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the Senate and committee hearings are available at

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http://parlinfo.aph.gov.au

SITTING DAYS—2012

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RADIO BROADCASTS

Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-THIRD PARLIAMENT
FIRST SESSION—FIFTH PERIOD

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

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Senators Judith Anne Adams, Christopher John Back, Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, David Julian Fawcett, Mary Jo Fisher, Scott Ludlam, Gavin Mark Marshall, Claire Mary Moore, Louise Clare Pratt, Ursula Mary Stephens and Mark Lionel Furner

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC

Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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

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

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<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
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<td>Abetz, Hon. Eric</td>
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<td>Bernardi, Cory</td>
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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

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

(3) Chosen by the Parliament of New South Wales to fill a casual vacancy to be filled (Hon M. Arbib, resigned 5.3.12), 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

Acting Secretary, Department of Parliamentary Services—R Grove
<table>
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<th>Title</th>
<th>Minister</th>
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<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister for Social Inclusion</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td>Treasurer (Deputy Prime Minister)</td>
<td>The Hon Wayne Swan MP</td>
</tr>
<tr>
<td>Minister for Financial Services and Superannuation</td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon David Bradbury MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Bernie Ripoll MP</td>
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<tr>
<td>Minister for Tertiary Education, Skills, Science and Research</td>
<td>Senator the Hon Chris Evans</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for Industry and Innovation</td>
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<td>Minister for Small Business</td>
<td>The Hon Brendan O'Conner MP</td>
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<td>Senator the Hon Kate Lundy</td>
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<tr>
<td>Parliamentary Secretary for Industry and Innovation</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Parliamentary Secretary for Higher Education and Skills</td>
<td>The Hon Sharon Bird MP</td>
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<tr>
<td>Minister for Broadband, Communications and the Digital Economy</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<tr>
<td>Minister for Regional Australia, Regional Development and Local Government</td>
<td>The Hon Simon Crean MP</td>
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<tr>
<td>Minister for the Arts</td>
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<tr>
<td>Minister for Sport</td>
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<tr>
<td>Minister for Defence (Deputy Leader of the House)</td>
<td>The Hon Stephen Smith MP</td>
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<td>The Hon Jason Clare MP</td>
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<td>Minister for Home Affairs</td>
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<tr>
<td>Minister for Families, Community Services and Indigenous Affairs</td>
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<tr>
<td>Minister for Community Services</td>
<td>The Hon Julie Collins MP</td>
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<tr>
<td>Minister for the Status of Women</td>
<td>The Hon Julie Collins MP</td>
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<tr>
<td>Parliamentary Secretary for Disabilities and Carers</td>
<td>Senator the Hon Jan McLucas</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>Senator the Hon Bob Carr</td>
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<tr>
<td>Parliamentary Secretary for Trade</td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>The Hon Justine Elliot MP</td>
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<td>Parliamentary Secretary for Foreign Affairs</td>
<td>The Hon Richard Marles MP</td>
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<td>Minister for Sustainability, Environment, Water, Population and</td>
<td>The Hon Tony Burke MP</td>
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<td>Communities (Vice-President of the Executive Council)</td>
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<tr>
<td>Parliamentary Secretary for Sustainability and Urban Water</td>
<td>Senator the Hon Don Farrell</td>
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<tr>
<td>Minister for Finance and Deregulation</td>
<td>Senator the Hon Penny Wong</td>
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Tuesday, 20 March 2012

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 11:00, read prayers and made an acknowledgement of country.

BILLS

Telecommunications Universal Service Management Agency Bill 2011
Telecommunications Legislation Amendment ( Universal Service Reform) Bill 2011
Telecommunications ( Industry Levy) Bill 2011

In Committee

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

Senator IAN MACDONALD (Queensland) (11:01): It is my privilege to deal with these bills on behalf of the coalition and in the absence for personal reasons of Senator Birmingham. This is a very truncated debate today. I notice that because of the guillotine by the Labor Party and the Greens, we have already breached standing orders once this morning, Mr Chairman, because the standing order guillotined through by the Greens and the Labor Party showed that debate on these bills was to start no later than 11 am and would conclude at 11.30 am. It did not start until one minute 30 seconds past the hour of 11. It seems in this chamber that if you are the Greens you have one set of rules and if you are the opposition you have a different set of rules.

Yesterday the Senate gave leave to Senator Faulkner to speak about a very gracious lady in Australian history, Mrs Whitlam. That 30 minutes was given by leave of this Senate, but outside of the rules of the guillotine passed by the Greens political party and the Labor Party. Mr Chairman, I know this Senate does not run to any particular system to assist people in their own personal issues, although I suspect with Senator Faulkner and his very strong connection to the Whitlams that perhaps it was personal.

I had an issue last night where I wanted to make a speech while some 80-year-olds were in the gallery to commemorate the 55th anniversary of the crash of an RAAF aircraft at Duntroon, involving my brother, the pilot of that Dakota aircraft, and other crew members. The surviving members were sitting in the gallery last night. Two of them are well over 80 and unlikely to be able to come back into this chamber at any time in the future.

I thank the members of the Labor Party who agreed this morning to allow me to start this session by special leave to give my speech that I was going to deliver last night on the 55th anniversary of the plane crash that took my brother's life and the lives of the relatives of those people sitting in the gallery last night. Of course, when it comes to these sorts of things, we are inflexible. When it comes to Senator Faulkner speaking about Mrs Whitlam—and she was a very gracious lady and a very important person—the rules seem to be allowed. I thank the Labor Party senators for agreeing to allow me to do that.

I put on record my disgust and detesting of the Greens political party for their refusal to allow me this personal indulgence. I give it out and I take it. I have no regard for the Greens.

Senator Bob Brown: Mr Chairman, on a point of order; what the honourable senator says is untrue.

The CHAIRMAN: That is not a point of order, Senator Brown.

Senator Bob Brown: It is untrue.
The CHAIRMAN: Senator Brown, that is not a point of order.

Senator IAN MACDONALD: Thank you, Mr Chairman. If what has been reported to me about the Greens' attitude is incorrect, then I will apologise. I can only indicate what was indicated to me: that the Labor Party were agreeable but the Greens had a problem.

As I say, this is a personal issue and personal issues should not involve and interfere with the running of the country. It is typical of the actions of the Greens political party and particularly their leader that this sort of indulgence is given to the Labor Party but not to others. You have the leader again interrupting because he cannot take it.

Senator Bob Brown: Mr Chairman, on a point of order: I do not know what ails the senator but it is quite inappropriate for him to be continuing a diatribe on the Greens when he is being indulged to make a personal statement about a matter of historic importance to him. I suggest that he have the decency to stay with that or, Chair, you direct him to do so.

The CHAIRMAN: Thank you, Senator Brown. It is strictly not a point of order, and Senator Macdonald, I would remind you that you do have the indulgence of the chamber.

Senator IAN MACDONALD: Mr Chairman, I do not. I am actually speaking on the bill before the chamber. Senator Brown, as usual, is completely wrong. He is never in the chamber, so he does not understand what is happening. We are in fact dealing with the Telecommunications Universal Service Management Agency Bill and related legislation. What I am saying in my contribution to this committee stage is that, although this is a complicated bill, because of the guillotine put in place by Senator Brown and his party we have 30 minutes to discuss these very important bills. I know Senator Fisher wants to say something on this. I want to say something on this but, in 30 minutes, what chance are we going to have to debate anything at all relating to the Telecommunications Universal Service Management Agency Bill, which I am speaking upon, and which Senator Brown as usual does not understand and has no interest in? It is rare to see him in the chamber. He is here only when, it seems, he is asking questions about issues that certain donors have—

Senator Bob Brown: Mr Chairman, I rise on a point of order. Senator Macdonald is complaining about the shortness of time but he has taken half his speech time now—

The CHAIRMAN: It is not a point of order, Senator Brown.

Senator Bob Brown: It is, Mr Chairman. He should address the question before the chair.

The CHAIRMAN: He is addressing the question before the chair. Senator Macdonald, you have the call.

Senator IAN MACDONALD: It is typical of the Greens political party and particularly their leader that they simply cannot take it. Unless it seems to be a question relating to something that is relevant to a substantial donor of $1.6 million to the Greens political party, Senator Brown does not seem to have any interest.

Senator Bob Brown: On a point of order, I again ask you to have the senator address the question. You know he is not addressing the question and it is time you got him to address it.

The CHAIRMAN: Senator Macdonald has been relevant, but he has just started to stray from the relevance of the bill. Senator Macdonald, I remind you of the question before the chair.
Senator IAN MACDONALD: I am talking about this legislation and that the consultation in relation to the universal service obligation reform is deficient. There are a lot of other problems with this legislation—things that should be addressed in debate in this chamber, but they are not being addressed because the Greens political party and their leader have combined with the government to curtail debate on this and other important legislation. As I mentioned, when it comes to giving leave to vary these rules when it relates to the Labor Party the Greens fall over themselves to agree, but when others seek the approval of the Senate to digress slightly the Greens are not at all interested.

How can we address the issues in this particular legislation in what is now 20 minutes? I repeat: while I always appreciate prayers at the beginning of the day it is contrary to the strict letter of the motion that actually dealt with the time for discussion. We are not even having 30 minutes for this legislation; we are having 29 or fewer minutes.

The coalition questions the need for an entire new bureaucracy to administer the universal service obligation. I would like to question the minister at length about the need for that bureaucracy but are we going to have a chance? We have now 18 minutes left to deal with every aspect of this particular legislation, thanks to the Greens. I know Senator Ludlam makes a contribution to this area of law. Is he happy with the fact that he is going to—

Senator Ludlam: Just ask the question.

Senator IAN MACDONALD: Do not tell me to hurry up, Senator Ludlam. You should have thought about this before you agreed with the Labor Party to curtail debate on this legislation to less than 30 minutes. Do not give me the hurry up signal; you should have thought about that before. With the way this chamber is now run in a little coterie of Labor Party and Greens senators we have these sorts of difficulties and these sorts of unfortunate aspects. Senator Conroy, I can well understand why you, as the relevant minister, do not want much scrutiny and do not want much debate on this because this debate—

Senator Conroy: You've got me!

Senator IAN MACDONALD: I know I have got you, Senator Conroy. If we had been debating this particular legislation properly you would have been subject to many penetrating questions from Senator Fisher—

Senator Conroy: Oh my goodness!

Senator IAN MACDONALD: There is the absolute arrogance of the Labor Party and its ministers. Nobody except Senator Conroy, whose total history, whose total qualifications for running Australia's biggest business, a $55 billion telecommunications company—

Senator Conroy: It's $50 billion.

Senator IAN MACDONALD: It is $55 billion and rising, Senator. His total experience for running the biggest business in Australia is that he was once a clerk in the Transport Workers Union.

Senator Conroy: A clerk?

Senator IAN MACDONALD: What were you?

Senator Conroy: I was an industrial and superannuation officer.

Senator IAN MACDONALD: He was an industrial and superannuation officer, whose sole purpose in life at the TWU was to get Labor Party people elected to the Senate. He did that very well. He got himself elected to the Senate.

Senator Conroy: And others—be fair.
Senator IAN MACDONALD: And one or two others. What a qualification for running Australia's biggest business—$55 billion of taxpayers' money, not Senator Conroy's money, not Senator McLucas's money but taxpayers' money.

Senator McEwen interjecting—

Senator IAN MACDONALD: Thank you, Senator McEwen. You might recall Senator Conroy started this. So, if you are talking about personal attacks, you should start where they emanated.

The Telecommunications Universal Service Management Agency Bill is an important bill. We would like to question Senator Conroy at length on why we need an entire new bureaucracy to administer the universal service obligation. Are we going to get an opportunity? We will probably have Senator Conroy talking for the next 10 or 15 minutes and then the debate will be finished. I note Senator Ludlam has wisely left because he is not going to get an opportunity to question the minister about this important piece of legislation. I know that Senator Fisher, who is very, very skilled in this area and who has a real interest in the Telecommunications Universal Service Management Agency Bill, is barely going to get an opportunity to raise some of the particularly important issues that are relevant to this bill.

The Australian Communications and Media Authority has been administering the universal service obligation for some time. We would have thought that it has the expertise to continue doing so, even if the universal service obligation moves to a contractual model from the current regulatory platform. The government has not justified the need for a new entity to administer the public interest telecommunications services, and I want to question Senator Conroy about that particular aspect. He will give an answer, I assume, but it will be, like most answers given by the Labor Party, total spin. I will then want to question him further after he responds to my question.

I understand that the government, with the connivance of the Greens, is going to be moving amendments to its own legislation before the chamber. Have we heard about them yet? Certainly, the amendments have been distributed, but it is very difficult to understand what those amendments are about. These are amendments to the government's own legislation. We are now going to have some 12 minutes for the minister to answer our questions and the questions of the Greens on this legislation and to deal with government amendments that have been circulated in the chamber but which have not been debated at all. What way is that to run the Parliament of Australia? What way is that to allow legislation to be properly scrutinised, debated and, hopefully, improved? Whilst the coalition generally supports the bills before the chamber there are amendments and improvements that could be made and there are different issues that need to be addressed. But are we going to have time to do that in the next 10 minutes?

What I highlight in my very short contribution to this debate is that the way the Labor Party and the Greens run these chambers means that we are rapidly becoming like the totalitarian regimes of yesteryear Europe. There is no opportunity to debate serious legislation because the Greens and the Labor Party say, 'No, we know what's right; we know what's best for Australia,' and they forget that parliament is about allowing the representatives of the Australian people to question, to propose and to amend legislation of the government.
Senator FISHER (South Australia) (11:19): Mr Chairman, am I able to ask questions of the minister?

The CHAIRMAN: Absolutely. That is your right, Senator Fisher.

Senator FISHER: Thank you. Minister Conroy, as my good colleague Senator Macdonald indicated, the government has circulated some amendments to the Telecommunications Universal Service Management Agency Bill 2011 and related legislation. As best I can work out in the limited time available it seems that the entirety of them—and they occupy some four pages—have to do with what is called the facilitation of the voice customer migration policy objectives. I presume that is all about facilitating the movement of voice customers during the transition to the NBN.

Given that these amendments have been circulated and that this issue has been raised by the government well after the original bill was introduced in the Senate and well after the Senate committee inquired into the bill, can the minister please explain to the chamber why the government has now seen fit to introduce this raft of amendments on the one topic when, as best I can tell, that topic has not been the subject of previous legislative consideration, nor indeed inquiry by the Senate Environment and Communications Legislation Committee or consultation with industry—to the extent that that was ever facilitated in any way by the government? So, Minister, why now, and how has this come about?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (11:20): I thank Senator Fisher for her question. None of the amendments that are being put forward are controversial. In fact, the first two groups of amendments were recommended by the Senate Environment and Communications Legislation Committee in its report on the bills. They were actually recommended. So they were discussed by the Senate committee, which is the proper place for it to happen, and we have taken up some of the recommendations.

The first group of amendments will enable TUSMA, the new statutory authority set up by one of the bills, to disclose information to the Telecommunications Industry Ombudsman, the Regional Telecommunications Independent Review Committee and the secretary of the department; the second group of amendments provides that the TUSMA board must include a person with knowledge of consumer affairs; and the third group of amendments relates to the role of TUSMA in managing the migration of voice-only customers from the Telstra copper network to the NBN. The migration of these customers will be helped if the service providers of those customers provide customer information to TUSMA. To do so at the moment, however, may breach the statutory privacy and confidentiality obligations. These amendments enable the provision of information and overcome those issues. A related set of amendments permit disclosure by service providers of information to TUSMA where this may assist TUSMA in carrying out any of its functions or exercising any of its powers. These are similar to arrangements that currently allow information to be disclosed to the ACMA, the ACCC and the TIO.

Once again there was a bit of colour and movement on that side of the chamber, with suggestions that it was not discussed or debated, yet two-thirds of these amendments were actually recommended by a Senate committee that examined this at some length—which I am sure you were involved
in, Senator Fisher. Possibly you may not have been, so I may be doing you a disservice. I appreciate that you did have some time off, so you may not have participated all the way through that committee. But this was certainly canvassed by a Senate committee.

It is no surprise to see Senator Macdonald once again demonstrating the hypocrisy of the position of those opposite on the National Broadband Network and the legislation that surrounds it. What this legislation does, for the first time, is correct the mistakes of the previous Howard government when it privatised Telstra as a fully vertically integrated monopoly. You said to Telstra, ‘It’s your job to make sure the phone boxes stay out there in the broader community. It’s your job to manage all of the infrastructure of emergency services on your copper network.’ This legislation—

Senator Fisher: Point of order, Mr Chairman: I asked the minister quite a clear question. I think he responded to it in the beginning, and he is now straying to unrelated matters. We have about six minutes left for this debate. I would ask him to finish his answer and sit down—if he has not already—because I have a follow-up question, and I am sure my colleagues do.

The CHAIRMAN: Thank you, Senator Fisher. Senator Conroy has been relevant to the bill. Senator Conroy, I will remind you of the question that was asked.

Senator CONROY: Thank you. As has been noted, I have answered the question, but I am also responding to some comments that were made by Senator Macdonald. I think it is fairly free-ranging if I am responding directly to comments that were made by Senator Macdonald. I think, to be fair to you, Senator Fisher, you were not here, and I do not think Senator Fifield was, but Senator Macdonald is a guilty party. He voted to privatis e a vertically integrated monopoly and create the mess that we are cleaning up; this is the final part of the legislation to clean it up. The government, for the first time, are making a contribution towards the costs of the universal service obligation for those in our community that have the worst access to telecommunications services. We are not the party that voted for privatisation that meant that Telstra's mobile phone network did not reach all the places it should. We are not the party—

Senator Fisher: Point of order, Mr Chairman: the minister indicated that the government is moving three amendments. He tried to suggest that two-thirds of those amendments were the subject of inquiry by the Senate committee. What he has conveniently misled this chamber about is that the third amendment was not the subject of the committee considerations—

The CHAIRMAN: Senator Fisher, that is not a point of order. Senator Conroy is being relevant and speaking within the ambit of the question before the chair.

Senator CONROY: Thank you. As I said, they were considered by the Senate committee. I did not suggest that the third was, but what I have been arguing is that this is a mess you made. If Telstra wanted to close a phone box in this country, Telstra put a sticker on it and closed it down. We are now taking away the capacity for Telstra to unilaterally rip phone boxes out of the ground—literally rip them out of the ground, as they have been doing around this country—and get rid of them. We now have a different regime so that they are not able to do those things. We have an agency that will have funding from the government for the first time. You never put a cent in.

How was the universal service obligation fund previously done? Telstra would say it does not pay for all the costs of providing the
universal service agency, and there is an existing levy on telcos. How was this figure devised? I think one of the former communications ministers from those opposite used to add his mother's age, divide by his shoe size and just make a number up. I know this because I have inherited it. Every year it comes across the table: 'What amount do we want to charge for the universal service obligation levy?' All we have done so far is roll it over, because trying to fathom the way that Senator Alston calculated the universal service obligation levy was actually comical. Nobody in the parliament, the bureaucracy or the industry has ever to this day been able to tell us what the formula was for creating the levy.

We stepped up and said it is time we had a new agency to make the calculations and to look at this levy arrangement. More importantly, for the first time—it did not come from the National Party or from the rural Liberal Party members that Senator Macdonald so proudly boasts of regularly—we have said the government will make a contribution to protecting the telecommunications services in dollar terms. We are putting money in: $100 million each year into the future. We are putting that forward to the costs of the universal service levy to make sure Telstra cannot just rip phone boxes that people still use out of the ground. We are proud of that and we will not back away from that. This agency allows us to have a role in protecting telecommunications services for the first time. Those opposite, who privatised a vertically integrated monopoly and who were interested only in fattening up the cow for privatisation in the past, should hang their heads in shame and, as you are going to do in a few minutes, vote for this legislation, because it will be the absolute ultimate shame if you oppose an agency that will guarantee the protection of telecommunications services into the future for regional and rural Australians.

