states and territories and significant stakeholders in the workplace relations system by media release. There may have been a media release that aligned in timing but certainly by correspondence we wrote to the parties that I highlighted. But I go back to your earlier point about the three months. The three months is an important guide to ensure that appropriate consultation occurs within the IGA but this is not a case of willy-nilly; this is the case of urgency for the entitlements of a significant number of employees. As I highlighted before, the government went through consultation processes that were only a few days short of the three months, but the important thing is that the government went through those processes and enabled states and territories to respond and indeed inform amendments that were moved through the House of Representatives.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:21): 'A few days short'! Really, Minister, 21 days in December and four days in November would make 25 days out of a three-month period—and that is just 'a few days short'! Nobody believes that that is a credible explanation in all the circumstances. Now, in relation to the letter, was that a letter by ordinary mail to be delivered by Australia Post or was it by email?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:22): I will need to confirm that, Senator Abetz, but at the moment I am advised that was by email.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:22):
Before or after the media release and how close to the media release?


The TEMPORARY CHAIRMAN (Senator Ludlam): We might need to be a little more specific on that, Minister. We have a number of batches. Will you come to exactly which ones you will move by leave together.

Senator JACINTA COLLINS: I seek to move all.

Senator ABETZ. (Tasmania—Leader of the Opposition in the Senate) (12:25): I indicate now that we will divide.

Senator JACINTA COLLINS: If that is the case, I will commence with the first set of amendments and, in doing so, will make some general remarks which will cover essentially all of the government's amendments. We can revisit in further detail as we go along, if Senator Abetz is happy with that approach.

The TEMPORARY CHAIRMAN: So leave is sought?

Senator JACINTA COLLINS: Yes. Leave granted.

Senator JACINTA COLLINS: I move government amendments (1), (3) to (10), (13), (15) and (16) together:

(1) Schedule 1, item 1, page 4 (lines 2 and 3), omit "means a national system employee, and employer means a national system employer", substitute "and employer have their ordinary meanings".

(3) Schedule 1, item 1, page 7 (lines 7 to 20), omit subsection 768AI(1), substitute:

(1) If, immediately before the termination time of a transferring employee:

(a) a State award (the original State award) was in operation under the State industrial law of the State; and
(b) the original State award covered (however described in the original State award or a relevant law of the State) the old State employer and the transferring employee (whether or not the original State award also covered other persons);

then a copied State award for the transferring employee is taken to come into operation immediately after the termination time.

(4) Schedule 1, item 1, page 8 (line 21) to page 9 (line 3), omit subsection 768AK(1), substitute:

(1) If, immediately before the termination time of a transferring employee:

(a) a State employment agreement (the original State agreement) was in operation under a State industrial law of the State; and

(b) the original State agreement covered (however described in the original State agreement or a relevant law of the State) the old State employer and the transferring employee (whether or not the original State agreement also covered other persons);

then a copied State employment agreement for the transferring employee is taken to come into operation immediately after the termination time.

(5) Schedule 1, item 1, page 20 (before line 8), before subsection 768AX(1), insert:

Application of this section

(1A) This section applies if there is, or is likely to be, a transfer of business.

(6) Schedule 1, item 1, page 20 (line 31) to page 21 (line 34), omit subsections 768AX(2) and (3), substitute:

Who may apply for a variation

(2) FWA may make a variation under subsection (1):

(a) on its own initiative; or

(b) on application by a person who is, or is likely to be, covered by the copied State instrument; or

(c) on application by an employee organisation that is entitled to represent the industrial interests of an employee who is, or is likely to be, covered by the copied State instrument.

Note: The copied State instrument for the transferring employee may also cover another transferring employee or a non transferring employee if a consolidation order is made.

Matters that FWA must take into account

(3) In deciding whether to make a variation under subsection (1), FWA must take into account the following:

(a) the views of:

(i) the employees who would be affected by the copied State instrument as varied; and

(ii) the new employer or a person who is likely to be the new employer;

(b) whether any employees would be disadvantaged by the copied State instrument as varied in relation to their terms and conditions of employment;

(c) if the copied State instrument is a copied State employment agreement—the nominal expiry date of the agreement;

(d) whether the copied State instrument, without the variation, would have a negative impact on the productivity of the new employer’s workplace;

(e) whether the new employer would incur significant economic disadvantage as a result of the copied State instrument, without the variation;

(f) the degree of business synergy between the copied State instrument, without the variation, and any workplace instrument that already covers the new employer;

(g) the public interest.

(7) Schedule 1, item 1, page 22 (lines 15 to 20), omit subsection 768AX(6), substitute:

When variation may be made

(6) A variation may be made under subsection (1) in relation to a copied State instrument of a transferring employee:

(a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and

(b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

Restriction on when variation may come into operation
(7) A variation under subsection (1) operates from the day specified in the variation, which may be a day before the variation is made.

(8) Schedule 1, item 1, page 23 (after line 13), after section 768AZ, insert:

**768AZA Orders in relation to a transfer of business**

(1) This Division provides for orders to be made if there is, or is likely to be, a transfer of business.

(2) An order may be made under this Division in relation to a copied State instrument of a transferring employee:

(a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and

(b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

(9) Schedule 1, item 1, page 23 (line 27) to page 24 (line 30), omit subsections 768BA(2), (3) and (4), substitute:

Who may apply for an order

(2) FWA may make an order under subsection (1):

(a) on its own initiative; or

(b) on application by any of the following:

(i) a transferring employee or an employee who is likely to be a transferring employee;

(ii) the new employer or a person who is likely to be the new employer;

(iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i);

(iv) if the application relates to an enterprise agreement—an employee organisation that is, or is likely to be, covered by the agreement.

Matters that FWA must take into account

(3) In deciding whether to make an order under subsection (1), FWA must take into account the following:

(a) the views of:

(i) the employees who would be affected by the order; and

(ii) the new employer or a person who is likely to be the new employer;

(b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;

(c) if the order relates to a copied State employment agreement or an enterprise agreement—the nominal expiry date of the agreement;

(d) whether the copied State instrument would have a negative impact on the productivity of the new employer's workplace;

(e) whether the new employer would incur significant economic disadvantage as a result of the copied State instrument covering the new employer;

(f) the degree of business synergy between the copied State instrument and any workplace instrument that already covers the new employer;

(g) the public interest.

Restriction on when order may come into operation

(4) An order under subsection (1) must not come into operation in relation to a particular transferring employee before the later of the following:

(a) the transferring employee's re-employment time;

(b) the day on which the order is made.

(10) Schedule 1, item 1, page 25 (line 17) to page 30 (line 15), omit Division 7, substitute:

**Division 7—FWA orders about consolidating copied State instruments etc.**

**Subdivision A—Guide to this Division**

**768BC What this Division is about**

This Division allows FWA to consolidate the various workplace instruments that may apply in the new employer's workplace. It achieves this by allowing FWA to make an order that a copied State instrument for a particular transferring employee is also a copied State instrument for one or more other transferring employees or non-transferring employees.

Subdivision B deals with consolidating copied State instruments for transferring employees. Under that Subdivision, FWA may make an order.
that the copied State instrument for a transferring employee ("employee A") is also the copied State instrument for one or more other transferring employees. If FWA makes a consolidation order for those other transferring employees, then this Act is modified so that the copied State instrument for employee A is also the copied State instrument for those other transferring employees (see section 768BF).

Subdivision C deals with non transferring employees. Under that Subdivision, FWA may make an order that the copied State instrument for employee A (who is a transferring employee) is also the copied State instrument for one or more non transferring employees. If FWA makes a consolidation order for those non transferring employees, then this Act is modified so that the copied State instrument for employee A is also the copied State instrument for those non transferring employees (see section 768BI).

768BCA Orders in relation to a transfer of business

(1) This Division provides for orders to be made if there is, or is likely to be, a transfer of business.

(2) An order may be made under this Division in relation to a copied State instrument of a transferring employee:

(a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and

(b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

Subdivision B—Consolidation orders in relation to transferring employees

768BD Consolidation orders in relation to transferring employees

Consolidation order

(1) FWA may make an order (a consolidation order) that a copied State instrument for a transferring employee (employee A) is also a copied State instrument for one or more other transferring employees.

Who may apply for order

(2) FWA may make a consolidation order under subsection (1):

(a) on its own initiative; or

(b) on application by any of the following:

(i) a transferring employee, or an employee who is likely to be a transferring employee;

(ii) the new employer or a person who is likely to be the new employer;

(iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i).

Matters that FWA must take into account

(3) In deciding whether to make a consolidation order under subsection (1), FWA must take into account the following:

(a) the views of:

(i) the employees who would be affected by the order; and

(ii) the new employer or a person who is likely to be the new employer;

(b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;

(c) if the order relates to a copied State employment agreement—the nominal expiry date of the agreement;

(d) whether the copied State instrument for employee A would have a negative impact on the productivity of the new employer's workplace;

(e) whether the new employer would incur significant economic disadvantage if the order were not made;

(f) the degree of business synergy between the copied State instrument for employee A and any workplace instrument that already covers the new employer;

(g) the public interest.

Restriction on when order may come into operation

(4) A consolidation order under subsection (1) must not come into operation in relation to a particular transferring employee (other than employee A) before the later of the following:

(a) the transferring employee's reemployment time;

(b) the day on which the order is made.
Consolidation order to deal with application and coverage

(1) A consolidation order under subsection 768BD(1) must specify when the copied State instrument for employee A applies to, and covers:

(a) another transferring employee; and

(b) the new employer in relation to the other transferring employee; and

(c) an employee organisation in relation to the other transferring employee;

which must not be before the other transferring employee’s re-employment time.

(2) Once the consolidation order comes into operation in relation to the other transferring employee, the copied State instrument for the other transferring employee ceases to operate.

Effect of this Act after a consolidation order is made

If FWA makes a consolidation order under subsection 768BD(1), then this Act has effect in relation to a particular transferring employee (other than employee A), from the time the order comes into operation in relation to that employee, as if a reference in relation to that employee to the copied State instrument for that employee were a reference to the copied State instrument for employee A.

Consolidation orders in relation to non transferring employees

Consolidation order

(1) FWA may make an order (a consolidation order) that a copied State instrument for a transferring employee (employee A) also is, or will be, a copied State instrument for one or more non transferring employees who perform, or are likely to perform, the transferring work.

Non transferring employees

(2) A non transferring employee of a new employer is a national system employee of the new employer who is not a transferring employee.

Who may apply for order

(3) FWA may make a consolidation order under subsection (1):

(a) on its own initiative; or

(b) on application by any of the following:

(i) a non transferring employee who performs, or is likely to perform, the transferring work;

(ii) the new employer or a person who is likely to be the new employer;

(iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i);

(iv) if the application relates to an enterprise agreement—an employee organisation that is, or is likely to be, covered by the agreement.

Matters that FWA must take into account

(4) In deciding whether to make a consolidation order under subsection (1), FWA must take into account the following:

(a) the views of:

(i) the employees who would be affected by the order; and

(ii) the new employer or a person who is likely to be the new employer;

(b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;

(c) if the order relates to a copied State employment agreement or an enterprise agreement—the nominal expiry date of the agreement;

(d) whether the copied State instrument for employee A would have a negative impact on the productivity of the new employer’s workplace;

(e) whether the new employer would incur significant economic disadvantage if the order were not made;

(f) the degree of business synergy between the copied State instrument for employee A and any workplace instrument that already covers the new employer;

(g) the public interest.

Restriction on when order may come into operation

(5) A consolidation order under subsection (1) must not come into operation in relation to a
particular non transferring employee before the later of the following:

(a) the time when the non transferring employee starts to perform the transferring work for the new employer;

(b) the day on which the order is made.

**768BH Consolidation order to deal with application and coverage**

(1) A consolidation order under subsection 768BG(1) must specify when the copied State instrument for employee A applies to, and covers:

(a) a non transferring employee; and

(b) the new employer in relation to the non transferring employee; and

(c) an employee organisation in relation to the non transferring employee; in relation to the transferring work.

(2) If an enterprise agreement covers the non transferring employee and the new employer, the order must also specify that the agreement does not cover:

(a) the non transferring employee; or

(b) the new employer in relation to the non transferring employee; or

(c) an employee organisation in relation to the non transferring employee; in relation to that work.

**768BI Effect of this Act after a consolidation order is made**

If FWA makes a consolidation order under subsection 768BG(1), then this Act has effect in relation to a particular non transferring employee, from the time the order comes into operation in relation to that employee, as if:

(a) the copied State instrument for employee A were also the copied State instrument for that employee; and

(b) that employee were a transferring employee in relation to that copied State instrument.

(13) Schedule 1, items 14 and 15, page 48 (line 22) to page 49 (line 2), omit the items.

(15) Schedule 1, item 24, page 50 (line 12), omit “subparagraph 768AK(1)(b)(i)”, substitute “paragraph 768AK(1)(a)”.

As foreshadowed, the government proposes a number of minor amendments to the bill. It is the government's intent that, through this bill, existing transfer of business protections are provided to certain former state public servants moving into the national workplace relations system through a transfer of business scenario. These amendments are therefore designed to better and more clearly align the bill with the existing transfer of business provisions in the Fair Work Act.

The first category of amendments relates to orders that Fair Work Australia can make in relation to transfer of business—that is, amendments (1), (3) to (10), (13), (15) and (16). The government proposes these amendments to ensure that Fair Work Australia can hear applications and make orders in anticipation of there being a transfer of business. These amendments are designed to improve consistency with similar provisions in part 2-8 of the Fair Work Act. These amendments will enable new employers to enter into commercial transactions with greater certainty and to more effectively make preparations for a smooth transition at the new workplace in advance of the transfer of business occurring.

Amendments (9) and (10) will, among other things, ensure that consolidation orders and orders about employee coverage made by Fair Work Australia cannot have retrospective operation. These amendments will more closely align with similar provisions in part 2-8 of the Fair Work Act. Amendment (10) will also make it clear that Fair Work Australia can make orders relating to multiple employees rather than being required to make one order per employee. This approach is consistent with part 2-8 of the Fair Work Act.
The second category of amendments relates to the application and coverage of the bill. These are amendments (14), (17) and (18). These amendments will further clarify that the coverage of this bill extends to certain former state public sector employees only but does not extend to local government employees. These amendments reflect the intended coverage and application of the bill, as announced by the minister.

The third category of amendments, amendment (19), also clarifies the operation of the bill in relation to ensuring that the same rules that currently apply to transfers of business under the Fair Work Act in relation to the operation of the general protections provision also apply to transfers of business under the new proposed provisions in this bill. The final category of amendments deals with amendments of a minor, technical or consequential nature—that is, amendments (2), (11), (12), (20) and (21)—such as cross-references and numbering under the bill.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:28): I simply remind the government that when it rushes legislation of this nature, without proper consultation, it is then humiliated into a position where it has to move these types of amendments in the chamber. I indicate that the coalition will not be opposing the first tranche of government amendments, nor the technical amendments, which is the second tranche. If I understand the third tranche of amendments correctly, I would be most interested as to why local government is being exempted. If this is all about workers’ rights, if this is all about protecting people, why is it that an LNP redundancy is so bad but if a local government does exactly the same thing all of a sudden it is not bad? It is yet again an indication of the double standard that has been applied here.

The TEMPORARY CHAIRMAN (Senator Ludlam): The question is that government amendments (1), (3) to (10) and (15) and (16) on sheet BW270 be agreed to.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:29): Just on the question in relation to local government, if there are no other comments at this stage. This amendment merely clarifies the government's policy position regarding this bill. The amendment does not alter the government's policy and does not take away existing rights of local government workers. Although the bill does not extend to transfer of business from a local government employer, former local government employees who move into the national workplace relations system will have the benefit of the protections and rights and entitlements of the Fair Work Act.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:30): This is still not an explanation as to why a rule should apply to state governments but not to local governments. Can you explain what the difference is?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:30): Senator Abetz, as you would be aware, explaining differences in Australia's workplace relations system across jurisdictions and across various issues does not always lead to a consistent outcome. But the government has consistently said that the purpose of this particular bill is to extend the existing transfer of business protections in the Fair Work Act to certain former state public sector employees where there is a transfer of
business from their old state employer to the employer in the national workplace relations system. If Senator Abetz wishes to propose that the government deal with all employees within potential jurisdictional scope, perhaps that is something it could consider.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:31): Rereading the brief, unfortunately, does not mean that an answer has been provided. If LNP redundancies in Queensland are so worthy of protection of rushed and hashed legislation in this place, I still cannot understand why, if the government actually believes in these things, local government employees are not being provided this so-called same protection. The coalition’s position is quite clear: we believe that this is a lose-lose situation for potential employers of ex-public servants; it is also a loss for those ex-public servants made redundant because of the profligacy of the previous Queensland Labor government. But I still fail to understand why, if a local government were to go down this path, federal Labor’s workplace relations justice juices are not working overtime to extend the same benefit to local government employees. So can the minister explain the moral, the practical, the financial or any difference between a state government employee who is made redundant and might be picked up by a private sector employer and a local government employee who might be picked up by a private sector employer in circumstances of being made redundant?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:33): Senator Abetz, what I have said on several occasions in this debate is that the Commonwealth government was responding to large-scale state government redundancies regardless of the government of a particular state. As I have mentioned, there are other states that are encompassed within these measures that do not happen to be Liberal-National Party states.

In response to the actual comparison that you suggest: as I pointed out to you earlier, there are countless comparisons across our workplace relations system that could be made. What is occurring here is a major endeavour by the government to introduce more consistency, more common standards. We do not profess that we are achieving 100 per cent consistency for all Australian workers; although, let me remind you, the Fair Work Act did make some significant advances on a uniform national workplace relations system—something that the previous Liberal government had talked about for quite some time but made very little progress on.

Talking about workers and lose-lose, again I am somewhat surprised by the audacity of Senator Abetz, given the record of the former Howard government in the lose-lose scenario. I mentioned just one example earlier about how new employees could have imposed upon them Australian workplace agreements that had no disadvantage test during one significant component of our history.

But I am also surprised when Senator Abetz belittles some of this debate with references to ‘justice juices’. I was listening to the earlier debate about the fair entitlements guarantee, when Senator Abetz was talking about ‘lollies’ in reference to workers made redundant with extensive entitlements. The point here, Senator, is that in this bill we are making some major advances in improving uniformity in respect to transfer of business arrangements and we do not claim to be addressing all areas that might be relevant.
Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:35): Very briefly, this suggestion that the Howard government did not make any progress on getting a national workplace relations system is quite laughable. It was the Howard government—and it pains me to say this, as a federalist—that used the corporations power to extend a national scheme which the Labor Party and the trade union movement fought all the way to the High Court and lost. Please, do not try to lecture us on that score.

Back to the bill that is before us: it is, as I said before, a bill rushed in with clearly unintended consequences. As I understand the government amendments at items 18, 34 and 35, it is intended to exempt local government from this legislation. In the government’s rush to get this legislation forced through, local government was going to be included—so, clearly, something happened, between the bill’s being passed in the House of Representatives and its coming to the Senate, which has required the government to move this amendment. What was the motivation? Was the government lobbied, for example, by the Australian Local Government Association? What is the driver for this amendment? Clearly, it is an unintended consequence of a rushed and very hashed piece of legislation.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:37): As I am advised, local government was never intended to be within the bill. It was a drafting error that has now been rectified through the processes of the parliament.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:37): If that is the explanation, it clearly shows how rushed it was. It was never intended—it just happened to be in there; but can you then explain why it was never intended to provide these vitally important protections for workers to local government employees? You talk about a national scheme where people have the same sort of coverage and conditions. If we were to accept your mantra and rhetoric—which we do not—why should local government employees be treated as second-class Australian citizens by this legislation?

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:38): I have responded to that particular question on at least two occasions now. I do not intend to say anything further.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:38): Clearly, we will not get an answer, because there is no answer. There is no justification—on workplace relations principles or workplace relations consistency, for any of the arguments that the parliamentary secretary has tried to make—as to why this bill is so important for Queensland public servants. This is so vitally important that local government has been deliberately left out. You could understand it if the government accidentally overlooked bringing local government workers into this vitally important safety net that every worker in Australia should benefit from. I hope those reading Hansard detect the irony in the wording and do not believe that what I have just said is actually coalition policy. But we have been told by Labor that these are vitally important protections for workers. Mr Shorten even took a trip up to Queensland to bash up the Queensland Premier, who had to make some very tough decisions to overcome the economic
vandalism left in the wake of the state Labor government up there.

If this is such an important, fundamental principle that needs rushed legislation in this place and if this rushed legislation actually covered local government workers—to provide them all these important protections—one wonders then why the government is deliberately moving an amendment to ensure an inconsistency, to ensure a lack of protection, to ensure that there is a second class of Australian worker in redundancy schemes. It makes no sense and it is yet again indicative of a government that has a shambolic legislative agenda, the nature of which is a direct consequence of putting politics before good, sound policy.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Ludlam) (12:41): The question now is that items (14) and (15) in schedule 1 stand as printed.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:41): Are we dealing with the government—

The TEMPORARY CHAIRMAN: I am on the first set of government amendments. I am just putting the second one.

Question negatived.

The TEMPORARY CHAIRMAN (12:41): Senator Abetz, would you like to move opposition amendments?

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (12:41): You have predicted well, Chair, and that is why I jumped just before.

I will not spend too much time on this amendment that I move on behalf of the coalition. I seek leave to move opposition amendments (1) and (2) on sheet 7308 together.

Leave granted.

Senator ABETZ: I thank the chamber and move:

(1) Schedule 1, item 1, page 4 (line 16), omit "has terminated", substitute "has been terminated (other than at the employee's initiative)".

(2) Schedule 1, page 54 (after line 31), after item 54, insert:

54A Paragraph 311(1)(a)

Omit "has terminated", substitute "has been terminated (other than at the employee's initiative)".

The coalition has said on multiple occasions that we support a majority of the recommendations that were made by the review of the Fair Work Act, despite our misgivings about the reviewers themselves and the terms of reference. One example is that one of the reviewers railed against the coalition's use of the corporations power for workplace relations purposes yet, when Labor did exactly the same thing with its Fair Work legislation, he was strangely silent, unable to find anything wrong with the use of the corporations power. Once again it was one of these very transparent exercises of 'Liberal bad, Labor good'. It is one of the indications of the hand-picked, cherry-picked panel. Nevertheless, this hand-picked panel with skewed terms of reference—and a cost of $1 million to the Australian taxpayer—did make its findings. This is what they found:

Yet it does appear to the Panel that when employees voluntarily seek to transfer from one associated entity to another, they should be employed under the terms and conditions to which they would be subject as an employee of the 'new employer'. Of course, as has been shown above, in these instances the parties can apply to FWA under s. 318 for an order that the existing terms and conditions of employment of the transferring employee will not govern her or his employment with the new employer.

The question for the Panel is whether it is necessary to require the parties to apply to FWA on every occasion an employee voluntarily seeks
to transfer to a similar position in a related entity. We believe it would be preferable to spare both parties the time and expense of making such an application. This could be achieved by amending s. 311(6). Such an amendment is unlikely to increase the risks of employees having their terms and conditions of employment diminished through transfers to associated entities.

Indeed, the panel went as far as to recommend that section 311 of the Fair Work Act be amended to make it clear that when employees, on their own initiative, seek to transfer to a related entity of their current employer they will be subject to the terms and conditions of employment provided by the new employer.

So I am pleased to move this amendment that would actually implement a recommendation of the government's own Fair Work Act review both within the confines of this bill and also those of the Fair Work Act. This would mean that employees who leave an employer of their own accord and then move across to a new business, where a transfer occurs, would not be entitled to move across their existing terms and conditions.

It is important to note that this amendment would still cover those employees who are forced—and I stress this, forced—to move across to a new employer to keep their jobs by the transfer of business provisions. This is something that the coalition supports, and I note that it is a principle that has been enshrined in industrial legislation for a long time. As a result, I commend the amendment to the Senate.

**Senator Jacinta Collins** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:45): These proposed amendments purport to exclude employees who resign from their employment with the old employer both from new part 6-3A and part 2-8. The government does not support the amendments.

The effect of the amendments would be to exclude from the transfer of business framework all employees who resign from the old employer at their own initiative. We have been crystal clear in respect of the intended operation of this legislation: we would provide as close as possible protections to those currently provided in the Fair Work Act. The opposition has clearly said that they will not support the bill and that they will not support the bill even if this amendment is passed.

The opposition argues that their amendments reflect recommendations in the Fair Work Act review panel report, but these amendments go beyond what was recommended by the independent panel which reviewed the Fair Work Act. The panel proposed amendments in respect of employees choosing to transfer between associated entities—for example, a corporate group. This amendment, however, would see employees excluded from protections in all transfers where an employee has resigned of their own initiative. It is another example of the opposition seeing an opportunity to reduce workers' protections and grabbing it with both hands.

The government has said that it will continue to work through the recommendations arising from the independent review of the Fair Work Act, including the one recommendation the panel has made with respect to transfer of business. We have said that nothing has been ruled in and that nothing has been ruled out, and we will continue to work in a constructive and consultative way.

**Senator Abetz** (Tasmania—Leader of the Opposition in the Senate) (12:47): By voting against this amendment, the
government is clearly rejecting the panel's recommendation. There is no doubt about that; the government cannot have it both ways and say that they reject this proposal but yet have an open mind in relation to the review panel. The suggestion that we would seek to provide diminished protection for workers in relation to this amendment is another example of the sort of rhetoric that we got from one of the Labor senators during the second reading speeches about the coalition 'waging a war'—I think that was the term—or 'war being waged against workers'.

It is the sort of inflammatory rhetoric that you might have learnt 100 years ago at trade union training school that really does not have much persuasive capacity in the 21st century, especially when you know that the good professor and the good doctor who were part of this hand-picked panel—and I quote this again, and it is a direct quote:

The question for the Panel is whether it is necessary to require the parties to apply to FWA on every occasion an employee voluntarily seeks to transfer to a similar position in a related entity. We believe it would be preferable to spare both parties the time and expense of making such an application.

That is all that we are seeking to do: implement a very sensible, minor, technical and moderate recommendation of the review panel, and Mr Shorten and Ms Gillard simply cannot bring themselves even to acknowledge that this might be a good idea in circumstances where they are actually visiting the issue of transfer of business.

If we were in a position where the government had said, 'We have parked the issue of transfer of business to the side, we are still consulting and we are considering what we ought to do in this space,' I could accept that and we would not be moving this amendment. But the government has deliberately chosen, by this bill, to put transfer of business fair and square onto the legislative agenda. We then invite the government to accept one of the panel's very modest recommendations, and the government cannot even bring itself to accept it.

What it indicates yet again is that clearly certain trade union bosses have ensured that the government cannot move forward on a very simple, very straightforward amendment that Labor's own hand-picked panel, with skewed terms of reference, came to. The panel were mugged by the reality of the situation. They saw the red tape. They saw the consequences. They saw the disincentive. They saw that it was not good for workers. They saw that it was not good for employers. The arguments are there, made out so exceptionally cogently on pages 205 and 206 of the review panel's report, and the government cannot bring itself to support such a, quite frankly, nondescript amendment. It is yet another indication that this bill has been all about politics and not about genuine policy.

The CHAIRMAN: The question is that opposition amendments (1) and (2) on sheet 7308 be agreed to.

The committee divided. [12:56]

(The Chairman—Senator Parry)

Ayes .................28
Noes ..................34
Majority..............6

AYES

Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Joyce, B
Macdonald, ID
McKenzie, B
Parry, S
Ruston, A
Seullion, NG

Bernardi, C
Boswell, RLD
Bushby, DC
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Humphries, G
Kroger, H (teller)
Mason, B
Nash, F
Payne, MA
Ryan, SM
Smith, D
Question negatived.

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:58): by leave—I move government amendments (2), (11), (12), (14) and (17) to (21) on sheet BW270 together:

(2) Schedule 1, item 1, page 5 (line 22), omit "paragraphs 768AD(1)(a), (b) and (c)", substitute "paragraph 768AD(1)(a)".

(11) Schedule 1, item 1, page 43 (table item 3, column 1), after "item 13", insert "(other than note 1 and note 2)".

(12) Schedule 1, item 3, page 47 (lines 10 to 12), omit the item, substitute:

3 Section 9A

Repeal the section, substitute:

9A Application, transitional and saving provisions for amendments (Schedules)

The Schedules contain application, transitional and saving provisions relating to amendments of this Act.

Note: Application, transitional and saving provisions relating to the enactment of this Act, and States becoming referring States, are in the Transitional Act.

(14) Schedule 1, page 49 (after line 14), after item 18, insert:

18A Section 12

Insert:

local government employee has the same meaning as in subsection 30K(1).

18B Section 12

Insert:

local government employer has the same meaning as in subsection 30K(1).

(17) Schedule 1, item 34, page 51 (line 24), after "law enforcement officer of the State", insert "but does not include a local government employee of the State".

(18) Schedule 1, item 35, page 52 (lines 14 and 15), omit "law enforcement officers of the State", substitute "a law enforcement officer of the State but does not include a local government employer of the State".

(19) Schedule 1, page 54 (after line 31), after item 54, insert:

54A Subsection 341(5)

Omit "Part 2 8 (which deals", substitute "Part 2 8 or 6 3A (which deal"

(20) Schedule 1, page 56 (after line 8), after item 62, insert:

62A Section 795A

Repeal the section, substitute:

795A The Schedules

The Schedules have effect.
(21) Schedule 1, item 67, page 56 (line 22) to page 57 (line 16), omit the item, substitute:

67 After Schedule 1

Insert:

Schedule 2—Amendments made by the Fair Work Amendment (Transfer of Business) Act 2012

Note: See section 795A.

1 Definitions

In this Schedule:

amending Act means the Fair Work Amendment (Transfer of Business) Act 2012.

commencement means the commencement of this Schedule.

2 Application of the amendments made by the amending Act

The amendments made by the amending Act apply in relation to a transfer of business referred to in Part 6 3A (as inserted by item 1 of Schedule 1 to the amending Act), but only if the connection between the old State employer and the new employer referred to in paragraph 768AD(1)(d) (as inserted by that item) occurs on or after commencement.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

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 this bill be now read a third time.

The PRESIDENT: The question is that this bill be now read a third time.

The Senate divided. [13:04]

Bill read a third time.
Fair Entitlements Guarantee Bill 2012
In Committee

Debate resumed.

The CHAIRMAN (13:07): Order! The committee is considering the Fair Entitlements Guarantee Bill 2012 and amendments moved by the opposition. A division had been called for earlier and was deferred. I now put the call for the division. The question is that opposition amendments (1) and (2) on sheet 7303 be agreed to.

The committee divided. [13:08]

(The Chairman—Senator Parry)
Ayes....................... 27
Noes....................... 36
Majority................... 9

AYES
Abetz, E
Bernardi, C
Boswell, RLD
Bushby, DC
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Humphries, G
Kroger, H (teller)
Mason, B
Nash, F
Payne, MA
Ryan, SM
Smith, D

Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Joyce, B
Macdonald, ID
McKenzie, B
Parry, S
Ruston, A
Scullion, NG

NOES
Bilyk, CL
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

Bishop, TM
Carr, KJ
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistledthwaite, M
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

PAIRS
Brandis, GH
Eggleston, A
Johnston, D
Ronaldson, M
Sinodinos, A
Williams, JR

Ludwig, JW
Brown, CL
Wong, P
Evans, C
Faulkner, J
Carr, RJ

Question negatived.

The CHAIRMAN: The question now is that the bill stand as printed.

The committee divided. [13:12]

(The Chairman—Senator Parry)
Ayes ....................... 36
Noes ....................... 27
Majority ................... 9

AYES
Bilyk, CL
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

Bishop, TM
Carr, KJ
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistledthwaite, M
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

NOES
Abetz, E
Bernardi, C
Boswell, RLD
Bushby, DC
Colbeck, R

Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Question agreed to.

Bill agreed to.

Bill reported without amendments; report adopted.

Third Reading

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (13:15): I move:

That this bill be now read a third time.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (13:15): I briefly indicate that the previous division on which we divided should have been on the third reading, so to spare my colleagues from a further division I simply indicate it was the coalition's wish to have divided on this question as opposed to the previous question.

The PRESIDENT: The question now is:

That this bill be now read a third time.

Question agreed to.

Dental Benefits Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BOYCE (Queensland) (13:16): I was thinking earlier that perhaps we should retile this bill. I do not think that it is a bill about dental benefits at all. It should be called the 'over the rainbow dental benefits amendment bill 2012', because of course there is absolutely no funding whatsoever for the promises that the government has made here.

I had the opportunity over the weekend to speak to a number of people who work in dental practices as assistants, administrative staff or as dentists, and all of them expressed sincere concern about the effect that this gap in service provision that the government have developed will cause. It is complete rubbish for this government to claim that what they are trying to do is improve dental services. It is not funded. There is a gap of up to 18 months in the provision of services and it is clearly just about going after that ever more elusive budget surplus that they are so desperate to get.

And we have another classic example brewing at the moment, with regards to chemotherapy drugs, where the government is simply trying to push costs off the federal government budget and onto state governments by clogging up public hospital systems with people who are undergoing chemotherapy and cannot afford to pay what will be the significant difference between the cost of the preparation and infusion of the drugs. We see a similar campaign to the campaign that was launched by this government against the dentists involved in the very successful Chronic Disease Dental Scheme, whereby they tried to characterise dentists in the scheme as money-grubbing people who were simply interested in further
improving the dental care of millionaires. We have a similar situation developing yet again with this government trying to claim that it is only greedy pharmaceutical companies who are concerned about the changes that will happen with the chemotherapy drugs when they go on the price disclosure system.

Of course that is not the case. There are more than 14 organisations and not just those representing drug companies, but also researchers, private clinics, people with cancer, and cancer advocacy organisations. People like Professor Ian Olver have spoken out about this terrible attempt the government are making to just simply cut off funding for the infusion costs of drugs, the 10 most popular chemotherapy drugs, on 1 December. Once again, it is simply a disgusting money-grubbing effort by this government to get their alleged surplus.

Even the thinking behind the government's processes here in terms of the so-called Dental Benefits Amendment Bill is completely flawed. The only people who will benefit from the government scheme long term are children between two and 17. They will be able to have treatments that cost up to $1,000 over two years, although they will not be able to do that for well over 12 months. What will happen for that small group of people who require more than $1,000 worth of work? Basically, all they will know is that they need more than $1,000 worth of work. That is as good as it gets.

None of this legislation comes into force until 1 July 2014. We already have 650,000 people on public dental waiting lists in the states and the Labor plan will only provide 1.4 million more services over the next six years. Yet the Chronic Disease Dental Scheme, which will close down completely and be not replaced for more than 18 months, provided 20 million services and seven million of those services were in the last financial year and, contrary to what the government wants us to believe, whilst that scheme allowed people to have up to $4,250 over two years, the average cost was about $1,100 per treatment. So it was not a massively expensive scheme and 80 per cent of people using that scheme were concessional cardholders. So it was not a millionaires' scheme either.

It is interesting to look at the research from the Australian Institute of Health and Welfare. I refer to a report of theirs from October this year entitled 'Families and their oral health'. They make the point that parental factors are a serious and major influence on children's oral health. If parents do not get dental services and do not have dental treatment, then it is quite likely that their children will not either. This is partly about cost and partly about availability. Of course, this government is doing nothing until after July 2014 to improve the availability in the public system within the states and territories. It is partly about that and it is also about people understanding the need for good dental health.

The report says that on average about 10 per cent of Australian children experience toothache in any one year and about 13 per cent avoid some foods because of oral problems. All up at least 17 per cent of children either experience toothache or avoid some foods because they cannot chew them properly. Older children, those between 11 and 17, were more likely than younger children to be affected. Children who had had a problem in the last 12 months were more likely than children who did not to: have a perceived need for dental care reported by their parent, have their oral health reported by their parent as fair or poor, have parents who avoided or delayed visiting the dentist themselves due to the cost, be from families who report difficulty
having to pay a $150 dental bill and have parents who had also experienced the same sorts of problems as their children—that is, toothache and in particular the need to avoid some foods because they cannot chew them properly. So the oral health of parents is a good indicator of the oral health of children.

Of course, everyone supports the idea of improving our dental services to children—there can be no dispute about that—but $1,000 over two years is a cruel joke in terms of properly assisting those with real dental health issues. The money will run out before the toothache does. This government has not even told us how it will go about funding its $4.1 billion dental health pie in the sky. It is a serious issue that this government is simply and cold heartedly, in my view, completely avoiding because it is so desperately keen to do something about the problems that it has in balancing the budget.

The Chronic Disease Dental Scheme is exactly what it says. It is available through Medicare, which all taxpayers fund, to children or adults with chronic disease that might affect their teeth. This is a very large group of people. It includes diabetics and heart patients—and the list goes on and on. All this government is going to do is put them at the bottom of the public dental health lists for at least 18 months. They will be waiting to be seen after the 650,000 already on the waiting lists in the states and territories. It is an unbelievable that, out of the $4.1 billion dream the government is proposing, there will be $1.3 billion given to state and territory governments to improve their public dental services. Of course, this is another pie in the sky. That funding will start to flow, if these opposite ever find it, in July 2014. That is when they will open the funding exercise to allow for the building of new clinics, for the purchase of new equipment and for, one hesitates to say, the training of new dentists. We are short in that area as well.

In many ways the huge number of people on the public dental health system is not just about the lack of funds; it is also about the lack of infrastructure within state dental services at the present time. But, goodness no, delay the funding until July 2014! It reminds me of the Redcliffe superclinic, which was absolutely, definitely going to be operational in August 2008 but which is not yet operational. The same thing will happen here. At least 12 months, if not years and years, of work will need to be done to create the infrastructure if and when they find the money to do it.

It beggars belief that this wonderful new system is going to fix teeth. It beggars belief that the Greens are prepared to support this bill in its current state. It is not really a matter of concern apparently to them that there will be varying amounts of time—to January 2014 for children and to July 2014 for adults—when there will be no services. The Chronic Disease Dental Scheme stops on 30 November, which is less than a week away, and there will be nothing until the beginning of a scheme, if they find the money, in January 2014. I cannot believe that this is a better system than that that currently exists. On that basis, I cannot understand the Greens' support for the system.

The Gillard government has already cut $4 billion out of private health insurance and has managed to hide $1.6 billion of cuts to public hospital services in the October MYEFO.

I am genuinely concerned that the same thing will happen, if we get a budget in May next year, with the funding for this scheme. It has got to come out of some other cuts that the government has announced or, of course, it can stay on the wish list, like so many other
things that are currently on the wish list like the National Disability Insurance Scheme, which must go ahead but can only go ahead if this government funds it properly and adequately. It is yet another example of the complete inability of this government to implement any sort of system that actually helps people in Australia rather than hurts them.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (13:30): On 29 August 2012 the Labor Party and the Greens announced they had agreed to significant changes to government policy on dental health. The package of measures included an expansion of private dental treatment subsidies for children from January 2014, increased funding for adult public dentistry from July 2014 and the immediate closure of the current Medicare Chronic Disease Dental Scheme. The Dental Benefits Amendment Bill 2012 replaces the current Teen Dental Plan for children aged 12 to 17 with the new Child Dental Benefits Schedule, which would subsidise private dental treatment for children aged two to 17 by up to $1,000 over a two-year period. The national partnership agreement for adult public dental services promises to increase funding to the states and territories for public dentistry by $1.3 billion starting in the 2014-15 financial year. However, the deal negotiated with the Greens also included the immediate closure of the Medicare Chronic Disease Dental Scheme, or CDDS.

The CDDS has provided up to $4,250 in Medicare dental benefits over a two-year period for patients with a chronic medical condition and complex care needs and whose oral health was likely to impact on their general health. Patients who presented to a general practitioner required a referral from that GP to a dentist and the work was then performed to the satisfaction of the patient. The Labor-Greens government's closure of the Medicare Chronic Disease Dental Scheme categorically proves two things. Firstly, the Labor Party has long stopped caring about the most disadvantaged Australians. Secondly, you cannot trust a word the Greens say. The previous coalition government established the scheme because we believed that people with chronic diseases, such as cancer, diabetes and heart conditions, should not be left to languish on public dental waiting lists. There are currently 650,000 Australians, including a quarter of a million children, on public dental waiting lists.

The government is not only closing the scheme for future patients but leaving thousands of current patients in limbo. The decision was announced on 29 August, new admissions to the program were stopped on 7 September and current patients only have until next Friday to complete their treatment. If your teeth are only half-fixed by then, tough luck. You either have to fund the rest of the treatment, which was never in your family budget, or carry on suffering. It is a disgrace.

The CDDS was the creation of one of Australia's best-ever health ministers, Tony Abbott. It is not surprising that it is being axed by one of Australia's worst-ever health ministers, Tanya Plibersek. It seems that is the only reason the program is being shut down. The Labor government cannot stand the fact that it has to administer a successful scheme created by the current Leader of the Opposition. The Minister for Health has repeatedly asserted that the CDDS benefits millionaires. Tony Abbott needs to stop standing up for his millionaire mates,' the minister keeps carping. This shows an astonishing level of ignorance. The CDDS is a Medicare scheme. If you are going to deny higher-income earners access to the CDDS, why not also deny them access to GP
Medicare rebates, free public hospital treatment or the PBS? In any event 80 per cent of the one million people who have been provided with treatment under the CDDS are on concession cards. By contrast, the government has not produced any evidence of millionaires having claimed CDDS subsidies. Why would those opposite bother? Closing the scheme is not going to hurt them but it will certainly hurt the 800,000 low-income earners who cannot afford $4,200 to have their teeth fixed.

If the government is so worried about the other 20 per cent of claimants who are not on concession cards—very few of whom, I suspect, are millionaires—why would it not try a means test? Why did the government repeatedly decline coalition offers to work with it to reform the scheme? The only possible reason is that it was the Leader of the Opposition's baby. What possible hope is there of delivering decent health policy when the first consideration seems to be jealousy of the Leader of the Opposition?

Let me introduce to the Labor and Greens senators on the other side of this chamber who are supporting this legislation some of the Gillard government's so-called 'millionaires'. Mrs Kathleen Curtis is a 68-year-old widow who lives in Banora Point, on the New South Wales north coast. Mrs Curtis suffers from a rare disease, called Sjogren's Syndrome, which causes her to experience an extremely dry mouth. This disease has affected Mrs Curtis's overall health and wellbeing and she has also suffered other effects of the syndrome. That is why she signed up to the coalition's CDDS. However, after next Friday she does not know where she will find the money to complete her treatment. Mrs Curtis told her local newspaper:

… the government should introduce some help for people with chronic illnesses especially the ones that cause tooth decay.

"That's not an unreasonable request."

It is certainly not an unreasonable request, Mrs Curtis. Your local Labor member of parliament, Justine Elliot, who presumably enjoys top-level private health insurance perhaps, should hang her head in shame.

Dr Glen Hughes is a dentist who runs a private practice in Alstonville and also works in public dentistry at the Aboriginal Medical Service in Casino. Both communities are in the electorate of Page. The oral health of Indigenous Australians is a national disgrace. Dr Hughes is determined to do something about that and he is incredibly passionate about his work supporting the local Indigenous community, and I commend him for the work that he is doing. He takes photos of the teeth of every patient he treats at the Aboriginal Medical Service. When I visited him there, he showed me before and after pictures of patients he treated under the CDDS, and the results were astonishing. This is some of what he had say to me when he heard of the government's decision to abolish the CDDS:

The closure of the CDDS, with no similar replacement, is going to wreak havoc amongst the adult Indigenous population. I currently have 258 clients with EPC referrals that remain untreated and incomplete. The closure of the scheme could potentially remove a funding stream of a million dollars from my clinic alone. I know you're extremely busy and appreciate it may be a done deal with Greens-Labor agreement. However, please protest loudly and long on behalf of the most needy Australians, who will be adversely affected.

To be fair, Dr Hughes did get a hearing from his local Labor member of parliament, Janelle Saffin. Ms Saffin told Dr Hughes that she was sympathetic. I am sure Ms Elliot too would have been sympathetic to the plight of Mrs Curtis if she had known about it. But what use is sympathy for people suffering in those electorates when those members of
parliament fly down to Canberra and vote in parliament to make their constituents' plights worse? If those Labor members of parliament had voted for the National-Liberal disallowance motion to stop the closure of the CDDS, Dr Hughes's Aboriginal patients and Mrs Curtis would still be getting the treatment they deserve.

I said earlier that this bill shows that you cannot trust the Greens. This is what the Greens Senator Siewert told the media the first time that Labor tried to close down the CDDS in 2008:

Since it started ... the Chronic Disease Dental Scheme has helped thousands of Australians suffering from chronic health problems directly related to dental problems.

The Government says it is essential to close down the chronic disease dental scheme and redirect funds [for] a program that will not be operational for months to come.

... it's 'wait and see' for sick people in dire need of support.

What happens to the thousands of people who are currently receiving help through this scheme? The Government has been unable to assure us that people currently receiving treatment will receive the same level of dental health care under the CDHP.

... ... ...

This issue is not about programs or money - it is about people with medical need. The Government is trying to force the Parliament to choose between two dental programs that benefit people in need. The Greens are not prepared to make that choice, and leave these people out in the cold.

As late as the 2012 May budget, the Greens were saying:

The reforms we've negotiated for the 2012-13 Budget will mean:

- the Chronic Dental Disease Scheme will be saved from Budget cuts, until we can develop a comprehensive national scheme with the Government to replace it;

So what have the Greens apparently negotiated to replace the CDDS with? Children with chronic disease will have their benefits cut from $4,250 to a thousand dollars and adults will have to wait until at least July 2014. Talk about a breach of trust. You would think that the Greens would be embarrassed about their betrayal of needy Australians but they actually seem to be boasting about it. The Greens website now claims full credit for closing down the CDDS that it supported only six months ago. Senator Di Natale said that this achievement, 'shows how power-sharing governments can make a real difference to people's lives when parliamentarians work together constructively'. The Greens achievement, so to speak, is certainly making a real difference to the lives of people like Dr Hughes's Indigenous patients but, unfortunately, colleagues, it is not a good one.

The Greens and Labor argue that it is okay to close the CDDS because the new systems, one for children and one for adults, are better. But the government is ripping a billion dollars out of dental health with the change, so it seems unlikely that it will provide better outcomes. Let us test the theory. The first problem is the timing. The new plans do not begin until 2014, so why are the Greens letting Labor close the CDDS in 2012? The fact that nothing will happen until after the election shows that this is not really a new law but an unfunded $4 billion Labor election promise. The new schemes are no more l-a-w law than Paul Keating's undelivered tax cuts.

The Prime Minister can stand up and say, perhaps, 'There will be a dental scheme under a government I lead,' but nobody is going to believe her. Labor's promised means-tested scheme for children will leave many parents out of pocket. Over 60,000 services have been provided to children
under the CDDS. Apart from the fact that children will have to wait for 13 months before they get any treatment at all, the help they will get is capped at a thousand dollars over two years, compared with $4,200 under the CDDS. From the government's own figures, the average cost per person is $1,716. This means that families on the lowest incomes will not be able to afford to have their children's teeth fixed. That is ironic because it is exactly the complaint that Labor is levelling at the CDDS.

The scheme for adults is not really a scheme at all. It is a promise to throw a bucket of money, $1.3 billion, at the states and hope for the best. That is the same strategy that Labor used with the $16 billion school halls program, and is likely to be just as ineffective. Notwithstanding some of those schools being so pleased to see those buildings, the waste and mismanagement we saw through that program were just extraordinary. The new scheme is not set to begin until July 2014.

The Medicare CDDS allowed patients to be treated by their private dentist in the same way that Medicare rebates allow patients to be treated by their private GP. The Labor-Greens plan would see all funds go towards public dentistry. Remember that there are already 650,000 people on public dentistry waiting lists. So what will be the outcome of the government's plan for a massive shift from the private to the public system? Let us go back to the Casino Aboriginal Medical Service and Dr Glen Hughes, who said:

The public sector waiting lists will skyrocket and reducing waiting lists by simply doing more extractions and emergency dentistry is to the detriment of oral health. Unless the private sector is included in sharing the oral health burden, the next two years will be a nightmare for any low-income adult needing dental work.

There is simply no capacity within the public sector to meet demand. In my public clinic I have at least 250 clients who are eligible for care under the CDDS. To meet this demand within the public sector would require the equivalent of five full-time dentists and ancillary staff. I am currently funded by the state government to work only two days per week. It is so difficult to recruit and retain public dentists in rural areas that the current policy focuses on teams of dentists being flown from Sydney to remote locations for 12-week rotations.

Every public dental clinic I know is able to only barely meet emergency demand. The dentists working at those clinics as a general rule have become de-skilled in providing comprehensive care. There is simply no infrastructure, personnel, scope of practice or capacity within the public sector to take on the workload that, up until now, has been provided in the private sector. It won't matter how much money is thrown at the public system, there simply aren't enough dental chairs or dentists to provide the treatment, and without huge structural change at a state level it cannot happen.

Dr Hughes is no partisan scaremonger; he is just intensely passionate about the oral health of disadvantaged Australians, particularly those in the regions. I implore Labor and Greens senators to heed his well-informed views.

I particularly appeal to the Greens. While it is too late now for them to change their view on this, I can only say how disappointed and absolutely appalled people must be out there in the community to see this change of view from the Greens. They actually had it right when they were continuing to support this. They had it right, even when they said 'until something equivalent is in place', until those needs can be met. But they have simply rolled over to do the government's bidding, and that is going to have such an impact on these people. This is a shoddy piece of legislation, leaving so many Australians in the lurch. The time frame is appalling and, again, we see that the government is not able to deliver decent, reasonable policy for Australian
people. And this piece of legislation in particular is a detriment to those in regional communities.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (13:45): As was said from the introduction of this bill, investment in our children's teeth is an investment into the future. Children's oral health has been getting worse, not better, since the 1990s and unless we reverse this trend a generation of children with poor teeth will grow up into a generation of adults with poor teeth. We know that the health and hospital system of the future will face increasing pressures from the ageing of the population and from the increasing prevalence of diseases such as diabetes. Poor oral health will place even more pressure on the wider health system, yet it is a source of pressure that can be addressed reasonably easily with investments in children's oral health.

The Dental Benefits Amendment Bill 2012 will establish a framework to allow children in poor and less well-off families to access affordable, preventative dental care and basic dental treatment services. The Child Dental Benefit Schedule builds on the Medicare Teen Dental plan, which was one of our election commitments in 2007. It will make more than three million children eligible for dental care subsidised by the Commonwealth government. The schedule is only part of our unprecedented commitment to improving dental health. In the 2012-13 budget we allocated $515 million for a blitz on public dental waiting lists and additional training and support for people in rural and remote areas.

On 29 August Minister Plibersek announced a further package of measures, including spending of $2.7 billion on the Child Dental Benefit Schedule Grow Up Smiling. That package also included a further $1.3 billion to assist the states and the territories in providing access to public dental services to low-income adults. This funding will provide about 1.4 million additional adults with a complete course of public dental care, including multiple dental services. The package also included $225 million for dental capital and workforce infrastructure to support expanded services for people living in outer metropolitan, regional, rural and remote areas.

Some of the senators opposite have insisted that the government's dental reform policies are 'underfunded'. I draw their attention to the 2012-13 Mid-Year Economic and Fiscal Outlook published last month on 22 October. This clearly outlines the allocated funding and expenditure for each measure in the package. Some of those opposite also claimed that there is a gap in funding for dental services for up to 19 months. Let me make it very clear: there will be no gap in Commonwealth funding for dental services for low-income patients. Funding for the government's blitz on public dental waiting lists will start flowing from next month. Any delay in dental service provision under this measure will be because the states and territories either delay in signing up to the funding agreement with the Commonwealth or delay in rolling out the services.

As we have said throughout this debate, Medicare and free hospital care have been a basic right for Australians for decades under policies established by the Labor Party, and yet millions of people in this country still go without adequate dental care because of cost barriers. I believe governments have a responsibility to assist in overcoming these barriers and supporting low-income Australians in accessing affordable dental care. The dental reform package is an
important part of meeting this responsibility. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Fawcett) (13:50): No amendments to the bill have been circulated. Before I call the minister to move the third reading, does any senator wish to have a committee stage on the bill to ask further questions or clarify further issues? If not, I call the minister.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (13:50): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012

Clean Energy (Charges—Excise) Amendment Bill 2012

Clean Energy (Charges—Customs) Amendment Bill 2012

Excise Tariff Amendment (Per-tonne Carbon Price Equivalent) Bill 2012

Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012

Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012

Clean Energy (Unit Issue Charge—Auctions) Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator THISTLETHWAITE (New South Wales) (13:50): When I last spoke on this issue, I pointed out that Treasury modelling clearly demonstrates that without the ability to access international carbon markets and the ability for Australian businesses to purchase international permits, the cost of meeting our emissions reduction target will double. This was a point that was well made by representatives of Loy Yang Power when they appeared before the Senate Select Committee on Scrutiny of New Taxes hearing on 16 September 2011. In response to a question by a senator, Ken Thompson of Loy Yang Power responded. The questioner asked if he was aware:

… that Treasury had done a study which demonstrates that if businesses like [his] are not able to access international permits on the international market once the carbon trading scheme begins … it will substantially push up costs.

Mr Thompson's response to that question was:

Correct.

The questioner goes on:

That is a view that you share as well, is it?

Mr Thompson: Yes, absolutely.

So there we have it. Business in Australia recognises that without the ability to link the Australian carbon pricing mechanism to the EU scheme and to other international markets, the cost of abatement in Australia will increase, and that is something that those opposite do not understand. That is why, from 1 July 2015, we will be linking the Australian carbon price mechanism to the European Union's emissions-trading scheme.
and moving to a fully flexible emissions-trading scheme where the Australian carbon price reflects the price in the largest carbon market in the world.

The EU scheme has been operating since 2005 and has delivered cost-effective emissions reductions across the European Union. Australia has a responsibility to act—and act globally. We are one of the top 20 greenhouse gas-emitting countries in the world and the highest per capita emitter amongst advanced economies, so it is incumbent on us to roll up our sleeves and get on with fixing this problem. However, Tony Abbott, the Leader of the Opposition, has been attempting to convince Australians to ignore this global movement towards emissions reduction through market mechanisms and to whip up fear and relentless negativity about the operation of this scheme. On 8 July he said:

...the world is running away from an emissions trading scheme at a million miles an hour.

On 4 July he said of international action:

...it is an act of economic self-harm. Everyone who's thought about this knows it which is why other countries are running away from things like carbon taxes at a million miles an hour.

But the facts speak for themselves. We are not alone in our efforts to reduce carbon emissions despite the coalition's attempt to convince Australians otherwise. I note that on 30 September this year the Minister for Climate Change and Energy Efficiency, Greg Combet, and Cabinet Secretary, Mark Dreyfus, announced that Australia and California have agreed to work together toward the development of regional and global carbon markets. That is Australia working on international carbon trading with the eighth-largest economy in the world. To follow that up, on 24 October 2012:

China, Chile, Costa Rica and Mexico have outlined their plans to consider domestic carbon pricing at World Bank meetings hosted and co-chaired by Australia in Sydney this week.

That was followed by the Republic of Korea passing legislation to introduce a national emissions-trading scheme from 2015. Norway has announced the doubling of its carbon price on oil and gas in 2013. Thailand has announced its plans to enter into a voluntary domestic carbon market in 2014. Add to that New Zealand and all the nations of the European Union and there is a distinct trend: the world is moving towards carbon pricing.

The opposition is stuck in the past and cannot understand that the lowest-cost form of abatement is available through the reforms we make today with the passage of this bill. Our carbon price will be consistent with that of countries inhabited by no less than 530 million people throughout the world. From 2013, 850 million people will live in places where polluters pay to pollute with carbon. International linkage is the most economically and environmentally responsible way forward—joining with a host of other nations to ensure our efforts to reduce greenhouse gas emissions are as effective as possible; but nonetheless those opposite continue to oppose it. They not only oppose it on environmental grounds but also oppose it, wrongly, on financial grounds. It has become a bit of a habit for the opposition to get the big calls wrong when it comes to economic policy.

As a supporter of the development of a global system, Australia has a direct interest in promoting links between comparable schemes. Any Australian domestic trading scheme should be designed to enhance the scope of links, both formal and informal, with as many different systems as possible. Because of their opposition to the international linking of our emissions-trading scheme, the coalition would pay twice as much as this government to achieve their
goal of a five per cent reduction in emissions by 2020. This is the hidden cost of the opposition's scheme that the Australian public is not aware of. If the opposition are elected, Australians will pay more when it comes to the abatement of carbon emissions by five per cent by 2020, and that is something the Australian public needs to be aware of.

Linking with the EU has been broadly supported. Andrew Grant, the chief executive of listed carbon offset company CO2 Australia described it as 'a very intelligent policy development.' He went on to say:

The original dream was that we would have one uniform carbon market and what we have is a patchwork quilt around the world, so the more linkage the better. Linkage for us is really important and it means you can go to the market that will give you the best result.

Nathan Fabian of the Investor Group on Climate Change said:

Linking to the larger and more established EU ETS will give more clarity to investors on the longer term direction of carbon pricing without the policy design uncertainties that can be created by questions over the duration of a price floor.

Looking to the future, key economies in the Asia-Pacific such as India, Thailand and Vietnam are entering carbon markets which will lead to the development of an Asia-Pacific carbon market in the future. As I have already mentioned, many of our trading partners, including China, Korea and California, are moving in this direction.

This is a sensible proposal. It will ensure that Australians and Australian businesses are able to access the least-cost abatement in our economy and that is fundamental to the way that this scheme works. All of the Treasury modelling—in fact, 37 parliamentary inquiry reports of this place and the House of Representatives since 1992—has indicated that the cheapest form of abatement is through a market based mechanism, an emissions-trading scheme; and, by linking our scheme to Europe, it ensures that Australian businesses can access that abatement at the cheapest and most efficient cost available. That is why this bill must pass the Senate. It is also why the coalition is once again stuck in the past when it comes to the big economic calls in this country. This bill will alter the current arrangements for applying an equivalent market price to other synthetic greenhouse gases.

The bill provides additional flexibility in the regulations for how liability is to be imposed on potential greenhouse gas emissions embodied in an amount of natural gas. It amends the Clean Energy Act so that relinquishment units are cancelled and new units are issued in this place. All in all, this is a positive reform. I commend the bill to the Senate.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Asylum Seekers

Senator CASH (Western Australia) (14:00): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Lundy. I refer to the detention statistics published by the Department of Immigration and Citizenship five years ago on 23 November 2007, the day before Labor was elected, that noted that there were just four people in all forms of detention who had arrived illegally by boat in Australia. How many people who have arrived illegally by boat are today in detention or on a bridging visa?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:00): At the moment we are, of course, in the process...
of implementing the recommendations of the expert working panel. It is unfortunate to see how much glee the coalition get out of the number of boats that have arrived when they have for so long held up reinstating offshore processing due to their cheap and nasty political calculations. It is the same hypocritical calculation the coalition have made to prevent the implementation of the Malaysia arrangement. They just do not want the government's border protection policies to proceed.

We are of course committed to implementing the recommendations of the expert panel, of which reopening Nauru and Manus Island were priority recommendations to stop the flow of boats and prevent the loss of life on dangerous journeys to Australia. As the minister and the members of the expert panel have said many times, the real results will begin to show as more of the recommendations can be implemented. They work as a suite of measures, and no-one in this government has ever said Nauru, Manus Island or any of them would work on their own.

Senator Cash: Mr President, I rise on a point of order in relation to relevance. My question was actually quite a simple one today to enable the minister to be directly relevant. It is merely a comparison of the figures that I gave the Senate in relation to the number of boats and irregular maritime arrivals, not ‘illegals’, as they are incorrectly called by the coalition. The number of IMAs in 2012 was 15,667, with the number of boats totalling 252. I do have the accumulated numbers across the previous years, but, I think, for the purposes of this question, the coalition are making yet another cheap point. They failed to support our Malaysia arrangement and the full suite of operations and recommendations—

Senator Ian Macdonald: Tell us the number.

Opposition senators interjecting—

Senator Lundy: As I was saying, we are in the process of implementing. In terms of the direct comparison, the numbers I have before me relate to the number of boats and irregular maritime arrivals, not ‘illegals’, as they are incorrectly called by the coalition. The number of IMAs in 2012 was 15,667, with the number of boats totalling 252. I do have the accumulated numbers across the previous years, but, I think, for the purposes of this question, the coalition are making yet another cheap point. They failed to support our Malaysia arrangement and the full suite of operations and recommendations—

Senator Cash asked this question and knows...
full well that, under the arrangements between the Grants Commission and the way in which the states are compensated across that system, there is an allowance for the net overall migration. I am not able to provide the exact figures that Senator Cash requires but make the point that it is all well and good for Senator Cash to stand up and ask these comparative questions when this opposition have continually stymied and blocked our efforts to manage our borders and to stop the flow of boats.

Opposition senators interjecting—

Senator LUNDY: They have done that deliberately and cynically because they want to see the policy fail. They have failed to support the recommendations of the independent expert panel and they continue to do so, as you can see by the disruption across the chamber.

Senator CASH (Western Australia) (14:05): Mr President, I ask a further supplementary question. Can the minister guarantee that state and territory services and taxpayers will not be worse off by the government's decision to release into the community on welfare thousands of asylum seekers who have arrived on illegal boats?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:06): Again, as Senator Cash well knows, we have a comprehensive program with regard to the releases into the community. Can the minister guarantee that state and territory services and taxpayers will not be worse off by the government's decision to release into the community on welfare thousands of asylum seekers who have arrived on illegal boats?

Senator CASH: Mr President, I again rise in relation to a point of order on relevance. My question was not in relation to the types of programs that are accessible under the humanitarian services program. My question was a very, very specific one: can the government guarantee that the state and territory services and taxpayers will not be worse off as a result of the government's decision?

The PRESIDENT: I believe the minister is answering the question. The minister still has 17 seconds to address the question.

Senator LUNDY: I reject the premise of the question, because contained within it is an implication that there is a burden. There is not. We are providing the Asylum Seeker Assistance Scheme and, where necessary, the community assistance scheme, and those programs have been well in place for some time. So the implication is designed to cause division and to—(Time expired)

Climate Change

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:07): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Minister Ludwig. With negotiations over the second commitment period for the Kyoto protocol continuing this week at the UNFCCC meeting in Doha, and with Australia's decision to sign on to a second commitment period, will the government now reveal to the parliament its Kyoto target—that is, the quantified emissions limitation or reduction objective, the QELRO—for the second commitment period? Given that our last QELRO was 108 per cent of 1990 levels, will it be less than 100 per cent based on 1990 levels to ensure
Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:09): I thank Senator Milne for her question, and for her continuing support for putting a price on carbon. What is incredibly important in this debate is that we do have Mr Combet dealing right at this moment with how we deal with the commitment period into the future.

It is important that we do put a price on carbon and that we do drive a low-carbon future. There is a range of questions that Senator Milne has asked in that; I will certainly take what I can on notice if I do not address them during this period. But Australia is ready to commit to limit its emissions in the CP2 from 2013 to 2020 to an average of 99.5 per cent of 1990 emissions. This compares with Australia's commitment over the first Kyoto period, 2008-12, to limit emissions to an average of 108 per cent of 1990 levels, a commitment which Australia is on track to meet.

The average yearly carbon budget for the second Kyoto period is the same as the 1990 one, which simply reflects the fact that Australia's commitment period 1 budget was significantly higher than the 1990 levels. This CP2 commitment is entirely consistent with Australia's existing unconditional pledge to reduce emissions to five per cent below the 2000 levels by 2020.

Senator Ian Macdonald: But they increase by 2020!

Senator LUDWIG: And, of course, this commitment has bipartisan support although, Senator Macdonald, I suspect that—

Senator Wong: He's not in on it.

Senator LUDWIG: He is not in on it—that is a good expression, Senator Wong. So it is backed by existing policies and legislation. It is consistent with emissions reductions that are projected under the carbon-pricing mechanism, and the carbon—

(Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:11): Mr President, I ask a supplementary question. I shall try again: will the government commit to placing a target range in Annex B of the Kyoto protocol whilst in Doha to demonstrate to the international community that Australia is still open to move to a stronger 2020 target that is greater than five per cent after the Climate Change Authority undertakes its review in 2014? And, if so, what is the range that Australia is going to put into Annex B in Doha?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:11): Again, if I do not deal with this in the way that Senator Milne wants me to then I will take it on notice to the extent that I will ask Mr Combet to see if he wants to provide anything additional to what I have to say today.

The government will retain the ability to move up its existing 2020 target range of five to 15 per cent, or 25 per cent below the 2000 levels, if conditions on the extent of global action are met. These are current negotiations, and the independent Climate Change Authority will retain its role of recommending a national target and ETS carbon budget by early 2014. The Clean Energy Future legislation also contains a long-term target to reduce Australia's carbon pollution by 80 per cent of the 2050 levels compared with 2000 levels.

Senator Ian Macdonald: What is your target by 2020? It's an increase!
Senator LUDWIG: What we do know, from the interjection—(Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:12): I do look forward to the minister coming back with those specific figures and also an answer as to whether that is going into Annex B. But I ask a further supplementary question: how can the government justify a target that is not science and evidence based? A five per cent reduction target, given the eight- to 14-gigaton emissions gap to keep us under two degrees is there. How can you justify a target that is not science and evidence based?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:13): I thank Senator Milne for her question. Of course, it is to an extent advantageous for Australia to continue to drive a low-carbon future with energy, supporting the carbon price mechanism and liable entities by ensuring access to a range of credible, cost-effective international units and supporting the development of the new international climate change agreement to apply from 2020. That will include commitments by all countries, including the world's largest emitters.

That is why joining the CP2 under the terms strengthens Australia's national interest. That is why it is within our national interest to do this, to encourage—

Senator Ian Macdonald: You can't believe this, Joe! You cannot possibly believe this!

Senator LUDWIG: Of course, those opposite do not want to join in this process at all. Those opposite continue to be critics, and they are not going to drive a low-carbon energy future; they are going to continue—(Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:14): I draw to the attention of honourable senators the presence in the chamber of the Speaker of the Legislative Assembly of Tonga, Lord Fakafanua. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I would ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Lord Fakafanua was then seated accordingly.

QUESTIONS WITHOUT NOTICE

Economy

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

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:15): Making the right economic choices for today and for the future is the core business of government, and that is what this government is focused on. When faced with the global financial crisis, the Labor government made the decision to support jobs, to support small businesses, to support families and to ensure that our economy kept growing.

Opposition senators interjecting—

Senator WONG: Over the din of negativity that always is presented by those opposite, let us have a look at the facts. Let us have a look at the economic facts. This economy is 11.2 per cent larger than when Labor came to office. The UK has contracted in the same period. Germany is 2.7 per cent
larger and the US about 1.8, and Japan is marginally smaller. In other words, despite the relentless negativity and the talking down of the Australian economy by those opposite, the facts are that, when you compare this nation to the rest of the world and, in particular, other major advanced economies, the Australian people and the Australian economy have performed well.

We also remember that those opposite opposed the stimulus packages that the government put in place. Remember how many jobs those packages saved: 200,000 Australian jobs. There are 200,000 Australians and their families whom those opposite would be happy to put on the economic scrap heap.

Honourable senators interjecting—

**Senator WONG**: Absolutely shameful— I will take that. It is absolutely shameful that those opposite could say they are for Australian families. What they should go out and say is: 'Actually, our economic policy is to put 200,000 Australians out of work. That is the position we take as the opposition.'

**Senator MARK BISHOP** (Western Australia) (14:17): I have a supplementary question to the minister, Mr President. Can the minister outline the challenges facing the Australian economy and how the government is managing all of these challenges?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:17): It is the case that the government needs to look to the future as well as looking to the past. I tell you what: that is where we know the opposition have no plan. There is no plan for the future from the other side. In contrast, what we have is an economy here in this country that is growing fast and is projected to grow faster than any other major advanced economy worldwide. But what do we hear from the opposition when they are confronted with this? Just more relentless negativity from those opposite. Of course, one of the reasons why as a Labor government we want a strong economy is that we want to ensure we can have a fairer Australia—a fair society. Let us remember what we have delivered: the biggest boost to pension in Australia's history, the first national paid parental leave, increases to the childcare rebate, doubling of the investment in infrastructure, the abolition of Work Choices— *(Time expired)*

**Senator MARK BISHOP** (Western Australia) (14:18): I have a further supplementary question to Minister Wong, Mr President. Can the minister further update the Senate on any significant risks in maintaining responsible economic management to deliver for the future? Is the minister aware of any alternative approaches that have been put forward?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:19): I would like to say I was aware of an alternative approach, but the only alternative approach that we can find is 'just say no' from the other side: 'Just say no to everything. Let's talk down the economy. Let's never put forward any coherent policy. Let's not tell the Australian people about the $70 billion worth of cuts that we would put in place were we to win the next election. Let's not tell them about that.' The only economic policy that they put forward is utterly incoherent. This is the party that opposed a tax cut for small business but wants to increase company taxes to pay for a Rolls Royce paid parental leave scheme that Mr Abbott thinks he needs and thinks is politically necessary—economically incoherent but, worse, relentlessly and destructively negative and always talking down the Australian economy.
Budget

Senator CORMANN (Western Australia) (14:20): My question is to the Minister for Finance and Deregulation, Senator Wong. I remind the minister of Labor's strident demand five years ago: 'This reckless spending must stop.' Can the minister confirm reports that Labor's own record in government has been more than $33 billion of new spending commitments just over the past three years alone, including $1.6 billion of new spending announced last month in its most recent Mid-Year Economic and Fiscal Outlook?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:20): I can confirm a number of facts, and perhaps Senator Cormann would like to acquaint himself with the facts. The first fact is that we are a lower taxing government than those opposite were when they were in government—fact. Additional facts that they might want to be aware of are the facts around spending as a share of the economy, because there are a lot of statistics that people can put to their own ends but the facts are that this government, in this budget period, is spending less as a share of the economy over the forward estimates period—over a sustained period—than any government since the 1980s: at or below 24 per cent of GDP over four years. The last time that was achieved was in the 1980s, and it was certainly never achieved under the coalition government over that period.

I would make this point too: if those opposite are really saying that there should never be an increase in nominal spending then they should be up-front with the Australian people and say, 'We don't want pensions indexed; we don't want funding for schools and hospitals indexed; we don't want any of the indexation which currently exists in Commonwealth programs.'

If that is your policy then why don't you stand up and tell up everybody? You will not, because it is not true. You know that would be politically unacceptable, so you come in here and you put forward a whole range of so-called facts based on reading an article in a particular newspaper that you have not bothered to check out. Why don't you have a read of the budget papers and have a look at the spending as a share of GDP over the forwards and tax as a share of the economy over the forwards? If you do not understand it, turn around to Senator Sinodinos and he will explain it for you, Senator Cormann.

Senator CORMANN (Western Australia) (14:22): Mr President, I ask a supplementary question. I remind the minister of the Prime Minister's commitment last year that, 'Every time we announce something we properly account for it and properly fund it.' Given that the government has announced a multitude of unbudgeted, multibillion-dollar spending commitments in recent months, culminating in a $120 billion budget black hole on top of $172 billion in accumulated budget deficits already, can the minister explain where all the money is coming from?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:23): Well, that was a killer blow, wasn't it! Mr President, perhaps I should explain some budget facts to those opposite. This government has offset all new spending since mid-2009. The fact is that we have been dealing with, as all other advanced economies have, a hit to our revenue base, a hit to our revenue, which is reflected with some $160 billion in revenue write-down over a number of budgets. So we have not only been offsetting new savings; we have also been offsetting a lower tax take. If Senator Cormann wants to look at the facts: if we were taxing as much as Peter Costello, the surplus in 2012-13 would be $24 billion.
Senator Cormann interjecting—

Senator WONG: That is the reality, Senator Cormann, and no amount of your rhetoric is going to alter the facts of the government—(Time expired)

Senator CORMANN (Western Australia) (14:24): Mr President, I ask a further supplementary question. Given that since the election this minister has co-presided over a $33.3 billion blow-out in the budget deficit, just last financial year, and with spending as a share of GDP higher this financial year and every year of the forward estimates than the last year of the Howard government, even before taking $120 billion of unfunded spending promises into account, why should the Australian people trust this government, notorious for breaking commitments, to deliver a budget surplus in 2012-13?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): Mr President, if Senator Cormann wants to talk about records, perhaps he should be up-front with his record that the economic team on that side of that chamber has never once delivered a costed set of policies that added up—never once. And I predict they never will, because they still refuse to say that they will comply with Peter Costello's Charter of Budget Honesty. It is extraordinary, isn't it. 'Senator Wong and Mr Swan from the other place,' these people on the other side say, 'are profligate spenders and don't know what they're doing.' We are the ones who are complying with Peter Costello's Charter of Budget Honesty, whereas those over there, who continually beat their chests about how fiscally disciplined they are, keep going very quiet when it comes to the Charter of Budget Honesty. You just keep out there with your catering company costings and your $11 billion black hole that was found at the last election in $70 billion worth of cuts. (Time expired)

Fisheries

Senator WHISH-WILSON (Tasmania) (14:26): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. Just when you thought it was safe to go back in the water! Is the minister aware of media reports that SeaFish Tasmania is allegedly looking at options to fish the small pelagic fishery quota with a large, 90-metre factory freezer trawler? Has the minister or his department met with SeaFish Tasmania Pty Ltd in regard to a new trawler with different specifications to the FV Abel Tasman operating in the Australian small pelagic fishery?

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) (14:26): Yes, it may be safe to go back in the water. I am aware, and I am sure the minister is aware, of some of those reports. I am not sure that I have a large amount of detail at this stage. Our position is very straightforward and has been set out. The minister has banned the use of a ship of this size.

Opposition senators interjecting—

Senator CONROY: For those opposite, I am aware of the reports, but I am not aware if there has any been any formal request yet. I am happy to take that on notice and find out any details that are on that for the senator.

Senator WHISH-WILSON (Tasmania) (14:27): Mr President, I ask a supplementary question. Thank you, Minister. Are you aware that the definition of a 'specific vessel' in the final declaration of 2012 of the Environment Protection and Biodiversity
Conservation Act, section 390SF, provides a conspicuous loophole for operators to execute commercial fishing activities with the same or potentially even greater uncertainty about the environmental impacts as the supertrawler FV *Abel Tasman*? Was this loophole your intention?

**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) (14:28): I thank the senator for that question. As you may gather, I represent the minister here, so the minutiae of the legislation that you have just referred to is not common knowledge for me. I am happy to take that question on notice and get any further details from the minister.

**Senator WHISH-WILSON** (Tasmania) (14:28): Mr President, I ask a further supplementary question. Thank you again, Minister. Can the minister indicate whether the expert panel to conduct an assessment of the commercial fishing activity in question and report on the matter will be appointed? Will the minister ensure that the expert panel will contain genuinely independent members who are not receiving a pecuniary benefit from the commercial fishing industry and consult with all stakeholders, including recreational fishers and conservationists, before reporting on the matter?

**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) (14:29): I thank the senator for his question and for his ongoing interest in the NBN and regional Australia. By this week more than 30,000 premises should have already connected to the NBN. Over 87 per cent of those are in regional Australia and, so far, the highest take-up of fibre services has been in Kiama where 44 per cent of the premises passed have an active NBN connection.

Can I congratulate the good senator Senator Bernardi on gaining the No. 1 Senate ticket. Perhaps we will all now have a quieter time in the chamber. But I do not think so.

Last week *Business Review Weekly* profiled Kiama and its embrace of the NBN. The article quotes Kevin Bogie, a contractor for Spectrum Art Glass in Sydney. He has found a huge difference through using the NBN. Previously, he found it a struggle to send and receive large files, such as artwork. Here is what he had to say:

> It’s pretty much halved my trips to Sydney for that sort of work.

With regard to his saving on the connection, he went on:

> My new plan is 100 times bigger for half the price and I think it has to be at least 10 or 15 times faster.

The owner of home business Hartgerink Media Services, Nick Hartgerink, has also benefited from the NBN. He says that the NBN makes it significantly faster to send and receive files. He told the *BRW*:
… our fixed-line phone bills have dropped dramatically from well over $100 a month to around $10 a month …

Senator CAMERON (New South Wales) (14:31): Mr President, I ask a supplementary question. Can the minister provide information on other businesses in Kiama which will benefit from the NBN?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:31): Local real estate agent Dougmal Harcourts is preparing for the availability of the NBN to her premises in February and licensee Susan Spence told the BRW:

We don’t even have window cards any more and that’s because we don’t sell property from a window any more; people buy houses from their own homes and online listings are very important. The company estimates that driving to Sydney wastes the equivalent of 30 business days a year. The business is preparing to use videoconferencing, once connected, and is planning for the nine employees to attend most of their training in this way. This is just another example of how the NBN is beginning to radically change the way that business is done in Australia.

Senator CAMERON (New South Wales) (14:32): Mr President, I have a further supplementary question. Can the minister advise how people in regional Australia who do not use the internet will benefit from the NBN?

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) (14:33): Voice-only services are now available over the NBN. Last week, launching their fibre phone on the NBN service, Internode said:

From the customer’s perspective it’s exactly the same as a regular landline. They just plug in their existing phone handset and start to make calls. This service has a monthly rental of $29.95, less than the $33.95 for Telstra’s HomeLine Plus. More significantly, the Internode plan charges 18c for untimed calls to any standard fixed line phone in Australia. Using a standard telephone, voice-only customers on the NBN can say goodbye to STD charges forever. Anyone genuinely concerned about regional Australia should be backing the Gillard government’s NBN. Those in that corner down there should hang their heads. You are a disgrace when it comes to representing regional Australia. (Time expired)

National Broadband Network

Senator McKENZIE (Victoria) (14:34): My question is also to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Is the minister aware that NBN Co. has named the sites of two proposed fixed wireless towers for Ballarat City Council and regional Victoria in the local communities of Mount Helen and Buninyong? Given that residents are very concerned about the location of the towers, particularly given their claim that they have received no consultation about the siting decision from NBN Co., how does this accord with the minister’s undertaking in Senator Cameron’s Senate estimates committee:

We are not going to force towers on the community.

Can the minister confirm that NBN Co. consulted with the communities of Mount Helen and Buninyong and, if so, how comprehensive was that consultation?

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) (14:35): I thank those opposite for my third question in 12 months on the National Broadband Network. I have had more questions from those opposite on cuddly koalas, saving fish and Tasmanian forests than I have had on the National Broadband Network. Those opposite know that they are letting down Australians in regional Australia—

Senator McKenzie: Mr President, I rise on a point of order. I am not sure how many questions Senator Conroy gets in question time in the Senate that actually relate to Mount Helen’s consultation process around the NBN.

The PRESIDENT: Senator Conroy, you have one minute 30 seconds. You need to address the question.

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) (14:35): Those opposite want to ignore examples like I have just been talking about in Kiama. They want to ignore the fact that services are starting to be provided on the fixed wireless network—the towers that I am being asked about. We had the Geraldton customer, who said, ‘I’m getting a better service at a much cheaper rate.’ NBN Co. has estimated that it requires approximately 2,300 wireless sites to roll out its fixed wireless broadband network.

Roughly half of these 2,300 sites will consist of new towers and the other half will consist of transmitters co-located on existing structures such as existing mobile phone towers. Ultimately, the exact number of wireless sites will depend on the number and the kinds of sites that NBN Co. is able to acquire and the number of existing facilities that will be available to NBN Co.

As required by Victorian planning laws, development applications have been lodged for new telecommunications towers with local councils in the Ballarat region. These new towers will be used to deliver, as I said, the next generation of fixed wireless broadband over the NBN to rural areas that are outside the NBN's fibre footprints. For those opposite, could I point out to them that their policy in regional Victoria—

(Time expired)

Senator McKENZIE (Victoria) (14:37): Mr President, I have a supplementary question. Does the minister concede that this is not simply an issue of tower siting but a method of broadband delivery and community consultation? Local Ballarat resident Mr Cartledge is quoted as saying:

The consensus from day one is that we’ve never been against the technology but rather the process and dictatorship from Canberra.

How can communities have confidence in this government and the NBN Co. that there will be genuine consultation on the rollout of the National Broadband Network?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:38): I think there is some very selective quoting going on. If you look at those Ballarat region who have objected in the to mobile phone towers and NBN towers I think you will find a strong thread of people who are opposed to any mobile phone tower, whether it is being built for the NBN or anything else. And they are going to be opposed to your plan to put thousands and thousands of towers across regional Victoria, across regional Ballarat. They are going to be just as opposed to your towers as they are
to our towers because they actually oppose every tower.

Senator Madigan is well aware of some of the people I am talking about—he has been in consultation. Even Senator Madigan does not agree with the position of no mobile phone towers anywhere—I do not think I have misrepresented you there, Senator Madigan. Let us be clear: there are those who are walking around the country saying, 'We've got to get better mobile phone coverage, we need more towers.' What you have got in that corner—(Time expired)

Senator McKenzie (Victoria) (14:39): Thank you for not answering the question, Minister. Mr President, I have a further supplementary question. Given that earlier this month NBN Co. visited the Latrobe Valley to unveil potential sites for the installation of 40-metre monotowers, can the minister outline the process of consultation undertaken with the communities in the Latrobe Valley regarding the siting of the towers and how the apparent strategy used in the Latrobe Valley will be one the NBN Co. plans to use across regional Australia? I am talking specifically about the process of consultation, Minister.

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) (14:39): We comply with all Victorian planning laws. We cannot just turn up and put up a tower. I did read the article in the Latrobe Valley Express where a particular gentleman was very, very unhappy about the siting of a tower because it was not on his property. He wanted the rental. He was very unhappy that it was actually on an adjoining property in a place where he believed it cast doubt on his amenity, but he said he had been in discussions with NBN and it had come as a great shock to him that it was not on his property. So I have seen the article.

Those opposite are running this bogus campaign around the country: 'We'll give you better mobile phone coverage, we're just not going to do it by building any towers.' It is going to be magic! We have got them on the one hand wanting to fan community concern about towers and the siting of towers, but they want to promise them better mobile phone coverage. Those opposite are complete frauds when it comes to this issue. Your policy—(Time expired)

World Population

Senator Moore (Queensland) (14:40): My question is to the Minister for Foreign Affairs, Senator Bob. Can the minister update the Senate on the release of the United Nations Population Fund's State of World Population report?