Senator FISHER (South Australia) (11:28): Can the minister confirm that, of the amendments that the government has circulated, the amendments from (3) onwards—occupying the bottom of page 1, page 2, page 3 and page 4 of the government amendments—each concern facilitation of the voice customer migration policy and do not concern either of the first two-thirds of the amendments, which the minister properly indicated were the subject of consideration by the Senate committee? Can the minister (1) confirm that and (2) confirm that the only ones of the government's amendments that were considered and recommended by the Senate committee were in fact amendments (1) and (2) of the amendments circulated, occupying a third of page 1?

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) (11:30): I can confirm that the first two groups of amendments, as I said, were recommended, which would, by definition, suggest that the third group were not.

The CHAIRMAN: The time allotted for the consideration of these bills has expired. Is it the wish of the committee that the statement of reasons accompanying the requests be incorporated in Hansard immediately after the requests to which it relates? It is so ordered. In respect of Telecommunications Universal Service Management Agency Bill 2011 the question is that amendments (1) and (4) to (8) and requests for amendment (2) and (3) on sheet BE262 circulated by the government be agreed to:
(1) Clause 4, page 8 (after line 22), after the definition of *telecommunications industry*, insert:

> **Telecommunications Industry Ombudsman** has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

(2) Clause 4, page 9 (after line 2), after the definition of *vacancy*, insert:

> **voice customer migration policy objective** means the policy objective set out in paragraph 11(e), in so far as that objective relates to either or both of the following:

(a) customer information programs;

(b) customer cabling installation programs.

(3) Page 25 (after line 26), after Division 4, insert:

**Division 4A—Facilitation of the voice customer migration policy objective**

**Subdivision A—Access to information or documents held by a carriage service provider**

**29A** Access to information or documents held by a carriage service provider

**Scope**

(1) This section applies to a carriage service provider if TUSMA believes on reasonable grounds that the carriage service provider has information or a document that is relevant to the achievement of the voice customer migration policy objective.

**Requirement**

(2) TUSMA may, by written notice given to the carriage service provider, require the carriage service provider:

(a) to give to TUSMA, within the period and in the manner and form specified in the notice, any such information; or

(b) to produce to TUSMA, within the period and in the manner specified in the notice, any such documents; or

(c) to make copies of any such documents and to produce to TUSMA, within the period and in the manner specified in the notice, those copies.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

**Compliance**

(4) A carriage service provider must comply with a requirement under subsection (2) to the extent that the carriage service provider is capable of doing so.

(5) A carriage service provider commits an offence if:

(a) TUSMA has given a notice to the carriage service provider under subsection (2); and

(b) the carriage service provider engages in conduct; and

(c) the carriage service provider's conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

**29B** Copying documents—compensation

A carriage service provider is entitled to be paid by TUSMA reasonable compensation for complying with a requirement covered by paragraph 29A(2)(c).

**29C** Copies of documents

(1) TUSMA may:

(a) inspect a document or copy produced under subsection 29A(2); and

(b) make and retain copies of, or take and retain extracts from, such a document.

(2) TUSMA may retain possession of a copy of a document produced in accordance with a requirement covered by paragraph 29A(2)(c).

**29D** TUSMA may retain documents

(1) TUSMA may take, and retain for as long as is necessary, possession of a document produced under subsection 29A(2).

(2) The carriage service provider otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by TUSMA to be a true copy.

(3) The certified copy must be received in all courts and tribunals as evidence as if it were the original.
(4) Until a certified copy is supplied, TUSMA must, at such times and places as TUSMA thinks appropriate, permit the carriage service provider otherwise entitled to possession of the document, or a person authorised by that carriage service provider, to inspect and make copies of, or take extracts from, the document.

29E Law relating to legal professional privilege not affected

This Subdivision does not affect the law relating to legal professional privilege.

Subdivision B—Disclosure of information

29F Disclosure of information

Scope

(1) This section applies to information that:

(a) was obtained by TUSMA under section 29A; or

(b) is contained in a document, or a copy of a document, that was produced to TUSMA under section 29A.

Disclosure

(2) TUSMA may disclose the information to a carriage service provider if the disclosure is for a purpose relating to the achievement of the voice customer migration policy objective.

Subdivision C—Consent to customer contact

29G Consent to customer contact

Scope

(1) This section applies to a carriage service provider if:

(a) TUSMA believes on reasonable grounds that, if the carriage service provider were to consent to another person (the third person) contacting:

(i) the carriage service provider’s customers; or

(ii) customers included in a particular class of the carriage service provider’s customers;

for a purpose relating to the achievement of the voice customer migration policy objective, that consent would be likely to facilitate the achievement of the voice customer migration policy objective; and

(b) the carriage service provider is not a contractor in relation to a section 13 contract entered into for a purpose relating to the achievement of the voice customer migration policy objective; and

(c) the carriage service provider is not a grant recipient in relation to a section 13 grant made for a purpose relating to the achievement of the voice customer migration policy objective.

Requirement

(2) TUSMA may, by written notice given to the carriage service provider, require the carriage service provider:

(a) to consent to the third person contacting:

(i) if subparagraph (1)(a)(i) applies—the carriage service provider’s customers; or

(ii) if subparagraph (1)(a)(ii) applies—customers included in a specified class of the carriage service provider’s customers;

for a purpose relating to the achievement of the voice customer migration policy objective; and

(b) to do so within the period and in the manner specified in the notice.

(3) A period specified under subsection (2) must not be shorter than 14 days after the notice is given.

Compliance

(4) A carriage service provider must comply with a requirement under subsection (2).

(5) A carriage service provider commits an offence if:

(a) TUSMA has given a notice to the carriage service provider under subsection (2); and

(b) the carriage service provider engages in conduct; and

(c) the carriage service provider’s conduct contravenes a requirement in the notice.

Penalty for contravention of this subsection: 50 penalty units.

(4) Clause 38, page 30 (line 2), omit paragraph (2)(d), substitute:

(d) consumer affairs;

(5) Heading to clause 122, page 73 (line 3), omit "the ACMA and the ACCC", substitute "certain bodies or persons".
(6) Clause 122, page 73 (line 5), omit "authorities", substitute "bodies or persons".

(7) Clause 122, page 73 (lines 6 and 7), omit "authority to perform or exercise any of its functions or powers", substitute "body or person to perform or exercise any of the functions or powers of the body or person".

(8) Clause 122, page 73 (line 9), at the end of subclause (1), add:

; (c) the Telecommunications Industry Ombudsman;

; (d) the Regional Telecommunications Independent Review Committee;

; (e) the Secretary of the Department.

The statement of reasons read as follows—

Statement of reasons: why certain amendments should be moved as requests

Section 53 of the Constitution is as follows:

Powers of the Houses in respect of legislation

53. Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

Amendment (3)

The effect of clause 29B of the amendment is to provide for compensation to be paid to carriage service providers for providing copies of documents to TUSMA. It is covered by section 53 because the compensation will be paid out of the Telecommunications Universal Service Special Account established by clause 84 of the Bill, with those payments being made out of the Consolidated Revenue Fund under the standing appropriation in section 21 of the Financial Management and Accountability Act 1997.

Telecommunications Universal Service Management Agency Bill 2011

SHEET BE262

Statement by the Clerk of the Senate pursuant to the order of the Senate of 26 June 2000

Amendment (3)

The stated effect of subclause 29B contained in this amendment is to provide for compensation payments to be made to certain carriage service providers when they are required to provide copies of documents to the Telecommunications Universal Service Management Agency in relation to the proposed voice customer migration policy. Although the decision to make such a payment would be subject to a decision by the Agency, if such a payment is made, the increased expenditure would be met directly from the standing appropriation contained in clause 84 of the bill.

The Senate has long followed the practice that it should treat as requests amendments which would clearly, necessarily and directly result in increased expenditure under a standing appropriation. If, as stated, this amendment would result in increased expenditure under the standing appropriation in clause 84 of the bill, it is in accordance with the precedents of the Senate that this amendment be moved as a request.

Amendment (2)

Amendment (2) is consequential on the request. It is the practice of the Senate that amendments purely consequential on
amendments framed as requests may also be framed as requests.

Question agreed to.

Bill, as amended, agreed to, subject to requests.

The CHAIRMAN: In respect of the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 the question is that amendment (1) on sheet BL246 circulated by the government be agreed to:

(1) Schedule 1, page 8 (after line 27), after item 28, insert:

28A Section 284 (heading)
Repeal the heading, substitute:

284 Assisting the ACMA, the ACCC, the Telecommunications Industry Ombudsman or TUSMA

28B At the end of section 284
Add:

(4) Sections 276 and 277 do not prohibit a disclosure by a person of information or a document if:

(a) the disclosure is made to, or to a member of the staff of, TUSMA; and

(b) the information or document may assist TUSMA to carry out its functions or powers.

28C Section 299 (heading)
Repeal the heading, substitute:

299 Assisting the ACMA, the ACCC, the Telecommunications Industry Ombudsman or TUSMA

28D At the end of section 299 (before the note)
Add:

(4) If information or a document is disclosed to a person as permitted by subsection 284(4) or this subsection, the person must not disclose or use the information or document except for the purpose of, or in connection with, the carrying out of TUSMA's functions and powers.

28E Section 299 (note)

Question agreed to.

Omit "or the Telecommunications Industry Ombudsman", substitute ", the Telecommunications Industry Ombudsman or TUSMA".

Bill, as amended, agreed to.

The CHAIRMAN: The question now is that the Telecommunications (Industry Levy) Bill 2011 be agreed to without requests or amendments.

Bill agreed to.

Senator Ian Macdonald: On a point of order, as I understand the motions dealing with 'time management', this bill was supposed to start at 11 am. It did not start until about two minutes past. I know Senator Fisher has some other questions she would like to ask. Are we allowed to have the extra two minutes, or what is the ruling where there is a specific time when this bill is to start and it did not? Do we just ignore those two minutes or is this something that the movers of the motion did not contemplate? I am curious as to how we have not started in accordance with the motion agreed to as to time?

The DEPUTY PRESIDENT: Senator Macdonald, my understanding is that the order passed by resolution of the Senate fixing the hours for today also incorporates the existing standing order of the commencement of the day where prayers take place. I do not believe there was any scope for additional time to be added. You have raised that matter. If anything else needs to be added, the President or I will report back to the chamber.

Telecommunications Universal Service Management Agency Bill 2011 reported with amendments and requests; Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 reported with an amendment; Telecommunications (Industry Levy) Bill 2011 reported without amendment; report adopted.
Third Reading

The DEPUTY PRESIDENT (11:33): The question now is that the remaining stages of these bills be agreed to and the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011 and the Telecommunications (Industry Levy) Bill 2011 be now passed.

Question agreed to.

Bills read a third time.

Building and Construction Industry Improvement Amendment (Transition to Fair Work) 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) (11:34): Thuggery, lawlessness and illegal behaviour are all being legislatively embraced in this Greens-ALP alliance bill euphemistically called the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012. The spin machine of the Greens-ALP alliance call this bill 'an improvement'. For whom is it an improvement? It is only an improvement for those who want to engage in lawlessness, thuggery and illegalities. It is a sorry state of affairs, but regrettably typical of this Greens-ALP alliance, when government succumbs to promoting legislation which encourages lawlessness and allows and indeed actively promotes and encourages pay-offs and dirty deals for people to avoid prosecution.

In the past we have had royal commissions into people buying their way out of prosecutions—in fact called 'corruption'. This legislation, championed as it is by the Greens-ALP alliance, will actually make legal what we in our society once labelled 'corruption'. That is why the coalition opposes the bill, but let us recount some history. Because of the culture of unlawfulness within the Australian building and construction sector, a number of us, including me, called for a royal commission to ascertain how widespread it was and the what types of unlawfulness were being engaged in. As a result, the Cole royal commission was established. In its 23-volume report, the Cole royal commission meticulously painted the 'horror-scope' that represented the culture on our construction sites. It was an ugly picture—big business and big unions using individual workers, contractors, developers and the public purse as their own personal playthings at the expense of the national interest. The Cole royal commission recommended the establishment of the Australian Building and Construction Commissioner, which the Howard government put into place despite the objection of the ALP and the Greens—who, incidentally, are substantial beneficiaries of largesse from the CFMEU for their election coffers. Just in the past few years, they and related organisations have received well over $1 million. In short, the Australian Building and Construction Commissioner was established and commenced the difficult, dangerous and deliberate task of cleaning up the sector. The commission has made huge and genuine improvements and inroads into the culture of intimidation and lawlessness that was the construction sector.

Despite the good work, pockets of lawlessness remain. There is an ongoing role—indeed, need—for a tough cop on the beat. So important is the need for a tough cop on the beat that even Labor promised to maintain an authority with sufficient powers to stamp out lawlessness. Labor's own hand-picked reviewer of the commission, Mr Wilcox—who established his credentials for the review, by the way, by being an outspoken critic of the Howard
government—came to the conclusion that there was a need to keep a tough cop on the beat.

Today, parking inspectors and traffic police will be clothed with greater powers than what will become, under this bill, the pathetic but aptly named building inspectorate. Inspecting will be their forte. They will not be able to do anything about what they find, but they will be inspecting. I am sure they will be very good at inspecting. I am sure they will become proficient at inspecting. But mere inspecting will not deal with the issues and stamp out lawlessness. An authority with genuine grunt is what is needed.

So important was this need to have an authority with genuine grunt that none other than Ms Gillard, the then workplace relations spokesman for the ALP, promised:

We want to make sure that no one is engaged in improper conduct in the building industry, whether employer, union or employee.

Ms Gillard went on to say:

Anybody who breaches the law should feel the full force of the law.

She said:

… there should be absolutely vigorous, hard-edged compliance and no tolerance … for unlawfulness.

Again, she said:

Each and every breach of the law is wrong and each and every breach of the law should be acted upon.

They are all great words, a great set of principles, but all just as worthless as Ms Gillard's promise that there will be no carbon tax. They are simply empty, hollow words to get herself and the ALP through an election and then, afterwards, those promises are not matched with the reality of Labor in power.

The Australian people have now come to realise that, as it is with the carbon tax, with private health insurance and with the definition of marriage, just to mention three, so it is with the Australian Building and Construction Commissioner. Rather than having a tough cop on the beat, we will have not even a toothless tiger but a toothless mouse. As three state attorneys-general and the Law Council of Australia have observed, this legislation is so bad that it will actually undermine longstanding principles enshrined in our legal system. The Law Council of Australia, in an unprecedentedly strong statement, has condemned this legislation.

Might I add that part of this legislation was rushed into the House of Representatives during the House of Representatives debate as an amendment. After the Senate committee had finished its investigations into the bill, the Greens-Labor alliance sneakily put through this far-reaching amendment, of which the Law Council have said this. I quote from their media release of 8 March:

The Law Council of Australia has raised serious concerns …

They said it will:

… significantly impact the ability of the independent regulator to enforce compliance with the relevant legislation in the building and construction industry.

They said:

… the … Commissioner will be unable to either institute or continue civil penalty litigation for breaches under Commonwealth law because there has been a commercial settlement between the contravener and persons affected by the offending conduct …

They condemned it because it 'will give precedence to the interests of private litigants over the application and enforcement of Australian law'. They said it will 'significantly erode the regulator's independent regulatory role'. They went on to say:
There is potential for significant waste of taxpayers money if the regulator is forced to discontinue litigation or an investigation … They also said:

… undue pressure is placed on parties to settle out of court to preclude the regulator from pursuing … penalties …

The Law Council urges reconsideration of this legislation …

On the back of this very strongly worded media release, the coalition sought to refer that aspect of the bill that had never been before a Senate committee before to a Senate committee. Those great champions of the parliamentary process, those great champions of transparency, the Greens-ALP majority in this place, voted down further scrutiny, despite what the Law Council of Australia said in its unprecedentedly strong statement. They also voted down this potential inquiry despite the fact that three state attorneys-general came out backing the view of the Law Council of Australia.

What necessitated this last-minute amendment to the legislation? We will never know, because this bill has been guillotined, debate on this has been gagged and the Greens-ALP majority alliance in this place has deliberately ensured that we cannot investigate further.

In case people do not necessarily comprehend what this last-minute amendment will do, allow me to give a very brief analogy. If somebody drives through a red light and collides with another motor vehicle, causing damage and injury, under normal circumstances, the person driving through the red light would have to settle with the person whose property they had damaged and would have to compensate them for any private injury. Irrespective of that payment and private settlement, one would expect the police to bring a charge for driving through the red light. That is the normal way our legal system operates. It is a proper way for our legal system to operate. It has always been thus; it should always be thus.

But today, courtesy of the Greens-ALP majority in this place ruthlessly abusing their numbers, they will force through, onto the statute books of our country, the capacity for those with the money to buy themselves out of trouble. In the analogy I have just provided, if the person who ran the red light had sufficient money to pay off the person whose vehicle they had damaged and to compensate that person for any injury—sufficient for that person to say, 'I am now happy because he slung me an extra few thousand dollars'—the police would be denied the capacity to bring a charge for running a red light. The same could apply in the case of a drink-driving offence. Under this legislation, the Labor Party and the Australian Greens are saying that it is good social policy to allow private interests to subvert the national interest and society's interests.

This is a shameful amendment. No wonder it was snuck in very late in the debate in the House of Representatives. No wonder the Greens-ALP majority alliance in this place did not want it scrutinised by a Senate committee. This legislates—puts on the statute books—the capacity for those with the money to buy themselves out of a prosecution, something which royal commissions in this country over the years have condemned. Who are the people who are going to have the money to buy themselves out of a prosecution? It is pretty simple: it will be big business and the unions. The individual worker, the small contractor, will not have the money; they will not have the capacity.

But why is this so necessary? Let us have a look at a certain construction site in the
state of Victoria where the CFMEU were engaged in illegal conduct. They finally came to a private settlement with John Holland. We do not know the full extent of it, but the Office of the Australian Building and Construction Commissioner, the ABCC, nevertheless brought proceedings for that illegal behaviour. Interestingly enough, the CFMEU in effect pleaded guilty to the charge and consented to a fine of $1.35 million. Under the brave new world of the Greens-ALP majority in this place, the CFMEU will have the capacity to escape such fines in the future—because there has been a private settlement, the building inspector will not be allowed to bring the prosecution. This is wrong in principle. It should never find its way onto the statute books. But the ALP and the Greens are willing to use their majority to ensure that this subversion of the rule of law finds its way onto the statute books.

That is not the only thing wrong with this piece of legislation; it also has a provision which is called 'switch-off powers', a provision which allows for coercive powers to be switched off. Why would you want to do that? Justice Wilcox, in his inquiry, did not make that recommendation. Did the unions make such a recommendation? Surprise, surprise—they did not. Did the employers make such a recommendation? No, they did not. We heard from the department at the Senate committee hearing—and what we heard shows us why Senate committee hearings are so vitally important. Labor and the Greens seek to escape them and do so by ruthlessly using their majority in this place on a daily basis. The Senate committee hearing into this aspect of the bill exposed—the departmental officials acknowledged—that no-one in the consultations surrounding this legislation recommended the switch-off powers. We know the unions did not want them, we know the employers did not want them and we know that no-one in the consultations wanted them. So where did this provision come from? We are still awaiting that answer because that question was taken on notice. No doubt it was dreamt up in the minister's office. But what is the justification for it? We still do not know and we will never know—similar to that outrageous part of the legislation making the inspectorate a toothless mouse.

In the time left, it would be very worthwhile for the Senate to consider what has occurred with the ABCC over the past few years. Because of its existence, we have seen a seismic shift in culture on Australian construction and building sites. The consumer price index is 1.2 per cent lower than it otherwise would have been. There is a good reason for getting rid of the ABCC, surely! If that does not satisfy you, the Greens-ALP alliance have other reasons: GDP is 1.5 per cent higher than it otherwise would have been; the price of housing fell by 2.2 per cent; and consumers are better off by $5.9 billion on an annual basis. These are all good things the ABCC has been able to deliver across the board for the Australian people, for the Australian economy, for our common wellbeing.

That is the reason the Australian Labor Party, with their Greens alliance partners, want to abolish the Australian building and construction commission.

What else will this legislation do? Employers, especially in the resources sector, have said key decision makers, as part of their due diligence, will consider what the likely industrial relations environment will be for their project and, in the absence of strong laws, it is likely that the concern about industrial environment matters will increase and impact upon investment decisions. The Labor Party are trying to kill the resource sector, which is the goose that is laying the
golden egg for Australia, on a daily basis. They tried with a carbon tax but just in case the carbon tax did not do the job they had a mining tax as a double whammy and in case those two things did not do it together, they would have the triple whammy of abolishing the Australian building and construction commission just to make sure the resource sector is killed stone cold motherless dead.

What is it that motivates this government? Last night they were celebrating the introduction of a new tax as some great achievement. Tonight, using the ruthlessness of the guillotine, they will be celebrating the abolition of the Australian building and construction commission. This is bad legislation. It will give statutory legitimacy to blackmail, payoffs and sweetheart deals. It is the first time private interests will legislatively override the national interest. On re-election, we will restore the commission. (Time expired)

Senator FURNER (Queensland) (11:49): I am delighted to contribute, as a former union official, to the debate on the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012. Fairness in industrial relations is a matter close to my heart—and 'fairness' is a word Senator Abetz failed to mention during his speech on the bill. That is where the Labor Party and those opposite are divided. The Australian Labor Party believes in fairness and in ensuring everyone has the same rights and opportunities no matter their background. We believe that workers deserve to be treated with respect, have access to their entitlements and have access to fair representation in their work place. This bill will ensure that these principles are returned to the construction industry.

This bill seeks to abolish the Office of the Australian Building and Construction Commissioner, which was established under the Howard government following Work Choices. Through this legislation, the government will replace the ABCC with a new body to provide a balanced framework for cooperative and productive workplace relations in the building and construction industry. We believe the Office of the Fair Work Building Industry Inspectorate would be a more appropriate regulatory body as it would be part of the Fair Work system. It will provide information, advice and assistance to all building industry participants regarding their rights and obligations under the law, as well as seek to improve the standard of occupational health and safety in the building and construction industry.

The ABCC has met with criticism from the community, especially with respect to its powers to interrogate people. Section 2.49 of the report of the Senate Education, Employment and Workplace Relations Legislation Committee states:

The Building and Construction Industry Improvement Act 2005 (BCII Act) provides the ABC Commissioner with the power to compel a person to provide information or produce documents if the ABC Commissioner believes on reasonable grounds that the person has information or documents relevant to an investigation and is capable of giving evidence.

On 3 February 2012, the Construction, Forestry, Mining and Energy Union Construction and General Division National Secretary Dave Noonan told the committee that coerced interrogation was unfair. He stated:

I would just say at this point that a person accused of murder under the criminal law of this country has a right to silence. A person accused of a serious violent crime such as assault in this country has a right to silence under the law. A person accused of theft, corruption or a range of criminal offences has a right to silence under this law. Those who do not have a right to silence under this law are construction workers, who can...
be interrogated about their workplace and union activities.

Nicola McGarrity and Professor George Williams from the Gilbert+Tobin Centre of Public Law stated in their submission:

The breadth of these requirements means that any person, including a child or a mere bystander, may be required to give information (including personal information, such as their political views) if it is relevant to an investigation of minor breaches of industrial law and industrial instruments.

The government will not be removing the coercive interrogation powers under this bill; however, instead, we will be introducing safeguards to allow proper representation and monitoring of interviews. These safeguards are reported in the committee report as follows:

Each use of the powers is dependent upon a presidential member of the Administrative Appeals Tribunal (AAT) being satisfied a case has been made for their use;

The person being examined will be entitled to be represented at the examination by a lawyer of the person's choice and their rights to refuse to disclose information on the grounds of legal professional privilege and public interest immunity will be recognised;

People required to attend an interview will be reimbursed for their reasonable expenses such as travel and accommodation as well as legal expenses;

All examinations will be videotaped and undertaken by the director or an officer from the senior executive service;

The Commonwealth Ombudsman will monitor and review all examinations and provide reports to the Parliament on the exercise of this power; and

The powers are subject to a three year sunset clause and it is intended that before the end of that period, the government would undertake a review to determine whether these powers continue to be required.

This will be reviewed in three years time.

The Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012 will also remove higher existing penalties for building industry participants for breaches of industrial law. At the moment the maximum penalty for unions is $110,000. This will be lowered to $33,000. The penalty for individuals will be reduced from $22,000 to $6,000.

The news of the abolition of the ABCC has been met with praise from the building industry, including the Builders Labourers Federation Queensland. In a recent message to members, secretary David Hanna said:

The ABCC days are numbered! The bill to rid them from our industry goes before Federal Parliament in February and it's a long time over due. We’ve been working under these draconian laws for 6 years - 2 of those under Howard ... Gillard has made some changes to the Code that allowed us to have stronger union EBAs. We are working hard to secure more changes to the Code and are very confident that we will succeed.

He further said:

Once again the union lives on while the dogs come and go. It is going to take time to repair the damage that they leave behind. The upside is many workers no longer take for granted what the union has delivered over the years and the members know that they are worth fighting for.

CFMEU's Dave Noonan has also welcomed the abolition of the ABCC. He said:

The ABCC was set up by the Howard Government as part of an ideological attack on unions. It has been a $135 million waste of money, serving only to try and intimidate union members who stand up for decent wages and safety.

The amendment also provides a provision to establish an independent assessor. The committee report states, The independent assessor would be appointed by the Governor-General, provided the minister is
satisfied the person has suitable qualifications and is of good character.’

The government have consulted widely with the industry on this piece of legislation and the report *Transition to Fair Work Australia for the Building and Construction Industry* by the Hon. Murray Wilcox QC covered extensive consultation with stakeholders. The coalition have tried to claim that the abolition of the ABCC is only beneficial to the ALP and the Australian Greens. In their dissenting report, coalition senators stated, 'There are genuine concerns that this bill is simply an effort to appease the union bosses and guarantee electoral funding.'

With claims by the BLF that more than 150 people have been interrogated and that these people have fewer rights than someone who has committed a crime, it is time to make changes and allow workers the proper representation that they deserve. This is not about appeasing union bosses; this is about having a fair and effective regulator—something the ABCC is not. The ALP is a supporter of workers' rights; the coalition are not.

The labour movement has fought hard for annual leave entitlements, reasonable work hours, sick days, paid public holidays, fairer pay and well deserved pay increases. With just two words, the coalition stripped away workers' rights, put people on individual contracts, took away leave loading, took away overtime and took away basic entitlements—and they say this amendment is just about appeasing the unions. This is where the divide is between those opposite and us. We have made a correction here today. It is a historical correction and is a correction of industrial relations. It is always the case that when Labor governments follow coalition governments, we need to correct the record and correct legislation on industrial relations. Today is that opportunity to fix the industrial relations mess that coalition governments create throughout this country when they are in parliament.

In closing, I commend the bill to the Senate and look forward to its passage through this chamber.

**Senator CASH** (Western Australia) (12:03): I rise to speak against the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012. In addressing this legislation, let us be clear about one thing. The future of the Office of the Australian Building and Construction Commissioner, the ABCC, under the former Rudd government and the current Gillard government is about one thing: it represents Labor politics in its true form and those politics are traditional payback to Labor's union mates. The future of the ABCC has nothing to do with a genuine attempt on behalf of the former Rudd government and the current Gillard government to address what are actually recognised as issues within the building and construction sector within Australia.

This legislation represents the current Gillard Labor government delivering on a commitment the former Rudd Labor government made to their union mates prior to the 2007 election. In fact, it is rather ironic that the one commitment that the Labor Party actually decide to deliver on, the one promise that those on the other side are very proud to say they are delivering on—and forget the 'no carbon tax' promise, forget all the other promises that the Labor Party made to the people of Australia that they are quite willing to break with no shame at all—is the promise they made prior to the 2007 election and prior to the 2010 election to their mates in the militant union. That is absolutely appalling.
This legislation is the vehicle by which the Labor government will deliver its commitment to the militant union movement that it will abolish the ABCC—that was the promise made prior to the 2007 election and the promise made prior to the 2010 election—with the result, unfortunately, that Australia, which has actually come a long way under the ABCC, will return to what was known rather ironically as the good old days which represented the chaos of the 1980s when the construction industry was held to ransom by union officials.

Let us be clear about what this legislation is intended to achieve. Far from what is stated in its title—the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill—the fact is that the details of this legislation reveal that the ABCC's replacement is nothing more and nothing less than a toothless tiger. Quite frankly, why even bother to have one? You need only look at the legislation and what the new body is actually empowered to do to see that it is effectively powerless.

As a senator for Western Australia, I have particular concerns with this bill and the abolition of the ABCC, for very good reason. Anybody in the Australian public who has read the Cole royal commission report will understand the havoc that the construction union movement has wreaked over the Western Australian building and construction industry for years, and why a strong enforcement body is required. To put my concerns into context, on 26 May 2007, prior to the election of the then Rudd Labor government, the Australian newspaper ran the banner headline, 'Union boss awaits return of ALP glory days.' The article stated:

Most mornings, militant unionist Kevin Reynolds meanders on to the balcony of his stunning riverside apartment, built by his loyal disciples, to take breakfast and read the morning papers. He can look across the Swan River to the cranes that pepper Perth's exploding CBD knowing that should Labor win the next federal election his nemesis—the only authority in 20 years to rein in his hardline and volatile union—will be destroyed. And Reynolds, along with his colourful deputy Joe McDonald, will again have total control over almost every major construction site in the booming West Australian capital. It is a daunting scenario for a construction industry enjoying a relatively strike-free environment since the Australian Building and Construction Commission, which Labor has vowed to abolish, came to town in late 2005.

The article continued:

Reynolds and McDonald have already started boasting about what will happen when Kevin Rudd becomes prime minister and carries out his promise to dismantle the ABCC headed by John Lloyd.

'I live for the day when (the ABCC staff) are all working at Hungry Jacks or Fast Eddy's or Kentucky Fried Chicken,' McDonald told the Australian recently. 'That is what's waiting for them. They're all ex-policemen and they can go and do whatever ex-coppers do. I suggest that John Lloyd and his mates will be unemployed before I will be.'

And he is right. He is right, because Mr Lloyd, the voice of reason within the construction industry in Australia, has well and truly gone, long before Mr McDonald has.

This legislation is Labor finally making good on its promise to deliver back to the union heavies construction sites across Australia. When this legislation passes, as it will, the standover merchants in the militant unions will be back in business. There is a reason the Labor Party has to make good on its promise, and it is because in Western Australia, in particular, it had a small issue. Union heavyweight Kevin Reynolds made it very clear in November 2009 that he was very disappointed with the then Rudd Labor government. It had at the time not scrapped the ABCC. In an article in the West
Australian newspaper on 24 November 2009, he was quoted saying:
The national CFMEU would not contribute to the ALP while the ABCC stayed in place, creating an annual $3 million hole in the federal ALP’s finances.

As Mr Reynolds said:
The Labor Party makes all sorts of promises to the union to get their money but at least on this promise they’re actually delivering.

In relation to this legislation, it is pretty obvious from the comments of the WA union heavies that this legislation has nothing to do with good public policy. It has nothing to do with taking action that is in the national interest, but it has everything to do with the Labor Party doing what it does best—that is, playing second fiddle to the union movement. Putting aside the fact that this legislation is merely a vehicle by which the Labor Party will deliver on a promise it made to the union movement, as a legislator, in determining whether or not this legislation is warranted, one must ask the question: have the circumstances that led to the creation of the ABCC in 2003 changed sufficiently to justify its abolition and the replacement of the industry watchdog with a toothless tiger?

To answer that question you need to put the legislation in context. It should not be forgotten that the ABCC was established only after an independent royal commission. A royal commission is the highest form of inquiry in the great nation of Australia. That royal commission made certain findings, which were: evidence of extensive lawlessness, intimidation and thuggery in the construction sector. That is not the coalition saying that. That is a royal commission that conducted an inquiry into the construction sector.

In relation to my home state of Western Australia, the construction industry in Western Australia was described by the royal commission as being 'marred by unlawful and inappropriate conduct' with 'a culture of fear, intimidation, coercion and industrial unrest'.

The royal commission made 230 findings of unlawful conduct in Western Australia alone, the majority of which were against CFMEU officials and organisers, with Kevin Reynolds and Joe McDonald being cited as repeat offenders for intimidation and threats of violence, breaches of freedom of association, secondary boycott and right of entry provisions, trespass and interference. Mr Murray Wilcox QC, the person chosen by the Labor government to conduct a review into the creation of a specialist division for the building and construction work within Fair Work Australia, actually agrees with the findings of the royal commission—this is the Labor Party’s appointed investigator. At page 7, point 9 of his Transition to Fair Work Australia for the building and construction industry report, this is what Mr Wilcox stated:

… there can be no doubt that the Royal Commissioner was correct in pointing to a culture of lawlessness, by some union officers and employees and supineness by some employers, during the years immediately preceding his report. The evidence summarised in the report is too powerful to permit any other view.

The unlawful practices so clearly identified by the Cole royal commission to be rife in the building and construction industry came at a very high economic cost to Australia and Australians. It resulted in higher infrastructure costs, delayed projects—some of which were stalled by months because of strike action—and the development of a culture of fear and intimidation. Because of this, the Cole royal commission recommended structural change that would gradually transform the hostile culture of the building and construction industry. Many years later, the type of conduct found to exist
by the royal commission has been reduced. There is no doubt about that. It is also very clear that the culture of intimidation in the building and construction industry has not changed sufficiently to warrant a reduction in the powers of the building watchdog, the ABCC. Again, Mr Wilcox—the Labor Party's appointed investigator—said at page 14 of his report that there is still work to be done to change behaviour in the industry.

The social and economic importance to Australians of the building and construction industry functioning properly cannot be underestimated. The benefits brought by the ABCC whilst it was in operation cannot be underestimated. The ABCC has upheld construction-specific laws, which in turn has seen major economic benefits flow through to all Australians.

The 2012 Independent Economics report explained that higher construction productivity—amazingly—leads to lower construction prices, which flows through to savings in production costs across the economy. The report highlighted the benefits of earlier reforms to the national economy. The report noted that the consumer price index is 1.2 per cent lower than it otherwise would be—again, that is hardly a reason to justify the abolition of the building watchdog; GDP is 1.5 per cent higher than it otherwise would be; consumers are better off by $5.9 billion on an annual basis in 2011–12 terms; and there has been a significant reduction in days lost through industrial action. To quote Heather Ridout's evidence to the initial Senate inquiry, 'If you look at working days lost in the sector, they have dropped like stones.'

Prior to the ABCC, in September 1996, more than 263 working days were lost per 1,000 employees due to IR disputes, and costs relating to IR disputes exceeded $270 million per year. Enter the ABCC, and what do we see? By March 2007, only 1.5 working days were lost per 1,000 employees due to IR disputes. That is actually a record low. Costs relating to IR disputes plummeted by over 85 per cent. So in September 1996, before the ABCC was enacted, there were 263 working days lost per 1,000 employees due to IR disputes, but by March 2007 that figure had dropped to 1.5 days. That evidence alone should signal to anybody interested in the building and construction industry sector that, with the introduction of legislation that created the building industry watchdog, law and order was slowly but surely returned to construction sites in Australia. It is a travesty for the Australian people and for the building and construction sector that, because of a crass promise made by the Labor Party to its union mates—the one promise the Labor Party has not broken, that it intends going through with—it is going to throw away the economic benefits outlined in reports, which cannot be denied, so that its union mates can be satisfied.

The achievements of the ABCC are without a doubt under threat from this legislation. That is because those on the other side believe that the minority interest groups and militant unions and their money are more important than maintaining law and order in the building and construction industry, ensuring and encouraging productivity and protecting Australian jobs. Based on the figures that we have seen in relation to productivity gains and the decrease in the number of days lost to industrial action, if this legislation is passed in its present form, it will no doubt have an impact on Australians' jobs. That is on top of the carbon tax and the mining tax. On top of everything else, the watchdog in the building and construction industry, which was actually bringing back lawfulness to the sector, is being destroyed by the Labor Party.
One of the other issues that I think goes to the fact that this is nothing more and nothing less than delivering on a promise to Labor's union mates is the narrowing of the definition of building work to exclude off-site prefabrication. Precast concrete panelling is an example of work performed off-site which is excluded under the proposed legislation. You have to ask why. Why would you exclude precast concrete panelling? What could possibly be the reason for that? It is building work, so why is it not included under the legislation we have before us?

The only logical answer is that, yet again, the Labor Party have succumbed to pressure from the AMWU and other manufacturing unions to restrict the effectiveness of the toothless tiger that they are leaving the building and construction industry with, and they are doing so without any regard to industry that is external but essential to the building and construction sector in Australia.

As a Senator for Western Australia and as someone whose state is directly affected by the militant and disruptive tactics of the CFMEU, it distresses me to see that so many Western Australians will have to sit back and, today, watch Labor simply hand back the control of the efficiently functioning building and construction industry with, and they are doing so without any regard to industry that is external but essential to the building and construction sector in Australia.

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Senator CAMERON (New South Wales) (12:23): I am very happy to participate in this second reading debate on the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, which is in relation to the abolition of the so-called building and construction watchdog. The ABCC was established by the Howard government to do one thing, and that was to attack and bust trade unionism in the building and contraction industry—simple. It was a flawed institution at its inception. You cannot point to any other country in the world with similar legislation to the building and construction legislation introduced by the Howard government that is against its citizens. You have to remember that it was part of the legislative package of the Howard government. It was part of Work Choices and the building industry and the ABCC. They were two huge attacks on the rights of workers in this country.

The ABCC is a flawed institution, and its flaws will be its downfall. It has been heavily biased against workers and their unions. I listened intently to the contribution of Senator Michaelia Cash and I did not hear one criticism of the conduct of employers in the building and construction industry—not one. I am not surprised, because the coalition stand up for the bosses and they always have a go at the workers. That is the coalition's position. The ABCC turned a blind eye to unlawful conduct on the part of employers. John Lloyd, the then ABCC commissioner, told me at estimates hearings that there was no sham contracting or corporate phoenixing in the industry. Well, what load of nonsense. When it was looked at seriously, it did not take very long to find that sham contracting was going on.

The ABCC has engaged in spin and deception to justify its own existence. It has shown a disregard for its obligations to be a model litigant, and there has been judicial
criticism piled upon judicial criticism of the ABCC. Apart from this criticism standing on its own with respect to individual cases, you need to look at it in the context of the ABCC’s obligation to be a model litigant under the Commonwealth Legal Services Directions made under the Judiciary Act 1903. The Legal Services Directions mandate the conduct of Commonwealth government agencies and departments in legal proceedings. In essence, being a model litigant requires the Commonwealth and its agencies, as parties to litigation, to act with complete propriety, fairly and in accordance with the highest professional standards. The expectation that the Commonwealth and its agencies will act as a model litigant has been recognised by the courts. Lawyers engaged in litigation on behalf of the Commonwealth—whether the Australian Government Solicitor, in-house or private—need to act in accordance with this obligation and to assist their client agencies to do so.

There is a body of judicial criticism of the ABCC's conduct in litigation which indicates that the ABCC has been guilty of serious lapses in carrying out its obligation to be a model litigant. I have some examples of judicial criticism of this flawed, politically-driven body. In the case of Steven Lovewell v Bradley O'Carroll & others, where Lovewell was an ABCC inspector, the ABCC commenced proceedings in December 2007 against Bradley O'Carroll and the Queensland branch of the CEPU, alleging that O'Carroll had attempted to coerce a head contractor not to engage a subcontractor on the Southport Central project on the Gold Coast. After hearing the evidence, Justice Spender did not feel constrained to make some adverse comments about the merits of the case brought by the ABCC. He observed:

The case, as brought and as evidenced by the evidence yesterday, was misconceived, was completely without merit and should not have been brought.

There is room for the view that if the Commission was even-handed in discharging its task of ensuring industrial harmony and lawfulness in the building or construction industry, proceedings, not necessarily in this court and not necessarily confined to civil industrial law, should have been brought against a company, Underground, and its managing director and possibly another director.