Senator Bob Carr (New South Wales—Minister for Foreign Affairs) (14:41): I have just had the privilege today of launching in Australia the State of World Population 2012 report. I did this with the Executive Director of the United Nations Population Fund. We discussed, among other things, the plight of many women and girls around the world and we both highlighted the importance of family planning. That is because it is estimated that access to family planning would result in about 22 million fewer unplanned births and about 150,000 fewer maternal deaths each year. Making voluntary family planning available to women would reduce costs for maternal and newborn healthcare by $11.3 billion annually. These savings could put young people in schools, help people to grow food and improve access to water and sanitation. Women should have the right to choose when and how many children to have and the space between them. Planning pregnancies
reduces maternal and child deaths. Women having fewer children are healthier and more likely to be able to afford and get access to health services. If every woman were able to leave at least a two-year gap between a birth and a subsequent pregnancy, deaths of children under five would fall by an estimated 13 per cent. That is one reason in July we committed to double funding for family planning to $50 million per year by 2016. It was only $26 million in 2010, but it will reach $50 billion by 2016—that is the Australian contribution to funding for family planning, making good on the indefensible cuts during the Howard years. The retreat from this responsibility during the Howard years is now corrected by policies that are sound and good. (Time expired)

Senator MOORE (Queensland) (14:43): Mr President, I have a supplementary question. Can the minister update the Senate on maternal health issues in our neighbours, the Asia-Pacific region?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:43): Forty per cent of global maternal deaths occur in the Asia-Pacific region. A woman in Papua New Guinea is 80 times more likely to die in pregnancy or childbirth than a woman in Australia. I learnt this morning, talking to the executive director, that 700 mothers die per 100,000 births in Papua New Guinea. That is an appalling indicator. An Indonesian woman is 30 times more likely to die in childbirth than a woman in Australia. In our region, 140 million women aged between 15 and 49 do not have access to modern family planning.

Australia's aid, however, is making a difference. I think all Australians can be proud of the fact that, in parts of Indonesia, AusAID support helped reduce maternal deaths by 40 per cent between 2008 and 2011. In Bougainville, in Papua New Guinea, AusAID programs helped halve maternal deaths between 2005 and 2009. (Time expired)

Senator MOORE (Queensland) (14:44): Can the minister advise what the Australian government is doing to support Australian family planning and maternal health?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:44): Today I announce that Australia will provide up to $70 million to the UN's Population Fund over the next four years. This is on top of the $86 million we have given over the last four years. That funding over the last four years has helped the UNFPA to train 834 midwives to go to remote parts of Cambodia, to train 72 doctors in obstetrics in the Palestinian territories, and to equip 75 health centres with obstetric equipment in Kiribati. This new funding will help UNFPA continue this work in over 46 developing countries. This figure stands out and I think that, again, Australians can be proud of it. It will improve access to family planning services for 222 million women. It will train hundreds more midwives and doctors and thousands of sexual health counsellors in places as diverse as Pakistan, the Palestinian territories and— (Time expired)

National Broadband Network

Senator BIRMINGHAM (South Australia) (14:45): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Noting the minister's enthusiasm, I hope he will be able to answer the two very precise questions that I have. Will the minister inform the Senate exactly how much has been spent over the last five years in establishing and building the National Broadband Network. Further, noting the minister's statement in response to Senator Cameron's question earlier that there are now
30,000 connections to the NBN, will the minister inform the Senate how many of those connections are via a fibre network?

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) (14:46): Clearly, we touched a nerve last week when we mentioned there being only two questions for the year. To take the second question, I think that I said it should be past 30,000 by this week. That is my expectation. Over 7,000 of those are on fibre, but hopefully I will have an updated figure for you by tomorrow or the next day. What that reflects is that the satellite service is absolutely being taken up by Australians across regional and rural Australia. The figure that you can put in the bank is that NBN Co will be under construction or completed in 758,000 homes by the end of December.

And what did Mr Turnbull say and what did those opposite say back in February-March when we announced that figure? They said there is no way that they could reach 758,000 under construction or completed. Well, I am looking forward to Malcolm Turnbull's press release—

The PRESIDENT: Order, Senator Conroy. You need to refer to people in the other place by their correct title.

Senator Brandis: Mr President, I rise on a point of order on the question of direct relevance. The minister was asked two questions. The second of those two questions he answered over a minute ago. There is only one question left: that is, how much has been spent in the last five years building the NBN? That is the only other question that remains outstanding and he should be drawn to it.

The PRESIDENT: The minister is answering the question. The minister still has 38 seconds remaining to answer the question.

Senator CONROY: I am not surprised that Senator Brandis is on his feet after that complete debacle that masqueraded as question time tactics last week.

The PRESIDENT: Order! Just answer the question, Senator Conroy.

Senator CONROY: I am not surprised that he had to get up and try to get a point. The amount spent on the NBN changes every single day. I am happy to get you the corporate plan. I am happy to get you the report to the joint parliamentary committee, but it changes every single day. I am happy to get you as much information as is available. (Time expired)

Senator BIRMINGHAM (South Australia) (14:49): Speaking of the corporate plan the minister was mentioning, will the minister confirm that the 2010 NBN corporate plan promised 511,000 premises would be connected via fibre by June 2013, but that this was downgraded—

Government senators interjecting—

The PRESIDENT: Order! I need to hear the question.

Senator BIRMINGHAM: in the revised corporate plan to a target of just 54,000 premises? Given the minister has now only achieved 7,000—some 13 per cent of the target—how can anybody believe that will be achieved by June next year?

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) (14:50): This is just embarrassing. Senator Birmingham tried this on with Mr Quigley and the NBN team just recently. Mr Quigley tabled all of the
information on this matter to show that we are in the ramp-up phase. Mr Quigley demonstrated categorically where the NBN is going and where it has been. This is just another gutless attack to try to pretend that they know something about the NBN.

I can disclose to the chamber that the Liberal New South Wales government is building a $10 billion toll road to be completed in 2020. Do you know, not one car will drive on it until 2020? Not one car will actually go across this toll road until it is completed in 2020, after spending $10 billion—because you have actually got to build it before you can drive on it! It is exactly the same with the NBN: you have to build a core network—(Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! Resume your seat, Senator Conroy. Order! When there is silence on both sides, we will proceed.

Senator BIRMINGHAM (South Australia) (14:51): Mr President, I ask a further supplementary question. Given the emphasis the minister has just put on building it, will he confirm that the 2010 NBN corporate plan promised 1.269 million premises would be passed by fibre by June 2013 but that this was also downgraded in the revised corporate plan to a target of just 341,000 premises, just a quarter of the original promise? Minister, how are you going to connect all these extra premises when you cannot even meet any of your building time lines?

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): Mr President, these questions have been repeated ad nauseam by Senator Birmingham and Mr Turnbull. They try to pretend that the 2010 corporate plan is still relevant. It was outdated two years later. The new corporate plan, with a start date that included nine months of extra negotiating with Telstra to get the best possible deal for taxpayers, has just been wished away. The global financial crisis did not happen! Nine months of extra negotiations with Telstra did not happen! The ACCC's decision on points of interconnect did not happen! So when the 2012 plan came out we said we would meet 758,000 under construction or completed, and that is what we are doing. Those opposite keep trying to pretend that you can just plug fibre into the house and connect it to the network. You have to build the core infrastructure first. (Time expired)

Honourable senators interjecting—

The PRESIDENT: If senators on both sides wish to debate the issue, the time to debate it is after question time.

Automotive Industry

Senator GALLACHER (South Australia) (14:53): My question is to the Minister Assisting for Industry and Innovation, Senator Lundy. In light of the recent reductions in the Ford workforce, can the minister outline what the government is doing to ensure the auto industry remains a vital part of the Australian economy?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:54): The government appreciates that the past few weeks have been very tough for Ford workers and their families. The auto industry has been under economic pressure caused by a high Australian dollar and increased competition from overseas. Labor understands that a modern economy needs a strong and viable manufacturing sector. The automotive industry is an integral part of this, and that is why the Gillard government
is providing no less than $5.4 billion to the auto sector under our new car plan.

There are 46,000 workers directly employed in the automotive sector, which supports another 200,000 jobs. It trains the engineers, pays for the machinery and drives the breakthrough innovations we need to help all manufacturing industries compete. So, rather than throwing up our hands and saying that these challenges are all too hard, we are committed to acting. We are working with the industry to respond to the current pressures to help the industry restructure and be sustainable in the future.

The government is creating an environment that supports job creation. It is what Labor has done since coming to office. It is what we have always done when faced with challenges. We did it in the global financial crisis and we are doing it now. A strong economy is good for all Australian workers. A successful auto industry creates skilled jobs, drives high-level research and supports innovation across manufacturing. It is only Labor that is committed to a sustainable future for the automotive sector and only Labor that is providing the certainty that it needs for the future.

Senator GALLACHER (South Australia) (14:56): Mr President, I ask a supplementary question. What is the government doing to assist those loyal, efficient, hardworking workers so tragically affected by the unfortunate announcements last week at the Ford Motor Company?

Opposition senators interjecting—

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:56): The opposition does not like hearing about the good work that the Labor government is doing. I would like to add to that. In July Ford announced it would be reducing its workforce at the Broadmeadows and Geelong plants, citing the need to restructure its production in response to changing consumer preferences for larger cars towards more fuel-efficient vehicles. The federal government has a range of measures available to assist workers, including intensive employment support under the Automotive Industry Structural Adjustment Program. Ford says that the changes to production will help achieve a sustainable operation and ensure employment levels are in line with the demand for Ford products. This does not impact on the design and production of the new models of the Ford Territory and Falcon for 2014, and the government's co-investment through the new car plan will help realise those plans of Ford.

Senator GALLACHER (South Australia) (14:58): Mr President, I ask a further supplementary question. Can the minister identify any further threats to one of Australia’s most vital industries—the automotive industry?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:58): Labor is supporting the industry. It is an easy and clear choice for us. By contrast, it is those opposite who will abandon the sector. They do not support the recent co-investment in Holden and Ford. They will rip away the $1.5 billion in support, presumably to fill their $70-plus billion budget black hole. Under the Liberals all support for the automotive industry will cease in 2015. Because of their relentless negativity, 250,000 jobs are under threat. They are saying no to the $4.1 billion investment in capital and in innovation. They are saying no to the $32.2 billion in domestic production to 2015. This is not only irresponsible; it is deliberate neglect and disregard. It is Labor that supports these workers and these jobs. It
is the opposition who continue to walk away and abandon them.

**Budget**

Senator SINODINOS (New South Wales) (14:59): My question is to the Minister for Finance and Deregulation. Minister, I refer you to commentary in the 2011-12 budget papers which stated:

To maintain a liquid and efficient bond market that supports the three- and ten-year futures market and the requirements of the new global bank liquidity standards, the panel agreed that the CGS market should be maintained around its current size—that is, around 12 to 14 per cent of GDP over time.

Minister, what rationale does the government have to maintain the market at 12 to 14 per cent of GDP when at the end of the Howard government there was a viable CGS market with gross Commonwealth debt at six per cent of GDP?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:00): I thank the senator for the question. It is probably a question to me as the Minister representing the Treasurer rather than as the minister for finance, but that is fine.

**Senator Abetz interjecting—**

Senator WONG: I was just being courteous, Senator. It is the case the government did make reference to that in the 2011-12 budget. I notice that my counterpart, Mr Robb, has now declared that we do not need a CGS market.

**Honourable senators interjecting—**

The PRESIDENT: Senator Wong, resume your seat. Order! Senator Wong is entitled to be heard in silence. Senator Wong, continue.

Senator WONG: Thank you, Mr President. I notice that my counterpart, Mr Robb, appears to be suggesting that it is now coalition policy to end the government bond market. Now I notice Senator Sinodinos is shaking his head.

**Opposition senators interjecting—**

Senator WONG: Maybe you should tell Mr Robb that.

Senator Sinodinos: Mr President, on a point of order: the minister is not addressing my question. In any case that is not the opposition's policy.

The PRESIDENT: There is no point of order.

Senator WONG: Thank you, Mr President. I am very pleased that he has given up Mr Robb so easily, and may I say he is right to do so. They were very silly comments. Mr President, I think the best thing is to refer the senator to a response to Mr Robb's comments by the Treasurer which I think was published in *Business Spectator* today, and if he cannot find it I am sure we can provide him with a reference.

Senator SINODINOS (New South Wales) (15:02): Mr President, I have a supplementary question. Can the minister, on behalf of the Treasurer, whom she represents in this place, provide a guarantee that both gross and net Commonwealth debt levels will not rise above the levels articulated in the government's Mid-Year Economic and Fiscal Outlook?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:02): Net debt returning to zero by 2021 and peak net debt are very clear in the budget update. I deliberately referenced that date for this reason. If a number of the savings measures that were opposed by the opposition had not been taken, net debt would still be some $250 billion by 2020-21. That is the reality. That includes, for example, the private health insurance rebate and various other measures that the
opposition have opposed, so if they want to talk about net debt they need to be aware their policy settings would actually lead to net debt not returning to zero and continuing to be high out to the end of the decade.

Senator SINODINOS (New South Wales) (15:03): Mr President, I have a second supplementary question. Minister, hasn't the growth in the Commonwealth debt level since the global financial crisis reduced the amount of capital available to small businesses via the banking and broader financial system, therefore making finance harder to obtain and increasing their cost of capital? Why are you making it harder for small business?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:04): I know that Senator Sinodinos got this question late but, seriously, from a party which is opposed to tax cuts for small business and would repeal tax breaks which we have put in place for small business, I think it is pretty galling and insincere for the senator to be saying: what has the government got against small business? I think you should look in the mirror, Senator.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Asylum Seekers

Budget

Senator MASON (Queensland) (15:05): I move:

That the Senate take note of the answers given by the Minister for Sport (Senator Lundy) and the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Senators Cash and Cormann today relating to asylum seekers and to the budget.

I always enjoy an anniversary and I quite like a party, but five years of hard Labor is no cause for celebration. I could indulge in cheap rhetorical blandishments but I will not.

Senator Boyce interjecting—

Senator MASON: We can summarise this debate, Senator Boyce, by simply asking this: is this country of Australia, after five years of hard Labor, better off? So is Australia better off after five years of hard Labor? If you are an average Australian and you have seen your electricity bill go up by 89 per cent, are you better off? If you were deceived by the Prime Minister about the introduction of a carbon tax, are you better off? Are you better off when a carbon tax means that the cost of living rises? Are you better off when a carbon tax means we are less competitive against other major competitive nations such as Brazil, Russia, India, China, the United States and Canada?

Are you better off when a carbon tax means slower economic growth, means less money, in short, to pay for Labor's grand promises? After five years of Labor, are you better off if you have watched $70 billion in federal government assets, which is what the Howard-Costello government left, become $150 billion in debt? In particular, are you better off if you are young and will be paying the bill for Labor's profligacy? When this government dumps in the laps of young people the IOUs for the current generation, will you be better off? No, you will not. If you have children in school and have seen Labor spend about $20 billion on the education revolution, seen that the results in domestic tests are stagnant and that the results in international comparative tests are actually worse, the PISA tests are worse, are young kids better off? No, they are not.

Are you better off because the education revolution is now the education crusade, even though they cannot find the Holy Grail
of better test results? Is anyone celebrating now that we have just reached another milestone—that is, 500 boats arriving within five years of a Labor government? That is an average of more than 100 a year and, of course, the rate is increasing. Are we better off? I worked overseas for a while and I heard of Medecins Sans Frontieres, but now we have Australia sans frontieres—a nation without any orders, a country that cannot even defend its borders, lets in 100 boats per year and 30,000 illegal arrivals.

After five years, where are we? First, we have a government that is totally unable to effectively, efficiently and economically implement its policy initiatives—everything from pink batts to school halls, from computers in schools to the carbon tax and the security of our borders. What is the granddaddy of them all, Mr Deputy President?

Senator Eggleston: The carbon tax.

Senator MASON: The carbon tax is part of it, Senator Eggleston. It is, of course, the National Broadband Network. What a fiasco. Mark my words, it will be the greatest fiasco in Australian federal history. Second, we have a record increase in government debt. This government is currently handing down IOUs to our kids and our grandkids. Never forget: intergenerational inequity is intergenerational theft. And it is on this lot's watch that this theft is occurring.

I am not too good with computers but I looked on Google to see what present you give on a fifth anniversary, and I discovered that it is wood. I think what we have over here is a lot of deadwood. We do not want a celebration; we want a divorce. (Time expired)

Senator MARSHALL (Victoria) (15:10): For a minute there I thought we had some evangelical sermon going on. You have there the high priest, Senator Mason, posing to his crowd behind him all these rhetorical questions, and the decent, nodding people were just nodding and answering the questions as if by script. He even mentioned the Holy Grail. The only thing missing, really, was the hymn at the end, Senator Mason.

Senator Mason: I can give you that, Gavin.

Senator MARSHALL: I would be happy to give you the time, if you were going to sing to us. I am glad that we did get one useful piece of information out of that contribution, which is that, apparently, wood is the gift you give for the fifth anniversary. I will keep that in mind because that will come in useful for me. Senator Mason posed the question to us: is Australia better off after Labor government economic management? Have a listen to this, Senator Mason. This country has now had 21 years of consecutive economic growth, an achievement that leaves every other major advanced economy in our wake. Our economy is in a league of its own. It is an economy that is 11 per cent larger since Labor came to office, despite the worst global conditions since the Great Depression.

We have impressive growth, with our economy growing faster than every single major advanced economy. We have low unemployment at a rate of 5.4 per cent, which is about half the rate seen in Europe and significantly below other advanced economies. You ask those Australians whom we saved from unemployment through the stimulus that we took through the global financial crisis whether Australia is better off, and the answer is a resounding yes. Anyone who bothers to actually look at the facts and not be leading some evangelical sermon from opposition will come to the same conclusion.
We have an exceptional job creation record, with over 800,000 jobs having been created since Labor came to office, despite 27 million jobs lost worldwide. Worldwide, 27 million jobs lost; Australia, 800,000 new jobs created. Inflation is at a 13-year low, with underlying inflation at the bottom end of the RBA's target band of two per cent through to the year ended in June. What is the cash rate? It is sitting now at 3.25 per cent. Interest rates for Australians at 3.25 per cent, at the official cash rate. That is lower than at any time under the coalition.

We have a huge investment pipeline, with a record $260 billion at an advanced stage, helping to boost the productive capacity of our economy. We have healthy consumption, with a growth rate of around four per cent throughout this year. We have very, very low debt. Our net debt as a percentage of GDP is peaking at around a tenth of the level of major advanced economies. This is what John Howard had to say about our economy at the coalition convention in 2000: The economic reform record of this government—

He is speaking of his government—
is one that has won acclaim not only here, but around the world. The lower rates of inflation, the consistently high growth, the capacity to stare down the Asian economic downturn … is a great record of reform. Never mind the Asian economic downturn. Compared with when former Prime Minister John Howard gave that speech in 2000, and amidst the most hostile economic achievement in recent memory, this government has a lower unemployment rate than when John Howard bragged about the economy in 2000.

We have a lower cash rate than when John Howard bragged about the economy back in 2000. And we have higher annual economic growth, around two to 2½ per cent higher, than when John Howard, the former Prime Minister, bragged about the economy in those positions. So by any measure, if you want to compare the state of the economy now and the state of the economy back when John Howard was the Prime Minister, we tick every single box. If you want to look at our record on creating jobs and saving jobs, you only have to look at this government as the envy of the rest of the world. (Time expired)

**Senator PAYNE** (New South Wales) (15:15): I also seek to take note of answers given by Senators Lundy and Wong to questions asked by Senators Cash and Cormann today. I am not sure if I am in a parallel universe, but I have an uncomfortable feeling I just heard Senator Gavin Marshall quoting John Howard. That is a slightly confusing experience for those of us who know the contempt that those opposite, and Senator Marshall in particular, would usually use for that sort of an analogy, but there we are.

The thing that I think was missing from Senator Marshall's speech, and it is enormously disappointing to see him leave the chamber, was a bit of enthusiasm, a bit of oomph, a bit of spirit in apparently celebrating his government's fifth anniversary. After Senator Mason's fantastic oration, everyone over here was put to sleep by Senator Marshall, who could not even bring a smile to his face to celebrate this fifth anniversary. It must be pretty sombre in the government party room at the moment. Those caucus meetings must be pretty dull. The answers we received this afternoon are a great illustration of why, after five years of Labor, Australia is, quite frankly, fed up. There is plenty of spin, there is plenty of obfuscation, but there is not a lot of substance.
It was pretty apparent early on that this federal Labor government in both of its iterations would be much like its state counterparts, which we have dismissed in a number of jurisdictions in Australia, including in New South Wales, my own state. Labor is always big on announcements, but pretty poor on delivery. So after 11½ years of stability and responsible economic management by the Howard government, which I will quote with affirmation and enthusiasm, and a positive approach, the people decided that they might take Kevin Rudd and Labor at their word. It was a big mistake. It was not long before their hopes were dashed that the Australia that Mr Rudd had built up in their minds was ever going to exist.

Mr Rudd made announcement after announcement. He spent money with reckless abandon, and generally acted like a federal Premier, as one journalist whose name escapes me put it at the time. And then in June 2010 came the assassination and Ms Gillard took office and things have only become worse. It is a lamentable record for the past five years. We have seen the Australian people completely misled by the introduction of the world's biggest carbon tax. We have seen this government preside over a massive increase in people's living costs. Senator Mason referred to price rises in electricity costs of 89 per cent. What do you think the real people are doing with that? How do you think the real people feel about the government based on that sort of performance?

The government have actually managed to turn $70 billion in net assets into more than $150 billion in net debt. That is a class act. That takes a real effort, but they have managed it. They have run up the four biggest deficits in Australia's history following on from the Howard government's four biggest surpluses. And as we were remarking on during question time today, the debt of this government is just an inconvenient truth—it did not make an appearance in Senator Marshall's remarks, did it?—and one they are serially incapable of facing up to. We have watched their extraordinary, unprecedented waste from overpriced school halls to dangerous roof insulation to an overpriced and underdelivered NBN. And it does not matter how many times Senator Conroy pretends that a take-up rate of less than 50 per cent is a fantastic thing, it simply is not.

They have, as Senator Cash has said time and time again in this chamber, weakened our borders. We have more than 500 boats arriving, carrying a total of 30,000 illegal arrivals. They make policy changes in an area as important as immigration policy to this country on almost a half-daily basis. It is beyond description. It is beyond understanding that they are the government of a nation that was in such a good position, as Australia found itself, at the end of 2007.

In immigration a knee-jerk response is the best way towards a disaster, and this government is presiding over exactly that. But even more disappointingly, it is failing on things that should be beyond politics, things I have brought up in this chamber before: programs for the creation of jobs and economic development for Indigenous Australians; the positions of homeless people in Australia, where funding in these areas is up in the air—

Senator Polley interjecting—

Senator PAYNE: seventeen per cent rise in the ABS statistics is nothing to brag about—and organisations that do not know whether they will be properly funded into the future are disappointed. (Time expired)

Senator BILYK (Tasmania) (15:20): Senator Payne made some initial comments today with regard to five years of the Gillard
Labor government. I, for one, am very proud to be part of the Gillard government, and I think the past five years have been extremely good for Australia considering we have been through the global financial crisis and those on the opposite side did not want to support any of the bills we brought before parliament to help solve that.

I would like to point out that IMF Article IV on 16 November 2012 also refers to the past five years—that is, the past five years that we have had a Labor government. The quote is that five years on both the economy and the financial sector continue to outperform most of their peers. Those on the other side are scuttlebutting again, trying to come in here and scare the voters and the people of Australia that they are the only ones who know how to do anything and they are the only ones who know how to get it right. They need to listen to some of these quotes.

Maybe they could go and look up the IMF report in regard to economic management—the same article, Article IV, of 16 November 2012. It states that government's:

… 'adept handling of the fallout from the GFC, prudent economic management, and strong supervision of the financial sector' has kept Australia 'on the dwindling list of AAA rated countries'.

That is right—Australia is still a AAA rated country.

I find the attempts by the opposition at rewriting history and crystal ball gazing rather entertaining at times, but I have to say that today's input by Senator Mason was possibly some of the best I have seen from him. He often has us laughing in Senate estimates but today his—as Senator Marshall referred to it—evangelical sermon, with those in the congregation chanting there behind him to push him on, was quite something else.

The recent midyear review shows that the Gillard government is on track to return the budget to surplus and that the fundamentals of the Australian economy are strong despite the GFC and global turmoil. We have just seen the Mid-Year Economic and Fiscal Outlook return the budget to surplus with billions of dollars in savings and we are on track to deliver that.

The pessimists on the other side of this chamber who constantly talk down the Australian economy should take pride in what this country has achieved in the face of those very challenging global conditions and the structural changes around them. We have completed a remarkable 21 years of economic growth—a stunning achievement unmatched by any other advanced economy to date; but those on the other side just come in here scaremongering and try to deny that.

We have an enviable combination of solid growth, low unemployment, contained inflation, strong public finances, solid consumption and an investment outlook that is still strong. At 3.25 per cent, we have lower official interest rates than at any time under the last coalition government, helping millions of families and small businesses. Australia has only the 51st-largest population in the world, but we have overtaken Spain to become the 12th-largest economy; we have overtaken Spain, Mexico and South Korea since this government came to office. The Australian economy is the envy of the developed world and the exaggeration and spin that we constantly get from that side of the chamber should be tempered by some facts, as opposed to their rhetoric.

As Senator Marshall also said, we have created over 800,000 jobs since we were first elected. From July this year we will be giving working families a tax cut so they get more money in their fortnightly pay cheques. Economists in the private sector have
explicitly made the point that the growth outlook contained in MYEFO is reasonable and in line with their own forecasts. On 22 October, Westpac chief economist Bill Evans, said:

They have cut their growth forecast by a quarter of a percentage point. That is now in line with our own forecast and we of course support this view.

UBS chief economist Scott Haslem stated, on October 22, that 'the government's growth forecasts seem reasonable.' Finally, HSBC chief economist Paul Bloxham stated:

I think these numbers look fairly sensible in the scheme of things.

We know we are coming to the end of the parliamentary year. We know that those on the other side just want to carry on with their scare campaigns and smear campaigns—the attack-dog mentality they have been going on with all year— (Time expired)

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate) (15:25): Five years of the Labor government and this is what we have, colleagues. This is the contribution we have from the government on their record.

Senator Bilyk just said we are the envy of the developed world. If it was not so sad it would be laughable. When you look around this nation and see what the government has done to this country—when you walk down the main streets in regional towns or through the cities, talk to the businesses and see the complete lack of confidence in this government that is reverberating right around this nation—you know that it is this Labor government that has created the situation. There is no confidence. Small business out there has no confidence in this government whatsoever and money has stopped moving. People are not spending because they are so uncertain about what the future holds and it is all the fault of this Labor government. Five long, hard years—it is all about fives today; a five-year-old could do a better job of running the country than this current Labor government.

Senator Bilyk said we on this side should use some facts. Let us have a look at a few facts. This government has turned $70 billion in net assets into over $150 billion of net debt—fact. Only a government as bad as this Labor government could manage to do that. They have run up the four biggest deficits in Australian history following on from the Howard government's four biggest surpluses. This government sits in judgement on that side of the chamber and tries to tell us what a fabulous, terrific job they are doing. But—to go to what Senator Bilyk said—when you look at the facts it is simply not true.

Labor's failed border protection policies have blown out the immigration budget by around $6½ billion over the last four years. That is a fact. This government could not manage its way out of a tea party. They cannot manage money. They cannot make a decent policy decision to save themselves. We have seen the Home Insulation Program—$2½ billion mismanaged there. The computers in schools program had a $1½ billion blow-out. There were the Green Loans and Green Start programs—a $175 million Green Loans program was mismanaged and eventually dumped, then replaced with a $130 million Green Start program that—oh gosh, colleagues!—never started.

The list goes on and on. The solar homes program was cancelled with a blow-out of $850 million; the program was originally meant to cost $150 million. There were Labor's talkfests—colleagues, who can forget about all the talkfests we have seen? There was the 2020 Summit, the Henry tax review, the tax summit—a million dollars there—and the jobs summit, but there were hardly any outcomes. This government could
not manage its way out of a paper bag. Billions of dollars were spent on the school halls program—the mismanagement there was just absolutely extraordinary. Forty-three billion dollars was spent on the NBN which is an absolute dog. Senator Conroy continually says in this place how fantastic and tremendous it is; it is absolute rubbish.

The list is endless. It goes on and on. Who can forget Fuelwatch and GROCERYchoice? Nearly $30 million spent setting them up—and then they were dumped. Every single example we look at of this waste, mismanagement and reckless spending is money that has not been spent on the things that needed to be done like things to improve the future in regional Australia. When it comes to things like health and education, there are around $3.9 billion in cuts to education funding in MYEFO.

The waste and mismanagement is breathtaking. My personal favourite is that the government sold the parliamentary billiard tables for around $5,000. Okay, fair enough. If they wanted to sell them, perhaps there was a need for it; go right ahead and sell them. What they then did was spend $102,000 determining whether or not they got value for money. That is extraordinary. With the waste, mismanagement and reckless spending we have seen from this government, it is no wonder people right across Australia do not trust this government or believe anything this government says. They know the only way forward for this nation is to support a coalition government in the future.

Question agreed to.

Fisheries

Senator WHISH-WILSON (Tasmania) (15:31): I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Whish-Wilson today relating to the fishing industry.

This is in relation to the Final (Small Pelagic Fishery) Declaration 2012. The Australian Greens have thanked Minister Burke for his declaration and essentially putting the entry of supertrawlers into Australian waters on ice for two years while the scientific work is done on the risks of a supertrawler to Australian Commonwealth fisheries.

We acknowledge the work that has been done by both NGOs and the Australian Labor Party in relation to this, but recently we have been hearing disturbing stories, including an interview that I heard featuring the managers of Seafish Tasmania preparing to bring a smaller but still very large trawler into Australian waters. We looked into this matter and sought some legal advice on the wording in the act in terms of the interpretation. The specific problem we have is the definition of a 'specified vessel' under the act. This means a type of vessel which is greater than 130 metres in total length, has onboard fish processing facilities and has storage capacity for fish or fish products in excess of 2,000 tonnes. It is that last point that we are most concerned about along with the word 'and' in the clause.

The Greens have sought advice on the risks posed by supertrawlers previously when we put through our bill to ban supertrawlers in Australian waters. International advice is that the freezing capacity of boats has been the key risk posed by supertrawlers. Boats with more than 2,000 tonnes capacity can stay out to sea for very long periods of time. Unfortunately, the advice we have received on the specified vessel and the wording in here is that a boat to be banned from fishing in the small pelagic fishery under this act would need to meet all three criteria in order to be banned, so we would like to see the word 'and' replaced with 'or' or have that a lot clearer
because, as mentioned, we are seeing action by Seafish Tasmania to try to fish the small pelagic fishery.

While these important scientific studies are occurring, I would also like to say that the root-and-branch review of AFMA will include information on how the quota is allocated and the process that led to that quota allocation to which in this house and other places the Australian Greens have brought considerable attention. In fact, we have always believed that the quota should be disallowed on the basis of its allocation. This is a very important point. It is certainly a matter of public concern to recreational fishing groups and conservationists that I have had discussion with in Tasmania recently. We would certainly like to discuss this with the minister to get clarification on this point and also to seek the possibility of having an amendment to the declaration if there is a potential legal issue here with the wording in the declaration.

I would also like to refer to a comment made by Senator Mason. I point out that, when Senator Mason was talking, he mentioned whether young generations of Australians are happy to take on the costs of a carbon tax. I point out that, of course, a carbon tax is designed to be a cost that reflects the externality and the risks of climate change. I would certainly hope that my children and grandchildren would be prepared to take on the costs of a carbon tax in the sense that those costs also reflect benefits and those benefits should flow to future generations by reducing the risks that we will see from climate change once we bring our emissions down to an acceptable level.

Most market economists around the world have accepted that a market based instrument that puts a price on pollution is what is necessary for production of these polluting substances that go into the atmosphere to be reduced. Yes, it may be seen as a cost, but actually the cost reflects an environmental benefit if it is calculated correctly, so I would hope that my kids and grandkids would be quite happy to take on a carbon tax and see the future benefits that it delivers not just for the environment, ecosystems and all these important things that are necessary for their future but also for the jobs and growth in the Australian economy.

Question agreed to.

CONDOLENCES

Riordan, Hon. Joseph Martin, AO

The PRESIDENT (15:36): It is with deep regret that I inform the Senate of the death on 19 November 2012, of the Hon. Joseph Martin (Joe) Riordan, AO, a former minister, and member of the House of Representatives for the division of Phillip, New South Wales, from 1972 to 1975.

I call the Leader of the Government in the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:36): by leave—I move:

That the Senate records its deep regret at the death, on 19 November 2012, of the Honourable Joseph Martin (Joe) Riordan, AO, former federal minister and member for Phillip, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

Today we mark the passing of another Whitlam-era minister. There has been a succession of ministers from the Whitlam era who have passed away in recent years, a reflection of the age and stage. Today we remember Joe Riordan, who was a unionist minister and a great champion of social justice.
Joe was born in Sydney on 27 February 1930, just before the Great Depression. He grew up in the inner suburbs of Sydney and was educated in the Catholic system at the Patrician Brothers School and Marist Brothers’ College. Like many of his generation, Joe did not attend university. However, he could proudly claim to have been part of the visionary Whitlam Labor government that made higher education accessible to all Australians.

Joe found his first calling in the union movement. At the age of 22 he commenced as assistant secretary of the New South Wales branch of the Federated Clerks Union. Two years later he was appointed secretary, a position he held for four years. In 1958, at the age of 28, he rose to the position of federal secretary of the union, a position he remained in until 1972.

He contested the marginal bellwether seat of Phillip in Sydney's eastern suburbs at the 1972 federal election. The seat was one of the smallest in the country, covering the suburbs of Bondi, Bronte, Coogee, Randwick and Waverley. Despite facing a strong Liberal opponent in the then Speaker of the House, Sir Bill Aston, Joe won, and joined the number of new Labor MPs swept into office in the 1972 'It's Time' election. Joe was re-elected at the 1974 election.

He brought to the parliament a deep sense of social justice that stemmed from his Catholic faith. He was part of a generation of Labor MPs who wanted to see a more open and dynamic Australia after so many years of conservative rule. In his three years in parliament he proved to be a very active parliamentarian. He chaired the Joint Committee on Pecuniary Interests of Members of Parliament. This was the committee that in late 1974 recommended the introduction of compulsory registration of members' and senators' interests as well as the creation of a register for public scrutiny. These are recommendations that were finally adopted and which underpin some of the accountability measures still in existence in the Senate and throughout Australian parliaments.

In 1975 Joe was appointed to the ministry as the Minister for Housing and Construction, and the Minister Assisting the Minister for Urban and Regional Development. Joe, obviously, only had a very short period on the front bench; when the government was dismissed by, I understand, a friend of his, Sir John Kerr, Joe failed in his bid to be re-elected as the member for Phillip, losing in the 1975 landslide against Labor. So ended his term in federal parliament.

But his commitment to public life continued long after his life in politics. He went on to a very successful career in a range of industrial relations and appeal tribunal roles. These included being head of the New South Wales Department of Industrial Relations; vice-chairman of the Electricity Commission; and as senior deputy president of the Australian Industrial Relations Commission, on which he served with great distinction and was well known to many of the senators and members of parliament in the House of Representatives. He was presiding member of the New South Wales Schools Appeals Tribunal and chairman of Worksafe Australia. He was on the Sydney Airport Community Consultative Committee, and he was chairperson of the Ethical Clothing Trades Council of New South Wales. So he had a very active history in employment and community engagement following his exit from the parliament. His final position before his retirement was as chair of the WorkCover Authority of New South Wales, a position he occupied until 2004, and one that reflected his deep and
abiding commitment to the working men and women of Australia.

It was fitting that in 1995 Joe became an Officer of the Order of Australia for his: … service to industrial relations, to social justice and to the community. He will be remembered as a man who committed himself to making the lives of working people better. I know he is fondly remembered by a number of senators, and I think that two or three of our senators from New South Wales who knew him personally want to make a contribution. I know that Senator Cameron has spoken to me about his respect for him. I know that he and others attended the funeral last Friday, which I understand that a couple of prime ministers attended. It sounds like it was a good Irish Catholic funeral, which are always some of the best events one can go to—they are always done in style!

Senator Cameron: Yes!

Senator CHRIS EVANS: I will leave that to Senator Cameron and others to speak about.

As I said, Joe Riordan has a very honoured place in Labor history, both for his role in the Whitlam government, in industrial matters and in his service to the community. On behalf of the government, I offer condolences to his wife, Pat, their six children and extended family.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:43): The name 'Riordan' is synonymous with workplace relations; first with Joe, whose passing we mourn, and whose service we acknowledge and salute, and now with his son Bernie, who is on the bench of Fair Work Australia.

The Hon. Joe Riordan dedicated his life to public service and the parliament through the trade union movement, at the New South Wales Department of Industrial Relations and at the Australian Industrial Relations Commission. Before entering parliament he was secretary of the Federated Clerks Union, where he valiantly championed a proud union fighting against communism. Mr Riordan was a passionate Labor man who genuinely stood up for workers around the country and not just for the sectional interests of the union bosses. He was seen by many in the community as a genuinely honest broker.

His relatively short time in the parliament was one that has had a lasting impact. He was the chair of the Joint Committee on Pecuniary Interests of Members of Parliament, which recommended the establishment of a register to which the public could have access—something that all senators would know lives on to this day and is seen as a transparency measure.

After leaving the parliament, he went on to continue his career of public service in the Public Service itself before being appointed to the Australian Industrial Relations Commission—footsteps that his son Bernie has gone on to follow as a Fair Work Australia commissioner. After his retirement from the commission, he continued to assist the wider community by undertaking a number of inquiries and investigations for groups, including the Law Society of New South Wales and the Australian Manufacturing Workers Union. He investigated, indeed, whether union bosses should have as much influence in the parliamentary Labor Party as they allegedly do, which I understand is still a hot topic all these years on. The coalition acknowledges his life of distinguished service and expresses its condolences to the family at this time of loss.

Senator CAMERON (New South Wales) (15:45): I would like to associate myself
with those remarks. It is a great honour to have the opportunity to recognise and acknowledge the remarkable life of the Hon. Joe Riordan, AO. Joe received the award of Officer of the Order of Australia for his services to industrial relations, social justice and the community. But Joe's major focus was his family. He married his wife, Patricia, in 1955. His wife had been ill for some years prior to Joe's death, and Joe looked after and nursed his wife and did a remarkable job during that period. My condolences and, I am sure, the condolences of everyone here go to Patricia, to Bernie, to the siblings and to what he described as the love of his life, his grandchildren. Bernie indicated that when the grandchildren were born Joe told his kids: 'That's it for you lot. I've looked after you. I'm doing no more for you. The grandkids are what I'm going to look after.' He always looked after everybody, but he had a great soft touch for his grandchildren.

This was a man who was one of the most respected industrial relations practitioners in the country. If you walked into the room where he was, you knew that you were in the presence of someone of significant capabilities. He was a fantastic guy. He was absolutely brilliant at what he did. I had a long relationship with Joe Riordan. I first met Joe in 1978 in the Electricity Commission of New South Wales, when I was a delegate in the Electricity Commission and Joe Riordan was the deputy chair. Joe came to the Electricity Commission as the chair. He was a former right-wing Labor Party operative from the Federated Clerks Union, and I was a left-wing rank and file delegate for the Socialist Left in New South Wales. You would think, 'What would be the relationship between these two people?' I will tell you what it was: Joe Riordan was the first senior executive of the Electricity Commission who ever treated me with any respect. The industrial relations before he came to the Electricity Commission were an absolute war. There was just battling day in, day out, and it was the worst kind of industrial relations on both sides. Joe Riordan was appointed to try to assist to bring the Electricity Commission into the modern times of industrial relations, and he did a great job in doing that.

There were two well-known industrial practitioners at the funeral, apart from two prime ministers and many former state and federal ministers. Bob Hawke was there. Bob spoke extremely fondly of Joe. Paul Keating was there. So it really was a great show of respect for Joe Riordan. What was said about Joe was that he was just a great guy.

Joe had two nicknames in the Electricity Commission. His first nickname was 'Call Me Joe'. He was known as 'Call Me Joe' because in those days many of the bosses in the Electricity Commission still wanted to be called 'Mr So-and-so'—and a lot of them were Mr So-and-sos, I can tell you—but he was 'Call Me Joe'. His other nickname was 'Helicopter Joe', because every time there was a massive brawl on at the power station, the helicopter took off in Sydney and up came Joe, and we would sit down to try to work out the issues. He was the first person ever to do that.

In 1982 the state Liberal Party called for his sacking because he was undermining management structures in the Electricity Commission. This was probably one of the best things Joe ever did—to undermine the management structures in the Electricity Commission of New South Wales. He did a great job in bringing some democratic processes to industrial relations. He did a great job in treating people with respect, and I will always acknowledge and think fondly of Joe Riordan and what he did.

I mentioned to two well-known industrial practitioners who were at the funeral—Bert
Evans, the former Chief Executive of the AIG and the old MTIA, and Roger Boland, his No. 2 at the AIG—that Joe Riordan helped humanise me. They thought that was rubbish. They did not think that was the case, and they could not understand that anybody could have done that in my early days of industrial operations in the Electricity Commission. But Joe was a great guy.

Not only was he the deputy chair of the Electricity Commission but he had a whole range of other roles. He was the chairman of the safety commission. He was the chairman of the National Occupational Health and Safety Commission. He was the chairman of WorkCover. Then he went on to be an industrial relations consultant. I know that as an industrial relations consultant Joe Riordan did more consultation for no money than any other consultant I knew.

Joe was always prepared to help the union movement and to help anyone who was in trouble—on both sides of fence—to try to work things through. I will be ever-grateful to Joe Riordan because, when I was the National Secretary of the AMWU, we had some well-known problems in Victoria with a group called Workers First. We had problems there that my union had never experienced before, and we would take all sorts of steps to try to deal with those issues that had arisen in Victoria.

We asked Joe Riordan and another highly respected industrial arbiter, Tom McDonald, the former National Secretary of the CFMEU, to go down to Victoria, have a look at the issues and prepare a report for the national council of the AMWU. That report was extremely professional, it was done in some really tough circumstances, and Joe Riordan and Tom McDonald played a huge role in ensuring that my union worked its way through the issues that were emerging in Victoria.

I want to indicate that Joe Riordan will always be in my memory. He has been around ever since I have been involved in industrial relations. He will be and is sadly missed by not only his family but the industrial relations community around this world. He was a man of great standing, a man of great stature, a man of high intelligence, a man who helped make Australia a better place not only for workers but for many employers and a man who can stand there with the giants of the Labor movement. Vale, Joe Riordan.

Senator Faulkner (New South Wales) (15:54): I too want to associate myself with this condolence motion. Joe Riordan was very much a man of his era. He was born in the middle of the Great Depression in 1930. He was a man of strong working-class allegiances and a man with an unwavering sense of social justice. Although his period in the federal parliament was very short, only from 1972 to 1975, his was a life of service: to his community, to his union and the union movement, and to his party.

Joe Riordan's first speech to the parliament on 1 March 1972, I really do think, reflected his sense of humanity. It was a plea for the government to remember that its first responsibility was to human beings, not to machines, to technology or to the financial bottom line. He said:

This is a society where machines have more importance and are given greater significance than the men and women who operate them, where material possessions are the very criteria of success, where job satisfaction and purpose in life have come to be regarded as almost irrelevant.

At the first sign of an economic cold breeze, labour is the most easily disposed of part of a company's productive process.

No doubt informed by his background in the trade union movement, Joe described many corporations as:
Faceless, impersonal—a callous and cynical machine ... with no concern for those who work for them, for those who produce the wealth of the organisation, and certainly no concern for the families of these people ... [For] when there are 100,000 out of work, about 300,000 people are in need.

Joe Riordan believed that the government that preceded the Whitlam government had created and encouraged this depersonalised society for whom the unemployed were simply units on a piece of paper. But perhaps one of the areas most important, I think, in terms of his brief period in the federal parliament, carried out by Joe Riordan was his chairmanship of the Joint Committee on Pecuniary Interests of Members of Parliament. It was an issue that then Prime Minister Gough Whitlam really did feel very strongly about and, for Joe Riordan, a total cleanskin about whom there was never—never—any hint of corruption, it was a matter that he was fanatical about.

The committee was set up in August 1974 and it was at that time groundbreaking. There was no register of members' interests, no declaration of the often conflicting interests of ministers in their holding of shares or their directorships of companies, and no restrictions on officials who resigned from public service, going straight into companies in fields associated with that service. There was no code of conduct for members of parliament or for ministers. The possibility of improper influence on the decision making process was clear, and the problems that raised were both serious ones and controversial ones.

In his opening remarks for that first public hearing of the committee, Joe Riordan said:

It is not the function of the committee to be concerned about the degree or level of wealth of any person irrespective of that person's position. The committee is concerned with interests held by the individual which may conflict with the execution of his or her public responsibility. We ... seek recommendations which will protect and uphold the dignity and honour of parliamentarians and public officials.

Of course, current events, even in New South Wales, demonstrate the truth of Joe Riordan's view. The committee reported in September 1975. It recommended that members, the staff of ministers and shadow ministers, and journalists in Parliament House should make declarations of their pecuniary interests in a publicly available register. Unfortunately, these recommendations were not able to be acted upon before the dismissal of the Whitlam government. In fact, we did not see a register of pecuniary interests for members of the House of Representatives until after the election of the Hawke government.

Joe Riordan was appointed to the ministry in June 1975, replacing Les Johnson as Minister for Housing and Construction. Of course, his tenure was to be very short. However, as minister he continued the Whitlam government program of welfare housing. Through this program, the Commonwealth made advances to the state housing authorities at low interest rates for the provision of housing for those persons and families most in need. It was a program he heartily endorsed. He believed that housing was the engine of the economy—the first to suffer in a downturn but capable of driving the economy out of recession.

It is also true that Joe Riordan, Jim McClelland and John Kerr had a shared history working in industrial relations and were long-time and genuine friends. At the time of the crisis in 1975, Governor-General Kerr maintained contact with those two Labor ministers—Joe Riordan and Jim McClelland—and they became informal intermediaries between the Governor-General and the then Prime Minister. They believed that the Governor-General deliberately deceived them as to his intention...
to dismiss the government. Their sense of betrayal by Kerr was, for them, particularly bitter.

Beyond politics, Joe Riordan, as we have heard, was a proud and committed trade unionist. He began in the union movement in 1952. He was federal secretary of the Federated Clerks Union from 1958 to 1973 and a member of the ACTU executive from 1963 to 1967. He has been described to me—and you have heard again from Cameron in this condolence debate—as a superb industrial advocate, noted for his preparation. He believed that trade unionism was vital for the protection of workers. He said in parliament in 1972:

I notice from what has been said in previous debates that honourable members opposite seem to have an antipathy towards trade unions. That is very unfortunate. I remind the honourable member that, since 1904, judges of Australian arbitration tribunals said that employees who enjoy the benefits of union awards should be members of unions.

This argument about the benefits derived from the work of unions was basic to Joe Riordan's philosophy. In a case before the Commonwealth Arbitration Commission in 1973 considering union claims for preferential treatment for union members, Joe Riordan noted that both unionists and non-unionists reap the advantages of conciliation and arbitration proceedings for new awards and agreements but unionists alone bear the costs of obtaining them. He had never known non-unionists who object to being compelled to receive award benefits. He was a man who believed in solidarity—in the best and oldest sense of the word. He was a genuine Laborist.

After Joe Riordan's defeat at the 1975 election he returned to industrial relations, the area of his great expertise. He was appointed as head of the New South Wales Department of Industrial Relations. He served as the Senior Deputy President of the Industrial Relations Commission from 1986 until 1995. Finally, in 1997 he was made chair of the WorkCover authority of New South Wales, serving until 2004.

I think Joe Riordan was a man to be respected. He ran a parliamentary committee in a non-partisan manner. Despite being in the Right faction of the Labor Party, he respected, and was respected by, members of the Left, particularly on these probity issues I have spoken about. Although he lost his seat of Phillip in the great sweep of 1975, he was very highly regarded throughout that electorate. In his ministerial office he was surrounded by people he knew and trusted, and they in return admired him enormously and were immensely loyal to him. Joe Riordan's life was a life of service and commitment to the ideals of fairness, equity and social justice. I join with other senators in offering my most sincere condolences to his family and friends.

**Senator THISTLETHWAITE** (New South Wales) (16:06): It is an honour to make a contribution in this tribute to Joseph Martin Riordan, AO. Joe personified the Australian notion of a fair go. A committed Catholic, a champion of workers' rights, a thorough gentleman and a dedicated family man, it is an honour to have known him and to have had the privilege of working with him.

Joe was born in Sydney and educated in that great Patrician Brothers tradition at Waterloo. He later returned to his primary school as the member for Phillip to open one of the new facilities that the Whitlam government had funded at that school. He took great pride in having the opportunity to represent the government at the opening of those new facilities, because to Joe that action personified the great Labor value of education for all. He was a man who left
school at the age of 15 and had become the local member for the area in which he grew up, opening an educational facility for young children. To him that was what the Labor Party was all about.

He went on to high school at Marcellin College at Randwick, the same school that produced former Deputy Prime Minister Lionel Bowen. He, after school, became a clerk in the Public Service, and that is where he began his long involvement with the Federated Clerks Union. He was involved in the many battles of the late 1940s and 50s with the communists and eventually was part of a team that wrestled control of that union from the communists. He became the acting secretary in 1952, the secretary in 1954, and went on to become the union's national secretary in 1958, a position that he held for well over a decade.

In 1969 he was unsuccessful in his first tilt for federal parliament in the seat of Phillip, but in 1972 he became the member for that seat in the It's Time election. He went on to become a minister in the Whitlam government, holding the portfolio of Housing and Construction and the position of Minister assisting the Minister for Urban and Regional Development. Unfortunately he was defeated at the 1975 election. That was a great loss for the people of Sydney's east and for this nation.

But his commitment to social justice did not end with his parliamentary career. He became, as Senator Cameron said, the deputy president of the electricity commission, the head of the New South Wales department of industrial relations, and the senior deputy president of the Australian Industrial Relations Commission. During his time on the Industrial Relations Commission he was considered a diligent and hardworking member, well researched and someone who took pride in his decisions. He had four of his decisions appealed to the High Court of Australia. On each and every occasion the appeal was dismissed. That is something that Joe took great pride in. He saw arbitration as 'the industrial conscience of the Australian community'. It is no coincidence, I believe, that the Fair Work Act has that name today. The principles of fairness and equal opportunity employment were things that were instilled by the likes of Joe Riordan in his time in this parliament and in his time as the senior deputy president of the Australian Industrial Relations Commission. He went on to chair WorkCover and a number of boards and inquiries.

One job that he did take on that many would not know about—and it is something that I had the pleasure of being involved in with him—was an inquiry that he undertook in 1997 into the riding fees that are paid to jockeys in this country. In 1997, jockeys were hopelessly underpaid and overworked. Their fees for losing rides in a race had not increased for over a decade. They were paid $65 per losing ride for a race throughout the country, and less for barrier trials. In some occasions they were not paid for barrier trials. Their conditions were unsafe. In the country, many of the conditions were appalling, with no facilities at all for female jockeys. I remember stories of female jockeys having to get dressed and changed in broom cupboards at racetracks in the bush because those facilities did not exist.

This led to a strike of jockeys in 1997. Many of them joined the Australian Workers Union, and I had the fortune of representing them in the deliberations that ensued. Because jockeys were not employees, the jurisdiction of the New South Wales Industrial Relations Commission was not enshrined. Therefore, the Carr government acted quickly to establish an inquiry into the issues that had been raised by the jockeys in New South Wales and throughout the
country. The person that was appointed to conduct that inquiry was none other than Joe Riordan. He conducted a most thorough investigation. He travelled to racetracks throughout New South Wales, to Armidale, to Hawkesbury, to Bowraville, to Wagga, and to all of the city racetracks, talking to jockeys and administrators about their conditions. Some of the evidence was shocking.

In 1998 he handed down a decision that endures to this day. It saw the riding fee for jockeys increased to $85 for a losing ride and a barrier trial fee of 35 per cent of the losing ride fee instituted. Importantly, he enshrined the notion of an annual review of the fees paid to jockeys for losing rides and barrier trials. Because of Joe's foresight and that decision that he implemented, jockeys are now paid $170 per losing ride in this country, and the Riordan formula of 35 per cent for barrier trials endures to this day.

This morning I spoke to the national president of the Australian Jockeys' Association and asked him what his memories of Joe's work in that inquiry were. He asked me to convey to the Senate that every jockey in this country is eternally grateful for the role that Joe Riordan played in bringing fairness and equity to their conditions throughout this country. It was because of that inquiry and the jockeys working with the Australian Workers Union getting organised that change occurred for them in that industry. The National Jockeys Trust was established in the wake of that to provide support for terribly injured jockeys and their families, and a public liability and personal accident scheme was implemented. On every racetrack throughout this country the Riordan legacy lives on.

In 1995 he was awarded an Order of Australia for services to industrial relations, social justice and the community. What a perfect reflection of his professional and personal life. It was a privilege to know Joe Riordan, a person who I admire greatly, and I offer my condolences to his family.

Question agreed to, honourable senators standing in their places.

NOTICES
Presentation

Senator Bernardi to move:
That the time for the presentation of the report of the Standing Committee of Senators' Interests on a draft code of conduct for senators be extended to 29 November 2012.

Senator Bilyk to move:
That the following matters be referred to the Environment and Communications References Committee for inquiry and report:
(a) the commitment by the Australian Broadcasting Commission (ABC) to reflecting and representing regional diversity in Australia;
(b) the impact that the increased centralisation of television production in Sydney and Melbourne has had on the ABC's ability to reflect national identity and diversity; and
(c) any related matters.

Senator Abetz to move:
That the following bill be introduced: A Bill for an Act to amend the Fair Work (Registered Organisations) Act 2009, and for related purposes. Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012.

Senator Waters to move:
That the following bill be introduced: A Bill for an Act to amend the Environment Protection and Biodiversity Conservation Act 1999 to prevent the Commonwealth from handing responsibility for approving proposed actions that significantly impact matters protected under the Act to a State or Territory, and for related purposes. Environment Protection and Biodiversity Conservation Amendment (Retaining Federal Approval Powers) Bill 2012.
Senator Xenophon to move:

That item [1] of Schedule 1 to the National Health (Weighted average disclosed price – interim supplementary disclosure cycle) Amendment Determination 2012 (No. 2) [PB98 of 2012], made under subsection 99ADB(4) of the National Health Act 1953, be disallowed.

Fifteen sitting days remain, including today, to resolve the motion or the instrument will be deemed to have been disallowed.

Senators Rhiannon and Ludlam to move:

That the Senate—

(a) notes:

(i) the rare earths miner Lynas Corporation Ltd has established a processing plant at Gebeng in Malaysia to process material from Lynas' Mount Weld mine in Western Australia,

(ii) rare earths, including radioactive thorium residues, will be transported from Mount Weld to Fremantle, where it will be shipped to Malaysia,

(iii) a rare earths refinery operated by the Mitsubishi group in Perak in northern Malaysia was closed after news broke of cases of birth defects and leukaemia in some local residents,

(iv) Lynas plans to dispose of the waste radioactive material near fishing communities in the Malaysian state of Kuantan,

(v) in early January 2012 the Malaysian press reported severe restrictions on the public's ability to access information about the proposed Lynas plant, and

(vi) residents who live near the proposed Lynas processing plants and non-government organisations in 2011 marched on Malaysia's Parliament and held a demonstration at the Australian High Commission calling for the processing plant not to be sited in Malaysia;

(b) expresses grave concerns over the Malaysian Government's approval for a new rare earth refinery in Pahang, and the process by which it has been established; and

(c) calls on Lynas to process the thorium ore on site at the Mount Weld mine to minimise the risk of damage arising from radioactive waste.

Senator Hogg to move:

That the following bill be introduced: A Bill for an Act to amend the Parliamentary Service Act 1999, and for related purposes. Parliamentary Service Amendment Bill 2012.

Senator Collins to move:

That—

(1) On Tuesday, 27 November, Wednesday, 28 November, and Thursday, 29 November 2012, any proposal pursuant to standing order 75 shall not be proceeded with.

(2) On Tuesday, 27 November 2012:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from not later than 7.30 pm to 8.15 pm shall be consideration of general business order of the day no. 83 (Low Aromatic Fuel Bill 2012);

(c) the bill listed in paragraph (b) be considered under a limitation of time, and that the time allotted be as follows:

from 7.30 pm to 7.45 pm—second reading
from 7.45 pm to 8.15 pm—all remaining stages,

and this paragraph shall operate as a limitation of debate under standing order 142;

(d) the routine of business from not later than 4 pm to 6.30 pm and 8.30 pm to 10 pm shall be government business only; and (e) the question for the adjournment of the Senate shall be proposed at 10 pm.

(3) On Wednesday, 28 November 2012, the consideration of government documents shall not be proceeded with.

(4) On Thursday, 29 November 2012:

(a) the hours of meeting shall be 9.30 am to 7.10 pm;

(b) divisions may take place after 4.30 pm;

(c) 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;

(d) 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; and
(e) the question for the adjournment of the Senate shall be proposed at 6.30 pm.

Senator Hanson-Young to move:
That the following bill be introduced: A Bill for an Act to amend the Water Act 2007, and for related purposes. Water Amendment (Save the Murray-Darling Basin) Bill 2012.

Senator Feeney to move:
That the Senate adopts the recommendation in the 54th report of the Standing Committee on Appropriations and Staffing to amend standing order 19.

Senator Feeney to 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.

Senator Hanson-Young to move:

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:15): I give notice that, on the next day of sitting, I shall move:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Fair Work Amendment Bill 2012
National Gambling Reform (Related Matters) Bill (No. 1) 2012
National Gambling Reform Bill 2012
Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012
Treasury Legislation Amendment (Unclaimed Money and Other Measures) Bill 2012
Wheat Export Marketing Amendment Bill 2012.
I also table statements of reasons justifying the need for these bills to be considered during these sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The document read as follows—
STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS
NATIONAL GAMBLING REFORM BILL
NATIONAL GAMBLING REFORM (RELATED MATTERS) BILL (No. 1)
NATIONAL GAMBLING REFORM (RELATED MATTERS) BILL (No. 2)

Purpose of the Bills
The bills deliver on the Government's commitments to reduce the harm caused by gaming machines to problem gamblers, the families and communities of problem gamblers, and those at risk of experiencing that harm, as announced on 21 January 2012.

The bills provide for the phased implementation of harm minimisation measures, including:
- new machines manufactured or imported to be capable of supporting pre commitment;
- all gaming machines to be part of a state-wide pre-commitment system and display electronic warnings;
- a $250 a day automatic teller machine withdrawal limit for gaming venues (other than casinos and exempted venues).
Reasons for Urgency

Passage as early as possible is essential to provide certainty to industry and the broader community in the lead-up to the measures applying under the Act, and to allow time for any necessary preparations to be undertaken.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS
SUPERANNUATION LEGISLATION AMENDMENT (FURTHER MYSUPER AND TRANSPARENCY MEASURES) BILL
Purpose of the Bill
The bill is the third tranche legislation implementing further elements of the Government’s Stronger Super reforms, specifically the remaining MySuper rules and associated trustee governance measures.

Reasons for Urgency
Introduction and passage of the bill in the 2012 Spring sittings is essential to meet the Government’s commitment for MySuper products to be available by 1 July 2013.

Early passage will provide APRA with appropriate lead time for the MySuper authorisation process which commences from 1 January 2013. In addition, passage of the legislation in Spring will provide industry with greater certainty on additional design features of MySuper. This would allow industry to develop MySuper compliant products and to apply for authorisation from APRA. If the bill is not dealt with in one sitting period, there will be insufficient time for legislation to be passed prior to the commencement of the APRA’s authorisation process commencing 1 January 2013.

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS
TREASURY LEGISLATION AMENDMENT (UNCLAIMED MONEY AND OTHER MEASURES) BILL
Purpose of the Bill
Amend the Banking Act, Life Insurance Act, First Home Saver Accounts Act, Superannuation (Unclaimed Money and Lost Members) Act, Corporations Act, and Australian Securities and Investments Commission Act, to ensure that the Unclaimed Moneys measure in the Mid-year Economic and Fiscal Outlook 2012/13 will raise the budgeted revenue for year 2012/13.

Reasons for Urgency

- ADIs and life insurers are required by the current acts to assess unclaimed amounts as at 31 December and submit those amounts to the Commonwealth by 31 March of the following year. Typically, ADIs and life insurers start making payments in January so that if legislation is not in place before 31 December 2012, they will make their payments on the basis of the current seven year time periods. If the legislation is not in place before 31 December 2012, $300 million of revenue that has been budgeted for collection in 2012-13 would be delayed until the 2013-14 financial year.

- The current provisions in the First Home Saver Accounts Act 2008 need to be amended by 31 December 2012 to be in line with the changes in the Banking Act 1959.

- For unclaimed superannuation moneys, legislation by 31 December 2012 will ensure that funds can make the relevant system changes in time and reduce the risk that the unclaimed money is transferred to the ATO in 2013-14 rather than the expected 2012-13.

- Although the changes to the treatment of unclaimed company money under the Corporations Act 2001 do not need to be in place until 30 June 2013, there are presentational advantages from progressing at the same time as the bank account and life insurance measures. As ASIC administers the unclaimed moneys regimes for the Banking Act, Life Insurance Act and Corporations Act through its MoneySmart program, it is important that these amendments proceed together to ensure the smooth transition to the new unclaimed moneys arrangements and for payment of interest on reclaimed moneys.
STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

Wheat Export Marketing Amendment Bill 2012

Purpose of the Bill

The Bill will implement the Australian Government's response to the recommendations of the Productivity Commission review of wheat export marketing arrangements.

The Bill will complete the deregulation of the bulk wheat export market which began with the commencement of the Wheat Export Marketing Act 2008 (the Act), making it consistent with other agricultural commodity markets. The Wheat Export Accreditation Scheme and the Wheat Export Charge will be abolished on 10 December 2012 and Wheat Exports Australia on 31 December 2012. The requirement for grain port terminal operators to satisfy the access test will be retained as condition for exporting bulk wheat until 30 September 2014. The Bill will abolish the access test on that date, subject to the industry having a mandatory code of conduct covering access to grain export terminals in place.

Reasons for Urgency

Following passage of the Bill, consequential amendments will need to be made to related legislation via regulations. Introduction and passage of the Bill in the Spring 2012 sittings will allow time for these regulations to be made before the new arrangements come into force on 10 December 2012, as agreed by the Australian Government. This will not be possible if consideration is delayed until the 2013 Autumn sittings.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:15): I give notice that, on the next day of sitting, I shall move:

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

Customs Amendment (Malaysia-Australia Free Trade Agreement Implementation and Other Measures) Bill 2012

Customs Tariff Amendment (Malaysia-Australia Free Trade Agreement Implementation) Bill 2012.

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

Leave granted.

The document read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

CUSTOMS AMENDMENT (MALAYSIA AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION AND OTHER MEASURES) BILL

Purpose of the Bills

The bills implement Australia's tariff commitments and obligations under the Rules of Origin Chapter in the Malaysia-Australia Free Trade Agreement (MAFTA). The bills amend the Customs Act 1901 to define MAFTA originating goods and the Customs Tariff Act 1995 to provide preferential tariffs for MAFTA originating goods in accordance with MAFTA.

Reasons for Urgency

The MAFTA Treaty has been finalised and was tabled in Parliament on 14 August 2012 for the Joint Standing Committee on Treaties (JSCOT) to consider. Introduction of the bills can only occur after JSCOT has tabled its report on the Treaty.

The Governments of Australia and Malaysia have agreed to aim for the Treaty to enter into force on 1 January 2013.

The amendments in these bills are required before the Treaty can commence and hence the need to be passed before 29 November 2012.
Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:16): I give notice that, on the next day of sitting, I shall move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Law Enforcement Integrity Legislation Amendment Bill 2012, allowing it to be considered during this period of sittings.

I also table a statement of reasons justifying the need for this bill to be considered during these sittings and seek leave to have the statement incorporated in Hansard.

Leave granted.

The document read as follows—

STATEMENT OF REASONS FOR INTRODUCTION AND PASSAGE IN THE 2012 SPRING SITTINGS

LAW ENFORCEMENT INTEGRITY LEGISLATION AMENDMENT BILL

Purpose of the Bill

The bill introduces a range of measures to increase the resistance of Commonwealth law enforcement agencies to corruption and to enhance the range of tools available to law enforcement agencies to respond to corruption.

The bill introduces integrity testing for staff members of the Australian Federal Police (AFP), Australian Crime Commission (ACC) and the Australian Customs and Border Protection Service (Customs) suspected of corrupt conduct. Integrity tests are operations designed to test whether a public official will respond to a simulated or controlled situation in a manner that is illegal or would contravene an agency’s standard of integrity. The introduction of integrity testing has been recommended by the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity.

The bill also increases the jurisdiction of the Australian Commission for Law Enforcement Integrity to include all staff in the Australian Transaction Reports and Analysis Centre and the CrimTrac Agency, and prescribed staff in the Department of Agriculture, Fisheries and Forestry.

The bill also enhances the powers of the CEO of Customs to deal with suspected corrupt conduct and brings those powers in line with powers currently available to the AFP Commissioner and the ACC CEO.

Reasons for Urgency

This bill contains a number of measures aimed at addressing recently identified opportunities to strengthen the resistance to corruption of a number of key Commonwealth law enforcement agencies. Introduction and passage of this bill in the 2012 Spring sittings of Parliament will allow these important anti-corruption measures to be implemented as soon as possible. The agencies affected by this bill all play a key role in border security. Delay in passage of the bill may provide opportunities for vulnerabilities in these agencies to be exploited by organised crime.

BUSINESS

Leave of Absence

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (16:17): by leave—I move:

That leave of absence be granted to Senator Johnston on 26 November 2012 for opposition business.

Question agreed to.

Senator McEWEN (South Australia—Government Whip in the Senate) (16:17): by leave—I move:

That leave of absence be granted to Senator Pratt on 27 November 2012 for government business.

Question agreed to.

COMMITTEES

Economics References Committee

Finance and Public Administration References Committee

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (16:17): by
leave—on behalf of the Chair of the Economics References Committee, Senator Bushby, and the Chair of the Finance and Public Administration References Committee, Senator Ryan, I move:

That the Economics References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 27 November 2012 from 3.30 pm, and the Finance and Public Administration References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 27 November 2012 from 1.45 pm.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:


COMMITTEES
Legal and Constitutional Affairs References Committee

Reference

Senator WRIGHT (South Australia) (16:19): I move:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 16 May 2013:

The value of a justice reinvestment approach to criminal justice in Australia, with particular reference to:

(a) the drivers behind the past 30 years of growth in the Australian imprisonment rate;
(b) the economic and social costs of imprisonment;
(c) the over representation of disadvantaged groups within Australian prisons, including Aboriginal and Torres Strait Islander peoples and people experiencing mental ill health, cognitive disability and hearing loss;
(d) the cost, availability and effectiveness of alternatives to imprisonment, including prevention, early intervention, diversionary and rehabilitation measures;
(e) the methodology and objectives of justice reinvestment;
(f) the benefits of, and challenges to, implementing a justice reinvestment approach in Australia;
(g) the collection, availability and sharing of data necessary to implement a justice reinvestment approach;
(h) the implementation and effectiveness of justice reinvestment in other countries, including the United States of America;
(i) the scope for federal government action which would encourage the adoption of justice reinvestment policies by state and territory governments; and
(j) any other related matters.

Question agreed to.


The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator HUMPHRIES: The opposition did not oppose that motion, but wishes to indicate to the chamber that it has serious misgivings about the extent to which this matter might be effectively prosecuted by the Legal and Constitutional Affairs References Committee. The question of justice reinvestment is a worthwhile concept, but the idea of diverting spending from prisons into measures to prevent and reduce the rate of incarceration is an issue which touches particularly on the operation of state institutions, state prisons, and the coalition is
concerned that an inquiry, effectively, by a federal committee into the operation of a state prison system is not the most effective use of the committee's time. The opposition wishes to put those reservations on notice before this matter is dealt with.

MOTIONS

UK Government Pensions

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:20): I move:

That the Senate—
(a) acknowledges that:
(i) the United Kingdom (UK) Government has an inconsistent policy of freezing pension-indexation for expatriate UK citizens, with the payments frozen for UK citizens living in countries including Australia and Canada, but being appropriately indexed for UK citizens living in other jurisdictions, including the European Union and the United States of America,
(ii) the pension-freeze policy currently affects approximately 250 000 expatriate UK citizens living in Australia,
(iii) approximately 190 000 expatriate UK citizens in Australia access the Australian pensions system to supplement their UK pensions, and
(iv) the annual cost of this pension freeze to Australia is estimated at $110 million per year;
and
(b) calls on the Australian Government to continue all reasonable diplomatic efforts to persuade the UK Government to appropriately index pensions for all expatriate UK citizens.

Question agreed to.

BILLS

Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2012

First Reading

Senator DI NATALE: I move:

That the following bill be introduced: A Bill for an Act to amend certain territory legislation to restore legislative powers concerning euthanasia and to repeal the Euthanasia Laws Act 1997, and for related purposes. Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2012.

Question agreed to.

Senator DI NATALE: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator DI NATALE (Victoria) (16:22):

I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

RESTORING TERRITORY RIGHTS (VOLUNTARY EUTHANASIA LEGISLATION) BILL 2012

This is a bill for an Act to restore the rights of the Northern Territory, Australian Capital Territory and Norfolk Island legislative assemblies to make laws for the peace, order and good government of their territories, including their right to legislate for voluntary euthanasia.

The bill repeals the Euthanasia Laws Act 1997, through which the national parliament overturned this right, and specifically, the Northern Territory's Rights of the Terminally Ill Act 1995.

In 1995, the Parliament of the Northern Territory passed a law which reflected not only the will of Northern Territorians, but also the strongly held views of the majority of all Australians. Every opinion poll conducted over the last two decades has shown that approximately three-quarters of Australians support the concept of voluntary euthanasia. A poll conducted by The Australia Institute in November 2012 found that 71 per cent of Australians support the legalisation of voluntary euthanasia for people experiencing unbelievable
and incurable physical and/or mental suffering and that only 12 percent opposed. The survey also found that of those Australians who support the legalisation of voluntary euthanasia, 85 per cent also believe that terminally ill patients should have the option of choosing when they die.

Previous research has found that twenty two percent of respondents nationally have had a personal experience of a close relative or friend being hopelessly ill and wanting voluntary euthanasia. It has been consistently reported that each year hundreds of terminally ill people are assisted to an early and dignified death by compassionate medical professionals. This is an issue of great importance to many Australians and therefore all Australians should have, at the very least, the right to elect representatives to debate and make laws on this subject.

In 1995, the Northern Territory Assembly led the way in Australia by giving its citizens the option to end their suffering with dignity and medical support. In 1997, Canberra removed that right. This bill will redress that action and restore the legislative rights of the governments of the Northern Territory, the ACT and Norfolk Island to make decisions that both affect their citizens and reflect their views and concerns. In so doing, it reflects the heartfelt views of the majority of Australians on this important issue.

In 2011, the Parliament passed the Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Act 2011, introduced by the Australian Greens, which removed the power of the Federal executive to overturn legislation enacted by the legislative assemblies of the Territories. This bill further enhances the rights of Australian citizens in the ACT, Northern Territory and Norfolk Island to make legislation on those matters of importance to them without undue interference from the Federal government.

In particular, it should be noted that this bill does not restore the Northern Territory Rights of the Terminally Ill Act 1995. It does, however, restore the rights of the Northern Territory legislature to make laws about voluntary euthanasia in the future.

I commend the bill to the Senate.

Senator DI NATALE: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MOTIONS

Ukraine Famine

Senator McEWEN: On behalf of Senator Bilyk, I move:

That the Senate—
(a) urges the Australian people to remember those who perished and suffered as a result of the Ukrainian Famine 1932 33 (Holodomor), as a reminder that we should always respect the freedoms bestowed upon us; and
(b) joins with the Ukrainian World Congress and the Australian Federation of Ukrainian Organisations in calling on Australians to acknowledge the International Day of Remembrance on the last Saturday of November, gazetted by the Ukrainian Government in respect of those who suffered and perished in the great famine of 1932 33.

Question agreed to.

COMMITTEES

Community Affairs Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:23): I move:

That the Community Affairs Legislation Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, as follows:

(a) on Monday, 26 November 2012, from 4.15 pm; and
(b) on Thursday, 29 November 2012, from 4.30 pm.

Question agreed to.

MOTIONS

Asylum Seekers

Senator HANSON-YOUNG (South Australia) (16:24): I move:
That the Senate—
(a) notes:
(i) that it is not illegal to arrive in Australia to seek asylum, and
(ii) previous attempts by the Australian Greens to have the use of the term 'illegal' in reference to asylum seekers ruled as out of order in Senate debate; and
(b) calls on parliamentarians to refrain from using the misleading and inaccurate term 'illegal' when referring to asylum seekers.

The Senate divided. [16:29]

(The President—Senator Hogg)

Ayes.......................35
Noes.......................28
Majority...............7

AYES
Bilyk, CL
Cameron, DN
Carr, RJ
Conroy, SM
Di Natale, R
Faulkner, J
Gallacher, AM
Hogg, JJ
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

NOES
Scullion, NG
Smith, D

NOES
Scullion, NG
Smith, D

NOES
Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Kroger, H (teller)
Mason, B
Nash, F
Payne, MA
Ruston, A

NOES
Bernardi, C
Boswell, RLD
Bushby, DC
Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Macdonald, ID
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM

Question agreed to.

Senator CASH (Western Australia) (16:31): by leave—The coalition did not support the Greens motion, which is an attempt to threaten and restrict freedom of speech in this Senate, and additionally is an attempt to censor a senator's right to describe a circumstance at issue in the terms that that senator believes appropriate. By agreeing to the motion the Senate sets a precedent by signalling that when a senator objects to the use of a specific word all that senator has to do is have a motion carried in the Senate prohibiting that word.

In any event, the assertion in the motion is factually incorrect. When referring to asylum seekers it is correct to refer to them as having arrived illegally. This is sanctioned by the United Nations. Article 31 of the refugee convention makes specific reference to a person's illegal entry into a receiving state, as does article 3 of the UN Convention against Transnational Organized Crime. Whilst it is not illegal to make a claim for asylum, if a person crosses borders without complying with the necessary requirements of legal entry into the receiving state that, as defined by the United Nations, is an illegal entry, hence the term 'illegal boat arrival'.

Senator HANSON-YOUNG (South Australia) (16:32): by leave—I will not take too much time. I just point out that the opposition should reread the refugee
convention, because they are twisting this for all it is worth. The convention does not sanction the opposition's position on refugees or asylum seekers. Indeed, it does not condone the use of the legal terminology of 'illegal' when referring to asylum seekers. It would come as no surprise to the Australian people that the coalition have no concept of what is in the refugee convention.

MATTERS OF PUBLIC IMPORTANCE

Registered Organisations

The ACTING DEPUTY PRESIDENT (Senator Bernardi): A letter has been received from Senator Fifield:

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

The need for registered organisations to be subject to equivalent standards of governance and financial accountability as companies under corporations law.

Is the proposal supported?

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

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:33): If ever there was any remaining doubt within the community about the need for registered organisations to be subject to equivalent standards of governance and financial accountability as companies under corporations law it was completely and utterly dispelled by the excruciatingly inept performance by the Prime Minister over her personal involvement in the Australian Workers Union slush fund scandal. Her press conference today highlighted that, in the event that there was any remaining doubt within the community.

We were told that the Australian Workers Union slush fund was a one-off—only one rotten apple in the barrel. But that is what we are told about Craig Thomson and the Health Services Union. That is what we were told about Michael Williamson and the Health Services Union. That is what we were told about the Electrical Trades Union harbour-side mansion bought for a trade union official. That is what we are now being told about the CFMEU fund, which was ostensibly to assist workers with drug and alcohol issues, having funds taken from it for trade union bosses to use as their own plaything.

So this argument that there is just a one-off is no longer sustainable. The problem is, in fact, regrettably endemic. And the assertion, on the revelation of each scandal, that it is just a one-off—just a single bad apple in the barrel—has been blown out of the water by no other authority than the Prime Minister herself, when she, in her own words, in her exiting interview—to put it politely—with Slater and Gordon, acknowledged that 'every single union has a slush fund'. Those are not my words and they are not the words of the coalition; they form an acknowledgement by the highest person in this current government—namely, the Prime Minister herself.

So, let's not have any of this nonsense anymore, that slush funds either do not exist or that the slush funds are a one-off. Ms Gillard herself has now acknowledged—it is public; it is on the record—that every union has a slush fund. Can I say that I actually do not believe that every union has a slush fund, but there are so many of them that have been identified that it requires tough legislation. The reason is that hard-working genuine trade union members are entitled to have their fees protected from the likes of Michael Williamson, Craig Thomson and Bruce Wilson—I do not know what it is about names ending in 'son' but there does seem to be a trend there—and the harbour-side
mansion of the Electrical Trades Union, just to mention four.

It is because of our concern for the genuine members of the trade union movement that the coalition has put forward a private member's bill to protect union members. Labor's approach to this bill will be a test of their moral fibre. The slush funds are endemic, and not according to me but according to the Prime Minister herself. So what Labor need to do is ask themselves a number of questions. What they have to do is ask themselves whether or not they can assure trade union members around Australia that slush funds like the Australian Workers' Union Workplace Reform Association, that the Prime Minister herself helped to set up for Mr Bruce Wilson in the 1990s, no longer exist. Do these slush funds still exist? Well, we know it happened in the HSU, in the ETU and in the CFMEU, and of course they are only the ones we actually know about.

If those opposite cannot give a guarantee, as they surely cannot, to the hardworking and long-suffering members of the trade union movement that these slush funds no longer exist, what is their argument against heavy penalties to stop those slush funds? Those opposite need to come clean as to their own knowledge of and involvement in any such slush funds. Regrettably, the slush funds have, it would appear, been part and parcel of the culture within the union movement and the ALP for a long, long time.

Those opposite need to explain and provide a logical reason why companies would voluntarily give tens of thousands of dollars to unauthorised trade union slush funds like the Australian Workers' Union Workplace Reform Association set up by the Prime Minister. Why would companies give money to such slush funds? Would it be, perchance, as a result of the implicit or actual threat of industrial unrest if they do not—in other words, as a result of extortion? This is part of the culture that this behaviour breeds. It is dishonest; it is ugly; it is unacceptable. Hence, the coalition has moved its legislation—because we treat these issues seriously. Those opposite seek to make light of the issue because, as ex trade union bosses, chances are they may well have been involved in such slush funds themselves.

The coalition proposition is straightforward. There is no moral or material difference between a company director misusing, misappropriating, shareholders' funds for his or her own personal benefit and a trade union boss using members' membership fees for his or her own personal benefit. Nobody has made out the argument as to why there should be a difference in the penalty regimes. If a company director had behaved in the manner that Fair Work Australia found Mr Craig Thomson to have behaved in, that company director would be subject to severe penalties, including the possibility of a five-year jail term. The Labor Party, to this point at least, have said, 'Oh, no; company directors should somehow get a different tariff for that sort of dishonest behaviour because trade union bosses are deserving of a lesser penalty.' The intellectual or moral argument has never been made out as to why that different standard ought to apply.

You can always rely on the Greens, however, to try to provide some argument. You have to give it to the workplace relations spokesman of the Australian Greens, Mr Adam Bandt. Today he came out with this gem: 'Until every small business makes full disclosure of all its financials, why should there be these heftier penalties for trade union bosses?' The answer is very simple: the vast majority of small businesses deal with their own personal money; they do not deal with public money collected by
membership fees or by people buying shares in their small business. That is a substantial and material difference that, if I might say, somebody with Mr Bandt's intellect would know. It was a try-on. It was another attempted snow job by the Australian Greens.

I say to the Australian Greens and to the Australian Labor Party that this huge flow of information that has now come to public light of union slush funds has done the trade union movement untold damage. To those who suggest that a penalty of $6,600 might be a disincentive to the likes of Michael Williamson, who is reported to have siphoned off millions of dollars—those suggest that a $6,600 fine might act as a disincentive to buying a $1 million-plus executive mansion on the waterfront of Sydney—good luck. If you think a $6,600 fine might act as a disincentive for Mr Craig Thomson, with all his shenanigans, good luck. You do not live in the real world.

The question then is why—(Time expired)

**Senator STEPHENS** (New South Wales) (16:43): We are all very well aware of this smear campaign being waged by the coalition against the Prime Minister. She has, again, today emphatically and categorically denied any wrongdoing. But that is not enough for Senator Abetz or his colleagues, who, in a relentless pursuit of the Prime Minister are happy enough to ignore the facts or to selectively quote and report out of context. Media coverage is their primary information source.

First of all, Senator Abetz, you asked the question, and I can tell you categorically that I have no knowledge of funds being used inappropriately in the Labor Party and I have had no involvement in any funds in the Labor Party—

**Senator Abetz:** But you are not an ex-trade union boss.

**Senator STEPHENS:** No, I am not an ex-trade union official, but I have been a member of the executive of the New South Wales Labor Party for several years and I can deny categorically having any knowledge of slush funds of the kind you suggest.

Senator Abetz has been talking today about registered organisations in this matter of public importance. He, most emphatically, means trade unions and employer organisations, as referred to in the Fair Work (Registered Organisations) Act 2009. This legislation, introduced by the Labor government, requires organisations and, again, both employer and employee organisations, to keep and provide access to specified records. These records are outlined in detail in the regulations associated with the Fair Work (Registered Organisations) Act. They are created and registered for the purposes of representing Australian employers and employees at work. They already have particular statutory obligations in relation to their operation, conduct and disclosure. These organisations are required to provide audited financial statements to members, to be presented at a meeting and lodged with Fair Work Australia within a specified time frame.

These requirements and time frames are consistent with the general requirements of the Corporations Act and were specifically designed to be so, to honour commitments to Australia's business sector on reducing the regulatory burden for businesses, known as the Better Business Regulation initiative, as part of the Council of Australian Governments' Seamless National Economy program of reforms.

Many industry and employer bodies have been active participants in this reform
While this debate has been introduced in an attempt to smear and undermine the trade union movement, using the continuing allegations about so-called slush funds, we actually need to be careful about the pot calling the kettle black here.