Justice Spender was referring here to the employer in the case, Underground, setting up its employees as independent subcontractors. His Honour said that this arrangement 'is and was a matter requiring thorough investigation'. Did the ABCC conduct an investigation on the employer? No, it did not. It was an investigation that the ABCC was never prepared to undertake. Its sole focus was prosecuting unions, blind to the unlawful behaviour of employers. Justice Spender went on to say:

The present arrangement in the present proceedings, on the material presently available to me, strongly suggests that the arrangement of the workers as 'independent subcontractors' was a sham, a bogus arrangement. It was an example of dishonest fraudulent financial engineering by Underground, whose intended purpose was to avoid the payments made under the certified agreement which bound Underground at the time.

Justice Spender went on to say:

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Justice Spender also remarked in the admissions made by the ABCC solicitors relating to the managing director of Underground. It was admitted by the ABCC
and noted by His Honour that the managing director is a 'foul-mouthed cowboy'. Justice Spender said if the conduct of the managing director of Underground had been engaged in by a union official, it would be extraordinary if that were not the subject of serious investigation and likely prosecution. His Honour went on to say:

The promotion of industrial harmony and the ensuring of lawfulness of conduct of those engaged in the industry of building and construction is extremely important, but as one which requires an even-handed investigation and an even-handed view as to resort to civil or criminal proceedings, and that seems very much to be missing in this case.

In his concluding remarks, Justice Spender said:

The commercial arrangements that Underground entered into with its workers is a species of black economy, which, unfortunately, seems to exist in the building industry, and equally, that it is to be stamped out if at all possible in the payment to workers in such an ad hoc way as to avoid the obligations of the income tax legislation and the superannuation legislation. It is not to be ignored or a blind eye cast when it is engaged in by the employers.

So what Justice Spender has blown apart is this argument of some even-handed, white knight, building industry watchdog out there looking after the interests of the industry. It is clear that Justice Spender has belled the cat and that the ABCC was biased. It was a political operation. It was set up by the Howard government to attack the trade union movement and ignore the behaviour of employers. What could be clearer than a senior judge outlining these flaws and problems with the ABCC? There are a range of other legal cases—if I get time I will come back to them.

I want to turn to this argument that was promoted by Senator Abetz and Senator Cash that somehow the ABCC on its own is responsible for huge improvements in productivity and huge savings to the government purse. The ABCC and its cheer squad, as we have on the other side of the chamber, have consistently claimed that its coercive powers have resulted in large productivity improvements in the industry. The claims, particularly those made in the Econtech 2007 and 2008 reports, have been hotly contested. The coalition speakers on this bill will stand up and say there was an independent analysis. There has been no independent analysis. Econtech were paid and given the brief by the ABCC to tell the ABCC what a great job, supposedly, the ABCC has done in the building and construction industry. Senator Abetz and Senator Cash—and I am sure Senator Back—will repeat the nonsense that there was a $5.9 billion a year benefit through the establishment of the ABCC. It is absolute rubbish.

Murray Wilcox—again, a very highly respected judge—looked at the ABCC and deals with these issues at some length in his report at pages 40 to 60. I challenge Senator Back to go to what Justice Wilcox says and continue the nonsense and fabrications that the coalition are putting. Justice Wilcox asked this question in his October 2008 discussions paper:

The only possible justification of having specially restrictive rules for the building and construction industry must be that this is necessary to provide industrial peace and an acceptable level of productivity. Many people assert that the industry's present happy position, in these respects, is attributable to the BCII Act and the activities of the ABCC. Is there any hard evidence that supports that assertion?

After Justice Wilcox's inquiry, he could not find any. There was not an employer, nor was the ABCC able to justify the nonsensical claims that Senator Abetz has put forward about the so-called fantastic performance of the ABCC.
Like Anzac Day or Moomba, one of the rituals of life these days is the release by Econtech KPMG of its latest modelling report to demonstrate the miraculous effect on productivity that the Stasi-like powers of the ABCC have. The 2007 Econtech report estimated that, as a result of the BCII Act and the ABCC’s activities, labour productivity in the building and construction industry had increased by 9.4 per cent—and we have heard these claims repeated constantly by the coalition—the CPI had been reduced by 1.2 percent and the gross domestic product had increased by 1.5 per cent. This had apparently all been achieved in the 15 months between the commencement of the ABCC’s activities and the end of 2006.

On this, Justice Wilcox, in his report—on page 42, paragraph 5.33, for Senator Back’s interest—notes that, according to a report by Allen Consulting, productivity in the industry had been rising far more steadily and over a longer period of time than is acknowledged by the ABCC. Justice Wilcox said:

Multi-factor productivity in the non-residential construction industry has displayed similar trends to those of labour productivity. The multi-factor productivity index measures industry gross value added per unit of capital and labour input. Multi-factor productivity increased strongly through the 1990s and peaked just prior to the introduction of the GST. Following a short but sharp fall in productivity following the introduction of the GST multi-factor productivity rebounded quickly and has been increasing since 2001.

Others have had a look at the nonsense that you will hear from Senator Back about productivity. An analysis was done by Professor David Peetz, and his criticisms were particularly devastating because in his view Econtech had stuffed up badly. All the arguments you hear about how well they have done have been analysed by Justice Wilcox, independent companies and Professor David Peetz and none of them came to the same conclusion as the coalition or the ABCC.

What Professor Peetz showed is that Econtech had got its sums wrong. Rather than a 9.4 per cent reduction in the gap between housing and non-housing construction costs the reduction had been 1.3 per cent. Peetz pointed out problems with Econtech’s efforts to compare actual productivity in the sector with projected productivity based on the rest of the economy, including how, in spite of the absence of the ABCC and royal commissions, construction industry productivity had surged far above predicted levels in the late 1990s.

Peetz found that the cost comparisons between the domestic house construction sector and the commercial construction sector were deliberately framed so as to create the misleading impression that costs in the housing sector are lower because of the absence of unions in that sector. Again, the ABCC and Econtech have concocted an absolute piece of nonsense in terms of productivity. Peetz concluded:

If ever there was an example of how economic modelling results are driven by assumptions and not data, this is it.

I have raised on a number of occasions in this place the assumptions that were put in. What some of the assumptions were was that on some of the big construction sites if there are no penalty rates paid, if you work 365 days a year and 24 hours a day, and if there are no public holidays and no annual leave, you can gain all these increases in productivity and reduce the costs in the industry. Sure, if workers become slaves it will be extremely cheap to build any construction in the building and construction industry. But we are not slaves in this country and, apart from Work Choices and the ABCC attempting to push workers'
wages and conditions down, we have always had a view that if you go to work, you should be treated fairly, you should be treated well and you should get a decent pay for the effort you put in. That is the philosophy of the Labor Party. Unfortunately, it is not the philosophy of the ABCC or the coalition or the Work Choices warriors on the other side of this chamber.

A year later after these devastating analyses on the so-called economic modelling by Econtech, the ABCC released an updated report by Econtech. The report quietly fixed the howling error made the previous year but kept the claims about massive economic benefits. Despite its wholesale overturning of the cost comparisons data relied on in the 2007 report, it repeated the same fabricated assertions made in 2007 and you will hear Senator Back—because his speech is already written, the nonsense is already written in his speech—run the same line that the ABCC ran; namely, that the GDP is 1.5 per cent higher, the CPI is 1.2 per cent lower and the price of dwellings are 2.5 per cent lower.

The report defied logic. No-one who has looked at this in an independent manner believes these figures—except the coalition for the propaganda and their attacks on the trade union movement. That is the only group in the country: the coalition who love Work Choices, who love getting rid of penalty rates for workers, who love attacking the trade union movement and who in 40 minutes of speeches on this bill have never once criticised the employers in the industry who behave badly—not one criticism.

I challenge Senator Back, who is speaking after me, to deal with these criticisms of the economic modelling and nonsense that has been put up about the ABCC. I challenge Senator Back to deal with the judicial criticisms of the ABCC. Not only is the ABCC acting outside of what is regarded as good and proper legal procedures; it is fudging figures to try and justify its existence. The ABCC is a blight on democracy in this country. We are the only country in the world that provides penalties against building and construction workers, ordinary Australians, that are worse than penalties against terrorists. It is because the coalition are Work Choice warriors. Their position is clear: they do not want workers to be in unions and they do not want workers to have a fair go. This bill is a good deal. Get rid of the ABCC.

**Senator BACK** (Western Australia) (12:43): I hope to bring some common sense to this debate and to oppose the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012. Madam Acting Deputy President, my colleagues in the Senate and the public, I draw to your attention the wonderful publication _Odgers_, which is the bible by which we operate. If I may, I will read who it is dedicated to. It reads:

TO

THE ELECTORS OF AUSTRALIA

who by their votes established and have sustained constitutional government in the Commonwealth of Australia

and one group of their chosen agents and trustees

THE SENATORS

who hold a large portion of that trust

To bring this into perspective, I want to quote for a moment some of the functions of the Senate and the roles of those of us charged with that responsibility. They include:

To review legislative and other proposals initiated in the House of Representatives, and to ensure proper consideration of all legislation.

It is a shame that Senator Feeney, acting in the minister's chair, is bored and is yawning.
Perhaps he should also read and take note. It continues:

To ensure that legislative measures are exposed to the considered views of the community and to provide opportunity for contentious legislation to be subject to electoral scrutiny. The Senate’s committee system has established a formal channel of communication between the Senate and interested organisations and individuals, especially through developing procedures for references of bills to committees.

To provide protection against a government, with a disciplined majority in the House of Representatives, introducing extreme measures for which it does not have broad community support.

And, lastly:

To probe and check the administration of the laws, to keep itself and the public informed, and to insist on ministerial accountability for the government's administration.

These are not my words; these are out of the bible of the conduct of the Senate of Australia. It is high time people on the other side of this chamber took that responsibility and that role seriously.

One could reflect for some moments as to why it was necessary for the Cole royal commission to come into existence. As my colleague and Western Australian co-senator, Senator Cash, has alerted, it was the two states of Victoria and Western Australia where most of the problems were occurring in the building industry. These were unattended by the Labor government under Hawke and Keating and therefore had in some way to be brought under some degree of control. The terms under which the Cole royal commission was undertaken—and it is unfortunate that Senator Cameron has chosen to leave after challenging me for most of his speech, in which he had little to contribute—did not unfairly target unions, employers or employees. I will quote some of those terms of reference:

(a) the nature, extent and effect of any unlawful or otherwise inappropriate industrial or workplace practice or conduct, including, but not limited to:

(i) any practice or conduct relating to the Workplace Relations Act 1996, occupational health and safety laws, or other laws relating to workplace relations …

In answer to Senator Cameron's diatribe, I have not yet seen any reference specifically to unions or to anybody else.

Senator Cameron should not have come into this place and slurred construction workers. He should not have suggested that construction workers' rights were diminished and he should not have suggested that it was anything other than wrong for anybody in the industry to act contrary to the law. Nor, of course, should employers act contrary to the law—they should be treated equally, and have been. As a person who has been an employer and an employee for probably 40 years, I object strongly to the insinuation and the nonsense perpetrated by this man in this Senate. He ought to go back and read the obligations in Odgers for those of us acting in the Senate.

The terms and conditions of the Cole royal commission went on to address issues associated with:

… fraud, corruption, collusion or anti-competitive behaviour …

Have we yet seen any discrimination in favour of or against any particular party? No, we have not. It continued:

… coercion, violence, or inappropriate payments, receipts or benefits …

The terms of reference went on:

… dictating, limiting or interfering with decisions whether or not to employ or engage persons, or relating to the terms on which they be employed or engaged—

and—

… failure to disclose or properly account for financial transactions undertaken by—
you wouldn't believe it, Senator Cameron—employee or employer organisations or their representatives or associates …

Here is the next one—under (b)(ii) it lists 'inappropriate management'. I think that normally refers, Senator Ronaldson, to employers, doesn't it?

Senator Ronaldson: Yes.

Senator BACK: It goes on:

... inappropriate management, use or operation of industry funds for training, long service leave, redundancy or superannuation …

So that I can correct the record, I will not insult the next speaker by helping them with the preparation of their speeches, but what I will do, if I may, is indicate that under the ABCC the compulsory examination powers have been used 54 times on management and only 10 times on union officials. I sometimes wonder whether Senator Cameron and I are dealing with the same issues.

I can stand up here and quote, as others can, but I am not going to stand up here and insult or be derogatory to those parties in this country who are charged with the responsibility of providing us with the necessary information we need to discharge our responsibilities as senators in this place. We have heard a spray this morning from Senator Cameron regarding Econtech and KPMG. It is a shame he did not discuss with or learn from his own leadership before he challenged and desecrated the credibility of KPMG, Econtech—or Independent Economics. Should he have availed himself of the opportunity of learning from his own current Labor government leaders, he would have found that this government has recently commissioned KPMG and Econtech to conduct the report titled Measuring the impact of the productivity agenda. This vilified group—these organisations, KPMG and Econtech, upon whose reports cannot be relied and who have to be castigated and criticised in Senator Cameron's usual fashion—are the very organisations this government has engaged to conduct that report. Senator Cameron and the Labor government cannot have it both ways. I suggest that the leadership of the Labor government knows very well the credibility of these statistics. I am going to quote from the Australian Bureau of Statistics; I do not know if doing so opens them up to getting a spray from this Senator Cameron. But these are the statistics: in the year 2004, according to ABS in their reporting of industrial chaos—and I will believe them—there were 48.6 days lost to industrial activity per 1,000 workers. It went down by 2008, according to the ABS, to 1.7. I repeat that: from 48.6 days lost per 1,000 workers, it was reduced in 2008 to 1.7. And where has it gone by 2011? Back up to 45 days. You see, one of the interesting things about the efflux of time is that we cannot escape from the actual facts. We know from these statistics what the days lost due to industrial activity were prior to the ABCC, we know what they were when the ABCC was doing its job and we will be able to measure into the future what the trend will be if and as this tough regulator is removed.

Productivity gains, again, in the residential building sector increased between 2004 and 2009 by 7.3 per cent. This is an interesting statistic. Labour productivity in the construction industry went up 10 per cent in that time, but more to the point is that it went up higher than the predictions that historically would otherwise have been the case. When we learn about this slavery and this working 24 hours a day, seven days a week, it is an awful shame that Senator Cameron did not actually go back and read the reports which he so blithely criticises, because if he had read them then he would have seen that he would be insulting the very unions who negotiated the contracts with the
employers, because the terms and conditions for those employees were very, very generous by construction or other industry standards at that time. There was no suggestion of people working 24-hour days seven days a week, but what did happen in that time between 2004 and 2007 was that weekly wages in the construction sector went up 25.5 per cent, against an increase of 15.5 per cent for all industries. In other words, as a result of these changes coming into existence, construction workers ended up getting increases of 10 percentage points over and above other industries.

As a past employer, I have an incredible keenness for occupational health, safety and welfare. It has always been my experience that, the more is invested by the employer in occupational health, safety and welfare, the better is the reward, particularly when the occasion and the workplace environment are such that the employer can have direct negotiations with his or her employees in achieving those outcomes. I have the pleasure of having been able to give you those examples in industries which I have managed or overseen, including the tourism industry, the emergency services industry, fuel retailing, fuel distribution and the larger oil and gas industries. I am committed to occupational health and safety and I will not listen to what is proposed by the likes of Senator Cameron when he says that all of this—the introduction of the ABCC—drove down safety in workplaces. It did not. If the Australian Bureau of Statistics can be believed, the incidence of workplace injury per 1,000 workers in 2003-04 was 27.7. Nobody will agree more than me and Senator Cameron—and, I hope, others on all sides of this chamber—that every person who goes to work has an entitlement to come home safely. Nobody would dispute that, and I would take deep exception to anybody who points to this side of the chamber and suggests anything other than that. There were 27.7 incidents per 1,000 workers in 2003-04; about the same in 2004-05, with 26; and about the same in 2005-06, with 24. But by 2006-07, contrary to the expectations that one would have believed if one were listening to the other side, the actual incidence in 2006-07 and 2007-08 per 1,000 workers went down to 22. The best figure would be zero—we all know that—but we cannot sit here and believe the sort of diatribe that is put to us in relation to the outcomes of the ABCC.

What is interesting is that, from the time the Rudd-Gillard government came into existence through to December 2008, in fact they made no changes to industrial laws in this country to any extent. The fact that this incoming Labor government preserved the industrial climate of the Howard government is illustrated in these figures: in the middle of the global financial crisis, in December 2008, employment went down by only 0.1 per cent—in other words, employment stayed static—but the hours worked went down by 2.3 per cent. Why did that happen? In my view it happened because there was a good workplace relationship in which employers and employees were able to work together and say, ‘We want to keep everybody employed but, because of the downturn in commercial and industrial activity, it will be necessary for people to work fewer hours.’ Those are the statistics to which I refer.

There has been some comment with regard to Mr Justice Wilcox. I have not met the gentleman and I do not intend to comment upon him, but since it is the flavour of the day to refer to and quote from Justice Wilcox I too will do the same thing with these four lines from his report:

… the ABCC’s work is not yet done. Although I accept there has been a big improvement in building industry behaviour during recent years,
some problems remain. It would be unfortunate if the inclusion of the ABCC in the—Office of the Fair Work Ombudsman—led to a reversal of the progress that has been made.

Those, I believe, are very telling comments.

We come then to the amendments before us. It was the then Minister for Employment and Workplace Relations, now Prime Minister, Ms Gillard, who made these statements prior to the 2007 election, and I think these words resonate:

We want to make sure that no one is engaged in improper conduct in the building industry, whether employer, union or employee.

She was also exceedingly disappointed that there were still some 'pockets of industry where people think they are above the law' and where people engaged in intimidation and violence. She concluded by saying:

… there should be absolutely vigorous, hard-edged compliance and no tolerance at all for unlawfulness.

In the few moments allowed to me I go to one of the amendments in this legislation, the switch-off powers. As we know, these propose that there be a switching-off clause under the new investigative powers, which means that in this case if a union—and I do not think it applies to employers but I will defer to the previous speaker if it does—or a party does not misbehave in a certain time frame it is no longer the subject of investigation by the regulator or the investigator. This is most amazing; it is unique and apparently has no precedent in British justice. What it basically says is that, to use an analogy, if any one of us has never murdered anybody, there will be a switching-off clause so we will no longer be subject to that legislation. In other words, it is the circumstance which says, if you have behaved yourself for a period of time, there will be no further investigation of you under that circumstance.

In a Senate committee hearing in Melbourne earlier this year, at which I think my colleague Senator Thistlethwaite was a participant, we asked the gentlemen from the union, 'Did you request the switching-off clause?' They said, 'No, we didn't.' So we said to the department, 'Did you request the switching-off clause?' No, they did not. I do not think employers would have requested the switching-off clause. We then said, 'Who in fact did request the switching-off powers?' Of course, it was none other than the then minister, Ms Gillard. I ask the question philosophically because there will be plenty of people out there very interested to know—

Senator Marshall: You can't ask philosophical questions.

Senator BACK: I will ask a direct question. It is lucky that the chair of the committee, Senator Marshall, is here, because he might be able to answer this question: is the Labor government now contemplating the introduction of switching-off powers by the ATO, by ASIC, by the ACCC or by the Prudential Regulatory Authority? Are we going to see even more interpretations of the law? The switching-off clause was not even requested by the participants; it was introduced into the agenda by the minister.

We have for some days been faced with the embarrassment of the committee chaired by Senator Marshall, and of which I am the deputy chair, considering matters associated with these amendments. I do not know whether or not Senator Marshall knew that Mr Bandt in the other place was going to bring in the last amendment. I hope he did not know, because I see it as a deep insult to this place, particularly, given the objectives
under *Odgers*, as this amendment was brought in after this committee had concluded its work. Of course, this is the pay-off money. This is the money that allows two parties to settle behind the scenes in a manner which otherwise would have been seen as illegal should it be the subject of the regulator. This legislation must be terminated. *(Time expired)*

**Senator THISTLETHWAITE** (New South Wales) (13:03): This has been a passionate debate. Debates in this place regarding the regulation of workplaces usually result in raised voices and furrowed brows but the fact which has been overlooked in this debate and which will inject some sense into this debate is that these bills deliver on an election commitment made by Labor prior to 2010. We committed to the Australian people that, if elected, we would place some of the powers of the Office of the Building and Construction Industry Commissioner into Fair Work Australia and create a Fair Work Australia Building Industry Inspectorate. It is part of a reform process that restores fairness, justice and equity to Australian workplaces. We are delivering on the commitment made to the Australian people prior to the 2007 and 2010 federal elections. That fact cannot be escaped by those opposite. We are delivering a reform agenda that provides fairness and equity in Australian workplaces.