Those of us who were here in 2004 will well remember the Australians for Honest Politics Trust—a euphemistic title if ever there was one, established by the now Leader of the Opposition, Mr Tony Abbott; Peter Costello's father-in-law, Mr Coleman; and John Wheeldon to stop the Pauline Hanson political juggernaut. The single object of this trust was:

… to support actions to challenge the activities of a political party or association within Australia which is alleged to conduct its affairs in breach of the laws of Australia.

Mr Abbott acknowledged in the Sydney Morning Herald that he had raised almost $100,000 in an attempt to fund actions against One Nation.

In 2006, in a publication of the ANU entitled Political finance in Australia: a skewed and secret system, which followed the inquiry of the Senate Finance and Public Administration References Committee in 2004, the authors wrote:

Money plays a controversial role in Australian politics. Political donations often spark claims of secret contributions leading to corruption. These claims are occasionally accompanied by allegations that corporations or trade unions have undue influence over political parties through the funds they provide.

Many allegations are never found to be true. It is guilt by innuendo, because of course mud sticks. Unfortunately, some allegations are found to be true. We have certainly seen that played out in the activities of the crime and corruption bodies around the country. It certainly gives me no pleasure to read the daily reports of evidence to the Independent Commission Against Corruption in my own state. But I am very glad that this body exists, because representatives who are members of parliament and ministers of state not only are chosen by the people but exercise their legislative and executive powers as representatives of the people. And, in the exercise of these powers, the representatives are accountable to the people for what they do and have a responsibility to take account of the views of the people on whose behalf they act.

As many of you will know, I am not an adversarial lawyer, but I have an expectation that those of us elected to represent the people of Australia need to honour that pledge, which of course is why I support standards of regulation, good governance and transparency, especially in organisations that rely on public trust and confidence for donations.

This of course includes political parties. There have been many debates in this chamber about the need for improved disclosure of political donations, concern about the toxicity that is the sale of political access, the role of lobbyists and the lack of transparency around political donations.

Let me remind colleagues that it was the coalition and former Senator Steve Fielding who blocked reforms proposed by Senator John Faulkner during the Rudd government that would have reduced the reporting threshold to $1,000, rather than the current $11,500 threshold created by the Howard government, and that have significantly accelerated the reporting cycle for donations.
This debate today is about registered organisations. There are sound principles that underpin good regulation: consistency, proportionality, efficiency, effectiveness, timeliness, transparency and accountability. These are sound principles, which I am sure the opposition support—principles that have been agreed by the ACTU, the Business Council of Australia and the Australian Industry Group.

This year the government introduced amendments to the Fair Work (Registered Organisations) Act, to improve financial transparency and disclosure for registered organisations as well as accountability and compliance. These amendments improve how investigations into breaches of registered organisation provisions are conducted by the general manager of Fair Work Australia. And, as Senator Abetz so rightly said, they increase the civil penalties threefold for contraventions of the act. That is, the penalties of $11,000 for an organisation and $2,200 for an individual—which Mr Abbott thought were appropriate—have now been tripled to a maximum of $33,000 for an organisation and $6,600 for an individual. Of course, that does not mean that that is the only penalty that is open to people who are found to have breached those regulations. It is disheartening to think that this would be all that Senator Abetz imagines would be happening. These registered organisations are actually quite different to corporations. First of all, they are voluntary and autonomous. Their role is different, despite what Senator Abetz would have to say. Corporations are designed to generate wealth and protect the financial interests of shareholders. Registered organisations have special obligations and rights under the Fair Work Act, including collective bargaining. Regardless of what Senator Abetz might like to argue, officials and officers of organisations are not the same as company directors—many hold their positions voluntarily.

When I saw this matter was coming up for debate today, it reminded me that Mr Gary Johns, in a paper to the HR Nicholls Society, described trade unions quite interestingly when he said:

Trade unions—along with friendly societies and mutual cooperatives—are among our earliest manifestations of activist civil society; they are original NGOs.

He went on to say 'trade unions are not of a piece, their behaviour and rhetoric varies enormously'—and that is exactly the point.

We are hearing in the media about the rogues, whose actions demean the work of good union activists in good faith bargaining, in strengthening workplaces, in supporting industry reform and restructuring and in working to maintain our economic advantage in the world. That is the shame, that these are all discounted by the actions of a few. So let us call this debate for exactly what it is. It is a demeaning debate that is aimed squarely at diminishing the public confidence in the Prime Minister of Australia. It is here today because the government does not have to continue to answer claims and misapprehensions of the opposition. The fact of the matter is that it is time now that the opposition put up or shut up.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (16:54): I listened to the contribution of Senator Ursula Stephens in this matter of public importance debate. I always think Senator Stephens’s contributions are well worth listening to because Senator Stephens is one of the Labor Party’s most talented senators. Why she languishes on the back bench when frontbench Labor senators of much more modest competence and ability occupy
positions in the executive government under Julia Gillard remains one of the mysteries of the age. Nevertheless, notwithstanding the honeyed words I heard from Senator Ursula Stephens about the imposition of stricter governance standards on registered organisations in this period of Labor government, the reverse is true.

The history of this Labor government has been the history of a government bound hand and foot to the trade union movement, absorbed entirely and sunk in the culture of the trade union movement and, because of the political debts the members of its parliamentary wing have to the trade union preselectors, unable to deal effectively with the problem of corruption in the trade union movement. We have seen time beyond number in this and the previous parliament, but particularly in this parliament, debate about and exposure of the endemic culture of corruption in areas of the trade union movement. In the Health Services Union, there is the involvement of the member for Dobell, Mr Craig Thomson, and Mr Michael Williamson, who at the time he was engaged in corrupt activities of the Health Services Union was in fact the federal president of the Australian Labor Party, so deep do the roots go, so closely does the corruption of the trade union movement spill over into the affairs of the Australian Labor Party. More recently, as we have seen this week and we will see no doubt throughout the week, there is the exposure of yet further revelations about the role of the Prime Minister, Ms Gillard, in corrupt activities within the Australian Workers Union in the 1990s.

So Senator Stephens, for all your reasonableness, for all your honeyed words, you will not be able to conceal from the Australian public the fact that the Australian Labor Party is tainted by the culture which taints the trade union movement. Not every member of it, of course; certainly not Senator Ursula Stephens, certainly not most of my Labor Senate colleagues. But the fact is too much of the trade union movement in Australia is corrupt, there are too many corrupt officials and too often that corruption spills over to taint the parliamentary wing of the Australian Labor Party.

I think most Australians would regard it as fair enough that the senior officials and office bearers of the trade union movement should be subject to the same obligations as company directors and senior officers of companies. I think most people would regard it as reasonable that the senior officials of the trade union movement, if they are in breach of those obligations, should be subject to the same penalties and liabilities as officers of companies if they breach kindred obligations. Senator Stephens asserts there is no comparison between trade union officials and company directors, but I do not think that is a rationally maintainable position, nor do I think that the Australian people would accept it.

Trade unions like public companies have vast funds of members or shareholders' funds under governance. Both of them are subject to fiduciary duties in the discharge of their obligations and the handling of their members' money. Both of them have duties not only to their members but to the broader public who are affected by the decisions they will make. As anybody would know who was a student of John Kenneth Galbraith, an economist who is a great darling of the Left, he made the point in his book *The New Industrial State* that, at the commanding heights of capitalism, the trade union movement and the corporate sector are, in effect, a mirror image of one another. And so it is: they are both the loci of vast economic power: the power of capital and the power of labour.
So why should those who govern those powerful industrial institutions—trade unions and companies—not have the same obligations? Why shouldn't they suffer the same consequences if those obligations are breached? Tomorrow Senator Abetz will introduce into this chamber a bill in furtherance of the coalition's policy which will uphold that principle, and we know that that bill will be opposed tooth and nail by members of the Australian Labor Party.

If you wanted the clearest proof that trade union officials are held to a lower standard of compliance and to a lower standard of conduct than company directors and officers, you only have to compare the provisions of the Fair Work (Registered Organisations) Act with the equivalent provisions of the Corporations Act. As I said before, both of those statutes impose obligations on respectively the officials who conduct the affairs of trade unions and the directors and officers who conduct the affairs of companies, and yet in the event of the breach of those obligations by a director or an officer of a company, for example, a breach of the prohibition against reckless or intentionally dishonest behaviour, the Corporations Act provides for a maximum penalty of five years in prison or a fine of up to $220,000, or both. Those are the provisions of section 184 of the Corporations Act. But a breach of the equivalent provision of the Registered Organisations Act carries no jail term at all and a much more modest fine. Why should a person who engages in the same misconduct as the director or officer of a company be subject to a different penalty and a higher penalty than a person who engages in that selfsame conduct as an official or a member of the management of a trade union? Yet, so it is. That is the law the Australian Labor Party seeks to defend.

One of the basic rules of the criminal law is that like conduct should be treated alike when it comes to penalties and sentences. But in the industrial arena there is not a symmetry between trade unions and companies. There is a total asymmetry. If you are a trade union official and you do the selfsame thing, engage in the selfsame default as a company director or a company officer engages in, the sanction against you is significantly lighter. That is wrong. It defies common sense, and the coalition under Tony Abbott is determined in government to reverse that to ensure that the cancer of corruption within the trade union movement is tackled, to ensure that trade union officials are accountable to their members and to ensure that there is a symmetry that the public would expect to see between the obligations of union officials and the obligations of company directors and officers.

Senator Gallacher (South Australia) (17:04): Bereft of the depth of legal knowledge of Senator Brandis, I can probably only surmise that the difference in penalties has probably risen from the actual performance of the two respective organisations which he talks about. The facts are, I suppose, that registered organisations looking after industrial interests have probably got a 100-year history and have probably got good probity and prudent fiscal behaviour. Whereas, it is clear that those who have made the laws in Australia over the last 100 years have sought out people who run companies as perhaps being a high risk, and therein lies the answer, if you like, of the $220,000 and the five years of jail. I think that Senator Stephens hit the nail on the head: this is a never-ending smear campaign particularly against the Prime Minister. But I suppose it is a double-edged smear campaign because Senator Brandis and Senator Eric Abetz can smear the whole trade union movement at will.
I take that fairly personally. I have been a trade union member for over 35 years, have spent some 20-odd years as an official of a trade union, have lodged about 15 financial reports and have looked after the financial and industrial interests of a number of people throughout South Australia and the Northern Territory. I came into the union through an election as a committee of management person.

The committee of management is the guts of the organisation. That is where the rank-and-file people meet monthly or bimonthly or according to the schedule agreed in the union rules, and they actually scrutinise the business of the union. They scrutinise the industrial outcomes, the industrial pursuits and campaigns and, very importantly, they scrutinise the financial reports. Throughout the 16 years that I was a secretary-treasurer, at every committee of management meeting, tabled at that meeting would be a general ledger, a profit and loss and a balance sheet. The meetings would go for at least two hours. All committee of management and all rank-and-file people were encouraged to go through the general ledger which, as everybody knows, is the record of every payment in and out of the union in the time frame from the last meeting. Then you have got your profit and loss which is basically the summation of the general ledger, and the balance sheet brings in the fixed assets of the organisation. A union is governed by a president, a vice-president, two trustees, between seven and 11 committee members and a secretary-treasurer.

I think it was remiss of Senator Brandis and Senator Abetz to cast aspersions on the probity of organisations which have represented industrial interests for over 100 years in this country. We have unfortunate allegations. As yet, I am not sure that any of them have actually been proven, but they have certainly been out there in the court of public opinion and the opposition see a great opportunity to smear the Prime Minister and to smear all registered organisations.

The reality is that unions are not corrupt, dysfunctional organisations. They collect union fees, more often than not weekly, off hardworking Australians. They voluntarily give that money to their union. There is a reporting cycle. The committee of management signs a certificate. An auditor comes in and the auditor has total access to all of the union’s accounts. They sign a certificate saying they got all of the information they needed to make a true and fair judgement about the value of the union and the income of the union and they got an answer to all the questions that they asked. That report is then signed off by the committee of management. It then goes to a special branch committee of management and an AGM. I ran a lot of AGMs and at those AGMs I would do a PowerPoint from the general ledger, income and expenditure. Every line item was presented to members at the AGM and, to my satisfaction, it was generally carried by acclamation.

But that is not the end of it. Then it is sent to every member of the organisation. It is published in the journal of the union and goes to every member of the organisation. Any member of the organisation then has a period of time to raise inquiries either with the branch of the union or with the reporting organisation. I can safely say that with the 15 or 16 reports that I did we never had any of those inquiries. During my time as a secretary-treasurer there were a number of elections. Just like Labor, coalition, Greens and Nationals elections they were fairly robust elections, so all manner of impropriety in the robust electoral system that we have was suggested. I would have what is euphemistically called an s-sheet about me, alleging all sorts of fiscal impropriety, but I would put out the facts.
More importantly, those people who vote in union elections gain the confidence that you are doing the right thing. You gain their confidence because you have demonstrated it. You are clear and unequivocal. When income comes in it is reported and when expenditure goes out it is authorised and reported. It is transparent and clear. There is no opaque system. The reporting obligations on the unions are very stringent, and rightly so. They were made perhaps more stringent under the Howard government. At the same time he had his WorkChoices campaign, which was designed to destroy unions, and spent a lot of money advertising to people that they do not need to join unions because they can get all the rights and benefits without joining, we simply went about our business, talking to workers, encouraging them to join, rewarding them with increased wages and conditions and having a totally transparent fiscal position.

Unions got a lot smarter in how they reported their obligations during the Howard years because it was brutally clear that lack of transparency was probably death. We became extremely vigilant, if not more transparent than was practically necessary. Members could come into our organisation at any time and ask a question, get a copy of the rulebook and look at the finances of the union. Fortunately for the union I was involved in our finances were always on the up, so to speak, with surpluses and prudent decisions made. We disclosed how much our organisers were paid and that was in line with our transport industry standards.

A truck driver can make a respectable living in our industry. We are very happy with that. In fact, from talking to people now it seems it is getting harder to attract people into the union because of the fact that people can make extremely good money in the industry and they do not have necessarily the problems with the hours and the difficulties associated with being a union organiser.

I followed a long series of secretaries. I can go back to Jack Niland. In his day the finances of the union were done with the old trial ledger. In fact, one of the bookkeepers I inherited had started with Jack Niland and was the most prudent and rigorous checker of receipts and outgoings. Once I was 10c short in a pay in and I was reprimanded for that. I tried to give her 50c and say it would be an over-and-under system and she said, 'Don't be flippant.' People do not take union members' money for granted. There is a wealth of evidence that 99 per cent of trade unions in Australia are doing the right thing.

I want to go back to the criminal offences. Maybe it is the case that over the last 100 years there has needed to be higher sanctions for company directors who have committed the offence of reckless or intentional dishonesty or if they used their position with intentional dishonesty or recklessly in order to directly benefit or directly gain an advantage for themselves. I contend to the Senate that there is no history of that with industrial organisations. In clear and unequivocal terms I would like to state that the case is exactly the opposite—that there is no 100-year history of malfeasance.

Senator FIERAVANTI-WELLS (New South Wales) (17:14): I say to Senator Gallacher: not everybody got the memo that you got on slush funds. Quite frankly, the fallacy in your argument is that they do not appear on the books. That is the whole purpose of a slush fund.
that had not been met. They were very happy
to ring me baying for corporate scalps, so
today I ask this: why should it be any
different when union officials, knowingly
and fraudulently, misappropriate union
funds? Why should they be treated
differently?

It is time that dodgy union officials are
treated in the same way as dodgy company
directors. Why should they remain a
protected species? The time has come for
union officials who rip off their members to
be appropriately punished, not just punished
when they finally get caught because
somebody rats on them, as appears to have
happened in these circumstances. Those
opposite cannot continue to make excuses
for dodgy behaviour in the union movement.
It is vitally important that standards of
governance and financial
accountability be
improved and the rules that exist for
companies under the Corporations Act be
aligned for registered organisations.

We have seen the spectacle this year of
the Health Services Union and the 70,000
low-paid workers that had their hard-earned
union dues misspent by union officials such
as Mr Williamson and Mr Thomson on
political campaigns, escort agencies and a
whole range of other things that we are now
seeing in relation to Mr Williamson's
proceedings. And we saw, through the Fair
Work Australia report, how these moneys
had been abused. Senator Abetz, as part of
his portfolio, has gone through not just the
HSU but the other unions where this has
been happening and I suspect that we are
going to see more and more. Therefore it is
vitally important that the private member's
bill be supported but, of course, those
opposite will be fighting tooth and nail
against this legislation. Why? Because their
union masters will dictate to them what they
have to do. So I would not be very surprised
if we see those opposite going down the path
of saying, 'No, we're not going to support
this legislation,' because their political
masters tell them so.

As I said, we are witnessing the HSU
unravel and the spectacle of a former ALP
president and the union's former president,
Mr Williamson, so I say to those opposite: if
your federal president were up to his neck in
this sort of corruption then, of course, the
fish smells from the head. This fish is really
stinky. We are seeing it now with Mr
Williamson's proceedings. We may well see
it with Mr Thomson. The reality is this: if
your president was prepared to indulge in
this sort of behaviour it is little wonder that
corruption is endemic throughout the union
movement, so don't come into this place and,
holier than thou, talk about the union
movement. If your president was prepared to
go and do what he did, it is little wonder that
people like Mr Thomson and other people
were involved in activities such as that.

Since August last year I have placed on
the record, in a series of speeches, assertions
in relation to Mr Williamson, Mr Thomson
and other ALP figures and I look forward to
seeing those assertions proven through these
proceedings. As the investigating officer in
New South Wales has indicated, these are
the first charges:

“These are the first charges of what I believe will
be a series of charges in respect of allegations of
fraud committed upon the Health Services
Union,” Detective Superintendent Colin Dyson
said.

Interestingly enough, I note the reaction of
Mr Williamson, with his son, trying to spirit
away a suitcase of documents during a police
raid at the HSU. It is very typical, isn't it?
When you know there is incriminating
evidence, you try and get rid of it.
Interestingly enough too, files have gone
missing as part of the AWU scandal—but
more on that at another time. And, of course,
we have seen that defrauding a union carries
up to 10 years jail and that the money laundering of $400,000 matter for Mr Williamson, if that is proven, carries a 15-year sentence. As for the two-way protection racket matter with Mr Thomson, which is still ongoing, I have talked about the documents which form part of the attachments to the Fair Work Australia report. Yes, the report is available but those eight folders of documents have not been made available. As I have repeatedly said, they will never see the light of day. That goes to show how systematically the HSU did it, so that does indicate, I am sure, that this will be replicated in other unions—time will tell—and that goes to show why those opposite will protect those documents for as long as they possibly can and they will never see the light of day.

So whilst the administrator starts to move to recoup the HSU funds, Mr Thomson’s solicitor has the audacity to threaten to issue defamation threats against people who even suggest that his client used union funds to pay for prostitutes. Therefore what does that say about people who may want to report corruption? Unless there is a proper piece of legislation and a proper legislative framework to give protection to those people so that they know that something is going to happen, we are going to continue to see this. After everything that Mr Thomson has been up to the audacity of the man to try and threaten people with defamation because they say, as I quote:

"Craig Thomson, you are a liar, you paid for prostitutes with my money and the money of every other HSU member. You [took] $100,000 from us. I dare you to sue me," said Ms Hart, in The Daily Telegraph last week.

Then we come to the AWU scandal, and it is actually good to see Mr Howes finally coming out about the corruption in his union. He says:

… there is a higher responsibility for us as guardians of workers’ money to protect that money and to act diligently ...

It is a pity that it has taken him so long to come out into the public arena. We have the Prime Minister stonewalling. Ms Gillard, you can stonewall all you like. You can argue that you were young and naive—I hardly think that 32 is young or naive—but the reality is that, eventually, Prime Minister, the truth will out. You can try and stonewall and you can use weasel words but you should be going into that place and making a statement, but you will not do that because you know that if you mislead parliament there are grave consequences for you. So I am sure that you will continue to stonewall and you will continue to give those little doorstops where you say absolutely nothing, but you fear going into that place and making a statement because you know that if you lie to the parliament there will be consequences.

No debate about corruption, and certainly the union movement, can go without some mention of New South Wales—the home of ALP corruption. I am looking forward to hearing what Senator Thistlethwaite has to say on this and the daily dealings that we are seeing coming out through the ICAC inquiry. I do not normally quote Brian Toohey but, on this occasion, he talked about ‘Labor’s own rum corps’. He said about Bob Carr that he had long suspected that Obeid would end up before the New South Wales Independent Commission Against Corruption. Minister Carr, if you knew that, why did you promote him as a minister? He became a minister under your watch, and what is happening goes to the very heart of Mr Obeid’s suitability to have remained in parliament, let alone to have been promoted to the ministry.

(Time expired)
Senator THISTLETHWAITE (New South Wales) (17:24): This motion is a ruse. I have not had one email, one representation, one phone call, one conversation with any of my constituents, any of the people of New South Wales regarding this motion or this matter or, in the words of Senator Fifield, 'The need for registered organisations to be subject to equivalent standards of governance and financial accountability as companies under Corporations Law.' In fact, you would be hard-pressed to find any representatives of employer associations, unions or other organisations who support this change. Do not believe me. Look at the Senate inquiry that looked into this matter. The Senate Education, Employment and Workplace Relations Legislation Committee investigated this issue thoroughly in respect of the reforms that the government has made to strengthen transparency and accountability provisions in relation to registered organisations. When this matter was before that Senate committee on Friday, 22 June 2012, and in particular when the employer representatives were appearing, Senator Abetz did his best to try to elicit from those witnesses an agreement with the coalition position that officers of registered organisations should face the same penalties and financial accountability standards as corporations. He tried his best to get his friends in many of these employer associations to agree with him. But, guess what? They did not. They said, 'No'. I refer to page 6 of the transcript, where we can read that Mr Greg Smith from the Australian Industry Group was asked whether or not it was appropriate for the parliament to pass laws which place corporate obligations on an organisation such as the AiG, or any other registered organisation. Mr Smith, the head of the Australian Industry Group, had this answer to what Senator Fifield has moved in this parliament today:

No, we think that registered organisations have had a long history and they have a special place not only in Australia but globally. We are a representative body for employers, as a union is for employees. There is a specific exemption under the corporations legislation for the industrial relations system, and it would not be appropriate to suddenly deem all registered organisations as corporations. They are a completely different type of organisation. Some industry groups have chosen to become corporations, but they have never been registered organisations. We do have a special role and special responsibilities.

That is the view of Australian industry. That is the view of Australian employer associations. They do not want this motion to succeed. They do not want the laws to be changed in any way. So it begs the question: why are the opposition doing this? Why are they moving this motion when representatives and stakeholders in the industry do not want the government to do it, do not want the opposition to do it and do not want that change to be implemented? Rightfully, they recognise that there are distinct differences between corporations and registered associations in this economy. The real reason why this motion has been moved is that, again, it is part of this smear campaign to try to pin the Prime Minister to what is going on on the sidelines, smearing the role of trade unions and diverting from the fact that they are not willing to come into this place and debate true policy. They are not willing to put their money where their mouth is in terms of policy development.

There are differences between corporations and employer and employee associations for good reasons, and there is a century of difference when it comes to the roles of representative industrial associations and corporations. Companies were established to create limited liability for directors in respect of their financial obligations and their legal obligations. They
were established to provide the notion of the corporate veil—that is, that directors, acting on behalf of shareholders, could not be sued personally for their financial dealings or legal obligations.

Now for the last century we have had a different system in respect of the regulation of the actions, financial arrangements, conduct of officers and legal affairs of trade unions and employer associations, and they have served our nation well. International businesses have faith in the integrity of the Australian legal system, particularly as it relates to the regulation of industrial organisations. In fact, our system of regulation of industrial organisations is much studied, copied and implemented in other nations throughout the world, so we have a hallmark system when it comes to integrity and delivering a fair and reasonable system of regulation of industrial organisations. When Tony Abbott was the minister, he established a new system in 2002 when Work Choices came into being. When they had those massive reforms to our industrial relations system in the late 1980s, they did not touch the registered organisation provisions. They did not change those provisions.

The other reason that this motion is irresponsible is quite simply the fact that registered organisations do not fit within the definition of a corporation under section 51(xx) of our Constitution. They are not 'foreign', 'trading' or 'financial' corporations. And that is why there have been distinct and different regulations associated with registered organisations. However, the government did recognise that there was an issue associated with what has occurred in one particular union. And in the wake of that, we did what all good governments do: we acted quickly and decisively to strengthen those regulations, and we now have some of the strongest provisions that regulate industrial organisations—stronger than they have ever been before. Our financial accountability and transparency standards for unions and employer associations have never been higher. Fair Work Australia's powers to investigate breaches of these professions have never been tougher.

So the government have acted in the wake of what occurred in a particular union, and we have done it in a manner that is consistent with the regulation of industrial associations in this country. We have done it in a manner that is consultative, taking on board the views of those I mentioned earlier—in particular employer associations in this country—and we have done it in a manner that ensures we will get trust, confidence and integrity in our system of industrial relations for employers who are members of employer associations and workers who are members of unions.

In respect of that, once again this motion needs to be seen in the light in which it is brought into this Senate—that is, it is a ruse. It is hiding the fact that the coalition do not want to debate policy, they do not want to enter into the contest of ideas about what is in the best interests of our nation when it comes to the issues that affect the livelihoods of Australians. As I said, I have had no representations from constituents about this issue, and I imagine that many senators would be in the same or similar positions. But we do get a lot of representations about our education system, about our health system, about our dental health system. Let us look at those issues, let us talk about the plan that Labor have to ensure that we are pricing carbon in our community and reducing our emissions, and the differences between our parties on policies and issues that really affect Australians.
The ACTING DEPUTY PRESIDENT (Senator Stephens): Order! The time for the discussion has expired.

BILLS

National Gambling Reform Bill 2012 Report

The ACTING DEPUTY PRESIDENT (Senator Stephens) (17:34): I present the report of the Joint Select Committee on Gambling Reform on the National Gambling Reform Bill 2012 and related bills, together with the Hansard record of proceedings and documents presented to the committee, which was presented to the President on 23 November 2012. In accordance with the terms of the standing order, the publication of the report was authorised.

Ordered that the report be printed.

Senator THORP (Tasmania) (17:35): by leave—I move:

That consideration of the report of the Joint Select Committee on Gambling Reform be listed on the Notice Paper.

Question agreed to.

COMMITTEES

Appropriations and Staffing Committee Report

The ACTING DEPUTY PRESIDENT (Senator Stephens) (17:35): I present the 54th report of the Standing Committee on Appropriations and Staffing on a governance structure for parliamentary information and communication technology services.

Ordered that the report be printed.

NOTICES

Standing Committee on Appropriations and Staffing: 54th report Presentation

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:35): by leave—I give notice that, on the next day of sitting, I shall move:

That the Senate adopts the recommendation in the report to amend standing order 19.

PARLIAMENTARY ZONE Proposal for Works

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:36): In accordance with the provisions of the Parliament Act 1974, I present proposals for works within the Parliamentary Zone. I seek leave to give a notice of motion in relation to the proposals.

Leave granted.

Senator FEENEY: I thank the Senate, and I give notice that on Thursday, 29 November 2012, I shall 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.
BILLs

Law Enforcement Integrity Legislation Amendment Bill 2012
Explanatory Memorandum

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:37): I table a replacement explanatory memorandum relating to the Law Enforcement Integrity Legislation Amendment Bill 2012.

DELEGATION REPORTS

Parliamentary Delegation to the 33rd General Assembly of the ASEAN Inter-Parliamentary Assembly

Senator SINGH (Tasmania) (17:37): by leave—I table and present the report of the Australian parliamentary delegation to the 33rd General Assembly of the ASEAN Inter-Parliamentary Assembly held in Lombok, Indonesia, which took place from 16 to 22 September 2012. I seek leave to move a motion to take note of the document and to speak to the motion.

Leave granted.

Senator SINGH: I move:

That the Senate take note of the document.

It was an honour to represent Australia as an observer country at the general assembly and to discuss the interests and concerns we share with countries in our region. The main focus of the AIPA general assembly was the role of parliamentarians in the establishment of an ASEAN community by 2015. It is evident that there is a unified commitment among member countries to achieve this and Australia, too, supports that goal—in particular through the ASEAN-Australia Development Cooperation Program. I gave a speech to the general assembly in which I talked about how Australia is committed to deepening our relations with ASEAN.

We noted with satisfaction that several new initiatives were announced by Prime Minister Gillard during the last East Asia Summit meeting held in Bali in November 2011. I note that there has been another East Asia Summit since then. At the November 2011 East Asia Summit, Australia committed $24 million to combat infectious diseases in people and animals across the region; $32 million to combat pandemics—announced at the fifth East Asia Summit; $1 million to support a disaster coordination secretariat in the ASEAN humanitarian assistance centre in Jakarta; $8 million for the UN World Food Programme to improve emergency preparedness in the region. We also committed to hosting two seminars exploring how East Asian cities can become more sustainable and adapt to climate change.

It was indeed a great opportunity to build relationships between ASEAN parliamentarians and Australia—for Australia to strengthen ties between ASEAN parliamentarians in the region and meet with other observer parliaments such as Canada, India, China, and the European Parliament, to name a few. One of the most significant elements of the assembly was the formal dialogue between myself, my co-delegate colleague, Mr Simpkins, and ASEAN parliamentarians. During that dialogue, key issues directly related to people in ASEAN countries—and how Australia currently responds to those issues—were covered. Issues including human-resource development and capacity building, agriculture, food production and forestry, and climate change and environmental issues were canvassed in detail. What was clear was the fact that Australia engages in varied yet strong cooperation with ASEAN countries. Australia became an observer of ASEAN in 1974 and since that time the relationship has become a lot stronger because both parties see the importance of
enhanced relations in creating peace and prosperity in the region.

Since the time of the AIPA general assembly we have, as a nation and a government, released the *Australia in the Asian century* white paper, cementing our strong bonds to the Asian region—including with ASEAN countries—and framing a narrative that recognises that we are, indeed, living in the Asian century and that Australia has an important role to play in it. It will be interesting and important for the next Australian delegation to canvas ASEAN member states' views on the white paper when the next AIPA general assembly is held next year.

It was also pleasing to see AIPA host a women's AIPA on one of the days and to witness how the number of women parliamentarians has grown in ASEAN parliaments. The importance of women's empowerment and the necessity for ASEAN parliaments to address woman-related issues was an important component. Three resolutions were adopted at the women's AIPA—firstly, support for ASEAN member states in strengthening collaboration in implementing the Millennium Development Goals to narrow development gaps; secondly, support for the role of women parliamentarians in enhancing pro-woman policies in the economic, health and education sectors; and finally, support for enhancing capacity building by training women in rural areas in relevant and specific skills. The AIPA committees also addressed political, economic, social and organisational matters. There was clearly a desire to improve bilateral, regional and multilateral relations between countries in an effort to support the establishment of an ASEAN community by 2015.

I would like to thank the host country, Indonesia, for its professionalism and generous hospitality in hosting the 33rd assembly, particularly the president of AIPA and speaker of the Indonesian House of Representatives, His Excellency Dr Marzuki Alie, and my Indonesian aide, Ami, who did an excellent job of organising the Australian delegation. All delegates certainly appreciated the well organised nature of the assembly provided by the Indonesian parliament. I would like to acknowledge the input of my House of Representatives colleague on the delegation, Mr Luke Simpkins. I would also like to thank the International and Community Relations Office, especially the secretary of the delegation, Ms Peggy Danaee, who provided unwavering support in the lead-up to and throughout the assembly; and Dr Cameron Hill from the Parliamentary Library for his research into Australia and ASEAN countries. Finally, I would like to highlight how important this dialogue is for ASEAN parliamentarians and also how important it is for Australia to observe their work and share ideas, initiatives and commitments with them in this Asian century.

Question agreed to.

**DOCUMENTS**

**Tabling**

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

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

**COMMITTEES**

**Education, Employment and Workplace Relations Legislation Committee**

**Report**

Senator THORP (Tasmania) (17:44): On behalf of the chair of the Education,
Employment and Workplace Relations Legislation Committee, Senator Marshall, I present the report of the committee on the provisions of the Fair Work Amendment Bill 2012 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**BILLS**

Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012
Clean Energy (Charges—Excise) Amendment Bill 2012
Clean Energy (Charges—Customs) Amendment Bill 2012
Excise Tariff Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment (Per-tonne Carbon Price Equivalent) Bill 2012
Clean Energy (Unit Issue Charge—Auctions) Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator SINGH (Tasmania) (17:45): I rise to speak to this package of legislation that collectively provides for the linking of Australia's carbon emissions-trading system to the European Union. Carbon pricing is one of the most significant changes to the Australian economy and will have an important and enduring effect on the way businesses calculate the environmental cost of their activities. It is amongst the most significant changes we have ever seen in environmental regulation in this country and is part—arguably the most effective and central part—of dealing with one of the most significant challenges the world faces.

For a long time it has been clear that the response to dangerous climate change needs to be coordinated, comprehensive and international. Much of the criticism of Australia's action on climate change has either been misinformed or has completely missed the point. Some critics have asserted that Australia would be going it alone, ignoring both the existing international frameworks for climate action such as Kyoto and Kyoto 2, in which we have recently announced Australia's involvement, and the huge amount of domestic and regional action in other parts of the world.

From 2013, 850 million people will live in a place where emitters pay for their pollution. Some of this action includes seeking targeted efficiencies or taxes of particular emissions-intensive sectors such as coal taxes or penalties on inefficient housing or transport, but emissions trading is the preferred method of carbon reduction across most of the world because it is the easiest for business, the most efficient and effective policy lever and the cheapest way to identify and undertake emissions reduction.

The European Union Emissions Trading System was the first international carbon market and has been in place since as early as 2005. Emissions trading schemes have been legislated in New Zealand, India and the Republic of Korea and are operating or being developed in 11 US states, China and South Africa. Action in Indonesia, Thailand and Vietnam signals the beginnings of a future Asia-Pacific carbon market. So the assertion that Australia is ahead of the pack is completely misguided if not disingenuous.
But, of course, it is important not only that this action is taking place but also that the international community takes part. Each of these individual mitigation activities must form part of a broader, integrated effort to reduce global emissions. Some critics have attempted to use the lack of total global consensus around defined reductions policies to argue that Australia should stall its efforts to respond to climate change. What they misunderstand is, firstly, the considerable shared vision achieved in a series of international forums through the United Nations Framework Convention on Climate Change; and secondly, the enormous foundational power and the flexibility of a domestic emissions-trading system to be integrated into current or future regional and global systems.

To prevaricate and invent excuses for not taking action on the basis that this action is not from first blush a fully developed global solution is to put the cart well before the horse. It is to ignore the significant preparation that needs to be done not just by government but also by businesses and community to understand and adapt to the inevitable development of an international emissions-trading system inclusive of our trading partners and competitors. If we are going to be able to adapt to a carbon constrained global trading environment, we need to foster innovation in this country and we need to embed the carbon costs of doing business into the thinking of our entrepreneurs and job-creators. And we need to do that now. We need to deepen our capacity to produce high-quality, low-emissions goods and services that we can sell to the world, especially in the century of opportunity created by our nearest neighbours—the Asian century.

What the Gillard Labor government has consistently pursued since prior to 2007 is a flexible emissions-trading scheme for Australia that is capable of being integrated into the international system. At the same time as promoting domestic innovation and emissions reduction, it would enable Australian businesses to contribute to emissions reduction efforts across the world simply by acting in a rational way, locating the cheapest forms of abatement across the system and including those costs in their core business and they should do. The Gillard Labor government has now been vindicated in its pursuit of this emissions-trading policy. The carbon price commenced on 1 July 2012 and, despite the very worst predictions of economic catastrophe propagated by advocates not of conservatism but of regression—that towns would be wiped off the map and investors would flee from Australia—what we have actually seen is the carbon price quietly, efficiently and cheaply doing what it is meant to do.

It is encouraging businesses to innovate and rewarding those businesses that operate with a good social and environmental conscience. To the extent that households have been affected, they have been compensated; indeed, the changes made complementary to the introduction of carbon pricing have reduced the tax burden on many Australians, particularly those on low incomes. And the revenues that we have dedicated to investment in the technologies and the opportunities that will create a better future for Australia—renewable energy projects, smart grid technologies, and energy efficiency initiatives—are also receiving the support they need.

But most importantly on this particular legislative package, the Gillard Labor government has been vindicated in creating a robust scheme that also acts as the foundation for an international system. From 1 July 2015 our emissions-trading scheme will link with a carbon market that comprises over three-quarters of the world's carbon
trading, creating the first intercontinental carbon market.

At the end of the transitional fixed price arrangement on 1 July 2015, Australia will move into a variable-pricing mechanism that operates in the largest emissions market in the world. This one-way, interim link with the EU emissions-trading system will enable Australian businesses to access the fullest range of mitigation opportunities and to achieve the most accurate abatement price of any market. That emissions unit price will be set dynamically on the basis of a cap-and-trade system that, like Australia’s, reflects a high degree of integrity and a genuine and serious emissions reduction effort. It will be a price that requires businesses to change their behaviour and to reduce their emissions profile at the same time as they can fairly compete for the lowest priced abatement options.

From August this year, Australian businesses which are liable entities under the carbon price have been able to buy European carbon permits for future compliance with the Australian emissions trading scheme dating from 1 July 2015. Australian businesses will be able to use international emissions units for up to 50 per cent of their carbon liability, with up to 12.5 per cent to include the use of Kyoto units such as those generated under the UN’s Clean Development Mechanism, the CDM. This new market will be the clearest example yet of a comprehensive and international response to climate change, not only setting standards and providing ideas about the best way to organise action of climate change but actually undertaking it.

Indeed, the Australia and EU link is an example of the aspiration of many of those who believe that climate change is real and does require urgent action now, not just by us but by the broader international community. It will help to shape the expectations for states to participate in any global emissions-trading system. Indeed, in the words of the World Wildlife Fund:

Linking with countries and regions, such as Europe, where equally strong provisions are in place will help to ensure these environmental integrity provisions become the global standard.

That is a very good and important quote indeed.

It is certainly not true that Australia is acting alone, when so many other countries are taking steps to address their own emissions’ profile. This is something being addressed by so many countries because, like us, they realise that we have to act on climate change and that we have to act on the fact that we have global warming as a result of human activity. Australia is not, at least in that sense, ahead of the global community at all, but Australia is leading the world by helping to shape a carbon market that will, for the first time, stretch the length of the globe and provide a template for global action.

There is a reason that Australia has always been a supporter of multilateral and international institutions, whether it is in security, trade or environmental protection. As a middle power with a seat at the table, we have the opportunity to lead by example and to influence the emergence of a new, rules-based order capable of avoiding the most dangerous consequences of climate change. Indeed, as a middle power in our own region we have an opportunity to lead and to set that example. I know that a number of countries look up to Australia, and the action and the leadership that we are taking on this issue of climate change is just one good example.

Opponents of domestic climate action and opponents of this linking agreement with the European Union profoundly underestimate
the capacity of Australia to generate change, forgetting that we presided over the adoption of the Universal Declaration of Human Rights; we formed the Cairns Group to advocate for agricultural exporters; APE, of course, was born of our efforts—most notably by former foreign minister, Gareth Evans; and we have just been elected to the UN Security Council in the first round of voting. And it is our initiative and our support for carbon pricing that will, again, precipitate an information cascade that will prompt global action.

The linking of Australia's emission-trading scheme with the European Union's is an important step towards what the world needs to do together to prevent serious climate change. And it has been made possible by a government and by a party that has had the courage to advance a positive, forward-looking agenda despite the tremendous and overwhelming amount of fear mongering from those who place politics above policy.

I have no doubt that there will come a time in the not-so-distant future where accounting for pollution will be a matter of course in every business and community across the world. There will come a time in the not-so-distant future when we will look back on these debates with incredulity at the time, the energy and the courage it has taken to put such a system in place, and with amazement at the naivety and the recklessness of the climate sceptics. This legislation is a large, large step towards that time, and it is a large step towards a better, cleaner, healthier planet. I support the legislation.

Senator EGGLESTON (Western Australia) (17:59): The purpose of the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 is to provide for a link between the Australian carbon pricing mechanism and the European Union's emissions-trading scheme and facilitate convergence between the two carbon prices by withdrawing the planned 2015 carbon credit floor price of $15 and restricting use of Kyoto units. This is really, I must say, just another chapter in the ongoing fairytale of the Gillard ALP government saga on carbon pricing in Australia. According to UBS Investment Research in a report published in November 2011 in the *Sydney Morning Herald*, the European Union carbon-trading scheme has so far cost no less than $287 billion for almost zero impact when it comes to reducing carbon pollution. They are rather incredible figures, I think. The Friends of the Earth have said that the European Union emissions-trading scheme is a failure on environmental grounds—again, pretty severe criticism from one of the rolled gold environmental groups in the world.

So what benefit is there for Australia in being linked to the European emissions-trading scheme if it is not reducing carbon emissions, which is supposed to be the objective of an emissions-trading scheme and this whole exercise of taxing carbon? The whole idea of a carbon tax was to reduce carbon emissions. While it is plain that this is not happening in the world's biggest emissions-trading scheme—that is, the European Union emissions-trading scheme—nevertheless the Australian government has set a carbon price which in time will add to the price of almost everything in this country. The Australian carbon tax was scheduled to transition to an emissions-trading scheme in 2015, but with this legislation the transition to an emissions-trading scheme has seemingly been brought forward—no doubt, I have to say, at the instigation of the government's coalition partners, the Greens, who can read the writing on the wall, I am sure, and know that
this compliant ALP government is unlikely to last very much longer.