The building and construction industry in Australia is a crucial sector of our economy. The jobs the industry generates have flow-on effects throughout our entire economy. A new building is not just about the bricks and mortar that go into its construction; a new building is about jobs, growth and productivity. The building and construction industry helped our nation through the worst of the global financial crisis. The hard work of the employees in the sector, coupled with this government's Nation Building and Jobs Plan, ensured that the Australian economy remained strong while the rest of the world faltered. Yes, employees in this sector are often union members but they are hardworking and dedicated. Unfortunately, as usual, when it comes to regulations providing fairness and equity in workplaces, those opposite oppose them because of their blind negativity and because they want to see the continued use of unjustified and unfair laws against construction workers—laws under which employees can be gaoled for simply attending a union meeting or for simply refusing to be interrogated by the Office of the Australian Building and Construction Commissioner without a lawyer present, laws under which employees lose rights which every other employee in our community takes for granted, rights which are a symbol of our democracy. They are simple rights that we all expect to be afforded to us when confronted with complicated legal issues—simple rights that were taken away by the Howard government in its relentless attack on the rights of workers and trade unions in this country. And those simple rights are always on the chopping block when the Liberal and National parties come to government and enforce their ideological bent against workers and their terms and conditions of employment.

On 31 March 2009, retired Federal Court Judge Murray Wilcox delivered his report to the government on matters relating to the building and construction industry and the inspectorate. This bill gives effect to the principal recommendations contained in the Wilcox report. The bill at its core is about putting balance back into the building and construction industry, to provide a framework for cooperative and constructive relations between employers and employees and at the same time provide fairness and
justice for building workers in this sector. It is a framework that will allow employers, employees and unions to constructively engage in enterprise level negotiations and, as the title of the bill suggests, make a transition to a Fair Work system. The bill will ensure that information, advice and assistance are always available to everyone involved in the building industry, meaning that employers and employees know their rights and responsibilities and all aspects of relevant laws.

The current Office of the Australian Building and Construction Commissioner is a body that needs to be replaced with a new entity that is part of the Fair Work system. The bill will replace the ABCC with the Fair Work Building Industry Inspectorate. This inspectorate will provide the bedrock for constructive industrial relations in the building and construction industry. The bill provides effective means for investigating and enforcing relevant workplace laws whilst at the same time balancing the rights of building industry participants through the provision of appropriate safeguards in relation to the use of the building inspectorate’s enforcement powers.

That means that the new inspectorate division will still have wide-ranging powers to investigate unlawful activity but, importantly, the people involved in the investigations will have reasonable legal protections whilst they are investigated and recourse if they are unfairly treated. This is a simple measure that will mean that people who work in any aspect of the building and construction industry can no longer be hauled down to the ABCC office and be forced into interrogation without the ability to request legal representation.

Australia is a democracy, a country that cherishes liberty, justice and fairness for all. Our workplace laws must reflect these principles no matter what industry a person chooses to work in. This bill contains those relevant protections and principles.

The bill also contains an amendment passed by the House of Representatives that will prevent the director or an inspector of the Fair Work Building Industry Inspectorate from commencing or continuing civil legal proceedings in a court where the matter of the subject of the hearings is reasonably and appropriately settled and discontinued by parties other than the inspectorate. This is consistent with civil practices under the civil law jurisdiction in this country. This provision means that those involved in the building industry are not subject to multiple proceedings in relation to matters that have already been discontinued and settled.

A critical test of this legislation is whether or not it strikes the right balance and whether or not it promotes growth and productivity in the building industry. But also the Senate needs to consider, in examining this legislation, whether or not workers engaged in the building industry will have fairness in their workplaces. It needs to consider whether the industrial umpire, Fair Work Australia, backed up by the building industry inspectorate will ensure that workers’ rights and employers’ rights are fairly and appropriately administered throughout the building sector. This bill does just that.

The new Fair Work Building Industry Inspectorate will be headed by an independent director appointed by the minister. The director will manage the operations of the inspectorate and will not be subject to oversight or control by other statutory office holders. Importantly, the bill also creates an advisory board to make recommendations to the director on the policies and priorities of the building industry inspectorate. The board will be made up of key industry stakeholders.
The building industry inspectorate will enforce the building industry's compliance with the general law as prescribed in the Fair Work Act. While building participants will be subject to the same penalties as other workers, Mr Wilcox recommended that the need to retain the existing coercive examination powers was proven, and the bill does just that. Those coercive powers will be maintained for a period of three years, at which time the powers will sunset, subject to a review of their operation.

The significant safeguards associated with the use of the powers also included in the bill are, firstly, that the use of the powers is dependent upon a presidential member of the Administrative Appeals Tribunal being satisfied that a case has been made for their use; and, secondly, that persons who are required to attend an interview may be represented by a lawyer of their choice, and their right to claim legal privilege and public interest immunity will be recognised. Those fundamental human rights that we cherish as a democracy will be restored to building workers in this country. Thirdly, persons required to attend an interview will be reimbursed for reasonable expenses and, fourthly, all interviews will be videotaped and undertaken by the director or an SES employee. Fifthly, the Commonwealth Ombudsman, importantly, will monitor and review all interviews and provide reports to the parliament on the exercise of this power. And sixthly, as I said earlier, the powers will be subject to an appropriate sunset period after three years. These protections that are built into the use of the coercive powers are fair and reasonable and ensure that those unfair practices that have occurred in the past will no longer occur in the Australian building and construction industry.

Not content with attacking workers' rights throughout the term of the Howard government, in this debate the coalition seems destined to repeat the mistakes of the past. Constant attacks on the Australian union movement and the hardworking men and women who choose to be trade unionists and members benefit no-one, and they certainly add nothing to the public debate.

This legislation restores fairness and equity to Australian building workers whilst at the same time promoting growth and productivity in a vitally important sector of our economy. On that basis, the legislation must pass the Senate, and I commend it to the chamber.

Senator FISHER (South Australia) (13:15): There was clearly a need to establish the Office of the Australian Building and Construction Commissioner, the ABCC. That need was clearly demonstrated by the Howard government established Cole Royal Commission into the Building and Construction Industry. It was necessary to stem continued lawlessness and thuggery on the country's building sites. It was necessary in order to protect, in particular, small businesses, small contractors and construction industry workers.

Despite the protestations and shrill accusations of those opposite, one of the major objectives in the establishment of the ABCC was the protection of those very building and construction workers the Australian Labor Party would have the country believe they are going to protect by neutering the ABCC. The Labor Party claim they are about protecting those workers as opposed to their collective organisations, as opposed to the unions which supposedly represent and seek to protect and further the interests of those workers—rather than the interests of the union officials in charge of those unions.

Sadly, we are unlikely to hear the truth about the reality of lawlessness and thuggery on building sites and about the reality of that
With respect to the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, it was one thing to have the Senate committee consider a bill designed, in any event, to downgrade the cop on the beat to, as Senator Abetz said, a toothless tiger— reducing it to a building inspectorate within Fair Work Australia. That was one thing. But it is quite another thing to then have presented to this place an amendment cobbled together in the lower house by the Labor-Greens alliance—an amendment which has not been subject to any scrutiny by a Senate committee—which effectively says that, if an alleged perpetrator of illegal behaviour on a building site reaches agreement with another alleged perpetrator or with a victim of that illegal behaviour, the new building inspectorate is stopped dead in its tracks from either investigating or prosecuting the allegedly illegal behaviour. It is stopped from doing so even if it is part way through pursuing such an investigation or prosecution. That of course would have prevented any prosecution in respect of the West Gate Bridge in Victoria.

The unions in the building and construction industry are past masters at settling court issues on the steps of the courthouse. That is their pattern of conduct. There will be no incentive for that to happen and little likelihood of public justice for illegal behaviour given that we now have legislative encouragement—not just legislative protection but legislative encouragement—to do dirty deals on the side. Even before the Cole royal commission, this sort of behaviour was happening. As Senator Abetz says, those with deep pockets, those with money, will be encouraged to do deals again. And those with muscle, industrial muscle, will exercise it. That occurred before the Cole royal commission but never, either before the Cole
royal commission or during the life of the current Australian building and construction commission, has there been legislated encouragement for the reaching of deals to allow those involved in allegedly illegal behaviour to escape investigation and potentially prosecution. It is bad law; it is crazy law. Why is this government being, arguably, crazy brave in an environment where the unions in the construction industry are already emboldened by the Labor government's promise and continued legislative attempts to neuter the construction cop? What is this government thinking?

Senator Thistlethwaite attempted to place great store in the suggestion that for this bill this government have a mandate. That is pretty cute, because of course they have busted their mandate on the carbon tax, they have busted any myth that there might have been a mandate for the mining resources tax, but on this bill Senator Thistlethwaite seems to say that the Labor government have a mandate. How can you have a mandate for a bill that was amended at the eleventh hour with an amendment not spoken of by this government at any time prior to the bill's passage through the lower house? And it was not even discussed at that time. Indeed, so little spoken of is this dirty deal, this Labor-Greens inspired amendment, that thus far, following all the attempts by the coalition to expose the amendment to scrutiny, with all the opportunities that members opposite have had to speak in response to the coalition's concerns, with all the opportunities—limited as they are by the gag—that members opposite have had to speak on the debate on this bill, not one of them has attempted to defend the indefensible contained in the amendment snuck through the lower house at the eleventh hour. They know they cannot defend something that is indefensible. I challenge the remaining government speakers to open their mouths and defend the guts of an amendment that says that even if there is on Australian building sites a sniff of illegality, of thuggishness and of lawless behaviour—in an industrial sense, of course—and even if the neutered and watered-down building inspector goes and has a look, if the perpetrator and the victim reach a deal then that is to be the end of it. I challenge any of the remaining members opposite with the opportunity to speak to defend the guts of that dirty, dirty amendment.

Where is the government going to stop with this triumphing of essentially commercial interests, as the Law Society has said, over public interest by allowing an agency to investigate and then prosecute where it considers fit? Where is this government going to stop? This is not just about the building industry. If this bill, with that amendment in it, becomes law, it will not be just about the building industry—all of a sudden it will be about workplace relations. Does this government seriously say that if, for example, where the Fair Work Ombudsman is investigating an underpayment—perhaps a deliberate underpayment—by an employer of one or more of its workers, this novel principle they are establishing could then be extended to saying, 'Well, if that employer then pays off his or her employees then the Fair Work Ombudsman should be stopped from investigating and/or prosecuting'? I would love to hear Senator Marshall and Senator Cameron say yes to that. Does this government seriously suggest that the likes of the ACCC, the likes of ASIC and the likes of the Australia Taxation Office should be in this situation? It is not just about building industry workplace relations law; it is not just about workplace relations law—it is about the law that is the fabric of the country.
Senator Thistlethwaite, in attempting to justify the taking away of what are currently the construction industry cop's coercive powers, suggested that this bill brings those powers into line with the fabric of civil law around the country. If it is good enough to neuter the interrogative powers of the construction industry cop, why is the principle not good enough to apply to the rest of the provisions of the bill? Why is it acceptable as far as this government is concerned to have a provision that is unprecedented in law in this country; that has the Law Society saying it gives precedence to commercial interests over the public interest? This government has been conspicuous by the failure of any one of its members to attempt to justify the guts of the amendment.

Let me finish on this so-called mandate. Prior to the 2007 election Minister Gillard said:

We want to make sure that no one is engaged in improper conduct in the building industry, whether employer, union or employee.

As I have said before, that was a myth. This bill is not sticking to that promise—and the myth is busted. How is a bill which allows a side deal enabling parties to sidestep alleged illegality making sure that no one is engaged in improper conduct in the building industry? When she said it in 2007 she might have meant it but it is clearly exposed now as a myth that is busted. In the Prime Minister's second reading speech, she said:

... anyone who breaks a law will feel the full force of the law.

Not if you can reach a side agreement to settle. It is a myth and it is busted. But she was frank enough to say:

I am also disappointed; disappointed that there are still pockets of the industry where people think they are above the law, where people engage in intimidation and violence.

She knows that that continues to exist in the building and construction industry, as do members of the Senate Education, Employment and Workplace Relations Legislation Committee, who had their extremely brief inquiry, two hours, into this bill. The committee majority—that is, of course, the government members on the committee—offered:

... the committee majority accepts Mr Wilcox's assessment that despite progress, the culture of the building and construction industry is still transforming.

Even then they accept Mr Wilcox's report to that end. They went on to say:

The bill before the committee is aimed at driving cultural change in the industry through a carrot and stick approach: rewarding good behaviour and focusing compliance measures on areas where it is needed.

How can the members of the committee still say that? I suggest that they cannot because of course since writing that report Labor and the Greens agreed in the lower house to the amendment which will stop dead in its tracks any investigation and any potential prosecution by the now toothless tiger—or as Senator Abetz says, the toothless mouse—the so-called building inspectorate, because there has been a side deal to that effect.

As for that amendment, where is the support from industry? Of course, there is none. Where is the support from unions who will be even more emboldened if not encouraged to reach these deals? That support, I suggest, has been very muted—once again, try and defend the indefensible. But what Mr Noonan, secretary of the CFMEU, has said are words to the effect: 'It makes a bit of sense, because it could save taxpayers' money in there no longer being an investigation or prosecution.'

That stands totally at odds with the independent Law Society's assessment, 'Look at it the other way around. If an
investigating authority has already started to investigate and is perhaps part way through prosecuting, it is a waste and a mockery of the spend of taxpayers' money to shut the door, to stop those investigations, to stop that prosecution dead just because the perpetrator, one or more of, or the perpetrator and a victim have reached a deal about the alleged illegal conduct.' It is indefensible and that is why members opposite are so silent about it.

The Prime Minister, in continuing to make her now broken election promises, also said: ... there should be absolutely vigorous, hard-edged compliance and no tolerance at all for unlawfulness—on building and construction sites in Australia. That is what she said in her summing up speech about this bill. How is it allowing parties to agree to settle their differences when an investigation or a prosecution can be stopped dead in its tracks? How is that no tolerance at all for a breach of the law? She also said:

Each and every breach of the law is wrong and each and every breach of the law should be acted upon.

No—poppycock; it cannot be. It can be papered over by a side deal between the perpetrator, one or more of, or the perpetrator and one of the victims to a wrongdoing. This is not a mandate. This is not a bill underpinned by a mandate. This is a bill that exposes the Prime Minister's promises as myths and they are busted. A Prime Minister and a government that cannot keep their promises should not be able to keep government, and this bill should not go through this parliament.

Senator BOYCE (Queensland) (13:34): I am delighted to have the opportunity to make this speech in your presence, Acting Deputy President Cameron. I tend to be a fairly positive person. I am a glass half full person. I must admit I am finding it extremely depressing at the present time to be involved in the development of so many dissenting reports against the actions of this government—the alleged policy development of this government. I like to think that, how ever misguided, the Labor Party believe that it is acting in the national interest when it develops laws. I fail to see in any way how this law qualifies for that decision. If we look back at the reason for the establishment of the Australian building and construction commission, we are talking about the Cole royal commission, which was put together by the Howard government, admittedly. It produced a 23-volume report. It was a royal commission. It could call witnesses, force people to appear and subpoena. It had the same rights as any court in terms of protecting those witnesses.

This was not set up by the Howard-Costello government on a whim, although I suspect there may be some in your party, Acting Deputy President, who think it was a union witch-hunt that prompted the establishment of the Cole royal commission. It was set up because there was endemic corruption, violence and intimidation within the building and construction industry in Australia which was hurting workers in the industry and employers in the industry, and because of the effect it was having on productivity it was hurting the entire country. I know that some union bosses might have thought productivity meant doing a deal that says, 'I will not hold any stop-work meetings on your building site, if I suddenly discover that a holiday house is being constructed for me at Lorne.' That sort of activity actually went on. That might have been the union boss's idea of productivity but it was not the idea of the employers and it was not the idea of the workers, who in most cases were just as ignorant as everybody else of the corruption and the intimidation that was
going on within the building and construction industry. That was not only harming workers but also driving up prices for construction in Australia. It was a situation that had to be dealt with and dealt with firmly. It had to leave everyone who was responsible for violence or intimidation of any sort, whether that be worker or employer, with the strong impression that the full force of the law would be used against them if they did not stop their illegal behaviour.

We had the 23-volume Cole royal commission report. We then had a change of government and Mr Murray Wilcox QC's 103-page report, with very few witnesses called—a general overview for which I suspect the last line already had been written before the inquiry even happened. Yet, even Mr Wilcox, whose riding instructions were clearly on behalf of the union-dominated Labor government to water down the powers of the Australian building and construction commission, could not bring himself to say that the industry was fixed and that all our problems within the building and construction industry had been solved. Mr Wilcox, the government's appointee, said in his report on page 14:

…the ABCC's work is not yet done. Although I accept there has been a big improvement in building industry behaviour during recent years, some problems remain. It would be unfortunate if the inclusion of the ABCC in the OFWO led to a reversal of the progress that has been made.

Mr Wilcox is dead right. There are problems remaining; there is work that still needs to be done; there still needs to be further improvement in behaviour in the building industry. But what do we have here? The Labor government—which likes to somehow suggest that the coalition is wedded to the interests of millionaires and billionaires—is doing exactly the bidding of its union bosses to the detriment of everybody who works in the building and construction industry, to the detriment of every family that wants to put up a house, to the detriment of every small business person building an office or a shop or a factory. They will all be harmed by the attempts of this government to simply kowtow and slither along on its belly to please the union bosses who put it there.

Senator Fisher spoke earlier about some of the promises that Ms Gillard made in relation to the Australian building construction commission. Of course, that was back in the days when she was trying to pretend that she was not a left winger. I am not quite sure what she is trying to pretend she is not at the moment. She said:

We want to make sure that no-one is engaged in improper conduct in the building industry, whether employer, union or employee.

This is a statement that we on the side of the coalition would support 100 per cent. We also want to make sure that 'no-one is engaged in improper conduct in the building industry, whether employer, union or employee'. We agree with one of Ms Gillard's outings as Prime Minister when she said:

Anyone who breaks the law will feel the full force of the law. I am also disappointed that there are still pockets of the industry where people think they are above the law, where people engage in intimidation and violence.

Well, there are still people engaging in intimidation and violence in the construction and building industry. We do not have to look any further than the head of the CFMEU, Dave Noonan, to discover intimidation and violence. Under the ABCC there was illegality by the CFMEU at the West Gate Bridge construction site that was under the control of John Holland Group. That 'fracas' was settled between the CFMEU and John Holland and yet the Australian building and construction commission went ahead, prosecuted the
matter and got a record $1.325 million fine for 52 separate breaches by CFMEU bosses and people they had under their control on the West Gate Bridge work site.

What on earth is there in this piece of legislation to stop the CFMEU from not just continuing that behaviour but also escalating it? There is nothing in here. As you have quite rightly pointed out, Mr Acting Deputy President Cameron, it is not just unionists that this legislation should be addressed to, and particularly workers are the last people who should suffer from this legislation, but also it is the union bosses and the employers who are, in many cases, as culpable by agreeing to illegal payouts, little side deals, corrupt and bribing behaviour to get peace in their industry. Certainly, that was one of the first issues that the Cole royal commission had to deal with: the intimidation of people who wanted to tell the truth to that commission and the secrecy that went on, with little deals that had been done between rich union bosses and rich building services. And the only people that were getting hurt were the workers and the poor consumers, who were in the end having to pay for that problem. We still need a strong cop on the beat. We must have a strong cop on the beat.