My concern about emissions-trading schemes is that, while the concept sounds wonderful and progressive, in reality, instead of reducing carbon levels, emissions in one country are simply traded off against, say, a rainforest in Indonesia or the Amazon or some other carbon sink, and all of this is done with no net reduction in carbon emissions in the home country. For example, an aluminium plant in Australia could trade off its emissions by purchasing a rainforest in Indonesia and, having done that, the aluminium plant in Australia would have no obligation whatsoever to reduce its emissions, because it has traded them off for the rainforest in Indonesia. Frankly, I think that is very deceptive, and I think that the poor old Australian public are being led up the garden path into imagining that emissions-trading schemes are going to do wonderful things to carbon levels when in fact they are going to do nothing at all because, if you trade off your pollution for some other carbon sink in some other country, you do not have to reduce the pollution at home or carbon emissions at home; you just buy credits for having purchased a carbon sink elsewhere. It is a very dishonest concept, and I think that the poor old Australian public are being led up the garden path into imagining that emissions-trading schemes are going to do wonderful things to carbon levels when in fact they are going to do nothing at all because, if you trade off your pollution for some other carbon sink in some other country, you do not have to reduce the pollution at home or carbon emissions at home; you just buy credits for having purchased a carbon sink elsewhere. It is a very dishonest concept, and I think that the Australian people need to be made aware of that. All that happens is that money changes hands from the owner of the polluting industry to the owner of the rainforest or whatever, with no reduction in the level of pollution caused by the purchaser in their own country. In other words, as I have said, the whole emissions-trading concept is totally fraudulent, as it does not result in any reduction of carbon emissions. The European Union emissions-trading scheme is an example of just that: for all the money that has been spent on it, there has been no reduction in carbon emissions. Just remember that the money that has been spent is $287 billion in Europe, and all for no reduction in carbon emissions.

Of course, the same outcome could and should be expected from any Australian emissions-trading scheme. Furthermore, as has been said in this chamber many times, the Treasury modelling actually shows that the net outcome of the carbon tax and, in the longer term, the proposed emissions-trading scheme will be an increase, not a decrease, in carbon emissions in Australia. That Treasury modelling has been documented in this chamber many times. So what are we doing? Getting into this simply to increase, in the end, carbon emissions in Australia—which is a long way from reducing them, which is the story that is being promulgated to justify us joining the European emissions-trading scheme.

Then, of course, there are other problems associated with the international governance and the veracity of emissions-trading schemes. Firstly, there is the core matter of how the putative value of traded carbon credits will be confirmed. These credits will be worth millions of dollars, and as yet no international body has been set up with the role of, firstly, verifying the existing value of the traded commodity and, secondly, registering transactions as they occur. Verifying the traded commodity is a very important thing to do. One might ask, in the absence of any verification system, how many times, for example, will the same Indonesian rainforest be traded for emissions reduction? Without an international body supervising these transactions, the fact is that the same Indonesian rainforest could be traded very many times.

These are very serious questions when one understands that it is proposed that hundreds of millions of dollars will be exchanged in carbon trading. We are not talking about $1
We are talking about hundreds of millions of dollars, and those sums will grow larger, year by year, as these schemes go on, if they do. So I think we in the Senate can be justified in asking: if there is no body to set up to verify the veracity of these carbon sinks that we are trading for, why on earth is Australia prematurely jumping into some sort of arrangement, with the biggest carbon trading scheme in the world, which, as I have said, is actually a total failure? There has been $587 billion spent on it for no reduction in carbon pollution in Europe.

One has to wonder why the time frame been brought forward. The original plan was to proceed to an emissions-trading scheme in 2015, but now for some reason there is what seems to be this rather indecent haste to link the Australian carbon tax to the European trading scheme. As I have said, I can see the fingerprints of the Greens all over this proposal, driven, as I am sure many of you might suspect, by their fear of the likely consequences of an election victory by the coalition in the forthcoming election. What I suspect the Greens want to do, along with the ALP, is get this in place before the election while they still have a combined majority in the Senate. The ALP and the Greens do have a majority, and they are very worried that if, after the election, the coalition is in office, none of this will occur. Although they, I think, quite sincerely believe in the value of these emissions-trading schemes and in carbon pollution itself as being dangerous, in the view of many of the people on this side of the House these things are just a fantasy.

Regrettably, the numbers in the Senate are such that this legislation will probably pass, and Australia will continue with this frolic down the pathway in fairyland for a little bit longer until the coalition become the government. Then we will have the responsibility of seeking to dismantle these arrangements. I know that there are those in the present government who understand the adverse impacts of an emissions-trading scheme on our economy and Australian industry in general and who do not need to be told that following this pathway will hurt Australian business and the Australian economy, will cost jobs and, according to Treasury’s own modelling, will actually see an increase in carbon emissions. I just hope that people in this chamber might think about what I have said and perhaps consider not proceeding with this legislation. But, of course, the hard realities of politics are such that is unlikely to occur. I have to say that this is a very sad day for Australia, because I think that today this very adverse legislation is going to be passed.

Senator IAN MACDONALD
(Queensland) (18:11): I want to start my contribution to the debate on the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and related bills by reading from some articles by a news organisation called Point Carbon over the last few days. The first one I will start with is: ‘Greece sells 500k second phase EUAs for 6.76 euros each.’ The article states:

Greece—
you know, that great example of good financial management—
sold 500,000 European Union carbon permits … at 6.76 euros a tonne each, according to Athens Stock Exchange …

The next one talks about Italy proposing to replace the European emissions-trading scheme, which we are tying ourselves up with, by a carbon tax. So, whilst Australia is going to an ETS, the Italians are talking about going to a carbon tax. Another article states:

European carbon prices rose for a second day, gaining as much as 2.8 percent after the UK
pumped 6.5 million allowances into the market in the biggest permit auction to date.

There is a purpose in raising these articles, Madam Acting Deputy President, which I will come to. But, before I do, can I just again read from the same source this article about New Zealand:

Spot permits in New Zealand’s carbon emissions market rose 8.1 percent week-on-week to close Thursday at NZ—wait for it—$2.92, pulled up by vanishing supply although traders said buying interest was also lacklustre.

So it is $2.92 per tonne for our friends across the ditch in New Zealand.

'Chinese firms face 1.5-blн loss on rejigged CO2 deals', says a consultant, is the next headline. I am sorry I am wasting the Senate's time going through these, but they just make such magnificent reading. These are headlines in the last few days.

Here is another one: 'EU carbon allowances for delivery next month were largely unchanged Thursday after the EU sold about 4.5 million permits at $6.64 euros, in line with market expectations'.

The next headline is: 'Germany on Friday sold 3 million carbon allowances from the third phase of the EU Emissions Trading Scheme at 6.75 euros each, the auction host German bourse EEX said'. And so it goes on: 'EUAs hit 5-day high on firmer energy'. Then this statement:

European carbon prices rose to a five-day high above 7 euros on Friday amid firmer energy prices and as speculators covered short positions...

I only raise these issues to show that the Labor Party wants us to align ourselves with the European market, which is so volatile. Let me do a quick calculation. Those euros I just mentioned equate to about A$1.50. That is what the Labor Party wants to associate our carbon pricing scheme with.

Today we are debating a bill that will remove the legislated carbon tax floor price of $15. Hang on a second! Didn't we just pass a piece of legislation a matter of weeks or months ago that actually put in that $15 floor price? Why did that $15 floor price go in? Clearly, because someone was looking at the European and New Zealand floor prices, which are down around A$5, A$6, A$7, A$8, A$9, A$10 or, if you look at the New Zealand price, around A$2. So the government, in all its wisdom on this carbon tax, decided that we would have a floor price of $15. I could not quite understand that. The government's funding of this whole carbon tax debacle is based on the fact that carbon will sell in Australia for $23 a tonne. Forget about the $15 floor price, forget about the European schemes at around $8, $9 and $10 a tonne or the New Zealand scheme at $2 a tonne—the government's figures on what it is going to get from the carbon tax are based on $23 a tonne. But it does not stop there. By next year the $23 a tonne is to go up to $29 a tonne and, by 2020, it is to go up to $39 a tonne and, by 2050, to about $350 per tonne.

If the government's figures are based on those amounts, why did they put in this floor price of $15 a tonne? I could not understand it then. Why do you need a floor price of $15 a tonne when all your figures, all your tax receipts, all the money you are giving away, all the loans that you are borrowing from overseas lenders and that you will have to repay are calculated on the basis of $23 per tonne, increasing to $29, $39 and $350 a tonne?

Why did we need the floor price? I could not understand that. But here we are today, as I understand this legislation, removing the $15 floor price and equating it directly to the European prices which, as I said at the
beginning of my contribution, are so volatile. They range from A$7 to A$10.

How are the government ever going to make their books balance? Nobody believes that they ever will. They are still running on the pretence that they will make the books balance, based on $23 a tonne and here we are associating it with the European scheme that will, as at today's prices, get them back about $10 a tonne.

I only raise these things to show how totally incompetent the Australian Labor Party are when it comes to running anything. Who would trust them at all with anything to do with the carbon tax? Quite clearly, the Australian public knew that. They did not want anything to do with the carbon tax and that is why Ms Gillard dishonestly promised the Australian public, on the eve of the last election, that there was no way there would ever be a carbon tax under her rule. She dishonestly and deliberately misled the Australian people. I repeat that: she in fact dishonestly and deliberately misled the Australian people by saying that the Australian Labor Party would never introduce a carbon tax. So why would you, I or indeed any other Australian believe Ms Gillard and her government on anything at all they say about the carbon tax and indeed, by extension, on anything at all?

As I travel around my home state of Queensland I get the distinct impression that Queenslanders—and I am sure this applies across Australia—have simply stopped listening. It is very much, I might say, the same feeling that we had in Queensland before the state election. I have worked on polling booths for 40 years, handing out how-to-vote cards. The last Queensland election was notable in that more voters than ever before, and a considerable majority, refused to take anyone's how-to-vote card. Why? Because they had made up their minds on what they were going to do. They did not need a how-to-vote card. They did not need election promises. They did not need Ms Bligh crying on TV about something. They did not need all those false accusations about Campbell Newman and his family. It did not make one iota of difference: people in Queensland had made up their minds six months before that all they wanted was the end of a dishonest, disreputable, incompetent Labor government.

My impression as I serve my state of Queensland is that the same is occurring federally. People simply do not bother talking about anything Ms Gillard says anymore. They know that she deliberately and dishonestly lied to the Australian public before the last election and they now have no interest in anything she says. She can say all she likes about not being involved, back at Slater & Gordon, in the slush fund. It does not really matter because nobody listens to her. Nobody gives any credence to what she says. I might add in passing that if I as a lawyer had conducted my practice as a solicitor the way Ms Gillard is alleged to have conducted her practice then I would have been disbarred. That does not seem to apply in the case of Slater & Gordon and people who are partners in that firm. But that is by the way; what we are talking about here is that, within four months of the commencement of the carbon tax scheme, we are onto our eighth major change to this legislation.

Madam Acting Deputy President Stephens, if you want to have a good laugh, don't watch the cartoons or 7.30 or Q&A, just go to what was said about the need for having a legislated carbon price. On 13 September last year Ms Gillard said that we have to have a price cap and a price floor in the first three years 'to provide certainty'. In November last year she said 'we have set a floor and cap so there can be stability in
pricing’. In July 2011 she said there was ‘a price ceiling and a price floor which we have announced’ and that ‘this is essential for certainty’. Mr Combet said: ‘We have legislated for a floor price, that is quite well known. It is essential.’ On 13 September last year he said, ‘We’ve put in a floor price and a price cap to provide some confidence over the first few years about potential variability.’ He also told ABC Radio National, the great mouthpiece of the ALP, on 12 July this year that the federal government had negotiated a price floor as part of the multiparty climate change committee. That multiparty committee, mind you, was the Labor Party and the Greens, that is how multi that was—but, again, that is beside the point. Mr Combet went on to say, ‘We have a legislated three-year fixed-price period.’ That was in July this year. We are now in November, five months later, and we are doing away with that floor price and associating ourselves with those bastions of good economic management, the socialist governments of Greece, Italy, Spain and now France. I acknowledge that in some of those countries the socialists were tossed out in their elections but they were the ones that caused the economic chaos. So Australia is associating itself with those bastions of good economic management, the European Union. I guess it would be a competition as to which are the most incompetent financial managers, Mr Swan and the Australian government or the former socialist governments of Europe who have put the European economy in such a mess.

I would hope that I have this wrong and that someone from the coalition or the Greens—

Senator Jacinta Collins: The coalition?

Senator IAN MACDONALD: will get up and say: ‘No, all those prices that Senator Macdonald quoted from the carbon market in the last few days are wrong. Senator Macdonald has read those incorrectly. We don't have to worry about $15 or $23 or $29 a tonne, which we've got to have to balance our books. Those prices he read out of $8, $9, $10, $11 are all wrong.’ I am just waiting for someone from the Labor Party to get up and say, ‘Senator Macdonald got that wrong about the New Zealanders.’ As one of the Labor Party members said in a very significant interview a few weeks ago: ‘The Australian government has adopted a similar carbon tax proposal as the New Zealand parliament—exactly the same.’ Yeah, yeah! Only the Australian price is $23 a tonne, the New Zealand price is $2.11 per tonne. Yeah, the same price! What a joke. This would be a laughing matter if it were not so serious for the Australian economy.

Quite frankly, I say with some regret that I think Labor Party politicians are in permanent denial mode. I know most of them are not game to go out and face their constituents at the moment. I know most of the Queensland Labor MPs in the lower house—the few that there are—avoid public meetings like the plague. Why? Because every one of their constituents is suffering as their costs of living skyrocket. Why? Because of the carbon tax. You can have all sorts of other excuses and explanations, but can I just say to the Labor Party senators here: don't bother wasting your voice even trying to explain it. People in Queensland know that they have been done over, that their costs of living have risen because of the price of carbon. They also know that the carbon tax and the mining tax are causing real uncertainty. I challenge any Queensland Labor senator to go and spend a few days in Gladstone, talk to people there and you will find in that magnificently active and aggressive industrial city of Gladstone that people are worried. They are worried about their jobs. They are worried about their
futures. They are worried about their mortgages.

Sitting suspended from 18:30 to 19:30

Senator BOSWELL (Queensland) (19:30): I speak tonight on the green policies currently hurting the pockets of Australian power users, the carbon tax and the renewable energy target. The energy white paper recently released by the government has made several recommendations to alleviate rising power bills. If the government were serious about easing energy prices, and pressures on families and businesses, they would do better to address the cost impact of the carbon tax and the RET.

The carbon tax is placing an $8 billion a year burden on Australia and must be abolished. Not far behind it is the $5 billion a year RET, which Labor's Chief Whip, Joel Fitzgibbon, has rightly questioned. The RET is lowering electricity demand and pushing up electricity costs. These costs will only go higher as the percentage of our power sources from renewables goes from 10 per cent now to the 20 per cent target in 2020. The RET is foisting expensive and unreliable power on us and driving out the cheap, dependable and abundant energy sources we have relied on for decades.

But if Fitzgibbon is truly concerned about the rising electricity costs, he should also criticise the carbon tax, which is the major contributor to the higher power bills. Every day we are seeing power companies shutting down units and slashing jobs. This is due to current low electricity demand and falling demand forecast resulting from the RET and now the carbon price, which is creating an oversupply in the market. The low price this creates, as electricity regulator AEMC Chairman, John Pierce, demonstrates, is temporary and must give way to a renewed price surge. As prices go up due to the RET, more and more manufacturers are being put under pressure or going out of business, which is further driving down the demand for electricity.

The fall in demand has depressed wholesale electricity prices, but because the increase in supply has been from intermittent renewable sources, the energy retailers have had to contract for more of their supplies and they can only do this at a premium. Ironically, the forced replacement of fossil fuel-driven electricity by renewables has therefore increased costs to the consumer. This is a major point that John Pierce, the Gillard-appointed Chairman of the Australian Energy Markets Commission, made last month about the distortion created by the RET.

Every industry in Australia faces higher electricity bills due to the RET and the carbon price. The target of 45 terawatt hours being sourced from renewables annually from 2020 to 2030 will require businesses to surrender an increasing number of renewable energy certificates through electricity retailers each year at considerable cost to their bottom line. In its submission to the Senate Committee on Electricity Prices, Ergon Energy estimated that the carbon price would add approximately $164 million to its electricity costs in 2012-13 alone.

The current and estimated future price hikes caused by the RET and the carbon price are sizeable. One industrial user in the state—an abattoir—told me it recently got a bill for $244,000 for electricity. Of that, $32,500 came from the RET and $45,000 came from the carbon price. This is a 50 per cent increase from this user's costs last year due to the combined influence of the RET and the carbon price.

The average cost of electricity for Queensland industrial users whose total annual consumption amounts to between
20,000 and 100,000 megawatt hours is $112.87 per megawatt hour. Of that, $21 per megawatt hour comes from the carbon price and $14.33 per megawatt hour comes from RET compliance. That means for an industrial site that consumes 50,000 megawatt hours a year with an average $5.6 million electricity bill, an average of $717,000 is due to the RET and approximately $1 million is due to the carbon price. How can anyone compete against overseas imports when saddled with this?

For smaller middle-of-the-range Queensland users who use between 1,000 and 5,000 megawatt hours per annum, the average electricity cost is $147.90 with $21 per megawatt hour coming from the carbon price and $14.62 per megawatt hour coming from renewables. These users have annual energy bills ranging from $148,000 to $740,000. Of that, the RET puts up prices between $14,620 and $73,100, while the carbon price puts up prices between $21,000 and $105,000.

Future estimates of the price impact of the RET and the carbon price on industrial users paint the same grim picture. A cost projection prepared for one industrial user in the Queensland electricity market which has an annual energy consumption of 46,304 megawatt hours, shows that in 2013 it will pay $124.85 per megawatt hour of electricity. Of that, $10.69 per megawatt hour will be due to the RET and $21.72 per megawatt hour will be due to the carbon tax. That means of its $5.78 million electricity bill next year, $495,000 will be attributable to the RET and approximately $1 million will be attributable to the carbon price.

This is in line with modelling done for the Queensland Competition Authority, which shows that complying with the LRET scheme in 2012-13 will cost $4.10 per megawatt hour, while complying with the SRES will cost $6.38 per megawatt hour, bringing the total estimated cost of the RET to $10.48 per megawatt hour.

These costs have seen industry groups like the Australian Chamber of Commerce and Industry, the Business Council of Australia, the Minerals Council of Australia and the Coal Association speak out against the RET and call for its abolition.

The National Farmers Federation has singled out the RET for driving up energy prices for our agricultural sector. The NFF has criticised the target for increasing costs for farmers, particularly irrigation, dairy and grain farmers and abattoirs, who are unable to pass the costs of renewables on to their customers. It supports the removal of the RET on the grounds it will continue to push up power prices with no corresponding environmental benefit.

The RET's price impact on households has been substantial. Much of it is due to the poorly designed Small-scale Renewable Energy Scheme, SRES, which will cost us $3 billion for 2012 and 2013 alone. The recently released consumer price index figures show a 15.3 per cent increase in household electricity prices in the September quarter alone, the biggest quarterly increase since records began in December 1980. ACIL Tasman modelling done for EnergyAustralia estimates that, if the fixed large-scale RET remained unchanged, the cost to the average householder will rise from around $22 a year currently to $123 a year by 2027.

According to the modelling done for the Climate Change Authority for its recently released RET discussion paper, taking away the RET would save the average Australian household $65 a year, while abolishing the carbon price would save the average household $185 a year. This matches estimates from IPART and the Queensland
Competition Authority and the New South Wales and Queensland respective energy regulators, who have said that the RET and the carbon price together will add approximately $270 a year to typical household bills in each state. This, IPART notes, is because Australians are subsidising more renewable energy than is currently being produced. This is due to the solar credit multiplier, which gives householders back a multiple number of STCs per kilowatt hour of small-scale energy they produce. This has pushed phantom small-scale technology certificates onto the market, creating a huge oversupply. Because the SRES is uncapped, businesses are being forced to buy these phantom STCs and pass on the cost to their customers. In effect, we are paying for more energy than is actually generated by these renewable technologies.

The federal government has admitted that the solar credits scheme has driven up electricity prices for businesses and householders and it has decided to phase out the multiplier six months earlier, on 1 January next year. That is a good start, but the government should also heed IPART's call for the complete scrapping of the SRES, or at least a limit to the number of STCs businesses must buy each year. The Queensland Competition Authority has also cited concerns about the costs of solar. The Queensland Competition Authority's most recent modelling shows that by 2015-16, almost 15 per cent of the total average household power price will be used to fund solar feed-in tariffs—that is, $240 a year for each household to pay for the rooftop PV systems. These costs are made all the more staggering by the fact that solar makes up less than one per cent of Australia's electricity production. In fact of the 10 per cent total renewables that are on the market at the moment, seven per cent comes from relatively reliable hydro sources, while three per cent comes from intermittent, unreliable wind and solar power sources.

Other countries with higher intermittent renewable percentage shares have experienced much higher household electricity prices. By comparison, the household price in Australia in 2011 was US14c per kilowatt hour; Ireland, with 17 per cent wind and solar, was 22c per kilowatt hour; Portugal, with 20 per cent wind and solar, was 28c per kilowatt hour; Denmark, with 29 per cent wind and solar, was 28c per kilowatt hour; Spain, with 18 per cent wind and solar, was 33c per kilowatt hour; Germany, which has a 35 per cent renewable target for 2020 and with 11 per cent wind and solar, was 32c per kilowatt hour.

Electricity prices in these countries and the rest of the world are expected to rise by 15 per cent on average over the next decade, according to Maria van der Hoeven, the Executive Director of the International Energy Agency. She said this week that one of the key reasons for this increase was renewable energy subsidies. At the same time, she said renewables had received $88 billion in subsidies in 2011, 24 per cent more than the previous year. Renewables are driving up electricity prices more and more, and the world is pouring more and more into them. It is madness we should not follow.

In Australia, the RET is already likely to exceed its 20 per cent original goal and for this reason alone even its most passionate supporters ought to call for its reduction. Reining in the blow-out would, according to ACIL Tasman, reduce the measure's burden from $53.3 billion to $28 billion. But this is not enough. I recommend that the parliament examine the views of the Labor Party think tank the Grattan Institute, the Productivity Commission and a number of industry groups which have demonstrated a very strong case for the RET's removal.
Modelling done for the Climate Change Authority shows that removing the RET altogether would save $7.8 billion in resource costs more than if the current target were retained. Unfortunately, the Climate Change Authority did not even consider in its discussion paper the cost benefits of removing the RET.

In short, renewables and the carbon price are driving up electricity prices for consumers. The current renewables target will cost $53.3 billion by 2030. Energy retailers are cutting jobs in response to the pressures created by the RET and the carbon price and, going by hard research conducted in Spain and Germany, green jobs created in our renewables sectors will fall far short of making up for these losses.

In fact, the total number of full-time green jobs in the Australian renewable energy industry has decreased from over 10,000 in 2008 to around 8,000 at present.

We can talk all day about reducing the RET figure to a ‘real 20 per cent’. It would certainly help, but at the end of the day one man’s subsidy is another man’s penalty and we will still be saddled with a policy that lowers electricity demand, drives up prices and pushes out cheap, reliable energy for intermittent, unreliable power that is still dependent on back-up generation from coal and other power sources. Renewable energy is an expensive and ineffective way of reducing carbon emissions. The Productivity Commission estimates abatement costs to be $473 to $1,043 per carbon tonne for solar technologies and $60 per carbon tonne for wind. The Electric Power Research Institute estimates that wind-powered electricity costs $150 to $214 per megawatt hour and medium-sized solar PV systems cost $400 to $473 per megawatt hour—with smaller domestic PV systems costing even more—compared to coal-fired electricity, which costs just $78 to $91 per megawatt hour.

In the 1970s, Australia became a manufacturing country and gained an aluminium industry and other heavy industries because of the low-cost energy available in abundance in this country. We are losing these industries now because of the RET and now the carbon tax. While we cannot and should not abolish the subsidies given to those like the sugar industry and other industries that have invested in renewables—on the bipartisan support that we have offered—they should be grandfathered. Every day the RET is left unchecked the more electricity we source from expensive and inefficient renewables, and the more the cost goes up and the heavier the burden gets on industry and households. It is time Australia played to its strengths. We have got so much low-cost and reliable power in abundance here that we should be taking advantage of it. Australia is in an expensive energy hole right now because of the RET and the carbon tax, and it is time we stopped digging.

Senator XENOPHON (South Australia) (19:46): I thank my colleagues for accommodating my need to speak a little earlier in relation to the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012. I indicate that I will not be supporting the bill for a number of reasons. I believe it is bad policy and I believe that what the government is doing is building on an already shaky foundation in terms of the existing piece of legislation, which has failed in its architecture, its design and its very foundations. Adding on to it is really going to cause additional problems.

I want to put on the record that I believe that anthropogenic climate change is a real issue and a factor that must be dealt with—
or, to quote Rupert Murdoch of all people, that you need to give the planet the benefit of the doubt. It is important to take sensible measures to manage the inherent risks, the potentially very grave risks, of climate change, but this scheme passed by the government really does not do that and I think the amendments will just make a bad situation much worse.

I want to quote extensively from an opinion piece by Danny Price, the Managing Director of Frontier Economics, and I disclose that Danny Price's Frontier Economics undertook an analysis—for both me and the Hon. Malcolm Turnbull when he was opposition leader—for an alternative pricing scheme, an alternative emissions trading scheme, that would have actually been greener, cheaper and simpler, one that was based on an intensity base model, one that was subject to the rigours of modelling by the same modellers as Treasury actually used. I know that because I coughed up in part for that modelling. It was not cheap but it was worth it because it showed that there was an alternative way to deal with this issue.

Back in Senate estimates in October 2011, I asked questions of Treasury in respect of analysis by Bloomberg New Energy Finance which predicted back then a $16 a tonne carbon price in 2015. I asked Treasury officials whether this would create a $4 billion revenue shortfall in the budget. I think it is fair to say that Dr Martin Parkinson, the Treasury secretary, basically said that if the world price was lower than the government's predicted $29 a tonne price there was a 'potential fiscal downside' for the Commonwealth budget. Dr Parkinson, in fairness to him, also said:

… There has always been that in the same way that, if permit prices were higher, there was always a sense that you might find there would be more revenue, but you would need to think about returning that to households or what you were going to do in terms of compensation.

This scheme is deeply flawed in terms of what is being proposed and I want to quote extensively from an article, an opinion piece by Danny Price in the Australian on 5 September 2012. To put this in perspective, I first got to know Danny Price during the Olsen Liberal government's privatisation of South Australia's electricity assets in the late 1990s and he was critical of what was put up by the state Liberal government back then, saying that it was a very badly structured privatisation deal leaving aside the issue of a broken promise and a breach of mandate. What Danny Price said back then—and he was working for a different economic consultancy—was to warn of severe power price rises and of real issues in terms of competition in the marketplace and how consumers would be hurt. Everything he predicted was right, despite the fact that the then Liberal government did everything they could to pillory him. With some melancholy bemusement I note that this government has been highly critical of Mr Price now in terms of his predictions, but I get the feeling that Mr Price will be vindicated by history. In fact, these changes in a sense vindicate his concerns about the scheme. This is what Mr Price said, and I could not have put it better myself:

WHILE last week's backflip—that is, back in late August of 2012—by the government on the removal of the carbon pricing floor was broadly welcomed by those facing the prospect of paying the world's highest carbon price, this most recent change in policy direction lays the foundations for more problems down the line.

I could not agree more. Mr Price makes this point about the minister:

Greg Combet justified the move by saying that it was important to link the Australian carbon pricing scheme to the European scheme and other
emerging trading mechanisms. But the fact is this kind of trading was already allowed under the existing arrangements.

Mr Price asks this question:
So why remove the floor price? One sensible reason—
he postulates—
could be to reduce the costs of cutting emissions for Australian businesses and consumers. But the problem with admitting this is that it would imply lower government revenues and further undermine the government's promised budget surplus.

He goes on to say:
The government's spin on the backflip was to deny carbon prices would be lower despite knowing full well that informed stakeholders believe the opposite. When Combet was asked whether he thought the Treasury modelling showing a $29 a tonne carbon price in 2015 was overegged, he rejected the claim, stating that he had full confidence in Treasury's predictions.

I have great respect for our Treasury, but when you have analysts from around the world for Bloomberg Energy who are involved with setting, making and staking their livelihoods on what the carbon price will be in 2015-16 and beyond, I think we need to listen to those analysts at Bloomberg and to other independent analysts as well. Mr Price asks:
… if the carbon price really is going to be $29 a tonne, why do you need to remove the price floor? Indeed, leaving the floor price in place would give investors in low-emissions technologies greater confidence to make long-term investments—the very argument the government made for imposing the floor. None of the government's position on this matter makes sense and reminds me of something that economist John Kenneth Galbraith once said: "It is a far, far better thing to have a firm anchor in nonsense than to put out on the troubled seas of thought."

I have been a great fan of John Kenneth Galbraith and I think those words have a lot of weight in the context of this debate. Mr Price says:
If the government had thought this through it would realise that its removal of the carbon floor price lays the foundations for further policy backflips.

Reductions of carbon emissions will come largely from investment in new technology, mainly from investment in new electricity generation technology.

He goes on to say that this backflip will give a windfall to the dirtiest generators of all—the brown coal generators. That is the great irony here. That is what Mr Price was warning about when he was doing his modelling when he was preparing a report for both Malcolm Turnbull and me in relation to an alternative scheme for emissions trading. He went on to say:
A carbon price lower than $23 a tonne will mean Australian coal generators will remain viable for many years and gas generation will remain out of the money, renewables even more so. This will mean little to no investment in clean technology will occur in Australia because of low European prices.

He says that we will not see the transformation that has been touted in respect of the government's scheme and goes on to make the point that Frontier Economics 'warned the government back in October 2009 of this inherent fiscal price risk in its scheme design and it ignored our warning.'

He 'expects this budget black hole will be about $5 billion a year or about $25 billion across five years'. The beauty of the Frontier scheme was that the compensation would adjust, would vary, according to the carbon price. There was that flexibility and variability in it, which this scheme does not have. What is the perverse outcome of this scheme? Mr Price says that the 'one group that will see only upside from the abolition of the price floor is the private brown coal
generators in Victoria and South Australia’—the dirtiest emitters. Mr Price further says:

The government handed them billions of dollars of cash compensation and permits in the high fixed-price period, based on the Treasury modelling of carbon prices across many years, not just the fixed price period, that now look unrealistically high. Ironically, this makes the dirty brown coal generators more valuable than if the government had never priced carbon and compensated for it.

It also makes the dirty brown coal generators relatively more valuable than the cleaner, government-owned black coal power generators in NSW and Queensland that have not been compensated.

The waste from these handouts to brown coal generators eclipses the waste of the pink batts scheme and the school halls program.

Those are harsh words, but I can understand his frustration in relation to this. Mr Price's comments in relation to brown coal generators were subject to some comments by the Leader of the Australian Greens, Senator Milne, who quite rightly expressed her concern about this sort of compensation, this windfall, being given to brown coal generators. To my mind, supporting this legislation will just perpetuate a bad scheme. The architecture of this scheme is built on very shaky foundations. What the government is asking us to do is effectively add another couple of floors to a scheme that is already showing signs of cracking and already showing signs of real decay in its building structure. That is why I cannot support this legislation.

Senator McKENZIE (Victoria) (19:56):

I rise to speak to the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and related bills. I cannot agree more with Senator Xenophon that it is bad policy—something of an epidemic with this current government. These seven bills seek to make further significant changes to the government's carbon tax. Primarily, the bill package removes the legislative floor price—something that was assertively backed by the current government on numerous occasions, like a punter throwing good money after bad on Ethiopia, who ran 63 lengths behind the winner at this year's Melbourne Cup; that is good advice, Senator Xenophon, not to gamble—from the carbon tax and ties that carbon tax to the European emissions trading scheme. Indeed, Hansard records Senator Wong espousing the value of a floor price in this very chamber on 28 February 2012. The senator said:

It is the case that our policy does include a price floor which acts as a safety valve for investors in low-emissions technology by establishing a minimum price for the first few years of a flexible price period.

It would seem the senator should have gone with months rather than years. In addition, the bills will more than double the carbon unit auction limit to $40 million in 2015-16, make changes around natural gas liabilities and the measurements of potential greenhouse emissions and alter the arrangements, applying an equivalent carbon price for liquid fuels and synthetic greenhouse gases.

The suite of bills before us is yet another example of this government making policy changes on the run. We saw it with asylum seekers, Fuelwatch, the home insulation scheme and cash for clunkers, and 2.1 million Australians, the majority in regional Australia, are now seeing it with the Murray-Darling Basin Plan, as amendments are rushed through chambers and communities struggling with uncertainty, wanting a healthy basin going forward, are having to deal with the government flipping and flopping on how to make it happen. Quite clearly, this government cannot be trusted to deliver major policies.
People and communities need certainty in planning. Organisations and businesses need certainty. The Gillard government has made eight major changes to the carbon tax since its inception, creating serious uncertainty for businesses, industry and households and begging the question: does this government have any idea what it is doing?

It is one thing to recognise that you make mistakes—we all make mistakes outside of this place; when we are in positions of power we make mistakes—leadership is about recognising that mistakes are made, adjusting and moving on; it is another thing entirely to pursue a policy development agenda which involves a five-step process like the government's. Step 1: brainwave, which could be kick-started by a poll, a conversation or the needs of its coalition partners, the Greens. Step 2: a press release. You have to get out fast on the front foot; you have to get your brainwave into the media. It is only then, with step 3, that this government starts to think: 'How are we actually going to implement this brainwave? How are we actually going to make this happen on the ground? What's it going to look like in real life outside of the imaginings of a minister or department head?' You would think step 4 would be government saying: 'We will go out and consult. We might consult with industry, community. How do you think this should happen?' Unfortunately, time and time again this government fails to consult. We see it with the NBN, with the siting of mobile phone towers, with the Murray-Darling Basin—we see time and time again that this government fails to consult community and fails to consult industry. Its mining tax? It consulted with a handful of industry players and it got a really interesting policy response that favoured the guys in the room—surprise.

Step 5: you might want to evaluate your policy or have a mechanism for evaluation; understand the implications, the unintended consequences. Conservatives like to think about hypothesising the unintended consequences of pieces of legislation before us. We do not presuppose that we know how this is going to play out in the vagaries of real life. You would think they might do a bit of cost-benefit analysis. Again, I think of the NBN as an example of a policy development process that is not about the fundamental steps in getting it right. The kicker of the five-step plan is where is the money, and time and time again this government, with its policy implementation, does not think through the financial implications of what it does.

The introduction of the legislation to scrap the floor price just 80 days after the carbon tax was introduced confirms the scheme is in complete chaos. Removing the floor price and linking the carbon tax to Europe's scheme puts our economy in someone else's hands. And while we all recognise the Gillard government's economic track record is abysmal, let us face it: Europe's economic judgement is also being widely questioned at this time. I do not think it is quite the change of government regional Australia is calling for.

By changing the carbon unit auction limit from 15 million to 40 million, the government potentially creates an extra $725 million worth of revenue from forward permits. Do you believe this change is environmentally motivated? Or is it more likely an attempt to prop up the budget and deliver the promised surplus? The Energy Supply Association has stated that forward selling permits will lead to higher electricity prices. As a Nationals senator, I understand that this will hit regional Australia the hardest. People living in regional Victoria typically spend 30 per cent more on electricity than those in Melbourne, so it is far from welcome news for those thousands...
of families and businesses already struggling with power price hikes.

Allow me to quickly put on the record a couple of examples of carbon tax costs in my home state of Victoria. Victoria Police have confirmed that they have had to budget $3 million extra to cover the cost of the carbon tax next year. That money should be going into police resources to help keep our communities safe. Victorian health services and hospitals will have to pay $143 million in carbon tax by 2020, amounting to $13 million or $1,044 per hospital bed in the first year alone. In my patron seat of Bendigo, Bendigo Health, which provide exemplary care to central Victorians, will need to find an extra $600,000 this financial year just to cover the tax.

And as we head into the warmer months, we have now discovered that swimming centres are yet another casualty of the carbon tax, which has driven up the costs of pool heating, running pool pumps, floodlighting and hot showers. Local pools have reported dramatic increases in their day-to-day running costs, a recent power bill in the Peter Krenz Leisure Centre at Eaglehawk has gone up by more than $2,000. Obviously, these costs have to be passed on, so the young mum with three kids going off to swimming lessons will see an increase in access prices to her local swimming pool because local businesses cannot continue to absorb the ongoing costs of the carbon tax.

The Lakes Entrance Fishermen's Co-op sure did not escape. Despite fishermen being price-takers, they are facing a $24,000 increase in their power bills. The Prime Minister's assertion that the Lakes Entrance Fishermen's Co-operative is in a position to pass through costs because the government put more money in the hands of consumers shows how out of touch Labor are with small business. The fact that you hand out compensation and think that will make it okay shows that this government do not understand how business works.

A Goulburn Valley based fruit-packing business has had a $10,500 carbon tax whack out of a $70,000 bill. This business is in a section of our community in regional Victoria, the Goulburn Valley, that is hardest hit under the Murray-Darling Basin Plan with our horticultural plantings. Shops have closed in the regional centre of Shepparton—a regional base that centres on fruit picking. Cool stores are significantly affected by the carbon tax. That $10,500 was just one month's worth of carbon tax, and the managing director of the 400-employee strong business says he will need to consider cutting staff as it cannot put up the price of supplying apples and pears to supermarkets because the supermarkets will not pay it. The grower, the processor and the producer are bearing the cost. It just does not make sense how this is all going to flow out so that it is not the producer and the businessman who have to absorb and bear the brunt of this Labor government's poorly thought out policy decision.

The western Victorian dairy farmer who contacted me to say he had received a $360 carbon tax bill for one month of electricity supply is worried about how much that will increase when the bills roll in at irrigation time. The dairy industry estimates that the average Victorian dairy-farming family will be hit between $5,000 and $7,000 a year. They cannot pass that on because the supermarkets will not pay it.

Primary producers were dealt a losing hand in the first carbon tax iteration. For example, $150 million was earmarked for the nation's food industry under the Food and Foundries Investment Program designed to support them in maintaining their competitiveness in a carbon constrained

CHAMBER
In Victoria we have a $25.4 billion food industry. It exports to over 100 countries worldwide and directly employs over 130,000 people. When you look at the size of our industry alone and then think about the other states, you can see the compensation available works out to an absolute pittance—just a handful of dollars, in real terms, per worker. Farmers also get a dud deal with these latest carbon tax amendments. Australian farmers have been excluded from selling carbon credits to Europe via the Carbon Farming Initiative until 2018. The one-way deal negotiated by the Gillard government essentially allows Europe a monopoly until this time because, while Australia is locked out of Europe, Europe can sell its credits to Australia.

For months and months, the hardworking people of the Latrobe Valley in the south-east of my home state were trapped in a state of uncertainty as the government attempted to negotiate the Contracts for Closure. The government failed. Again, failure seems to be the hallmark of this Labor government when it comes to seeking to adequately address the needs of regional Australia. The Minister for Resources and Energy, Martin Ferguson, announced in September that the government had not been able to reach an agreement on the flawed plan to use taxpayers' money to shut down the Latrobe Valley power generators; but there is no cause for celebration because jobs have already been lost as a direct result of this policy. The backflip was a small reprieve for local power industry workers and their families, who are very proud of the work they do, but the region still needs critical government assistance to deal with the impact of the carbon tax. For every one job in the Latrobe Valley's electricity sector another four jobs are supported in the local retail and services sector. This community is undoubtedly more exposed than most.

The crisis of confidence throughout the Latrobe Valley community has had a direct impact on industries that support the power sector, along with construction, agriculture and retailing. I take this opportunity to state that the Gillard government must not use the scrapping of the Contract for Closure program as an excuse not to assist industries and communities that have been harmed by the carbon tax like the Goulburn Valley and the Latrobe Valley. It is regrettable that we appear no closer to seeing guidelines for the Regional Structural Adjustment Assistance program. Every time a National Party senator stands up in this place and asks a question about the Regional Structural Adjustment Assistance program, the paragraph in the documentation that has been sitting on everyone's desks for a long time is trotted out. The impacts are happening now; the fallout is happening now in our communities. We would like some more detail around that.

The only way to fix the carbon tax is not to amend it eight times with things that are going to make it worse—it is to scrap it. I refer again to dear old Ethiopia who struggled home in the Melbourne Cup this year. As they say—if the horse is dead, just get off it. The coalition opposes these bills.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (20:11): I also rise to make some comments on this package of bills before us, the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and related bills. Following on from what my very good colleague Senator McKenzie said, there is absolutely no doubt that this government is completely hopeless. The chaos that we again see in front of us is nothing short of breathtaking—although I suspect we should probably expect this kind of policy mess from this government because the hits just keep on coming.
The main purpose of the bill is to remove the legislative floor price from the carbon tax and link the Australian carbon tax with the European ETS. We have seen the government affirm its commitment to the floor price as a crucial piece of the carbon tax legislation on no fewer than 11 occasions. This is yet another backflip from the government. It is no wonder that the Australian people cannot trust a word this government says because it consistently says one thing and does another, time and time again. If the government cannot be said to be consistent in some things, at least it is consistent in being completely unable to come up with a decent policy platform, work it through and do what it says it is going to do. It is quite extraordinary. With the mess that we are seeing in front of us—the ad hoc changes on the run; I know my good colleague Senator Bushby understands very well what a mess this is from the government—it is no wonder that people across this nation have absolutely no confidence in this government. The coalition opposes the bill for a very good reason. It is an absolute mess.