I would like to talk briefly about some of the comments made recently by the Leader of the Opposition in relation to this legislation—and this is the legislation before we got the little surprise amendment that the Labor Party and the Greens cooked up at the last minute. Mr Abbott, in speaking to a building industry function, said:

… I want to tell you, ladies and gentlemen, the Coalition will support the ABCC with every breath in our political bodies. That is quite true. That is what we will do. We are not going to do that because we are anti union or anti worker or anti employer; we are going to do that because we think that is the best and safest course for the national interest.

An honest, transparent, accountable building and construction industry where workers, bosses and union representatives treat each other with respect and accept that they can negotiate solutions to problems is what this country needs. That is what we need. But a toothless mouse, as Senator Abetz suggested, will be produced by this government's legislation. I imagine we will lose the vote to stop this legislation going through, because I think the Greens might even be to the left of the Labor Party in terms of pixie-land views on economics and red rag views on employers. But as our leader, Mr Abbott, has said, we will restore the ABCC at the first available opportunity and we will do this to restore vigour to the commercial construction industry so that we do not have a lawless and poorly productive building and construction industry.

I was interested to note that in the same speech the Leader of the Opposition was moved to a little sarcasm. I do not know that sarcasm is something that I have associated with him before, but he was making the point that, if we are looking at Fair Work Australia—the ABCC in its new incarnation—... I do not think we can be entirely comfortable that there will be vigorous prosecution. We certainly cannot be comfortable, from their history, that there will be speedy investigation. Mr Abbott said that what will be replacing the ABCC:

… will be the Fair Work Australia culture and we have had some insights into the Fair Work Australia culture quite recently, as we have watched the investigation of the Health Services Union and my fear, if the ABCC is replaced with an arm of Fair Work Australia, is that illegalities in your industry will be pursued and extirpated with the same vigour, the same relentless, remorseless vigour that we have seen brought to
the pursuit, an extirpation of rorts, racketes and rip-offs inside the Health Services Union and we know that the investigation of rorts, racketes and rip-offs by Fair Work Australia into the Health Services Union is now into its fourth year ...

Once again we have a Labor record which gives you no encouragement whatsoever that fairness, good management, transparency or accountability will be used in pursuing the quite relevant needs for a stable working environment in the building and construction industry.

There are two provisions that were of interest to the coalition in the 30-second investigation—I am exaggerating, but not much—that was held by the government dominated Senate committee into this bill, which I would like to speak about briefly in the last few minutes I have. Firstly, the bill allows for the coercive powers of the ABCC—which of course it shares with a number of other organisations, such as the Crime Commission and ASIC—to be switched off. The coalition went looking for where the background, the rationale, the reasoning for doing this was. It certainly was not in the recommendations of Justice Wilcox, despite the fact that he had written the government organised report. During the inquiry of the Senate Education, Employment and Workplace Relations Committee into this bill, we asked the department where the requirement that the coercive powers of the ABCC could be switched off came from. Senator Abetz said, 'It was not Mr Wilcox who wanted it. The unions had not talked about it. The employers had not wanted it. Yet it is in the bill.' Senator Abetz then quite rightly asked, 'So who wanted it?' Poor old Mr Willing was obliged to say:

This issue was covered quite extensively in the last hearings. The department at that point advised that it was an issue which was raised with the department by government—by the minister's office at the time. Among the technicalities is that the minister's office raised the proposal in broad terms with the department. Between the minister's office and the department, the clause as it stands was developed and implemented.

So we have the now Prime Minister, the then minister for workplace relations, coming up with the bright idea that would stop the ABCC having coercive powers—when they are in the mood. No regulator, from the police in any state, from ASIC or from the Fair Work Ombudsman, should be stopped from taking proceedings to protect the national interest or society's interest just because the parties have come to a commercial settlement. The Labor-Greens inspired amendment on this basis simply allows pay-off money to flourish. This is the core of the Labor-Greens amendment, the shameful amendment that has been proposed for this legislation.

In Papua New Guinea, the use of payback, whereby one clan might collect funds to pay off another clan when they have injured one of its members, has a very long and very honourable tradition as a way for tribes, without the rule of law, to settle disputes between different groups. I would have thought in Australia, in 2012, that we would be past the need for payback systems that only happen when there is no truly established rule of law. But, of course, why would we be surprised to have that taking place when warring union tribes, driven by union bosses and subservient ministers, are involved in driving government policy, irrespective of the sense or intelligence of that policy? *(Time expired)*

*Senator IAN MACDONALD (Queensland) (13:54):* I am pleased to add my voice in opposition to this atrocious piece of legislation that replaces a successful organisation that has brought peace, prosperity and progress to the building industry with an organisation which, on
recent history, will have no ability to do that. Fair Work Australia is the most enormously misnamed group in Australia at the moment. Anything fair about that organisation I am still yet to see, and I must say that most Australians share my cynicism of that particular group. You have only to look at the way they have mishandled—and, one would think, almost institutionally covered up—the investigation into Labor member, Mr Craig Thomson, over alleged improper use of union funds to realise that anything under the control of Fair Work Australia is not going to do much for peace, order and good governance of the building industry.

The Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, which is before us, represents another capitulation to the union movement by this government. Indeed, this government is principally made up of union bosses and union heavies, with little experience in life and little understanding of what is good for Australia. Do not get me wrong, Mr Acting Deputy President, I have nothing against unionists; in fact, a number of my friends are unionists. A number of unionists are members of the Liberal Party and their numbers are increasing, I might say, even though the number of unionists throughout Australia continues to fall as people realise that the unions are only interested in union bosses and their jobs rather than what happens to the workers at ground level. You only have to look at those lowly paid workers in the Health Services Union to understand that their bosses are not interested in good conditions for lowly paid workers—they are interested in their own conditions in brothels and in attending flash dinners.

Mr Acting Deputy President, I do not want to put you at a disadvantage in the chair, so no names mentioned here, but when I say that union bosses and heavies are only interested in their own jobs, I am aware that an old mate of mine, former Senator George Campbell—a very good contributor to this Senate and to great debates here—was stabbed in the back by a mate of his and served for only six years in this parliament. One would wonder how that helped the interests of those workers in the union that former Senator George Campbell represented. You can understand how it helped those who replaced Senator George Campbell. I do not know whether this is true, but I read in the paper that Senator George Campbell's replacement got a job as a director of one of these top-end-of-town superannuation companies. I do not know what the salary is for a director in one of these top-end-of-town superannuation companies, but—

Senator Conroy: Become a member and then you can ask.

Senator IAN MACDONALD: Sorry? Become a member? Do you mean I could apply for one of those top-end-of-town jobs. I am interested in asking the particular senator who was involved. Now that he is free to defend himself, I can name him—Senator Doug Cameron. I ask Senator Cameron what he received as a director of one of those superannuation companies.

Senator Cameron interjecting—

Senator IAN MACDONALD: Senator Cameron says 'Absolutely nought'. I see there is a court case going on in Victoria, where a union delegate was on one of those boards. The union rules required that any fees that a unionist got on a board went not into the pockets of the particular unionist but back into the coffers of the union. That particular person was allegedly—I do not know the rights and wrongs of this; it is only what I read in the paper—pocketing the money and his union has sued him for its return. Senator Cameron tells me by way of
gesture that he was not receiving anything, and I accept that. Perhaps he was getting something and giving it to the union. Whichever it is, one wonders about the interest that union bosses and leaders have in their members. Again, I can only refer senators to the Health Services Union, where nobody can tell me that the lowly paid workers who are members of that union got anything from their bosses.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Mining

Senator Cormann (Western Australia) (14:00): My question is to the Minister for Finance and Deregulation and Minister representing the Treasurer, Senator Wong. I refer the minister to statements made by her on Insiders on Sunday morning and by the Treasurer on Radio National this morning that the government has not prepared 10-year costings of the RSPT and MRRT revenue estimates. Are these statements true—yes or no?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:00): I am happy to take the question about—

Senator Abetz: How gracious of you!

Senator Wong: I am gracious—something many on that side are not. This is true. I am very happy to take the question from the senator. Given his reference to those two interviews, he is obviously talking about revenue projections for the minerals resource rent tax. I am always interested that Senator Cormann is so anxious to know what a tax he will oppose will raise, given that he has already said no, and continues to say no, to everything, including the tax breaks for small business. The government has published the MRRT net estimates in the midyear review released last year, which was $10.6 billion over the forward estimates period to 2014-15. We also have factored into the budget bottom line not only this revenue but the expenditure for the sorts of policies that we have been talking about—the tax cuts for small business, the instant asset write-off, tax cuts for the broader economy, investment through the increase in the superannuation guarantee levy and so forth. Those things are factored into our budget bottom line and that shows a budget surplus in 2012-13. I have a recollection, Senator—and I will come back to you if I am wrong—that you yourself FOIed some working figures from Treasury. I am sure you would be more across that than anybody in the chamber because you FOIed it, if I am correct—if I am not, I apologise.

I would refer you to comments by the former head of Treasury, Ken Henry, regarding 10-year forecasts. He indicated that there was doubt as to whether they were worth producing given that they were simply too unreliable. Dr Henry, of course, advised your government and Mr Costello.

Senator Cormann (Western Australia) (14:02): Mr President, I ask a supplementary question. Were the minister and the Treasurer really unaware that Treasury released its 10-year costings of the RSPT and MRRT revenue estimates under FOI on 14 February 2011 when they made those claims and that those costings show a $60 billion drop in revenue over 10 years? Shouldn’t a competent Treasurer and finance minister be aware of those costings, or was the denial that they exist another attempt to mislead the public?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:03): I am having a bit of a deja vu moment here. Didn’t I just say in answer to the first question that I had a recollection that under FOI—because we are a more
transparent government than they ever were—the senator had in fact obtained some Treasury costings? I also made the point that Dr Henry said he did not think 10-year forecasts were sensible for publication because they are too unreliable. I also made the point that, unlike those opposite, we have factored in things like—

Senator Brandis: Mr President, on a point of order: the minister is being asked about her awareness of the existence of a document. In her answer to the primary question she talked about working figures. Now, in her response to the first supplementary question, she has not responded to the charge that Senator Cormann has made in his question. Either she was aware of it or she was not. If she was aware of it, she misled the public. If she was not aware of it, she was incompetent. Which is it?

Senator Cormann: Mr President, to assist the minister I seek leave to table the Treasury revenue estimates of the MRRT and RSPT over 10 years—

The PRESIDENT: Senator Cormann, we are on a point of order. The minister has been answering the question for 31 seconds. I draw the minister's attention to the question. There are 29 seconds remaining. Senator Cormann.

Senator Cormann: Mr President, a second attempt: in order to assist the minister I seek leave to table the Treasury RSPT and MRRT revenue estimates over a period of 10 years released on 14 February 2011.

The PRESIDENT: Senator Cormann, it is not a point of order.

Senator Cormann: I am not raising a point of order; I am seeking leave.

The PRESIDENT: Leave is not granted.

Senator Chris Evans: Mr President, on a point of order: question time is a time for people to ask questions of ministers. Senator Brandis says that they are laying charges, and Senator Cormann wants to pull a stunt. I suggest to you that you only give them the call if they are prepared to ask a question in accordance with standing orders.

The PRESIDENT: There is no point of order. I am going to go to the minister. The minister has 29 seconds remaining.

Senator Wong: It is the case that the government does not generally publish 10-year projections for individual measures, just as Mr Costello never did for the GST. But I will take the attempted point of order from Senator Cormann because I think what he wants to table in the chamber is what Treasury has put on their website. It is hardly secret information, because it was publicly released. But what we rely on is what we published in our budget. (Time expired)

Senator Cormann (Western Australia) (14:07): Mr President, I ask a further supplementary question. Why do the Treasurer and the Minister for Finance and Deregulation continue to mislead the Australian people about everything, whether it is about the minister's mismanagement of important Future Fund appointments, the government's dodgy mining tax revenue estimates, the impact of the world's largest carbon tax on the cost of living or her disastrous record as finance minister, having presided over a $25 billion blow-out in the government's deficit during her first year in the job?

The PRESIDENT: The minister need only answer that part of the question which refers to her portfolio.

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:07): The significant difference between those of us on this side and those on that side is: we cost our policies, we fund our policies and we publish a budget bottom line. Senator
Cormann beats his chest in here in an attempt to look better than Senator Sinodinos. One wonders: are you even on the ERC? The Expenditure Review Committee has had Senator Sinodinos added to it because your colleagues do not trust you, Senator.

_Honourable senators interjecting—_

_The PRESIDENT:_ Order! I need order on both sides! The minister has 29 seconds to complete her answer. Minister, I said you need to address those parts of the question that apply to your portfolio. The other matters you can ignore.

_Senator WONG:_ The difference between us and them is: we use Treasury and Finance for costing; they use catering companies and accountants who are fined for breaching professional rules. The difference between us and them is: they have a—

_The PRESIDENT:_ Order! Senator Wong, I draw you back to the question.

_Senator WONG:_ Mr President, with respect, the question was fairly broad, and I would make this point: with $70 billion worth of savings that they have to find, four years of Medicare is what you would have to cut—and you are hiding it from the Australian people.

_Mining_

_Senator MARK BISHOP (Western Australia) (14:09):_ My question is to the Minister representing the Treasurer, Senator Wong. Can the minister outline to the Senate the importance of spreading the benefits of the mining boom to all corners of the economy? How is the government acting to ensure the mining boom benefits all Australians?

_Senator WONG (South Australia—Minister for Finance and Deregulation) (14:09):_ The government are acting to ensure that the Australian people get a fair share of our resources and we are acting to ensure we spread the benefits of the boom across Australia to all corners of this nation. Last night, we saw the Senate, in what was a historic vote, vote to support the minerals resource rent tax—a great Labor reform and a reform where we really saw what the values were of those opposite. Labor senators and the Greens on this side voted to ensure that Australians got a fair share of the benefits of our resources. Those opposite voted to increase the profits of wealthy miners. We on this side voted to ensure we could give tax breaks to small business. Those over there said no and voted against it. We on this side voted to ensure we could give a company tax cut with a head start for small business. Those over there voted no. We on this side voted to ensure we can fund more superannuation for working Australians and also better benefits for low-income Australians, particularly women. Those opposite, again, voted no.

All they can say, in the face of these sorts of reforms, is, 'No, no, no, no.' The only thing they say yes to is higher profits for already profitable miners. I look forward to the senators on that side going back to their electorates, going back to their constituencies, and telling every small business owner in their state: 'I am voting against a tax cut for you. I'm voting against a tax break for small business. I know I'm from the party of Howard and Menzies, but I am going to vote against a tax cut for small business.' That is the new Liberal Party—the Liberal Party turning its back on small—(Time expired)

_Senator MARK BISHOP (Western Australia) (14:11):_ Mr President, I ask a supplementary question to Minister Wong. Can the minister advise: what is the role of tax cuts for small and large businesses in spreading the benefits of the mining boom to all corners of the economy?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:12): The minerals resource rent tax ensures that Australia's largest and most profitable mining companies will pay their fair share of tax. Consider what it is—

Senator Abetz: They always have!

Senator WONG: I will take that interjection, Senator Abetz. 'They always have,' he says, because all he is interested in doing is standing up for the interests of a fortunate few—standing up for higher profits for already profitable miners. What he is not interested in standing up for is things such as the $6,500 instant asset write-off for small businesses, something that all small businesses could be entitled to whether they are incorporated or not. This is a tax break for small business that those opposite are opposing.

As you know, Mr President, we on this side are also committed to cutting the company tax rate and we have released a draft of the legislation to reduce the company tax rate to 29 per cent, which includes a head start for small business with a tax cut—(Time expired)

Senator MARK BISHOP (Western Australia) (14:13): Mr President, I ask a further supplementary question. Can the minister advise if the government remains committed to using cuts to the company tax rate to spread the benefits of the mining boom to all corners of the economy? Is the minister aware of any alternative approaches?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:14): This government is committed to delivering tax cuts for small business and for the broader economy. We have been consistent about that. We have released legislation which reflects that commitment to help Australian businesses right across the economy—to help Australian businesses not in the mining boom fast lane that are struggling with challenges such as the higher dollar. A company tax rate cut is good policy. But I just say this: the contrast could not be clearer. Those opposite have moved on a number of occasions when it comes to company tax cuts. First, Mr Abbott said last year, when he told the West Australian that they would support company tax cuts, 'We support company tax cuts.' Subsequently, Mr Abbott has not only announced that coalition MPs will be whipped to vote against tax cuts but also refused to recommit to the 1.5 per cent business tax that he promised at the last election, so he has changed position yet again. (Time expired)

Health Services Union

Senator RONALDSON (Victoria) (14:15): My question is to the Minister representing the Minister for Employment and Workplace Relations, Senator Ludwig. I refer to the report released by Fair Work Australia last Friday on its investigations into the allegations of financial mismanagement in the Health Services Union, No. 1 Branch. Is the government satisfied that the report thoroughly deals with all relevant issues and allegations and that nothing was swept under the carpet?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:15): I thank the opposition for their question. In terms of the Fair Work Australia conclusions on the investigation into the HSU Victorian No.1 Branch, we welcome the conclusions of the investigation by Fair Work Australia. We do note the general manager's comment that the investigation findings relate to the keeping and lodgement of financial records and financial management. Fair Work Australia, as I think I have said in this
chamber before, is an independent agency and the government will continue to fully respect its independence.

In terms of the investigation report, we note that the decision originally was not to make the report public, but that eventually it would respond to requests from the Senate committee to produce it. For the record it is worth adding that the report was provided to the Senate Standing Committee on Education, Employment and Workplace Relations last week and of course made public by the committee on Friday. It is a matter that Minister Shorten will have an opportunity to follow and read through, obviously. He has already made some broad comments about it, but it would be early in this piece to actually provide Mr Shorten's comments in relation to the investigation and the report itself. I will seek further and better particulars from Mr Shorten as to whether or not he wants to provide any particular response to the question you have raised.

Again, I remind those opposite that it is a matter that is still, and can be, in the domain of being referred further—for example, to the Australian Taxation Office. (Time expired)

Senator RONALDSON (Victoria) (14:17): I rise to ask a supplementary question. I think that the answer to my question was no, and, on that basis, will the minister investigate reopening Fair Work Australia's inquiry into the Health Services Union to investigate claims by the former assistant secretary of the union, Mr Nader, who said:

There is a lot of irregularities between 2002-05 which no one has looked into …

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:18): Again, those opposite seem to miss one of the significant points: Fair Work Australia is an independent body. It is charged with looking after the relevant obligations it has under the Fair Work legislation. In terms of the specific issue you have raised, obviously I am not the minister responsible for referring a particular matter. I can ask Mr Shorten whether he wants to provide a response in relation to the supplementary question asked by the opposition today. But, again, if the opposition do have any evidence in relation to wrongdoings of any organisation then it is incumbent upon them to provide that information to Fair Work Australia.

Senator Ronaldson: Mr President, I rise on a point of order. I have just provided the minister with information from Mr Nader, which I thought would have been sufficient for him to answer the question.

The PRESIDENT: That is not a point of order. The minister has 17 seconds remaining.

Senator LUDWIG: Again, the opposition are trying to make a cute point on that. If the opposition do have any substantive information available about any particular wrongdoing then they should not hide it or sit on it; they should bring it to the attention of the relevant authorities so that it can be properly investigated. (Time expired)

Senator RONALDSON (Victoria) (14:19): Mr President, I have a final supplementary question. Given delays in finalising Fair Work Australia's three-year investigation into financial irregularities when the member for Dobell, Mr Thomson, was secretary of the HSU, and the refusal of its general manager to cooperate with police investigations into the HSU, and the way Fair Work Australia has been stacked with former union officials, why should low-paid hospital cleaners, orderlies and attendants have any faith in the impartiality and
integrity of the Fair Work Australia investigation?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:20): I do know that they have no faith in the coalition because they still remain concerned that the coalition may continue to bring back Work Choices. I suspect it is on their wish list. When you look at how it would undermine the award system—

Senator Ronaldson: I rise on a point of order on relevance, Mr President. My question was: why should low-paid hospital cleaners, orderlies and attendants have any faith in the impartiality and integrity of the Fair Work Australia investigation?

Senator Jacinta Collins: On the point of order, Mr President, Senator Ludwig is directly dealing with the issues here. He is talking about the confidence that we should have in Fair Work Australia and, indeed, the track record of the other side and what confidence people should have in the alternative.

The PRESIDENT: Senator Ludwig, whilst you have been going 17 seconds, I do remind you of the question and there are 43 seconds remaining.

Senator LUDWIG: Thank you, Mr President. As I was saying, the risk to low-paid hospital workers is from those opposite with their wish to bring back Work Choices. When you look at Work Choices' impacts, which undermined the award system, which stripped away workplace relations conditions and which used AWAs, low-paid hospital workers know the risk from those opposite.

Senator Ronaldson: Mr President, I raise a point of order on relevance. The question clearly referred to the not yet finalised investigation into the member for Dobell, Mr Thomson. It had nothing to do with anything else. I ask you to draw the minister's attention to the question and ask him to answer it.

The PRESIDENT: I drew the minister's attention at the 47-second mark to the need to respond to the question. There are 22 seconds remaining, Minister, and I draw your attention to the question.

Senator LUDWIG: Thank you, Mr President. In terms of the low-paid workers in hospital systems, they can have complete confidence in Fair Work Australia's ability as an independent body to manage the fair work legislation, unlike what the opposition may put to them, which is Work Choices mark 2.

Queensland Economy

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:22): My question is to Senator Wong, the Minister representing the Treasurer. Is she in agreement—

Honourable senators interjecting—

The PRESIDENT: Just wait a minute, Senator Brown. There is comment going on on both sides. It is not fair to you; it is not fair to me. Senator Bob Brown has the call.

Senator BOB BROWN: Is the minister in agreement with the findings of the Australia Institute released in Brisbane today which, amongst other things, are:

Manufacturing in Queensland has declined 6.5 per cent over the past year and the number of international tourists … has fallen 6 per cent … (during) the mining boom … While some mining jobs are well paid, the reality for the 99 per cent of Queenslanders who don't work in mining is higher housing costs, higher mortgage interest rates and fewer jobs in tourism, manufacturing and agriculture.

Does the government agree that the estimate of 20,000 jobs ripped out the rest of the economy by the mining boom in Queensland is likely to be an underestimate?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:23): Probably the way I would approach that is to say this. There is no doubt there is a significant structural change occurring in the Australian economy, and that is a consequence of a number of things. The first is obviously the global economic shift that we are seeing, where there is a shift in economic power from West to East. Then we also are seeing elevated terms of trade for Australia which, as a consequence, has led to very substantial investment and very substantial growth in investment in the resources sector. We are also seeing historically high levels of the dollar. Those, amongst other factors, are driving some significant shifts in the Australian economy.

There are also substantial opportunities, and the government is very conscious of the importance of putting in place the policy settings which enable Australians both to manage change but also to grasp those opportunities. In terms of the sorts of the policy settings which are important, you will have seen—through you, Mr President, to the senator—the Prime Minister's announcement yesterday of additional investment in skills. That investment coupled with the existing announced funding will see about $9 million, from recollection, over five years invested in the vocational training sector. That is a reflection of both the demand that the economy will generate in terms of the additional need for skilled workers but also the importance of ensuring more Australians have the skills employers need, enabling more Australians to manage the sorts of changes that we are seeing.

We are very conscious of the pressures some sectors are facing and, of course, that other sectors are doing very well. The other substantial policy setting the government has brought forward that has now been endorsed by the Senate, with the senator's support and that of his party, is the minerals tax, which is about spreading the benefits of the boom. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:25): Mr President, I have a supplementary question following on from that answer. Isn't it true that the $9 million to be spent on reskilling people pales into insignificance with the hundreds of millions which will be taken from the minerals tax for infrastructure for the coal industry which, amongst other things, aims to increase the number of mega coal ships going out via the Barrier Reef from 1,500 to 10,000 in the coming decade, with a consequent threat to the 68,000 jobs dependent on the Great Barrier Reef?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:26): The first point I would make about the infrastructure proposition which the senator makes is that this government has made very substantial investments in infrastructure, not just those which are funded through the MRRT where there is, as the senator rightly points out, a focus on those fast-growing regions which need infrastructure, but through the Nation Building Program, which has made substantial investments in infrastructure.

I would also take issue with the suggestion that the skills funding pales into insignificance. I can say to the senator, through you, Mr President, that the government's investment in skills across the board, whether it is vocational training, whether it is the university sector and schools, has been a very big increase in funding for skills broadly across the economy. In fact—(Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:27): Mr President, I have a further supplementary question. I ask the minister again, but in this
way: isn't it true that the amount being spent on reskilling Queenslanders pales into insignificance with the amount being earmarked to facilitate the coal industry in infrastructure? And was the taxi driver who complained to me in Mackay a fortnight ago about roads being ripped up by mining trucks, at the expense of ordinary vehicles and public transport, wrong?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:28): I understand the view that the taxi driver has put. I would make this point. We are seeing an economy that is continuing...

Opposition senators interjecting—

The President: Order! Senator Wong, continue.

Senator Wong: Thank you, Mr President. I would suggest that the comment might reflect the proposition I put in my first answer, which is that there are very different experiences for different parts of the economy, different people employed in different sectors and different individuals as a result of the sorts of changes we are seeing. The job of government is to try and get the right policy settings to maximise opportunity, to spread the benefits of the boom and to make investments that enable Australians to best take those opportunities. I would again say to the senator that we have made very substantial investments in skills across the board—unprecedented investments, if you look historically. (Time expired)

Member for Dobell

Senator Fierravanti-Wells (New South Wales) (14:29): My question is to the Minister representing the Minister for School Education, Early Childhood and Youth, Senator Kim Carr. On the eve of the 2010 federal election, Minister Albanese and Craig Thomson MP promised: The Gillard Labor government will provide $2.7 million to build a new Youth Skills and Employment Centre … operated by Central Coast Group Training and owned by Wyong Shire Council.

Isn't it a fact that on 20 July last year Mr Thomson wrote to Minister Garrett making unsubstantiated allegations about the interaction between CCGT and DEEWR? Did the member for Dobell recently request ministers or their officers that DEEWR change their program guidelines and allow an extension of time to allow Wyong Shire Council to prepare its own application for the centre without CCGT?

Senator Ludwig: Mr President, on a point of order: we are happy to debate the issue. It is more of a question to you, Mr President, in relation to notice of motion No. 706 by Senator Fierravanti-Wells on the Notice Paper. This question seems to ask a question which is reflected in notice of motion No. 706. If I am wrong about that then I will take that back, but it does seem out of order on the basis that we are now asking a question in relation to notice of motion No. 706.

The President: I intend to allow the question, provided it does not transgress into areas that it should not. I will listen very closely to what transpires.

Senator Kim Carr (Victoria—Minister for Human Services) (14:31): I thank you, Mr President. I indicate that the answer I give has to be relevant to the question and the question, it would appear to me, seems to be covered by notice of motion No. 706. But I will try to be helpful to the senator and I do appreciate the fact that she has given us notice of her intention to ask this question. I can advise her that the funding for the Wyong youth skills and employment centre was announced in July 2010. Yes, it was an election commitment worth $2.7 million and the commitment was for a joint project
between the Wyong Shire Council and Central Coast Group Training. This commitment was reflected in the project guidelines.

The centre is part of the Community Infrastructure Grants' Youth Commitment program. Those grants go to examples of the way in which the government is seeking to provide support to young people to make the most of opportunities that exist, particularly enhancing their opportunities for training, employment and engagement in the community. In 2010 the government launched the National Strategy for Young Australians, which aimed to empower young people to develop their abilities. This is an undertaking consistent with that commitment. As part of the commitment, $10 million was awarded in five arts, business and community centres for young Australians. This is one of those.

As to your specific suggestion of a change in program guidelines, senior officers of the department of schools are continuing to liaise and negotiate with both of the Wyong parties to attempt to fulfil the original election commitment. Senior DEEWR officers met with applicants individually and together on 9 February.

Senator Fierravanti-Wells: Mr President, I have a point of order on the issue of relevance. As the minister said, I did give him notice of the question.


Senator Fierravanti-Wells: No, I actually wrote to the minister this morning, Senator Conroy.

The PRESIDENT: Order, Senator Fierravanti-Wells! All you need to do is speak to the point of order and address the chair.

Senator Fierravanti-Wells: Indeed, Mr President, I was very specific in the email that I sent to Minister Carr. I referred in that email to the allegations contained in a letter from Craig Thomson to Minister Garrett dated 20 July. I specifically directed him to what was going to be in my question today and I would have thought that, under those circumstances where you do give such specific notice of a question, the issue of direct relevance becomes more important. I invite you, Mr President, to ask the minister to answer my question and be directly relevant, otherwise what is he hiding?

Senator Chris Evans: Mr President, on a point of order: the assertion made by the senator is that, because she writes to the minister telling him the question, he has to give her the answer that she wants. This is a nonsense. Senator Carr has been very relevant, directly trying to deal with the issues raised by the senator, directly relevant to the issues that are already on the Notice Paper. Given the question has been allowed, Senator Carr has been enormously helpful on an issue that has been covered up hill and down dale in this parliament and at estimates for a long time. The bottom line is: just because the senator writes advising of the question does not mean the minister is required to give the answer that she wants.

The PRESIDENT: Order! There is no point of order. Minister, you have five seconds remaining if you wish to continue your answer.

Senator KIM CARR: I advise the Senate that the council recently took a decision to withdraw from the process. However, that decision is subject to— (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:35): Mr President, I have a supplementary question. Isn't it the case that the member for Dobell has been pursuing a personal and political vendetta against the CCGT's involvement in the centre as payback for CCGT rebuffing his
attempt to extract favours by asking them to give his ex-wife a job and political payback for CCGT's general manager criticising the government's failure to deliver on its promised Warnervale GP superclinic?

The PRESIDENT: Again, the minister need only answer that part which comes within the portfolio.

Senator KIM CARR (Victoria—Minister for Human Services) (14:36): Senator, Fierravanti-Wells, you have asked for a response that requires an opinion to be expressed by me, which is clearly outside the standing orders. What I can say is this: this opposition have pursued a vendetta against the member for Dobell, as we saw just this week in respect of his application for sick leave, where they sought to reject the opinion of a medical practitioner.

Senator Brandis: Mr President, I rise on a point of order. There is no part of what Senator Carr has just said that is remotely relevant to the question. He may have 36 seconds to go, but you may not allow a minister to engage in gratuitous abuse of the opposition that has no bearing on the question whatsoever in any part of his answer.

The PRESIDENT: Order! Wait a minute, Senator Evans. You will get the call, but I need silence behind you. Minister.

Senator Chris Evans: Mr President, on the point of order: given the question was allowed, it was a complete slur on a member of parliament in the other House. It was a complete slur designed to denigrate; and, therefore, the answer has been directly relevant as it deals with that slurring of a member. I am not sure that the question should have been allowed; but, if it is, the answer is directly relevant.

The PRESIDENT: There is no point of order. Minister, you have 36 seconds remaining.

Senator KIM CARR: The only vendetta that is being pursued here is by the opposition against the member for Dobell. In rejecting the advice of a medical practitioner, unprecedented action has been taken by those opposite. It is unprecedented action to reject the opinion of a medical professional in regard to a sick leave application and medical certificate. If you want to talk about vendettas—

The PRESIDENT: Senator Carr, you need to come to the question.

Senator KIM CARR: I have not finished. This is exactly the sort of thing we can expect from a scurrilous opposition whose views on Work Choices are that they want to apply the same rules to every worker in this country. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:38): Mr President, I ask a further supplementary question. I refer the minister to Mr Thomson's press release of 9 March 2012—of which I also gave him notice—claiming to support a joint application by CCGT and Wyong council for the centre whilst at the same time working behind the scenes to scuttle CCGT's involvement in this project. Far from being a good local member, as the Prime Minister keeps telling us, isn't the member for Dobell being totally deceptive and holding unemployed young people on the Central Coast hostage to his personal and political vendettas?

The PRESIDENT: That is seeking an opinion straight out, which I cannot allow.

Senator Bob Brown: Mr President, I ask that you also look at the question and, under standing orders, the requirement that there not be a reflection on a member of this place or the other place.

The PRESIDENT: That question was simply seeking an opinion. I cannot entertain the question.
Small Business

Senator PRATT (Western Australia) (14:40): My question this afternoon is for Senator Lundy, the Minister representing the Minister for Small Business. Can the minister outline to the Senate the importance of small business to the Australian economy? In particular will the minister outline some of the benefits that will flow to small business from the minerals resource rent tax?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:40): There are more than two million small businesses in Australia. This represents almost 96 per cent of all businesses in this country. Small businesses are the backbone of our industries, employing nearly five million Australians and making up over one-third of our economy. Small business people work hard and long hours and contribute enormously to the fabric and character of our society and economy. That is why this government, the Gillard government, is supporting small business.

Last night the government delivered on a historic reform to share the benefits of the mining boom and deliver a fair return to all Australians, including small businesses, from the development of the nation's resource wealth with the passage of the MRRT. This delivers a major new tax break for Australia's 2.7 million small businesses as well as a cut to the company tax rate for those businesses, with small business getting a one-year head start. However, the Leader of the Opposition has opposed this important reform every step of the way. It is unfortunate for those senators opposite that they continue their form not to represent small business people.

This generation of Liberal and National Party senators must be embarrassed because they are the first to break with the tradition of the coalition supporting tax breaks for small business. I cannot imagine what it is like to be in their shoes in this embarrassing moment in their political careers. Government senators remember the long debate and final vote on the stimulus package that guided the economy through the global financial crisis. The stimulus at that time was designed to support business and keep apprentices and tradespeople in work while building roads, social housing and school infrastructure, and it did just that. It kept people in work. And yet those senators opposite also voted against that.

Senator PRATT (Western Australia) (14:42): Mr President, I ask a supplementary question. Given the importance of small business to our economy and the hard work that small business people put every day into their businesses, can the minister please outline to the Senate the number of small businesses that could benefit from the tax breaks across various states and territories?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:42): I thank Senator Pratt for the supplementary question. The minerals resource rent tax, which will help spread the benefits of the mining boom to all Australians and strengthen our whole economy, includes the announcement that the write-off threshold for assets will increase to $6,500 from 1 July this year. That is, if a small business buys an asset for $6,500, it means a $6,500 tax deduction, and this instant 100 per cent depreciation will be a boon for so many small businesses. In fact, in New South Wales there are 889,000 small businesses. In Victoria there are 712,000 small businesses. In Queensland there are 562,000 small businesses. In South Australia there are 200,000 small businesses. In WA there are 274,000 small businesses that will benefit...
from this. Tasmania has 52,000. The Northern Territory has 16,000. In my own territory, the ACT, there are 34,000. (Time expired)

Senator PRATT (Western Australia) (14:44): Mr President, I ask a further supplementary question. Can the minister update the Senate on other measures that the government has in place to support small business people? Can the minister also outline any alternative views to small business support and economic management?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:44): I thank Senator Pratt for this final supplementary question. We also know that returning the budget to surplus is important for the economy in which small businesses trade. Yesterday, on ABC News Breakfast Senator Sinodinos stated the obvious on the coalition's ever-changing budget position on a surplus when he said, 'Look, I've no doubt that there's been a bit of untidiness in this area.' That is an understatement. In contrast, we have a commitment to return the budget to surplus in 2012-13 ahead of all advanced major economies.

In addition, from 2012-13 small businesses will also be able to write off the first $5,000 of the purchase of a motor vehicle including utes and vans. We are implementing an accelerated and simplified depreciation for business assets. As I noted last week, the 2.7 million small businesses will have a direct voice to the Gillard government through the first-ever small business— (Time expired)

Customs

Senator CASH (Western Australia) (14:45): My question is to the Minister representing the Minister for Justice, the Minister for Home Affairs and the Minister for Defence Materiel, Senator Ludwig. I refer the minister to the statement of the now foreign minister when, as New South Wales Premier, he said:

… all of these guns, the guns on our streets, the guns being traded, the guns that form this black market have got into Australia through pretty porous borders...

Does the minister believe that 'porous borders', as put by Minister Bob Carr, are allowing illegal weapons to be smuggled into Australia from overseas and, in particular, into Western Sydney as a result of Labor slashing Customs inspections by more than sixfold?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:46): I support my colleague on this side of the chamber and I do not accept the inference by Senator Cash in her question. The work this government has done in border protection has been extraordinary. Australia has some of the toughest laws covering the importation, possession and use of semi-automatic handguns. The minister is happy to take advice from experts on this. As the minister has always said, he has an open mind when it comes to opportunities to crack down on organised crime. He will take advice from the Australian Crime Commission and he will even take advice from the opposition if they could add a positive spin.

The reality is you will not be allow to import or possess of these weapons unless you have a legitimate reason. Our borders are very secure when it comes to this issue. The reality is that police must certify a person as a legitimate user if the person is to be able to import and possess these weapons. Under our existing regulations legitimate users are limited to police or military for
official purposes, sporting shooters, security firms and bona fide collectors. Australia has very tough legislation covering the importation, possession and use of firearms. When it comes to the work the Customs minister has done in this area, those opposite would want— (Time expired)

Senator CASH (Western Australia) (14:48): Mr President, I ask a supplementary question. Given the percentage of air cargo consignments inspected by Customs has been reduced from more than 60 per cent under the coalition to less than 10 per cent following Labor's budget cuts, and given the New South Wales Police Force have now uncovered what the police commissioner described as the biggest illegal syndicate—

Senator Cameron interjecting—

The PRESIDENT: Senator Cameron, I cannot hear the question. I need to hear the question.

Senator CASH: doing this type of illegal gun trafficking that Australia has ever seen, isn't Minister Bob Carr's statement an accurate account of what is happening under Labor's failed Customs and border protection policies today?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:49): The short answer to this is that in respect of parcels, letters and the importation of parcels we look—

Opposition senators interjecting—

Senator LUDWIG: Those opposite do not want the answer. They simply want to make a cheap political point. Customs and Border Protection Service have inspected over 20 million parcels and inspected more than 40 million letters.

Senator Abetz: That was successful, wasn't it?

Senator LUDWIG: They have been successful. There have been over 40,000 detections, an increase of 30 per cent over 2009-10. The opposition may be interested, though they have not shown any interest so far, to know that air cargo detections have actually increased by more than 16 per cent from 2008 right through to 2010-11. Customs will continue to employ intelligence based targeting of air cargo. If we look at issues such as rifle magazines—

Senator CASH (Western Australia) (14:50): Mr President, I ask a further supplementary question. Given the New South Wales Police Force investigation found 150 to 220 Glock pistols were imported into Sydney through the Sylvania Waters post office in the largest smuggling operation of its kind, evading the detection of Australia's Customs and Border Protection Service, what guarantee can be given to the Australian people that similar border failings have not and are not occurring in other states and territories and in the other 4,418 post offices around Australia?

Senator LUDWIG: There is a matter that is under police investigation. It would be inappropriate to comment in detail on the specifics of the Sylvania Waters licensed post office. However, I can say, on the measures Australia Post has in place for the security of its network and staff, Australia Post conducts pre-employment and pre-engagement criminal history checks on all applicants for work as employees, as labour hire employees, as post office licences and as mail contractors or subcontractors unless they have an existing criminal history check. These checks are done through CrimTrac by staff with access to the national police checking service. These employees' criminal
checked histories date back to pre-1975. What we have is comprehensive work undertaken by Australia Post in this area to ensure the security of our mail centres. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Senator Sherry, Senator Cash, if you wish to debate it, debate it after question time. Senator Di Natale is on his feet waiting for his question.

West Papua

Senator DI NATALE (Victoria) (14:52): Mr President, my question is to the Minister for Foreign Affairs, Senator Bob Carr. Minister, last week you met with your counterpart from Indonesia, Marty Natalegawa, and the defence ministers of both nations. Can you inform the Senate as to whether the issue of West Papua was raised as part of those discussions? If not, when do you plan to raise the issue of West Papua with the Indonesian government?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:53): Mr President, it was raised. First of all it was raised by me, when I assured the Indonesian foreign minister that Australia—both sides of Australian politics—fully recognised Indonesian sovereignty over the Papuan provinces. I reminded him that that was recognised in the Lombok treaty, signed by the Howard government with Indonesia in 2006. I underlined that I understood the case that all the governments of the world recognise Indonesian sovereignty. It would be a reckless Australian indeed who wanted to associate himself with a small separatist group which threatens the territorial integrity of Indonesia and that would produce a reaction among Indonesians towards this country. It would be reckless indeed.