I want to focus tonight on one of the parts of this mess—the Carbon Farming Initiative. I want to return to the issue of Henbury Station. Last year, the government co-funded the $13 million purchase of Henbury Station in the Northern Territory with RM Williams Agricultural Holdings. The government put in $9.1 million of taxpayer dollars. There is no bucket of money under Parliament House; this is $9.1 million taxpayer dollars. According to the government, the plan was to turn the 500,000 hectare property into a nature reserve, effectively removing thousands of cattle from the food chain. At the time I raised a series of questions with the government and I certainly still do have a lot of concerns about the impact of that purchase on future food security. Interestingly, there was very little detail as to how the agreement had actually come to take place. There certainly seemed to be an ad hoc nature to the deal itself.

The government at the time said:

The Carbon Farming Initiative will unlock new economic opportunities, just like this one at Henbury, for farmers and other landholders who take action to reduce greenhouse gases.

That was according to Mr Dreyfus, the Parliamentary Secretary for Climate Change and Energy Efficiency, who went on to say it was a key part of the Gillard government's policy for landholders across regional Australia. At the time, however, there was a backflip. Mr Dreyfus went on to say the owners of the station have decided that they want to increase natural biodiversity on that station and engage in some very large-scale restoration of degraded landscape. It was contradictory from the very beginning of the Henbury project all the way through.

There were no assurances at the time about what checks and balances were in place to ensure accountability for the taxpayers' $9 million contribution. There was no evidence why the figure of $9 million was determined to be appropriate. There was no advice given from the government about how much of the revenue from carbon trading would be invested back into the project and how much would go into the company's profits. The list of questions went on and on, and it became very clear that this was just a bucket of money that the government, in their ad hoc way, had decided to toss at this particular project so they could talk about doing projects for the environment and how it was the largest property ever purchased for the National Reserve System, with no accountability and no process at all. It was quite extraordinary.

The company plans were stated at the time. They planned to sequester up to 1.5
million tonnes of carbon dioxide emissions per year for the next 10 to 15 years. The aim, according to the government, was to establish a model for generating biodiverse carbon credits to fund ongoing conservation management to generate new sustainable income streams. However, get to 2012 and the mess of Henbury becomes more and more obvious as we have gone through the year. In April, the minister, Senator Ludwig, was defending the Henbury Station purchase, talking about needing to develop all the opportunities for jobs that we can. But hang on a second; when we started this out, it was for environmental purposes, for sequestration. Then, earlier this year, the minister was talking about developing all opportunities that we can for jobs in the pastoral industry. It was quite extraordinary. In July, Landcare NT said:

RMWAH Spokesperson Rebecca Pearse stated at a recent Carbon Farming Initiative workshop in Alice Springs that there are still many unknowns with the project, including how much carbon is currently in the trees and shrubs, how it will grow, and what price the company will get for non-Kyoto compliant carbon credits in the voluntary carbon market.

If approved, the methodology could be used by other rangeland managers looking to increase woody plant biomass—

and on and on it goes. They hoped to see Henbury as a case study. They then went on to say:

There is no doubting that a case study is needed. Even in July this year, nearly a year after Henbury gained that massive injection from the government, we still did not have a methodology approved, they still did not know what they were going to do, they still did not know what the process was going to be, the government having tipped in $9 million of taxpayers' money. It is an absolute mess. The ad hoc nature of this government development of policy is absolutely breathtaking.

In July, we saw Qantas announce an agreement to purchase more than a million tonnes of carbon. Here we had Qantas diving into this deal, saying, 'We're going to take more than a million tonnes of carbon.' A couple of weeks later the spokesperson said the methodology was not even approved and there were still many unknowns, and yet we had Qantas buying into this. Whether or not Qantas just wanted to make themselves look environmentally good I have no idea, but it is extraordinary that a company would dive into something like that with the unknowns and the fact that there was no methodology approved.

When we got to October this year it became very clear that the chief executive, David Pearse, and the head of environmental business, Rebecca Pearse, whom I referred to earlier, were no longer working in their roles at Henbury Station. So they have gone. We are trying to get a handle on what happened there. Where have they gone? They set it up and, according to some, were the drivers behind the whole project. I could be wrong on that, but that is what I hear from some. So why did they go? What on earth happened there? It is quite extraordinary. Apparently, it was said that they were no longer working in their roles while an internal review of the company's operations was carried out. They had not even done anything yet. They still did not have a methodology, it was still unknown how the whole process was going to work and they were having an internal review a year later with what seems to be precious little, if any, progression down the track toward what on earth they were going to do to put to 'advantage' the $9 million of taxpayers' money that they have thrown into Henbury Station. It is absolutely extraordinary.
Then, in October, we had RM Williams Agricultural Holdings saying it was going to completely restructure its carbon conservation project model at the 5,000-square-kilometre Henbury Station in Central Australia. I have every reason to believe that that is indeed a correct statement. So what are they restructuring? We did not even have a plan in the first place. There was not anything there to restructure. They still had problems, they still did not know what they were going to do and there was still no methodology approved, so what on earth were they completely restructuring? It is gobsmacking that we have this situation a year later. This purchase is an absolute mess. There is no strategic direction and there is no explanation to the parliament about what on earth is going on. According to this article—and as colleagues in this place know, we do not always take media at face value—the chief operating officer, Roy Richards, said at the time that the board felt leadership 'needed refreshing'. What needed refreshing? They were not actually doing anything!

The questions that need to be asked by the Australian people about this project are endless—absolutely endless. We have seen as recently as 11 November, again on the ABC, some commentary around the fact that there has been internal mismanagement. There was reporting that the man behind the project, David Pearse, who I referred to earlier, was dismissed as managing director a few weeks ago. It is just an absolute dog's breakfast.

More than a year after the government contributed $9 million of taxpayers' money, and without what seems to be any kind of due process, there is still no methodology. That is extraordinary. Talk about mismanagement from this Labor government and this ad hoc approach they have to government; there was no proper process in any way, shape or form to justify why $9 million of hardworking taxpayers' money should be put to this project. We have seen a year of mismanagement and a year of one mess after another when it comes to Henbury. Apparently we are now seeing a complete restructure—what on earth is going on?

It is about time that this government were accountable for the decision that they made to put in that $9 million—thank you very much; I am sure they appreciated the $9 million injection. But where are the benchmarks? Where is the accountability? Where are the requirements for delivery against those taxpayer dollars? Again, it is extraordinary. Mr Acting Deputy President Ludlam, I know I have used that word a lot in my contribution to night, but I tell you that it is nothing short of extraordinary.

With regard to the Carbon Farming Initiative under the clean energy legislation, Australian farmers have been excluded from selling carbon credits to Europe until 2018. But the deal that the government has negotiated allows Europe to have a monopoly selling carbon credits to us—to Australia—from 2015! So we are locked out of the European market until 2018 and they can get in here in 2015—who did this deal? Can anybody negotiate anything on that side of the chamber? It is just—

Senator Kroger: No.

Senator NASH: I will take that interjection, thank you, Senator Kroger! No. They cannot. It is absolutely gobsmacking—absolutely gobsmacking!

I would ask the minister, and perhaps there is a fantastic answer to this—perhaps there is a brilliant answer which explains everything with great clarity—about the proper due process that was in place before the $9 million was contributed to Henbury. Perhaps there is a fantastic explanation of the
absolute mess that seems to have been the management of this process for over a year now. Perhaps there is a fantastic explanation for the fact that it seems the government has not required any accountability from the organisation itself. Where are we? We still do not even have a methodology. We still do not have anything that is going to show how there is going to be any benefit to the taxpayer for the investment of the $9 million.

I did note somewhere in all of this that the property was going to go back to running cattle as part of their future processes. What on earth is going on? They took the cattle off and they were going to do X, Y and Z, and that never happened. Now they are talking about putting the cattle back on. But, 'We have taken the $9 million, thank you very much!' That was a very helpful contribution to the $13 million purchase. Where is the accountability? There is no accountability. It is about time that this government came clean with the explanation about why this has been such a flawed process, came clean with an explanation of why this has got to the situation that it has and came clean with exactly how there is going to be the sequestration on this property. There is reporting of the fact that these arid soils will not actually do what they want them to do in terms of carbon sequestration in the soil.

So this is yet another dog from this government. I cannot believe that they could just fling a $9 million-bucket of taxpayers' money to purchase a property and not require any accountability—no benchmarks. Nothing. Along the way, no milestones and no nothing; just a bucket of money that they are happy to throw out into the ether in the cause of 'better environment'. It is just ridiculous.

Governments are supposed to be accountable. They are supposed to do a good job. They are supposed to practically and properly assess policy and make sure that the Australian people have value for the taxpayer dollar that the government is using. We have seen this government in an absolute mess. They have managed to turn a $70 billion-surplus into a $120 billion-black hole—the list is endless. But this is one of those things that have just slipped under the radar. Sure, it is not a huge thing; it is not one of the top issues for people living in Sydney, Adelaide, Melbourne and the capital cities. And perhaps they are not aware of this even across some of the regions. But it is yet another example of this government's absolute mismanagement; they simply cannot run the country, and it is about time they were accountable for the decisions that they make.

I challenge the minister to come forward and give the parliament a clear and concise explanation of exactly how that $9 million has been accounted for and what the process has been, because to date it is as clear as mud and it is becoming increasingly obvious that this government simply cannot run the country.


Before I proceed, I would like to associate my remarks with Senator Nash's remarks. I am sure that there was no pun intended when Senator Nash referred to the fact that the government actually needs to come clean on the clean energy amendment bills! I thought it was quite inspired of her to draw that parallel!

What we have here is the most recent incarnation of the carbon tax. That is the carbon tax, of course, that we all know we were never supposed to have if we believed
the words of the Prime Minister, Julia Gillard. This is the tax that, as we know, is costing Australians $9 billion a year. Frankly, the carbon tax has perhaps undergone more reincarnations than Lady Gaga—for those of us that may observe the various manifestations that she has taken over the years—and we all know that this carbon tax is barely a year old. Many of us will recall the last two sitting weeks of 2011, when the swag of carbon tax related bills were rammed and guillotined through this place. We had less than a week to debate that huge package of bills. Such was the importance and the essential necessity of these bills being passed at that time.

Here we are, barely a year later, and we have yet another amendment in the form of the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and the six related bills. There have now been some eight major changes to this act since it passed this place in November last year, and each modification to the carbon tax, as we know, is a reinvention. It is yet another example of Labor's deception. Every time we come back here to look at and deal with another amendment, it is yet another example of policy on the run and another chip away at the government's credibility. I see Senator Polley smiling, because she knows this is true. It is so hard to defend. She knows it is true.

But most concerning of all is that each modification and each reinvention provides further uncertainty for Australians, and that is the tragedy of what we face here today—uncertainty that, I have to say, I hear about daily in my electorate office from those that come through the door and express the concerns about the many issues that they face. We all recall that the first variation of the carbon tax came before it was even introduced. This alteration used taxpayers' money—the money of hardworking Australians—to bail out major companies like Alcoa and Energy Brix. On the very eve of the carbon tax being introduced—the very night before it was introduced—we saw significant changes.

Next up was the minimisation of the clean tech investment grant funds arrangement for small business. The money that could and should have been directed to local Australian SMEs was diverted towards big business. Unfortunately, this is typical of this government's attitude towards small business. Small business owners have grown accustomed to getting a bad deal from this government. We know that, at the end of the day, it is small businesses that have really paid a very big price under the manifestations of Labor governments—the former Rudd Labor government and now the Gillard Labor government.

Then the Clean Energy Regulator added business name after business name to its big polluter hit list, which I understand is now some 319 businesses strong—319 businesses across the whole of Australia. But I have to say that I would not have thought that education could be a pollutant. The list includes La Trobe University, but I could not see how that is possible. It includes a number of local councils across Australia, but providing municipal services does not seem so unclean to me, I have to say. It even selects Albury City Council as a top polluter, yet across the Victorian border we see that Wodonga does not make the list. This just does not add up. The hypocrisy of it just does not add up.

The carbon tax seeks to decrease emissions and promote what I have to say is an Orwellian phrase, 'clean energy'. In reality, its amended regulations have increased real emissions from landfill and pipelines by roughly a million tonnes. I am sure that every senator here has received
representations from councils about the real effect that this is having on them and the real effect in the rollover that it is having on ratepayers in their areas. The Contract for Closure program was supposed to shut down power stations but has been abandoned. For the same level of emission reductions to be achieved, the carbon tax will have to significantly increase.

Then we come to this package of bills, which seeks to link Australia's carbon tax to the European carbon-pricing system and ditch the floor price that the government legislated in its original carbon tax bills. These are major structural changes to the original bills which this government sought within three months of the carbon tax's operation. What does that say about the homework that this government has undertaken in putting together these bills?

I will address the floor price issue first because, unfortunately, here we see yet another example of this government saying one thing and promising one thing but, as we know, doing another. Not only did Prime Minister Gillard promise, 'There will be no carbon tax under a government I lead,' but, after she broke that promise and introduced a carbon tax, she said, 'There will be no carbon tax under a government I lead,' but, after she broke that promise and introduced a carbon tax, she said there would be 'a price cap and a price floor to apply for the first three years'. The Prime Minister said, 'This will limit market volatility and reduce risk for businesses as they gain experience in having the market set the carbon price.' In fact, the government affirmed its commitment to the floor price on no fewer than 11 occasions. Even up until the week before the floor price commitment was scrapped, the government's climate change minister, Greg Combet, was out spruiking the importance of the floor price to the operation of the carbon tax. Now businesses, both large and small, are rightly asking: what happened to the importance of creating stability and certainty? The sad truth, we know, is that the government is all talk.

Prime Minister Gillard does not care about creating a stable environment. If she did, we would not be seeing this process but a stable environment, which businesses demand and need to operate successfully. The tax has done nothing more than create many, many headaches for businesses. I refer to one such business, one of many examples, called Techniques Incorporated, which is in my patron seat of Chisholm. This is a family-owned business. It was started in 1983 and it develops and manufactures quality dry powder food products—everything from cake mix to drinking chocolate. This business has been in the family for three generations, so this family has invested a lot in the effectiveness of this business. Everything that the family has is reliant on the productivity of this business.

But this business is feeling the pain of the carbon tax, no thanks to the local member and Speaker of the House, Anna Burke, who voted for it. Managing director Matthew Martin says that many of his suppliers—in particular, those who supply packaging and the like—have had to put up their prices as a result of the carbon tax. But much of that increase in pricing he has had to absorb, because he cannot pass on to his consumers the increased costs that the carbon tax has meant. I have to say that I fear it is only going to get worse, however, as this business has an electricity contract expiring towards the end of this year. One can only imagine the hike in electricity prices and the increased consequences of that. As many Australian businesses and families are now painfully coming to realise, the carbon tax has essentially become an electricity tax.

The major impact of the carbon tax is, as we know, on electricity prices at the moment. The industry predicts that this will
rise by over 20 per cent in the 18 months from the introduction of the carbon tax. The government keeps trying to downplay this impact, but it is not working—not when people see firsthand the impact of the carbon tax when they are in receipt of their electricity bills. People around Australia are hurting, including another family in Deakin, one of my patron seats, the Juric family. Olivia and Tom Juric are in their 30s and have three daughters aged four and under. Last month they invited us into their home to share their concerns about the rising cost of living, compounded by the carbon tax. To the Leader of the Opposition, Tony Abbott, Mrs Juric expressed her concerns, concerns that she shares with all Australians—namely, the increasing cost of living and the increasing cost of necessities like electricity.

The Juric family do what they can to decrease their electricity usage, but they have a six-month old child and cannot take measures like turning off the heat. This family have been seriously let down by their local member and they want action on it so that they can have a chance of holding things together, managing to balance their budget and keeping their heads above water. Let me quote Mrs Juric, who so articulately summed up the way that she feels at the moment, and it certainly reflects what a lot of Australians are saying:

We explained to Tony Abbott that, as a single-income family with three children, it is not easy. And we don’t expect it to be, but we do want to get ahead a bit. Tony Abbott assured us that a coalition government would repeal the carbon tax to make it easier for working families, just like us, to be able to get ahead and not be so worried about whether we can afford the bills.

This is what I tell the many constituents who contact my office worried about how they will be able to hold things together. A coalition government will repeal the carbon tax and return the stability and certainty that is so critical to the strength of our economy.

Our policy on this side of the chamber stands in stark contrast—

*Senator Carol Brown interjecting—*

*Senator KROGER:* Senator Brown, I will take that interjection.

*Senator Carol Brown interjecting—*

*Senator KROGER:* It actually helps to listen to your constituents. I would suggest that, if the member for Deakin, Mike Symon, did that, he might learn a thing or two about his constituents.

*Senator Carol Brown interjecting—*

The ACTING DEPUTY PRESIDENT (Senator Stephens): Order, Senator Brown, please!

*Senator KROGER:* As I was saying, our policy on this side of the chamber stands in stark contrast to the government, who today seek to not only backflip on the floor price but put the Australian economy in the hands of Europe. The idea of linking the Australian scheme to the European carbon trading scheme is almost akin to proposing that the Australian dollar join the Eurozone. It makes no sense to leave the future of Australian businesses in the hands of bureaucrats in Brussels, particularly at a time when there have been so many economic challenges faced on that side of the globe Europe.

Even Prime Minister Gillard has previously pointed out the issues and concerns in relation to the European scheme which she now seeks to link us to, saying:

We, of course, have learned lessons from overseas, where people have had emissions trading schemes for a long time, and having learned those lessons we will design this scheme so that it is not able to be used by shysters to make a dollar.

Clearly, Prime Minister Gillard has not learned anything. The government has gutted
the Australian economy and is continuing to aim to destroy business confidence in this country. As my colleagues from the Nationals—and Senator Williams is here, listening avidly, tonight—have effectively continued to argue in debate, international emissions trading is a terrible deal for Australian farmers.

In terms of the Carbon Farming Initiative, Europe has been handed a monopoly in selling carbon credits to Australia from 2015, yet Australia is banned until 2018. This government has negotiated a monopoly that benefits other countries and that hangs our farmers out to dry. It is the final straw in what is already an intolerable situation.

The coalition cannot support this bill. It is a slap in the face for Australians. The public have already had to deal with the Prime Minister breaking her promise on the introduction of a carbon tax and then had to watch the various manifestations of the government as it continues to make amendments and changes to this toxic tax.

It has done nothing but create fear and uncertainty, whether it be for businesses or families alike. We know that, despite the carbon tax, Australia’s emissions will continue to increase from 578 million tonnes in 2010 to 621 million tonnes in 2020.

The coalition calls on the government today to finally do the right thing by this country and scrap the carbon tax. It is pushing up electricity prices, notwithstanding the hysteria that we hear from the opposite side of the chamber, to levels that families like the Juric family will continue to struggle to afford. It is making life almost impossible for Australian manufacturers to do business at a time when they are already struggling to remain competitive, due to the high Australian dollar, and to keep their heads above water. The carbon tax, which this government keeps changing, is just downright confusing for so many and it also threatens jobs.

Australians did not vote for this carbon tax. In fact, they voted against it at the last election. The only political party that supported the carbon tax at the last election sit on those crossbenches over there.

The first order of business for a coalition government would be to repeal this crippling tax and to restore some certainty to the Australian economy. We are committed to achieving a five per cent reduction in emissions but without an economy-wide tax that costs more than $9 billion a year. I join my colleagues on this side of the chamber in condemning this piece of legislation.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (20:47): I rise to contribute to this debate on the Clean Energy Amendment (International Emissions Trading and Other Measures) Bill 2012 and six related bills that we should never, ever have had in this chamber. I am glad that you are in the chair, Madam Acting Deputy President Stephens, because of your consistent interest in the steel industry, with your many questions in this chamber.

Senator Carol Brown interjecting—

Senator WILLIAMS: Madam Acting Deputy President, there might be a problem with the microphones, but there is an echo in the background, unless it is Senator Carol Brown still going on for some reason. I am not too sure, but you might keep an eye on that, Madam Acting Deputy President.

Senator Carol Brown interjecting—

Senator WILLIAMS: It is an echo, I am sure! I would like to add something. If we raise the soil carbon by three per cent over 450 million hectares of agricultural land in this country, that would equate to 150 tonnes of CO₂ per hectare. If we did that, that would actually neutralise Australia’s CO₂ emissions
not by five per cent or 10 per cent but for more than 100 years. So we need to work with our farmers to ensure that we protect our soils, our greatest asset, because that soil has to grow our food. It is a health issue: if you do not have good, healthy soil, then you do not grow healthy food and you do not have healthy people. That is what it comes down to.

But let us look at this legislation before us. So often we heard from people such as Senator Wong and members of the government in the other place say: ‘We must have a price on carbon to bring certainty to our nation.’ Certainty? Here we are changing the laws on this carbon tax emissions-trading scheme on a regular basis. How uncertain is the government about this whole plan? We will come back to the start of this matter.

There are 150 members of the House of Representatives. At the last election, on 21 August 2010, 146 of the 150 members of parliament elected in the other place went to the election saying that they would not introduce a carbon tax. A Greens member was elected, the member for Melbourne, Mr Adam Bandt, sadly, because of Liberal preferences to the Greens instead of to the Labor Party. I hope that changes at the next election; it certainly worked well at the Victorian election last time. There are two members of parliament up my way: the member for New England, Mr Tony Windsor; and Mr Robert Oakeshott, the member for Lyne. Mr Windsor said that one of the conditions to him putting his support behind Ms Julia Gillard to go into The Lodge was that she form a multiparty climate change committee. And that she did. The next thing you know is that we have the tax—

Government senators interjecting—

Senator WILLIAMS: Madam Acting Deputy President, those members on the other side are being very rude, aren't they? Hopefully, they will improve their behaviour as the night goes on. I will not be too ambitious. But I see that Senator Bishop is now there to keep them in order, which is a good thing.

Getting back to this legislation, I must correct something my colleague Senator Kroger said. Senator Kroger said that our emissions are going to go up to 621 million tonnes by 2020. Senator Kroger, figures out last week show that that figure has been underestimated. It is going to go up 16 million tonnes more than that. It is going to go up to 637 million tonnes by 2020. You underestimated how much our emissions are going to go up.

Senator Kroger: I am being generous to the government.

Senator WILLIAMS: I can see that you are being generous to the government, Senator Kroger. We are going to go from 578 million tonnes in 2010 to 637 million tonnes in 2020, with a $9 billion carbon tax that is going to go up and up and up.

The reason the Greens have supported the removal of the floor price is that they are hoping it is going to escalate enormously and that that will save the planet. No, it will not. We know the Greens want to shut down every coalmine in Australia.

Senator Rhiannon: That's not true.

Senator WILLIAMS: It has been your policy to shut down the coalmines and go to all renewable energy. It is amazing. I will repeat those figures: this year China will burn 3.1 billion tonnes of coal, 434 million tonnes more than last year. They will increase their consumption of coal more in one year than Australia produces in total. We produce 421 million tonnes of coal for export and domestic use. China will increase their consumption of coal by more than the total that this nation produces. That is a fact. And
there will be no reduction in CO$_2$ emissions around the world. In fact, figures show that China will go from 10.3 billion tonnes this year to a massive 17.9 billion—not million, billion—tonnes by 2020. They are going to go up by 7.6 billion tonnes. We are going to go up by 59 million tonnes, from 578 million to 637 million tonnes, and somehow we are going to reduce the CO$_2$ in the atmosphere. That simply will not work.

In three years time, if this government is still in place, we will go to an emissions trading scheme. Let me explain what an emissions trading scheme is. It is a scheme where wealthy people sell fresh air to wealthy people and poor people pay for it. I will repeat that: an emissions trading scheme is where wealthy people sell fresh air to wealthy people and the battlers pay for it. That is all it is, and somehow it is going to reduce our CO$_2$ levels. No, it is not.

It is quite amazing that those on the other side have tampered with this legislation from day one, have been all over the shop, never had a mandate to bring it in. What gives four out of 150 members of the House of Representatives a mandate? They did not have a mandate. Those four—the Greens member, Mr Wilkie, Mr Windsor and Mr Oakeshott—were just complicit in this government betraying the Australian people. But people will be able to square the ledger on that come the next election in those seats, as I always say. The seats do not belong to the politicians, they belong to the people. You betray the people and they will square it up for you at the next election.

When this scheme came out I remember the Prime Minister saying she was going to wear out her shoe leather travelling here, there and everywhere. I remember writing to the Prime Minister the day after she said she would visit every Australian family who wanted to know more about the carbon tax. She was going to wear out as many pairs of shoes as it needed to get the message across that the carbon tax was just what the country needed. So I wrote to her inviting her to New England, the heartland of the turncoat Independent, Mr Tony Windsor. And—surprise, surprise—I never even received a reply from the Prime Minister, even though she was going to talk to every family who wanted to know about the carbon tax. It turns out the Prime Minister did venture out for a few days but scurried back into her office very quickly when she got a taste of what the Australian people actually thought of this.

The tax is designed to increase electricity prices. I have just been part of the Senate Select Committee on Electricity Prices. We have seen electricity price rises. People have turned off the second fridge. People have turned down the thermostat on the hot water system from 75 degrees to 60 degrees. People are already saving because of the cost of the infrastructure, the poles and the wires, needed to accommodate the huge demand on a hot day, for example, when air conditioners are going flat out. However, most of the time the demand is not at that extreme level. But, as I said, electricity prices have already gone up. We saw the 19 per cent increase on 1 July in New South Wales, half of it from infrastructure after 16 years of neglect by the Australian Labor Party government in New South Wales. That is the government we are hearing so much about now that had a huge interest in grazing properties that just happened to have coal underneath them. What sort of cattle did they run? 'Ones that eat grass.' Were they beef cattle? 'I'm not sure.' Were they dairy cattle? 'I'm not sure.' Were they on agistment? 'I'm not sure.' Did you talk to an agronomist? 'A what?' Now we have seen it all!

In 16 years of neglect from that mob, we have seen infrastructure falling apart and hence the extra cost brought in by IPART,
the independent pricing authority in New South Wales. So why is this floor price being removed? Is this about the certainty that was promised to the Australian people? 'We must have a price on carbon for certainty,' they were told. But, hang on—when we finally get it through both houses, where they had no mandate to do that, we are now going to change it. Why are we changing it? Well, we know why the Greens are supporting it: because they want to see the price go up and up and up. It is as simple as that.

The fact is we cannot fool the Australian people. They know why their cost of living is going up. I will quote from some of the emails my office has received. One is from Nicola of Tamworth, who says: 'My husband and I are both against the carbon tax. If I had known Tony Windsor was going to side with Labor and the Greens I would never have voted for him. I have heard many other people in our electorate say the same thing. As far as the carbon tax goes, I think the government is rushing into it. The government is very hypocritical. They want a carbon tax but they reap the benefits of taxes from coalmining.' What a good point. The government say, 'Let's stop burning coal, burning fossil fuels,' but they take the taxes from the coalmines.

Another email is from Denise who says: 'I am in the Lyne electorate and continually feel disappointed with the representation of Rob Oakeshott as our elected federal MP. Regardless of his views, I cannot understand why he gives support to a leader that literally lied to the Australian people re the carbon tax. Now is not the time for another tax.' I could not agree more, Denise.

Why didn't the Prime Minister visit Nicola and Denise and their families? Why didn't their local members, Tony Windsor and Rob Oakeshott, listen to their concerns? I did a poll through the seats of New England and Lyne on the carbon tax. In New England I found 89 per cent of the returned ballot papers were against the carbon tax; in Lyne it was 87 per cent. Yet at election time people are told: 'Vote 1 Tony Windsor, the people's representative'. What, when 89 per cent of some 6,000 returned forms in the poll say they didn't want it? That is not being the people's representative.

The Hunter region has been hit with job losses. I know that Labor would like to forget the Kurri Kurri aluminium smelter which closed and cost over 350 jobs. The company conceded that their problems stemmed from the high dollar, low metal prices, increasing energy costs and the carbon tax. There was no sign of the local federal member there, Mr Fitzgibbon. They have to ask his boss why she was putting 350 of his constituents out of work.

I want to refer to the transport industry, our truckies. Under this crazy plan, on 1 July 2014 we are going to impose almost another 7c a litre diesel tax on our truckies—about $515 million. This government in its desperate state of finances because of its reckless spending and waste, has already added around $500 million a year road-user charges or diesel tax to our truckies. Now it is going to add another $500 million—that will be $1 billion a year that our truckies will have to pay as an extra diesel tax under this government. The Transport Workers Union's Mr Sheldon described it—and I know that my colleague Senator Cormann was in the inquiry—as a 'death tax'. How many people on that side are in here because of the Transport Workers Union? Mr Sheldon said it was a 'death tax' that would 'sweat' the trucks and 'sweat' the drivers, meaning working the drivers harder and causing neglect of safety and the upkeep of their rig. That is what the Transport Workers Union think of the carbon tax. Why aren't you removing that?
Truckies have already endorsed Euro 4 motors, a new design in motors that is basically pollutant free and very clean. There is one problem with them: they use about 10 per cent more fuel. The amount of fuel burnt in the motors has a direct effect on how much carbon dioxide is emitted. They actually burn 10 per cent more fuel so they are putting out CO\textsubscript{2} but when it comes to sulfur, lead and carbon monoxide, they are extremely clean. And with unburnt diesel you do not see the black smoke coming out of the stacks when you are pulling up the hills these days, just a little heat glow. So they have done their bit and, because they use 10 per cent more fuel, they are actually paying, in effect, more fuel tax. They are paying their bit to clean up the environment and so this government is going to slam another half a billion dollar diesel tax on our truckies. It was not long ago that we looked at legislation for 'safe rates' to help our truckies, yet between the carbon tax and the extra road-user charge, this government will cost our truckies, by 1 July 2014, an extra $1 billion a year tax.

On my travels in the Hunter Valley I was speaking to Martin Transport—yellow Kenworths, B-doubles, double-decker cattle and four-decker sheep—well-known carriers who do a great job. It is going to cost that business $1 million extra fuel tax a year. One million dollars to a stock transport company doing their thing, to shift stock around our country to the abattoirs, around the farms, wherever they are taking them—just a lazy $1 million! What are they going to do with that cost? They are going to pass it on to—who? They are going to pass it on to the farmers, the cow cockies, the graziers or the abattoirs. The abattoirs are already finding it hard to compete with their competitors in America with our high Australian dollar brought about by high interest rates in this country brought about by ridiculous stimulus spending at a time when the Reserve Bank was raising interest rates, another stupid move. So they have got to compete and there are extra costs compared with their competitors. Whether it be abattoirs exporting cattle to South Korea, Japan or wherever, they have to compete against American beef producers and processors who do not face these costs. This is what we are doing and that is why this whole carbon tax plan is so ridiculous.

In summary, I would just like to say that there was never ever a mandate to introduce this tax. A hundred and forty-six of the 150 members of the House of Representatives went to the last election saying that they would not bring in a carbon tax. Four out of 150 is no mandate. I suppose one is a Green so that gives them a mandate, and then of course you have got the others, Tony Windsor and Rob Oakeshott, going along with them, listening to advice of that great economist who is not even a scientist, Ross Garnaut. What a great thing to have. Here is someone on a scientific issue as a key adviser to government, who is an economist not even a scientist, on a climate change policy. That is an irony in itself.

I would just like to reaffirm what opposition leader Tony Abbott has said. The next election will be a referendum on the carbon tax and, if the coalition is elected to government, as I hope we are, then that carbon tax is going. It is a $1 trillion tax. That is a lot of noughts—$1 million is a lot of money, and $1,000 million, $1 billion, is a lot of money. But $1,000 billion is a huge amount of money. It is a $1 trillion tax on our economy in today's money, by the year 2050, while the rest of the world are doing very, very little.

You are not going to change the CO\textsubscript{2} levels. Ours are going up. We do not have a tent over our nation, but just a tax so that you
can compensate people for the price of electricity going up—we will put the price up and then we will compensate you for it! But you have not compensated business. When will people in this place on that side of the chamber learn that it is the business sector that drives our nation's wealth, and the more you strangle the living standards and prosperity of our nation? That is exactly what this carbon tax is doing and, as for the removal of the floor price, the whole scheme is ridiculous and the sooner it goes the better.

Senator CORMANN (Western Australia) (21:06): The Labor Party are in complete chaos over the carbon tax that was imposed on them by the Greens as the price for government. The reason we are debating these bills tonight is because the Labor Party are in panic mode. The Labor Party are in panic mode about the impact of the carbon tax. It only came into effect about five months ago but here we are: in the last five months we have had eight significant changes to a tax which was supposed to provide certainty.

Once the carbon tax was legislated it was going to provide certainty to business.

The Labor Party have finally cottoned on that the carbon tax is deeply unpopular across Australia. People across Australia understand that this is a tax which will push up their cost of living because it will push up their cost of electricity and it will push up their cost of gas. This tax will push up the cost of doing business in Australia, which will make us less competitive internationally at a time when, quite frankly, we should be focused on making ourselves more competitive internationally. It is a tax which is doing nothing for the environment. Far be it from being a tax which would lead to reduced global greenhouse gas emissions, it arguably will actually lead to increases in global emissions.

This carbon tax is an absolutely incredible broken promise by the Prime Minister. The Prime Minister made the most emphatic promise five days before the last election. Staring down the barrel of a camera she told the Australian people in the shadow of a difficult election for her: 'There will be no carbon tax under a government I lead'—a promise which was supported and endorsed by every single one of the Labor senators sitting on the other side of the chamber. It is a broken promise. It is bad policy for Australia. We will scrap it. As Senator Williams has just said, the next election will be a referendum on the carbon tax. If we do get the confidence of the Australian people, we will scrap this bad carbon tax when we are in government.

This Labor-Greens carbon tax is, as I have mentioned, the world's biggest, most expensive carbon tax. It is bad for families, bad for business, bad for jobs, bad for international competitiveness and bad for our economy. In fact, it is even bad for the federal budget, because the government has spent so much on trying to deal with the political implications of introducing this carbon tax. Even the federal budget is worse off as a result of spending more than the revenue it will raise. Of course, it is even bad for the environment.

According to the government's own modelling, the cost of electricity is expected to go up, the cost of living is expected to go up, the cost of doing business is expected to go up and investment in key sectors of our economy is expected to be lower than it would be without the carbon tax. Our economy is expected to grow less strongly than it otherwise would and not just by a little bit but by $1 trillion in today's dollars between now and 2050. People might say...
that 2050 is a long time away. Yes, it is 38 years away. But when you judge the merits or otherwise of economic policy proposals you have to look at their long-term implications. What direction is a particular policy taking Australia into? Over the next 38 years, according to the government’s own modelling, the carbon tax and the emissions-trading scheme which is to follow will take Australia in the wrong direction because it is making us less competitive internationally because it will actually result in slower and lower economic growth to the tune of $1 trillion in today’s dollars between now and 2050. To put that in perspective, that $1 trillion represents the whole GDP for the whole of Australia for a whole year. I have said it before and I will say again that effectively what the Labor Party and the Greens expect people across Australia to do between now and 2050 is to work a whole year for nothing to pay for the impact of the carbon price on our economy. They expect people to work a whole year for nothing in order to pay for this mad tax.

Critically, this carbon tax is imposing a cost on business in Australia which is not faced by businesses in other parts of the world which businesses in Australia are competing with. Every time a higher-emitting business in another part of the world is taking market share away from a more environmentally efficient, lower-emitting business in Australia not only does the economic activity and the jobs go overseas but the emissions go overseas too. On many occasions and across many industries when you have higher-emitting businesses in other parts of the world—where for the same amount of economic output the emissions intensity is going to be higher—then what you are actually doing is increasing global emissions as a result of the way this Labor-Greens government has structured this carbon tax here in Australia.

Labor and the Greens do not like it when we refer to their carbon tax as the world's biggest, highest and most expensive carbon tax, but it is. Let me just run through some facts and figures. The Australian carbon price is manifestly the world's highest per tonne of CO₂ basis. It is more than 2½ times higher than the current EU ETS price. The Australian price starts at $23 and the European Union, which has the world's largest emissions-trading scheme at present, has a price of about A$8.60 right now. The Australian price is going to go up to $24.15 and then $25.40 a tonne in the next two years and then up to $29 a tonne, whereas the European Union price is forecast to go up to $11.20 and $13.60 per tonne respectively. That is according to forecasts published by analysts at Reuters reported back in October 2012.

The tax take per capita here in Australia will be the world's highest whether compared with EU experience to date or looking at forward projections. The transition period for Australian industry to adjust will be the world's shortest. The EU emissions-trading scheme transition is more than 20 years. Hundreds of Australian firms are now due to pay the full carbon liability from year 1. Not a single European firm will have to buy all of its permits until 2027. The level of assistance to trade exposed industry in Australia is far weaker than that in the EU scheme. The safeguards for jobs in manufacturing are far inferior in the Australian scheme compared to those applicable in the European ETS.

The cost burden on Australian exporting and import-competing industries will be the world's harshest. That is here in Australia and it will be much higher than that applying in the EU ETS. And tax take does, of course, matter because a firm in Australia with an emissions profile of one million tonnes of CO₂ per annum will pay $72.5 million from 2014-15, while its identical European
equivalent will pay just $9.4 million. The Australian carbon tax will be much higher than the EU price for the next three years—we know that—and I have just gone through the figures there. But the tax take from the Australian scheme is and will be the world's highest.

Over the next three years, 22 million Australians are in fact paying five times as much carbon tax as 500 million Europeans over the same period. How can that be a level playing field? How can that be seen to be fair? Based on revenue estimates contained in the government's own fiscal tables contained in the Clean Energy Future package of July 2011—which I am referencing—and even after deducting the value of industry assistance, the Australian scheme is expected to raise nearly $49 billion in tax revenue over its first 6½ years. This compares with $4.9 billion in tax revenues generated by the European ETS since its commencement in 2005. In other words, the Australian scheme will raise 10 times as much revenue as the European ETS in its first 6½ years and this is despite the fact that the European population is 23 times larger than Australia's population and European GDP is 14 times larger than Australia's.

A couple of weeks ago, the Minister for Climate Change and Energy Efficiency, Mr Combet, thought he should go out and boast about the fact that 'America’s east coast emissions trading drives 10 per cent pollution cut by 2018 and clean energy investment'. He runs through a report which supposedly has indicated that annual CO₂ emissions for the three-year period 2009-2012 across 10 states on the north-east coast of the US were 23 per cent lower than for the preceding three-year period. Incidentally, there is actually no information in that report as to a causal link. There has been somewhat lower economic activity across large parts of the US than would otherwise have been expected. Arguably, when you have less economic activity than you thought you would have then your emissions are going to be less than you thought they would be.

But leaving that point to one side, there is a fact about the carbon price for that particular scheme, the Regional Greenhouse Gas Initiative, as it is called, being an emissions trading scheme operating in 10 states in the north-east of the United States which the minister pointed to as a great success. Guess what the carbon price is in that scheme? It is less than $2 a tonne; $1.90 a tonne is the carbon price in that particular scheme. It does not even apply to manufacturers and other industrial plants. A whole bunch of people are actually excluded from that scheme. If Minister Combet thinks it is such a fantastic scheme and that that scheme is evidence that in other parts of the world they are doing things that we are doing here in Australia, why not adopt that scheme with the $1.90 per tonne carbon price if he thinks it is so fantastic while excluding all of manufacturing and all of the industries that are currently captured in the Australian scheme? Because Minister Combet does not mind making Australian manufacturers less competitive than the competitors we have got across the US, Europe, China, Russia, Mexico or Brazil. He does not mind and he does not worry about putting more lead into Australian manufacturers' saddlebags, but then he comes out with dishonest spin like this.

Here we are now in this situation where clearly things are not looking good and so the government comes up with this plan: 'Oh well, given that the carbon price is not likely to be $29 a tonne by 1 July 2015, when we plan to go to the emissions trading phase of the scheme, we'd better get rid of the floor price because the floor price is going to be very embarrassing for us. When we have a
floor price of $15 a tonne at a time when we expect that the carbon price would be $29 a
tonne and the actual price across Europe is
probably going to be below $10 a tonne, it's
going to be very embarrassing for us. But not
only that as we're going to link our scheme to
the European scheme holus-bolus and that's
going to get rid of any sorts of
competitiveness considerations.' That is the
government's argument—but it doesn't
because the European scheme was
fundamentally different from the scheme that
has been put forward here in Australia. For
starters, in the European scheme the transition period for industry adjustment was
very different. Permits will be sold in the
Australian scheme from the first year while
the auctioning of permits will not commence
in the European ETS until probably 2015,
the 11th year of the scheme. There are
approximately 11,000 European firms with a
direct carbon liability under the EU ETS and
approximately 400 to 500 Australian firms
that will have a direct liability. Tens of
thousands more will face higher electricity
and fuel costs. How many of those 11,000
European firms, whether trade exposed or
not, will be required to purchase permits
covering all of their liability in 2013? The
answer is none, not a single one.

Of course, there are a lot of other
inconsistencies. The European scheme
provides assistance in the form of free
permits to at least 151 trade exposed sectors.
The Australian scheme provides such
assistance to around 45 activities; 90 per cent
of Australian minerals exports by value will
receive no shielding; 60 per cent of
Australian manufacturing exports will
receive no shielding. In Europe the wine
industry is considered trade exposed while
the Australian sector is not. Why? In Europe
sugar producers are considered trade exposed
while in Australia they are not. Why? Why is
the European gold industry trade exposed but
the Australian sector is not? In Europe why
are the jobs in these and 120 other European
industry sectors worthy of protection from
the carbon price but the jobs in the
Australian sectors are not? Why do European
manufacturers of watches, ships, pleasure
crafts, sporting goods, brooms, brushes,
chemicals and fertilisers who are trade
exposed get free permits but manufacturers
of these goods in Australia do not? Why are
European manufacturers of work wear, outer
wear and underwear deserving of free
permits under the European scheme while
their competitors in Australia are not under
the Labor-Greens carbon tax? Job safeguards
in the Australian scheme are manifestly far
inferior to those in the European ETS. The
EU scheme will provide assistance to
manufacturing firms employing 14.6 million
Europeans. That is around 42 per cent of EU
manufacturing jobs. The Australian scheme
will provide shielding for firms that employ,
wait for this: 93,500 Australians. That is less
than nine per cent of Australia's
manufacturing workforce of just over one
million.

The cost burden for average firms in
Australia will be the harshest in the world.
The small number of EU industrial firms that
do not receive trade exposed treatment will
face a far lower cost burden than their
Australian counterparts. Non-trade-exposed
industrial firms in the EU will receive 80 per
cent of permits free in 2013 and 30 per cent
cost of permits free in 2020 and will only buy all
their permits in 2027. In contrast, non-trade-
exposed industrial firms in Australia will buy
permits covering 100 per cent of their
liability from the first day of the scheme.

There are many, many other problems, not
least of which is that the European scheme
actually expressly excludes, for example,
methane gases from coal production. So we
have the Australian government linking the
Australian carbon price to the European
scheme and saying, 'Oh, well, that makes sure that we're all working on the same level playing field.' But it is not true because, under the linking arrangement that this bill is trying to legislate, we will have the perverse situation where Australian coal producers will be paying the European carbon price equivalent at the time that the linking happens while European coal producers will not because the European emissions trading scheme does not even cover methane, the greenhouse gas known as a 'fugitive emission' that is emitted during the mining of coal. So, if the government's Treasury modelling is correct and the carbon price is indeed $29 per tonne in 2015-16, Australian coal producers will be paying more than $1 billion annually in carbon costs whereas European coal producers will not pay a single euro for their emissions. On the contrary, most of the high-cost European coal producers will be receiving public subsidies. This is a complete joke, yet this is what the government has signed us up to.

Here are a few other bits and pieces. Last week, Barclays described the European CO₂ scheme as a 'regulatory omnishambles'. That is what the Gillard government is signing Australia up to: a regulatory omnishambles. The Senate should also know that the recent assessment by the carbon market advisory firm RepuTex is that recent policy decisions taken in Brussels to prop up the European carbon price will increase the cost of the carbon price to Australian companies by $3.7 billion. Of course, the European bureaucrats in Brussels can change their scheme and impose additional costs on Australian businesses overnight without consulting us, and we think it is a good idea. We do not think it is a good idea. This carbon tax is a shambles. It is bad for Australia, bad for Australian families, bad for Australian small businesses and bad for the Australian economy. It makes us less competitive internationally while pushing up the cost of living and, at the same time, does absolutely nothing to help reduce global emissions. It should be scrapped.

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (21:26): I thank the members who have contributed to the debate in the Senate, particularly members of the Senate Economics Legislation Committee, chaired by Senator Bishop, who delivered the report on the bill at the end of October. It is not something that you generally thank committees for in a summing-up speech, but I think that they made a significant contribution and added to the debate.

More broadly, and not unexpectedly, we have heard from the opposition nothing but a series of false and misleading claims as part of their ongoing scare campaign. One would have thought that by now they would be running out of puff in their scare campaign but, no, they continue to harp on with their scare campaign. One of the key claims we have heard repeated here tonight is that the world is not acting, which we have heard before. It is a broken record and one would think that they would play a new tune. Countries in our region are not acting and Australia is going it alone is the refrain that they use, along with the one that we are the only emissions trading scheme in the world.

How far from the truth can that possibly be? The reality is that, by next year, around 1.1 billion people will be living in a jurisdiction with a carbon price. Since we introduced the carbon price last year, more and more countries around the world are saying that they too are moving to put a price on carbon, just like Australia. It is reinforced that South Africa, China, Korea, Japan will, and the list goes on. The eighth biggest
economy in the world, which is California, has already held its first auction and, by 2015, the scheme will be the third largest in the world, covering 85 per cent of emissions—an extraordinary achievement. This is on top of the carbon price schemes already operating or being developed in nine US states and four Canadian provinces, covering nearly 90 million people. Next year, our biggest trading partner, China, will launch its regional emissions trading scheme. It will cover over 200 million people and over 2,000 Chinese businesses. All of these developments come after the European Union and New Zealand introduced emissions trading schemes, not last year or the year before but in 2005 and 2008 respectively.

We are acting with the world. We are not ahead of it; we are not behind it; we are doing our fair share to reduce emissions. That is an important statement to dwell on for a moment. It is action that we are taking in the best possible way—that is, introducing a price on carbon with a fixed period followed by an emissions-trading scheme because the markets will operate most effectively to reduce our carbon emissions.

I am taking some time with this summing up speech to debunk some of the misleading and false assertions by the opposition, because they think if they say it over and over again it must be true. Well the more they say it the further from the truth it is becoming. It is no longer credible for the opposition to say that we should not act. The world is acting and the community, by and large, expect us to act and we are acting. We are acting with the world and already you can look at our record. Two weeks ago the IMF reported on our economy and commended our well-designed carbon price. Last Monday, the International Energy Agency delivered an in-depth review of Australia’s energy and climate policy, welcoming the carbon price and Clean Energy Future plan.

I want to deal with the coalition claim that the EU will set the price and that this is an abrogation of sovereignty to the EU. The coalition do not seem be rationally debating arguments; they seem very close to arguments that only people on the outer fringe of these debates—extremists—would come up with. Quite frankly, it is surprising that they would hold it. Linking to international carbon markets, including the EU, allows market forces to set the carbon price. Trade in carbon is no different to trade in any other commodity we will import or export. We cannot set the global price for coal or oil. These prices are set on the international market. Similarly, global carbon prices are set by the international market and the legislative and economic decisions from all countries that trade in carbon will influence those prices. The important thing is that the linking arrangement now allows us to be part of that broader global carbon market, which will only grow larger into the future.

Again, the coalition are fundamentally at odds with the views of the business community about these amendments. Again, the opposition put themselves on the fringe, away from what would be, I would have thought, their natural constituents. Far be it from me to say it, but it might be a view where they feel quite comfortable to be on the fringe and far away from their business community links. If that is the case, then business understand the imperative of setting a price on carbon, driving for a low carbon future, ensuring that we have a clean energy future and participating in markets dealing with carbon. Business understand these changes will deliver benefits for Australian industry and for the environment. They respond to calls from peak business and industry groups not to have a floor price
when we move to an ETS and to provide access to the largest carbon market in the world.

That is why business groups and companies like the Energy Supply Association, TruEnergy and Virgin came out in support of this announcement. The coalition claim that these changes are bad for the Carbon Farming Initiative. When key carbon farming participants like CO2 Group and Greenfleet strongly support these changes, it is extraordinary that those opposite put themselves on the fringe again. Be that as it may, I guess when you are wedded to a negative argument you cannot find room to move.

This is another one of those myths that those opposite peddle. This is the emissions-trading scheme design the Howard government proposed and now they reject it for politics over policy. Again, if you look at the history of this, it was in 2001 that we started talking about this. It was under the Howard government that ABARES did work in this area, very important work, about how to develop an ETS and design a system. With an agreement to link a fully flexible emissions-trading scheme from 2015, this is in fact the very same policy the coalition took to the election in 2007. I suspect some in the opposition would have many statements of support for an emissions-trading scheme, and yet what we find now is a complete policy backflip. Bold-faced? Be that as it may, clearly the community recognise that it is a policy backflip from those opposite.

In conclusion, if you look at the really short issue—that is, Australia's carbon price is part of a global action to tackle climate change—it is a very simple proposition. We are participating in and playing our bit in the global action to tackle climate change. This bill represents an important step towards establishing a common carbon price internationally. This will ensure Australia's industry is competitive as the world reduces emissions. By contrast, the Leader of the Opposition would do nothing to tackle climate change, thereby increasing the cost to business by barring links to international carbon markets and exposing Australia to trade retaliation from countries reducing their emissions. The fact is that the carbon price has been in place nearly five months and contrary to all the bogus claims by the Leader of the Opposition, unemployment is low, inflation is low, the economy is outperforming every other developed economy and investment is at record levels. Bit by bit the claims the coalition made in their hollow scare campaign are shown up for what they are.

I cannot understand why they are not embarrassed but maybe they have more gall than I. By this time I would be trying to slip out the back door on this issue but those opposite remain steadfast. Can I say I take my hat off to someone who in the face of that remains so steadfast.

This government is going to do its fair share to protect against the dangerous impacts of climate change. This bill is part of that action. It is economically and socially responsible. It will ensure that emissions are reduced at the lowest cost and that our economy can transition to a clean energy future. Can I again thank all of those who participated in this debate and commend the bill to the Senate.

The PRESIDENT: The question is that these bills be now read a second time.
传感器过程。[21:42]

（总统—霍格议员）

Ayes.................35
Noes...............29
Majority..........6

AYES

Bilyk, CL
Brown, CL
Carr, RJ
Conroy, SM
Di Natale, R
Farrell, D
Feeney, D
Hanson-Young, SC
Ludlam, S
Marshall, GM
Moore, CM
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

Bishop, TM
Collins, JMA
Crossin, P
Evans, C
Faulkner, J
Gallacher, AM
Hogg, JJ
McEwen, A (teller)
Milne, C
Polley, H
Siewert, R
Stephens, U
Urquhart, AE

NOES

Abetz, E
Bernardi, C
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Heffernan, W
Kruger, H
Madigan, JJ
Nash, F
Payne, MA
Ruston, A
Scullion, NG
Williams, JR

Back, CJ (teller)
Birmingham, SJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Humphries, G
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Ryan, SM
Smith, D

PAIRS

Carr, KJ
Furner, ML
Lundy, KA
Pratt, LC
Wong, P

Fifield, MP
Sinodinos, A
Joyce, B
Boswell, RLD
Johnston, D

Question agreed to.

Bills read a second time.

In Committee

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

Senator MILNE (Tasmania—Leader of the Australian Greens) (21:45): I move the Greens amendment (1) on sheet 7319:

(1) Schedule 1, page 59 (after line 25), after item 81, insert:

81A After section 160

Insert:

160A Review by Productivity Commission of financial assistance for coal-fired electricity generation

(1) As soon as practicable after the commencement of this section, the Productivity Minister must, under paragraph 6(1 (a) of the Productivity Commission Act 1998, refer the following matters to the Productivity Commission for inquiry:

(a) the matter of the reasons for, and need for, financial assistance for coal-fired electricity generation;

(b) the matter of the following impacts of the existing arrangements for financial assistance for coal-fired electricity generation:

(i) impacts on Australia’s electricity generation mix and timeframes for retirement of existing electricity generation plants and investment in new generation plants;

(ii) financial impacts for coal-fired generators in receipt of compensation and for other generators across the industry;

(iii) impact on Commonwealth finances;

(iv) impacts on the competitiveness of the Australian electricity market.

(2) In referring the matters to the Productivity Commission for inquiry, the Productivity Minister must, under paragraph 11(1) (b) of the Productivity Commission Act 1998, specify the period ending on 31 December 2012 as the period within which the Productivity Commission must submit its report on the inquiry to the Productivity Minister.
Note: Under section 12 of the Productivity Commission Act 1998, the Productivity Minister must cause a copy of the Productivity Commission's report to be tabled in each House of Parliament.

(3) For the purposes of paragraph 6(1) (a) of the Productivity Commission Act 1998, each matter mentioned in subsection (1) of this section is taken to be a matter relating to industry, industry development and productivity.

160B Commonwealth Government response

(1) If the report on an inquiry referred to in section 160A sets out one or more recommendations to the Commonwealth Government:

(a) as soon as practicable after receiving the report, the Productivity Minister must cause to be prepared a statement setting out the Commonwealth Government's response to each of the recommendations; and

(b) the Productivity Minister must cause copies of the statement to be tabled in each House of the Parliament before the end of the period of 7 sitting days of that House after the day on which the Productivity Minister receives the report.

(2) As soon as practicable after the Productivity Minister tables the report in each House of the Parliament, the Productivity Commission must publish the report on the Productivity Commission's website.

Note: The Productivity Minister must cause a copy of the report to be tabled in each House of Parliament—see section 12 of the Productivity Commission Act 1998.

160C No limit on Productivity Minister's powers

This Division does not limit the Productivity Minister's powers under paragraph 6(1) (a) of the Productivity Commission Act 1998.

I rise to speak to the amendment which I have circulated in the chamber. This amendment is to seek a review by the Productivity Commission of the financial assistance for coal fired electricity generation. To again familiarise the committee with the circumstances here, the International Energy Agency has just brought out its report on energy policy and in particular talked about Australia's scheme. It said very clearly that Australia's scheme is 'an example of the standard of leadership that the International Energy Agency has been calling for so that the energy sector can be protected from sudden and vacillating climate policy that paralyses investors and disrupts energy markets'. It went on to say that Australia's implementation marks 'the first major fossil fuel energy, resource-rich economy to take the most cost-effective mitigation measures'. It went on to say that Australia's implementation marks 'the first major fossil fuel energy, resource-rich economy to take the most cost-effective mitigation measures'. It went on to say that we do not need this overgenerous cash-and-free-permit allocation to coal fired generators.

In the course of designing the scheme we did establish a potential to buy out 2,000 megawatts of coal fired generation. The coal fired generators did not take up that option, because the level of assistance is in fact so generous that they saw themselves as being profitable into the future in spite of the fact that we have an eight- to 14-gigatonne gap in what is required to even give ourselves a 50 per cent chance of staying below two degrees. If we are going to get real here, we are on track for four degrees of warming. We need to move to 100 per cent renewables as quickly as possible. It is not going to happen unless we start making this transition, and propping up coal fired generation is ridiculous. So it is quite clear to me that we need to do for this level of assistance what we have already done for the assistance to the energy-intensive trade-exposed sector. That level of assistance is being referred to
the Productivity Commission for review, so it would be appropriate that we refer this level of financial assistance for coal fired electricity generation to the Productivity Commission to have a look at whether in fact it is too generous. Given the response of the International Energy Agency, even they recognise that this is actually the Achilles heel of the system and it would be much better if it were removed.

In the course of negotiating it, of course, Professor Garnaut made the point—as indeed the Greens did throughout—that this was unnecessary and that all we had to do was guarantee energy security, not the profitability of coal fired generators. The best way of doing that would be to make sure that, in the event that a coal fired generator was not able to operate, you could offer them a government guaranteed loan so that you maintained energy security. You did not actually have to give them free permits and cash to maintain their profitability.

That is the rationale for the amendment that I am now moving. I hope that others in the chamber will see that, if you take climate change seriously, you cannot afford to keep giving coal fired generators this level of generous assistance. It is a pure fossil fuel subsidy. It cannot be regarded as any other shape or form than that. I hope we get the support of both the government and the coalition in moving to have this referred to the Productivity Commission for assessment.

The CHAIRMAN (21:54): The question is that Greens amendment on sheet 7319 be agreed to.

The committee divided [21:54]
(The Chairman—Senator Parry)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
</tr>
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<td>9</td>
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<td>25</td>
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AYES

Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

AYES

Milne, C
Siewert, R (teller)
Whish-Wilson, PS

NOES

Back, CJ (teller)
Birmingham, SJ
Brown, CL
Cash, MC
Crossin, P
Evans, C
Fawcett, DJ
Fierravanti-Wells, C
Hogg, JJ
Landy, KA
Marshall, GM
McKenzie, B
Moore, CM
Payne, MA
Ruston, A
Smith, D
Thorp, LE

Bilyk, CL
Boyce, SK
Cameron, DN
Colbeck, R
Eggleston, A
Farrell, D
Feeney, D
Gallacher, AM
Ludwig, JW
Magain, JJ
McEwen, A
McLucas, J
Parry, S
Polley, H
Singh, LM
Stephens, U
Urquhart, AE

Question negatived.

Bills agreed to.

Bills reported without amendments; report adopted.

Third Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (21:57): I move:

That these bills be now read a third time.

The PRESIDENT: The question is that these bills be now read a third time.

The Senate divided. [22:01]

(The President—Senator Hogg)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
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<tr>
<td>34</td>
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AYES

Bilyk, CL
Brown, CL

Di Natale, R
Hanson-Young, SC
AYES

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

NOES

Back, CJ (teller)  Birmingham, SJ
Boyce, SK  Brandis, GH
Bushby, DC  Cash, MC
Colbeck, R  Cormann, M
Eggleston, A  Fawcett, DJ
Fierravanti-Wells, C  Fifield, MP
Heffernan, W  Humphries, G
Macdonald, ID  Madigan, JJ
Mason, B  McKenzie, B
Nash, F  Parry, S
Payne, MA  Ronaldson, M
Ruston, A  Ryan, SM
Sinodinos, A  Smith, D
Williams, JR

PAIRS

Bishop, TM  Kroger, H
Carr, KJ  Abetz, E
Carr, RJ  Scullion, NG
Furner, ML  Bernardi, C
Pratt, LC  Boswell, RLD
Wong, P  Joyce, B

Question agreed to.

Bills read a third time.

ADJOURNMENT

The PRESIDENT (22:05): Order! I propose the question:

That the Senate do now adjourn.

Micah Challenge

Senator THORP (Tasmania) (22:05): I rise today to applaud the ongoing hard work of the non-profit group Micah Challenge and to recognise the importance of its unrelenting commitment to fighting poverty, extreme disadvantage and injustice across the globe. Micah Challenge is a coalition of Christian development agencies, mission agencies, church communities, families and compassionate individuals. All members are united by the common passion to deepen people's engagement with the poor and to help reduce poverty. They also aim to mobilise local communities to join the chorus of voices calling for a better world—a world where men and women are equal, where poor sanitation does not lead to early death and where bright young minds can get the education they deserve. The Micah Challenge has been doing a great job of building this grassroots solidarity. Since it began in Australia in 2004, more than 114,000 across the country have signed the Micah Call to show their support.

During September I was pleased to take part in the 2012 Voices for Justice campaign. This event, which follows the annual conference, is designed to maintain awareness of injustice and disadvantage. It also aims to remind governments of our very important commitments to support marginalised and disadvantaged people in developing countries. The conference was an incredible success which culminated in almost 300 participants making the pilgrimage to our national capital from all corners of the nation.

During the week, Micah Challenge representatives met with over 100 members of parliament, a significant achievement in itself. I had the privilege of meeting with a committed and compassionate family from Launceston, Tasmania, my home state, Colin...
and Ingrid Clark, along with their three children: Caleb, Ilya and Azra. The children shared with me some of the effects of global poverty that particularly concerned them, especially the lack of sanitation that is causing childhood deaths in so many countries. It was a heartening experience to come in contact with these young Tasmanians who had already developed such a strong social conscience so early on in their lives. It was also inspiring to see young people equipped with such a solid grasp on global issues, coupled with the vital element of hope that makes goals so much easier to achieve.

I would like to take this opportunity to sincerely thank the Clark family for making the effort to travel to Canberra. I feel sure that the children, and a new generation of those like them, will continue to contribute to a kinder, more just world in the coming years. During their visit, I was also reminded that 1.8 million people each year die from diarrhoeal diseases, something that has been quite an issue in our house this week. The saddest part is that 90 per cent of them are children under five years old. While this would be absolutely unthinkable for most of us in a lucky country like Australia, it is a grim reality that citizens of many developing countries face daily.

Thankfully, there is a significant amount that we can do. The Micah Challenge suggests that a targeted aid commitment to health programs is needed across the world. They also recommend a focus on what they refer to as WASH—access to Water, basic Sanitation and Hygiene. By improving the water supply, we can reduce diarrhoea deaths by 21 per cent. Improving sanitation can also reduce it by 37.5 per cent. Further improvement of drinking water quality could reduce diarrhoea episodes by 45 per cent. The World Health Organization echo this sentiment, saying that significant improvements could be achieved at a relatively low cost. In fact, they estimate that, by addressing the elements of WASH, we could prevent 28 per cent of all child deaths. This translates to more than two million children each year, two million lives which are currently cut short for want of very basic facilities. On top of this, there are sound economic reasons to invest in sanitation. Each $1 investment returns $5 through increased productivity, larger tourism revenues and reduced health-care costs. When you consider these facts, it becomes clear that there is no possible way we could not do our bit to help.

During the Canberra visit, the Micah Challenge also created a tangible reminder of the 2012 campaign—a life-size jigsaw in the form of the year 2015. I, like many of my colleagues, was very proud to add a personalised piece toward the puzzle. The year 2015 is significant because it is the agreed time frame for the achievement of the Millennium Development Goals, which were devised and agreed upon at the United Nations Millennium Summit in the year 2000. There, 189 world leaders gathered to devise a global future that would relegate extreme poverty to the pages of history.

The Millennium Development Goals are framed around the recognition that wellbeing is multidimensional and that poverty must be addressed on many fronts. As a result, they include specific and measurable targets supporting a range of important goals, including: the eradication of extreme poverty and hunger; universal primary education; gender equality and the empowerment of women; reduction of child mortality rates; reduction of HIV/AIDS, malaria and other diseases; environmental sustainability; and the need to develop a global partnership for development. The millennium development
goal of key significance during the Voices for Justice 2012 Campaign was the goal to:

Halve, between 1990 and 2015, the proportion of people whose income is less than $1 a day. The Millennium Development Goals present sizeable and significant challenges for our global community, and it is therefore important to celebrate what has been achieved to date. I must therefore commend the hard work of many organisations, community groups and individuals who have ensured that real and effective progress is being made to tackle global poverty. One of the most heartening of those is that we are actually on track to meet the goal of halving the proportion of people whose income is less than $1 a day. Between 1990 and 2005, the number of people living on less than $1.25 per day decreased by 0.4 billion. This has meant that the poverty rate has dropped from 46 per cent to 27 per cent.

Prior to the global financial crisis, which reduced the activity in trade and investment within developing nations, the United Nations reported that levels of poverty had 'diminished in almost every region'. Even with the slowdown in the global economy, we are still on track to meet the poverty reduction target, with the overall poverty rate still expected to fall to 15 per cent by 2015. Internationally, there have also been some laudable achievements in other key areas. Child mortality has reduced by 37 per cent since 1990. Maternal mortality has dropped by 47 per cent since 1990 as a result of more skilled care during pregnancy and childbirth. An additional 110 million children are now in school around the world. The proportion of people suffering from hunger has declined from 30 per cent to 23 per cent.

These efforts are worth celebrating, as they help to fuel an understanding within ourselves and our communities that, by working together, we can better the lives of the poor and oppressed in this world. They are also proof that our foreign aid investment is having a real, positive impact on the lives of millions of people. I am pleased to say that this government has taken its responsibility seriously to be a part of this positive change.

We recognise that we are part of a global community and that we have a resultant duty to contribute to global solutions where we can.

This financial year the overseas aid budget will increase by about $300 million, from $4.8 billion to $5.2 billion. During the same period, our foreign aid contribution will be 0.35 per cent of our gross national income, the highest proportion since 1986.

By the 2015-16 financial year, Australian aid will increase to around $7.7 billion, or about 0.45 per cent, of GNI. By the 2016-17 budget, we plan to increase this contribution further, to 0.5 per cent of gross national income.

This contribution has yielded real results for millions of people across the world who now have significantly reduced risk of disease and illness. By 2016 we will help more than 10 million children to be vaccinated and more than 8.5 million to have better access to safe water. (Time expired)

White Ribbon Day

Senator CASH (Western Australia) (22:15): I rise tonight to speak on White Ribbon Day or United Nations Day for the Elimination of Violence Against Women.

Violence is a scourge in our communities and it is a silent epidemic. It destroys families and the fabric of society. It is linked with homelessness, poverty, unemployment and disability.

Domestic violence also has a huge impact on the economy. In 2009 it was estimated that violence against women and their
children cost approximately $13.6 billion and it has been estimated that, if no action is taken to address this problem, by 2021-22, 750,000 Australian women will experience and report violence, at an estimated cost of $15.6 billion to the Australian economy.

The Liberal Party has a proud history of implementing policies that reduce violence against women. When it came to power in 1996 the coalition government implemented and funded the Partnerships Against Domestic Violence and Women’s Safety Agenda programs, which included funding for an Australian Bureau of Statistics Women’s Safety Survey.

From 1996 to 2007 the Howard government carried on the Liberal tradition of supporting and improving the position of women in Australia by recognising the many different roles that women may fulfil during their lives. The Howard government committed itself to an Australia where women were full and active participants in all spheres of public and private life across a wide range of decision-making positions.

Ensuring a strong national economy is the best way of providing financial security and prosperity for Australian women. The coalition has a proud record of strong economic management and, when last in government, was responsible for an unmatched period of economic prosperity.

The coalition's repayment of the previous Labor government's $96 billion debt meant that taxpayers did not need to pay $8 billion a year in interest payments—money that was instead spent on health, education, infrastructure, support for families and countless other worthy initiatives.

The safety of women was a top priority for the Howard government. It dedicated $75.7 million over four years to the Women’s Safety Agenda, which addressed four broad themes: prevention, health, justice and services. The initiatives included the national ‘Violence Against Women—Australia Says No’ campaign and the national 24-hour helpline. The campaign was launched in 2004 and thousands of calls were subsequently fielded.

In 2007 a pilot Bsafe program was funded, for three years, by the Howard government in the Hume region of Victoria. It cost less than $300,000. Seventy-two women and their children were given personal alarms to activate in case their partners or former partners were threatening them. To be eligible, the women had to have an intervention order which was at risk of being breached. The evidence given by the women was that the program saved their lives. These were women living in constant fear, unable to sleep, work or, often, even leave their homes.

Evidence shows that domestic violence is linked with homelessness. The Bsafe evaluation report found:

The cost of a woman with children who accesses crisis accommodation, refuge, transitional housing and then exits into private rental in the Hume region was estimated at $10,195.90.

The benefits therefore of a perpetrator being removed and a woman and her children being able to stay in their homes are enormous. There is no need for dislocation from local community, schools and often family or friends in the area. There is greater potential for the women to be in employment, gain a wage, improve their prospects for financial security later in life and retain a sense of dignity. Ultimately, the taxpayer dollar is saved. This is the kind of program that has a proven practical impact. No further funding was provided by the Labor federal government to continue the pilot scheme after it finished in 2010.

The achievements of the Howard government are testament to the commitment
of the Liberal Party more broadly when it comes to recognising, protecting and enhancing the position of and opportunities for Australian women. These are issues that we take very seriously and commitments we look forward to building on when we are next in government.

The current plan for tackling domestic and family violence in Australia is set out in the National Plan to Reduce Violence against Women and their Children 2010-2012. This plan has bipartisan support. It is therefore disappointing that the first three-year implementation plan, which was due for release in July 2011, was not released until September this year.

I find it somewhat difficult to reconcile the rhetoric that the government puts forward stating its commitment to eliminating violence against women, when it was in fact more than a year late in releasing the implementation plan for what is only stage 1 of a 12-year strategy.

Likewise, the government's promised National Centre for Excellence for Data Collection on Domestic Violence has not yet been established. While this was a core promise from the government, and a promise reiterated as part of the Equal Futures Partnership agreement announced by Prime Minister at the launch of that program in New York in September this year, the opening date of the centre is still unknown. In July this year we were advised that representatives at the COAG Select Council on Women's Issues had 'agreed to work towards the development' of the centre.

This lack of true commitment to this crucial area by the government is also seen in the Australian Human Rights Commission's criticism of the government's draft National Disability Insurance Scheme, which it said contained no specific measures addressed at violence against women and girls with a disability, despite the fact that protection of people with a disability from violence is a key policy area of the National Disability Strategy 2010-2020.

Although women are predominantly the victims of domestic violence, this is not a 'women's problem' alone, and that is why the approach that White Ribbon takes, in mobilising high-profile men to promote the notion that violence against women is completely unacceptable, is such a powerful one. Through peer influence and male role modelling, both within their families and also through their workplaces and communities, men are able to effect attitudinal and cultural change that will work hand in hand with other strategies. I commend the more than 58,000 men across Australia who have vowed to never remain silent in the face of violence against women and I hope that many more will join them in taking the pledge.

A program that advocates best practice for change in the corporate world is the Australian Human Rights Commission's Male Champions of Change program, developed and orchestrated by Sex Discrimination Commissioner Elizabeth Broderick and launched in April 2010. The group of CEOs and chairmen has committed to advocate and drive gender equality strategies through their businesses, using their personal connections and influence. The program has been recognised as best practice in this area and the approach is being replicated throughout the world.

A number of these CEOs attended a panel discussion at the Sustaining Women in Business conference in Melbourne last month and it was promising to see that they are recognising the impact that domestic violence can have in a workplace. Nearly two-thirds of women who experience domestic violence are in the workplace. So
by acting to identify and reduce the incidence of domestic violence in their workplaces and by providing a supportive and safe environment, businesses will be able to reduce costs associated with turnover, absenteeism and productivity. Facilitating the continuation of a woman's employment while she deals with a situation of domestic violence will also help ensure her future financial security and that of any children she might have.

We have come a long way in raising the recognition and the profile of domestic violence, both through the police forces and in the community, over the past few decades. But while there is still a single boy or girl growing up in this country who believes that a woman ever 'had it coming', or that hiding her car keys so she cannot go to work and earn a living or isolating her from her friends, family and support networks in order to gain psychological power and control or hitting her is ever acceptable or is an issue that should stay behind closed doors, then there is still much work to be done. The Liberal Party, as stated by the Leader of the Opposition today at the White Ribbon Day function at Parliament House, is committed to working towards the total elimination of violence against women.

The PRESIDENT: Before I call Senator Bilyk, I draw to her attention that, due to the overrun of business prior to the start of the adjournment debate, there is only five minutes left before this debate concludes at 10.30.

Women in the Workplace

Senator BILYK (Tasmania) (22:25): I rise tonight, in the short time I now have, to speak about equal opportunity for women in the workplace. It is a widely known fact that women make up around 50.2 per cent of the Australian population. However, perhaps what is less well known is just how few senior roles in Australian companies are filled by women. The figures are extremely disappointing, especially in the second decade of the 21st century.

The Equal Opportunity for Women in the Workplace Agency's 2010 Australian census of women in leadership, conducted by Macquarie University, shows that women hold only 8.4 per cent of board positions and just eight per cent of executive key management personnel positions. To put it another way, in 2010 there were just six female CEOs and five female chairs in the top 200 Australian companies. I repeat: just six female CEOs and five female chairs in the top 200 Australian companies. Even more alarming is that only 4.1 per cent of line roles—those which are largely considered to be the pipeline to the executive key management personnel and CEO roles—were occupied by women and, sadly, the proportion of companies with no women executive key management personnel at all is a significant 61.9 per cent. There appears to be a systemic inequity in business culture which prevents talented and capable women from contributing at the highest level.

Government attempts to provide equal opportunities for women go back a considerable time, with the Affirmative Action (Equal Employment Opportunity for Women) Act dating from 1986. Legislation that was passed last Thursday followed a review of that act by the Office for Women in the Department of Families, Housing, Community Services and Indigenous Affairs. The review found that, since the act was last amended in 1999, there had been a number of economic, social and legislative changes, making it important for the act and the agency to provide a contemporary response to national challenges. The review also made it clear that gender equality is essential to maximising Australia's productive potential and to ensuring continued economic growth.
It is still an unacceptable fact that an Australian woman earns, on average, around 17 per cent less than a man. It has been estimated that closing the gap between men’s and women’s workforce participation could increase gross domestic product by up to 13 per cent. This would, of course, be a significant boost to Australia’s economy.

I had a lot more to say on this issue tonight but I will cut short my speech as I do not have much time. I would like to thank my Tasmanian colleague the Minister for the Status of Women and member for Franklin, Julie Collins, for her hard work on the Equal Opportunity in the Workplace Amendment Bill. I know it is a cause that she is very passionate about. The government made a 2010 election commitment to retain and improve the Equal Opportunity for Women in the Workplace Agency and the Equal Opportunity for Women in the Workplace Act and we have done so in the legislation that was passed last Thursday.

The government has an objective to create equality between women and men in the workplace and has changed the name of the act, the agency and the director to reflect this. Through the bill, the principal objects of the Workplace Gender Equality Act will be amended to reflect the new focus of the act to promote and improve gender equality in the workplace, with specific recognition of unequal remuneration and family and caring responsibilities as issues central to the achievement of gender inequality. The coverage of the act is expanded to include men as well as women, particularly in relation to caring responsibilities.

The agency’s advice and assistance function extends to all employers. However, only relevant employers, those with 100 or more employees, are subject to the reporting requirements in line with the current practice. This will make reporting simpler as well as more meaningful and useful. It will provide employers with the capacity to measure and understand gender equality within their workplaces, compared year by year and with other workplaces within their industry. It will make it possible for the agency to target assistance where it is most needed. Over time, the improved and standardised dataset will enable the minister to set minimum standards.

One of the functions of the agency will be to develop industry based benchmarks in relation to gender equality indicators. I had a few quotes I was going to give that show the support of bodies such as the ACTU and the Women’s Electoral Lobby but I will skip those for tonight due to the shortage of time. I am pleased to have been able to speak to the Senate, even though it was for a shorter time tonight, about the government’s efforts to create equal opportunities for women in the workplace. I think achieving equal opportunity for women in the workplace is an aim that all in this place should support. I was disappointed that the opposition put in a dissenting report on the committee inquiry into this issue.

Senate adjourned at 22:30

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.)


Australian Bureau of Statistics Act—Proposals Nos—
19—Survey of Average Weekly Earnings.
20—Interstate Trade Queensland Imports/Exports.

Australian Communications and Media Authority Act—Australian Communications and Media Authority (Allocation Procedures – Reserve Prices) Direction No. 1 of 2012 [F2012L02198].
Census and Statistics Act—Statements Nos—
4—List of Businesses for the Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE).
5—Release of Lists of Businesses for Safe Work Australia.
Commissioner of Taxation—Public Rulings—
Self Managed Superannuation Funds Rulings—Addenda—SMSFR 2008/1 and SMSFR 2008/2.
Taxation Ruling TR 2012/7.
Corporations Act—Select Legislative Instrument 2012 No. 267—Corporations Amendment Regulation 2012 (No. 9) [F2012L02235].
Migration Act—
Migration Regulations—Instruments IMMI—
12/080—Class of persons [F2012L02213].
12/081—Australian values statement for public interest criterion 4019 [F2012L02214].
12/084—Specifying agreements or arrangements which are not relevant agreements for the purposes of Government Agreement Stream of the International Relations Visa [F2012L02215].
12/085—Specification of classes of persons and addresses [F2012L02216].
12/087—Class of persons [F2012L02212].
12/090—Eligible education providers and educational business partners [F2012L02228].
12/094—Class of persons [F2012L02217].
7 of 2012—Prudential Standard SPS 521 Conflicts of Interest [F2012L02230].
8 of 2012—Prudential Standard SPS 530 Investment Governance [F2012L02231].

Telecommunications Act—
Telecommunications (Low-impact Facilities) Determination 1997 (Amendment No. 1 of 2012) [F2012L02218].

Therapeutic Goods Act—Poisons Standard Amendment No. 4 of 2012 [F2012L02202].


Governor-General’s Proclamations—Commencement of provisions of Acts—

Migration (Visa Evidence) Charge Act 2012—
Sections 3 to 7—24 November 2012 [F2012L02232].

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Regional Australia, Regional Development and Local Government
(Question No. 2236)

Senator Bernardi asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

1. Is information collected from stakeholders and the broader community; if so:
   (a) what forms or other methods are used to collect information;
   (b) how many of these forms are:
      (i) paper-based,
      (ii) electronic-based; and
      (iii) both;
   (c) do these forms request an estimate of the time taken to complete; if not, why not; and
   (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

2. For each proposed regulatory initiative since August 2010:
   (a) how many stakeholder consultations have been conducted; and
   (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Conroy: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator's question:

1. and 2.

Given the very broad nature of the question and the diverse range of information collected by my portfolio, attempting to answer this question would cause an unreasonable diversion of resources.

Arts
(Question No. 2237)

Senator Bernardi asked the Minister representing the Minister for the Arts, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

1. Is information collected from stakeholders and the broader community; if so:
   (a) what forms or other methods are used to collect information;
   (b) how many of these forms are:
      (i) paper-based,
      (ii) electronic-based; and
      (iii) both;
   (c) do these forms request an estimate of the time taken to complete; if not, why not; and

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(d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010:
   (a) how many stakeholder consultations have been conducted; and
   (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Lundy: The Minister for the Arts has provided the following answer to the honourable senator's question:

Please refer to the response provided to question 2236.

Sport
(Question No. 2278)

Senator Bernardi asked the Minister for Sport, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(1) Is information collected from stakeholders and the broader community; if so:
   (a) what forms or other methods are used to collect information;
   (b) how many of these forms are:
      (i) paper-based,
      (ii) electronic-based; and
      (iii) both;
   (c) do these forms request an estimate of the time taken to complete; if not, why not; and
   (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010:
   (a) how many stakeholder consultations have been conducted; and
   (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Lundy: The answer to the honourable senator's question is as follows:

Please refer to the response provided to question 2236.

Financial Transfers to Australia from Politically Exposed Persons
(Question No. 2391)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs on 19 October 2012 (transferred to the Minister representing the Attorney-General on 24 October 2012):

(1) Does the Australian Government provide information about financial transfers to Australia originating from Politically Exposed Persons (PEPs) in Papua New Guinea (PNG) to regulatory authorities in PNG; if so:
   (a) is this information provided automatically or on request; and
   (b) to which bodies in PNG is the information provided.

(2) How many discrete communications about financial transfers to Australia from PEPs in PNG were provided in the 2011-12 financial year
Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

(1) The Australian Government can provide information about financial transfers to Australia originating from Politically Exposed Persons (PEPs) in Papua New Guinea (PNG) through:
   (a) Police-to-police requests made between Australia and PNG,
   (b) Formal requests for mutual assistance made via the Commonwealth Attorney General's Department under the Mutual Assistance in Criminal Matters Act 1987, and
   (c) Communication of financial data collected by the Australian Transaction Reports and Analysis Centre (AUSTRAC) under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (AML/CTF Act).

Police-to-police assistance

Police-to-police assistance allows law enforcement agencies in one country to obtain information from law enforcement agencies in another country. This could include preliminary inquiries to determine whether evidence of an offence, such as the proceeds of crime, is located in a foreign country. Police-to-police assistance is often used at the early investigation stage or to obtain evidence that does not require the use of coercive powers.

The information is not provided automatically and is only considered upon request. Police-to-police assistance can be provided to a foreign country's police force and agencies that undertake law enforcement and/or regulatory functions.

Mutual assistance

Mutual assistance is the process countries use to obtain government-to-government assistance in criminal investigations and prosecutions. Mutual assistance can be used to identify and recover the proceeds of crime.

Australia can consider mutual assistance requests from any country pursuant to the Mutual Assistance in Criminal Matters Act 1987. Any response to a request for mutual assistance from PNG would be provided to the PNG central authority for mutual legal assistance.

AUSTRAC information

Section 132 of the AML/CTF Act, allows financial intelligence collected by AUSTRAC to be passed to a foreign Government provided appropriate undertakings in relation to protecting the confidentiality of the information and controlling its use have been provided. The information can be provided either directly by AUSTRAC under subsection 132(1) or by the Australian Federal Police (AFP) under subsections 132(3) and (4) or the Australian Crime Commission (ACC) under subsections 132(6) and (7).

AUSTRAC does not exchange information with its counterpart financial intelligence unit (FIU) in PNG. In order to meet the ‘appropriate undertakings’ requirement of subsection 132(1) of the AML/CTF Act, AUSTRAC only exchanges information with foreign FIUs where an exchange agreement between AUSTRAC and the foreign FIU is in place. AUSTRAC does not have an exchange agreement in place with the PNG FIU. It is most unlikely that such an agreement would be entered into until such time as the PNG FIU becomes a member of the Egmont Group of Financial Intelligence Units, which provides an international platform for information exchange, training and the sharing of expertise.

The AFP and the ACC can provide AUSTRAC information to PNG, provided appropriate undertakings under subsections (3) and (6) respectively have been entered into.

AUSTRAC data can be provided either spontaneously or upon request, provided the legislative criteria are met. If the statutory criteria were met, the information could be provided the PNG FIU or a PNG law enforcement agency.
(2) AUSTRAC, the AFP and the ACC did not disseminate any AUSTRAC data (e.g. financial intelligence) to PNG authorities regarding PEPs in the 2011-12 financial year.

In relation to mutual assistance (e.g. requests for evidence), it is an offence under section 43C of the Mutual Assistance in Criminal Matters Act 1987 to disclose whether a foreign government has made a mutual assistance request to Australia. As a result, we cannot comment on whether Australia has received any requests for mutual assistance in relation to PNG.