I can say this: the Indonesian foreign minister nominated to me the responsiveness of the Indonesian government to oft-expressed Australian concerns about human rights in Papua. Before I could raise the subject, as I was fully intending to, the Indonesian foreign minister nominated that they have a clear responsibility to see that their sovereignty is upheld in respect of human rights standards. I was impressed by that. It reflects the fact that the previous Australian governments—I know it is the case with this Labor government and I assume it is the case with a coalition government—have raised these concerns with Indonesians, and it reflects the fact that Indonesians have listened.

I again would warn any member of the Senate against foolishly talking up references to separatism in respect of the Papuan provinces. That is reckless and it is not in Australia’s interests.

Senator DI NATALE (Victoria) (14:55): Mr President, I ask a supplementary question. It does relate to the Lombok treaty and I need to remind the foreign minister—I understand he is new in his role—that the Joint Standing Committee on Treaties report...
of 6 December made a bipartisan recommendation:

The Committee recommends that the Australian Government encourage the Indonesian Government to allow greater access for the media and human rights monitors in Papua.

If this is still the government's position, what has Senator Carr done to further this aim?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:56): I can assure the Senate that the Australian embassy in Jakarta will continue to raise matters of human rights in respect of the Papuan provinces, and will do so in respect of the recent sentencing of five men in Papua province to three years imprisonment for subversion. Australia has a strong and consistent record of upholding the right of persons peacefully to express their political views freely. Australian officials in Jakarta will raise our concerns over these sentences. But we will do so as a friend of Indonesia, absolutely explicit and unabashed about asserting Indonesian sovereignity over the Papuan provinces. The Lombok treaty—I refer again to the fact that the Lombok treaty was signed in November 2006, coming into force in 2008—is based on such a recognition: support for the sovereignty, territorial integrity, national unity and political independence of each other. Similar language is used in the preamble.

Senator DI NATALE (Victoria) (14:57): Mr President, I ask a further supplementary question, which also relates to the JSCOT report, which I remind the foreign minister is about what the Australian government, not the Indonesian government, has agreed to do. Recommendation 2 says:

... increase transparency in defence cooperation agreements to provide assurance that Australian resources do not directly or indirectly support human rights abuses in Indonesia.

Again I ask the foreign minister: what steps will you take in your role as foreign minister to ensure this recommendation is applied and that transparency of Australia's role—(Time expired)

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:58): In those full and frank exchanges last Thursday with our Indonesian counterparts, the defence minister and I canvassed Papua and the Indonesian foreign minister referred again to the progress being made by Indonesia in shifting responsibility for law and order in the Papuan provinces from the military to the police. President Yudhoyono—a great friend of Australia's, by the way—has committed his government to raising the living standards of the people of Papua and reinvigorating special autonomy. Australia believes that this is the best path—the best means—to achieving a safe and prosperous future for the Papuan people. We will give support through our aid programs. We are the biggest aid donor to Indonesia, and a recognition of that is reflected in the Lowy Institute poll, which I recommend members of the Senate read, which says that Australia is held in high standing by the people of Indonesia. We will continue to work on these great tasks.

Agriculture

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:59): My question—

Honourable senators interjecting—

Senator JOYCE: It will be good! My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. I refer the minister to an article written by the Minister for Trade and Competitiveness, Dr Craig Emerson, in the Australian last week. In that article Dr Emerson states that Australia can establish itself as a reliable supplier in
meeting Asia's food security needs', and that to do this we must have 'improved water catchment and conservation infrastructure'.

Senator Cameron interjecting—

Senator JOYCE: If the government believes that agriculture is important to Australia, Dougie Cameron, why has it abolished R&D organisations such as Land and Water Australia, cut money from the Department of Agriculture, Fisheries and Forestry's budget, ended overnight live cattle exports to Indonesia, bought back more water than it has saved through infrastructure upgrades in the Murray-Darling, supported vegetation management policies which have placed restrictions on 80 per cent of the state, and also sold coal seam gas licences all throughout the state? If food production is so important to the government, why is its record so deplorable?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:00): It will not be difficult to be relevant to that irrelevant question. What we do have in foreign investment is important investment in rural Australia. Coal seam gas is primarily a state issue, but this government is taking the lead with the states and territories in investing to make sure that environmental consideration is at the forefront. If you take a look at the Murray-Darling Basin, for years the opposition have ignored that issue. This government has driven for an outcome for years. The Murray-Darling Basin has been overallocated with water and everyone has acknowledged that issue for years.

If you look at the opposition, they did not look at how you develop food security for Australia. This government is taking the first actions of developing the first national food plan. Those opposite have not taken the lead on any of this. They remain focused on simply opposing investment in agriculture. They remain opposed to coal seam gas, which provides gas for the east coast and which provides income for farming communities. They remain opposed to the food plan.

Senator Joyce: Mr President, I rise on a point of order, one of relevance. The question asked specifically what areas are actually going to increase our agricultural sector. Everything you have talked to thus far is things that will actually decrease our agricultural sector.

The PRESIDENT: Senator Joyce, that is not a point of order.

Senator LUDWIG: I do not accept the actual premise of the question that was put. R&D development has been a significant investment by this government right throughout its period since election in 2007. What those opposite would want to do, through their policies, is trash agriculture and trash rural Australia. They are not supporting rural Australia. This government has made significant investment in health and hospitals, in rural and skills all the way across—

Senator Joyce: Mr President, on a further point of order on relevance, the minister said that R&D was very important, but the question asked specifically—and this is why it is relevant—‘If you believe it is so important, why did you abolish it?’

The PRESIDENT: Senator Joyce, there is no point of order. The minister now has 11 seconds.

Senator LUDWIG: We looked at the Productivity Commission report and maintained R&D investment. Those opposite should actually look at our policy. He is misquoting it, he does not understand it and quite frankly he does not understand rural—(Time expired)
Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:03): Mr President, I ask a supplementary question. I refer the minister to the fact that over the last 30 years Australia's land in agricultural production has fallen from 500 million hectares to 400 million hectares. I also refer the minister to the recent announcement made by the Queensland Labor government of plans to shut down even more agricultural land through its border-to-beach wildlife corridor, a policy which AgForce has described as an example of a constraint on the state's farm sector. If the government supports locking away agricultural land in green corridors, where will our future food and fibre come from?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:04): I thank Senator Joyce for his supplementary question. He is doing two things: he is having a bid for Maranoa and also supporting the LNP in Queensland in rural Australia. I do not think either of those are very sensible—

The PRESIDENT: Senator Ludwig, just come to the question.

Senator LUDWIG: for Senator Joyce. If you look at its policies, you see that the National Party is simply a doormat to the Liberals. They run out issues about royalties for CSG; they run out issues about caps on foreign investment. None of them are going to be allowed by those opposite, the Liberal Party. They are simply going to run their spurious arguments in the hope that they will be able to get them up in the party room. I doubt that you will be able to get them up in the party room, because they are not looking after rural Australia. They do not care about rural Australia. They are simply turning politics into a fine art— (Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:05): Mr President, I ask a further supplementary question. Thank you very much for that complete and utter nonanswer from the minister. I referred the minister to the Queensland Labor Party's wild rivers policy, which prohibits a range of agricultural activities, including dams, vegetation management and agriculture, over 35 per cent of the state of Queensland. If agriculture is so important to the government that Dr Craig Emerson says we have to increase our food, does the government support the Labor Party's proposal to extend wild river declarations to a further eight rivers?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:06): If you look at the wild rivers legislation, it is sensible legislation. But it is a matter that the state government is dealing with. On the issue of dams that Senator Joyce raised, what Senator Joyce wants mining companies to do is build dams anywhere with no proper impact assessment and no proper examination of whether dams would be useful in particular regions—no strategy. He just wants to get mining companies to build dams. I do not why mining companies would do that without being paid or without having some return on their investment. Maybe it is the opposition's second policy on the MMRT and rather than using that money to fund small business tax cuts they will use it to build dams. Those opposite do not care about rural Australia. This government has more investment into rural Australia than the National Party managed to during their 10 years in government.

Senator Chris Evans: I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

National Disability Insurance Scheme

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:07): I seek leave to incorporate into Hansard answers to a question asked of me by Senator Siewert on 15 March in my capacity representing Minister Macklin, the Minister for Families, Community Services and Indigenous Affairs.

Leave granted.

The answer read as follows—

The Hon Jenny Macklin MP
Minister for Families, Community Services and Indigenous Affairs
Minister for Disability Reform
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19 MAR 2012

Senator Rachel Siewert
Senator for Western Australia
Parliament House
CANBERRA ACT 2600

Dear Rachel

I am writing in response to your Question on Notice taken by the Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate, Senator the Hon Chris Evans, on Thursday 15 March 2012 about the National Disability Insurance Scheme (NDIS). I am replying on behalf of Senator Evans as this matter falls within my portfolio responsibilities as Minister for Disability Reform.

You asked what action has been taken by the Commonwealth, state and territory governments to ensure people with disability are involved in the development of an NDIS.

The Commonwealth Government recognises that to successfully complete work on the foundation reforms, experts in the field, people with disability, their families, carers and their representative organisations will need to be engaged on an ongoing basis. Significant consultation has already taken place, including the extensive consultations by the Productivity Commission, and the information sessions held in every capital city by the Commonwealth Long-Term Care and Support Taskforce.

As you are aware, on 19 August 2011, the Council of Australian Governments agreed to form a Select Council of Ministers from Commonwealth, states and territories to start work immediately to lay the foundations for an NDIS. The foundation reforms include consideration and strategies for preparing people with disability and their carers for a launch of an NDIS.

On 7 October 2011, the Government announced the appointment of the NDIS Advisory Group. The Advisory Group is working closely with governments and key stakeholders and provides opportunities for ongoing engagement in the disability reform process. The Advisory Group reports to the Select Council on Disability Reform which has representation from all jurisdictions.

The majority of the Advisory Group members were selected from nominations by state and territory governments and they bring together diverse experiences of the disability sector to ensure that governments will receive well balanced and informed advice. Some members of the Advisory Group also bring their own experiences as people with a disability.

Part of the Advisory Group's role is to ensure that the views of people with disability, their families, carers and service providers are reflected in the foundations and design of an NDIS. The Advisory Group will engage across Australia on reform options as the details of these options are developed. The Advisory Group is currently finalising its engagement plan which will include a range of engagement activities.

I understand the Chair of the Advisory Group, Dr Jeff Harmer will be attending the Friends of People with Disability Meeting which you are co-
convening on Wednesday, 21 March 2012 to discuss the activities of the Advisory Group. I hope this meeting with Dr Harmer will give you further insight and confidence in their valuable role in engaging with people with disability.

State and territory governments have also formed similar advisory groups, such as the Queensland NDIS Working Group, Victorian NDIS Implementation Taskforce and the South Australian NDIS Taskforce. The NDIS Advisory Group is liaising with these groups which has proven useful in pinpointing their jurisdictions specific issues.

You also asked about the level of funding being made available to people with disability to participate and prepare for the implementation of an NDIS. At this point, the Government has allocated a total of $10 million to progress the foundation reforms and the activities of the Advisory Group which will include consultations by the Advisory Group with people with disability and consultations on elements of the foundation reforms, such as the development of assessment tools. In addition the, Government has provided $10 million in grants to projects that will help to inform the development of the NDIS and Prepare people with disability, their families and carers, the disability sector and workforce for its implementation.

Thank you for being a champion for people with disability. I look forward to working with you and the Australian Greens as we progress on the path of this fundamental disability reform.

Yours sincerely

JENNY MACKLIN MP

Economy

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (15:07): I seek leave to incorporate into Hansard answers to a question of me by Senator Payne yesterday in my capacity representing the Prime Minister.

Leave granted.

The answer read as follows—

Senator PAYNE (New South Wales) (14:43): My question is to the Minister representing the Prime Minister, Senator Evans. Given the government's self-proclaimed commitment to deregulation and improving productivity, can the minister guarantee that the 12 crucial COAG seamless national economy reforms that are currently at risk of not being completed on time will, in fact, be completed by December this year, as promised?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:44): I thank Senator Payne for her question. She raises the very important issue of the deregulation agenda of COAG. I will have to take part of the question on notice in the sense of getting an update on the progress of each of the 12 key reforms …

The COAG Reform Council (CRC) report released on 3 February noted that good progress has been made on COAG’s 27 deregulation priorities, and that 15 priority reforms had been implemented—including one ahead of schedule.

I am pleased to say that since the CRC report was released, Personal Properties Securities reform commenced operation on 30 January 2012—taking the number of implemented reforms to 16.

The CRC report stated that across the 27 deregulation priorities—22 reforms are travelling well. The report raised concerns about some priority reforms which are delayed and where the outcome may be at risk - these are important reforms such as national occupational health and safety laws, trades licensing and directors'

As a reflection of the economic importance of the national regulatory reform agenda, the Commonwealth has set aside $450 million in reward payments to be provided to the States and Territories, on the delivery of agreed reform outcomes.

The Australian Government is committed to leading the national regulatory reform agenda through COAG, and will continue to work with all States and Territories to drive accountabilities and ensure that the States deliver on their reform commitments in a full and timely manner.
Further, the COAG Business Advisory Forum, announced by the Prime Minister, will provide an avenue for business to raise its concerns on progress in delivering these reforms more directly with governments.

**Family Court**

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:08): I seek leave to incorporate into *Hansard* an answer to a question taken on notice on 15 March 2012 from Senator Macdonald in relation to the Townsville legal profession.

Leave granted.

*The answer read as follows*—

Question taken on notice 15 March 2012 by Senator Ludwig acting as Minister representing the Attorney-General

Sen. Macdonald—Question

Mr President, I ask a supplementary question. I ask the minister to check the Hansard records, where he will see that commitment was made. I also ask whether he is aware that the Townsville legal profession was advised by the Attorney-General's office on 15 February that advertisements would be placed in papers in Townsville on 3 March. Were they published on that day as promised? If they were not, when is it intended to place those advertisements?

Sen. Ludwig—Response

I have been advised by the Attorney-General that an advertisement for nominations and expressions of interest for appointments to the Family Court of Australia in Queensland, Sydney and Adelaide will appear in newspapers on Friday 23 March and Saturday 24 March 2012.

**Asylum Seekers**

**Senator LUNGY** (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (15:08): I seek leave to incorporate into *Hansard* answers to questions from Senator Cash on 19 March that I took on notice.

Leave granted.

*The answer read as follows*—

Many of those involved in the incidents at Christmas Island and Villawood have actually been charged and remain in detention, with many on a negative pathway.

As the Senator should know, the new character provisions of the Migration Act only come into play where an irregular maritime arrival is found to be a refugee.

Before a person can be granted a Protection visa, they must be considered against new character requirements.

No person convicted of an offence related to the Christmas Island disturbances has been referred to the Minister for consideration to date.

As the Minister has said on countless occasions, he will use the full force of his character powers—introduced by this Government—where he sees fit.

For all of the Coalition's bluster and grandstanding not one visa was cancelled under the Howard Government for riots and fires at detention centres at Port Hedland, Baxter and Woomera.

**QUESTIONS WITHOUT NOTICE:**

**TAKE NOTE OF ANSWERS**

**Answers to Questions**

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (15:08): I move:

That the Senate take note of the answers given by ministers to all questions without notice asked today.

It is amazing that we have the most failed finance minister in our nation's history now sitting in this chamber. I want to go through Minister Wong's record. On 10 July 2010, it was suggested that the deficit for 2011-12 was going to be $10.4 billion. Then, in the MYEFO of November 2010, it went to $12.3 billion. Then in May 2011 it went to $22.6 billion. The December MYEFO had it at $37.1 billion. We are going to get the truth
soon. When I was at uni, we had to give discount factors to the statements of certain of our colleagues. Any time that they said something, we had to give a 20 per cent discount factor to it. Some of them used to really stretch the truth. There was one bloke called Angus—I will not give his last name—who we used to call '97.3', because that is what you had to discount anything that he said by. But this minister is '400 per cent'. Everything she says has a 400 per cent acceleration factor. They are out the back door. Everything that they say is about 400 per cent wrong. It is a farce. I do not know why we use up oxygen to listen to them.

She came in here today and lauded the economic credentials of a government that has given us the biggest deficits. Every time that they say something, there is only one thing that you can be sure of: you can be sure that it is wrong; you can be sure that it will be worse. We are currently $233 billion in gross debt. We are nearly $17 billion away from bouncing our cheques. And that has all happened under the guidance and tutelage of Senator Wong. Senator Wong: Miss '400 per cent out the back door', who cannot get anything right.

Then there is the raft of complete and utter misleading statements that they make. Misleading statement No. 1: the mining tax will pay for the superannuation increases. No, that is incorrect; that is a mistruth. That is something that even Pinocchio would be proud of. That is an incredible statement, because it will not. Mr and Mrs Smith, Mr and Mrs Jones, and Mr and Mrs Small Business across our nation will pay for the superannuation increase. They will pay for it out of their wallets and if they cannot afford it they will reduce the amount that they are spending on salaries and they will reduce employment. And this has been done under the guidance and tutelage of this minister, who is now leaving the chamber because she does not really care.

Then there is misconception No. 2.

Senator Wong: Mr Deputy President, I rise on a point of order. That is most discourteous. The senator knows that I am not on chamber duty. To make a political issue about me leaving the chamber for an appointment is really discourteous and not what is usually done in this chamber.

The DEPUTY PRESIDENT: Your point is made, Senator Wong, but it is no point of order.

Senator Joyce: It is completely true. She is not staying here to listen to the issues. With only two minutes to go, I think that she could wait; she could last for another two minutes. But no, out the door she goes; she has gone; she has bolted.

Senator Lundy: Mr Deputy President, I rise on a point of order—exactly the same point. This is extremely discourteous of Senator Joyce. I ask him to desist.

The DEPUTY PRESIDENT: There is no point of order.

Senator Joyce: Let us go to the next issue. The next issue is the small business tax deduction. But that is not the truth. What do you call something that is a deliberate untruth? This time the discount factor is 70 per cent, because 70 per cent of small businesses will not get the tax deduction because 70 per cent of small businesses are not incorporated. Maybe we will give the 70 per cent discount factor to Mr Swan. We have the 400 per cent acceleration factor on bad news that we can attribute to Minister Wong. We also have the 70 per cent discount factor on the truth that we can attribute to Mr Swan. This is what is happening to our nation as we go piece by piece through the back door.
These people are so incompetent that they have done something that I did not think was possible: they have come up with a tax that costs us money. How do you come up with revenue that becomes a cost? They have rewritten the book on accountancy 101. They now have an income that is an expense. It is easy: all you have to do is have the competency of the imbeciles that currently occupy the Treasury benches and these things become possible. We are going out the back door.

In trying to redeem themselves—in trying to extract themselves from this situation—they have attacked Australian agriculture, no better exemplified than in the Murray-Darling Basin Plan. In that plan, we are borrowing money from overseas to remove productive capacity. We are borrowing money in order to make our capacity to pay that debt back worse. Why? I do not know. It is just one of those things. They do not believe in infrastructure—infrastructure is too hard. They just want to buy things back, send people broke and send them out the back door. They just want to turn everything into carbon credits and send them to Rwanda. That is the Labor Party policy: they are going to send the whole nation off as a carbon credit to Equatorial Africa and that is where it will all end.

Senator CROSSIN (Northern Territory) (15:14): What an absolute torrent of unintelligible garbage we have heard from the other side of the chamber! This is the king of the doormats with his fan club this afternoon, trying to make some point about the answers that the ministers before me today have provided.

This, mind you, is the senator who appeared in this chamber this morning for prayers with no tie on. He could not be bothered to get dressed properly to get into this chamber this morning—

Senator Joyce: Mr Deputy President, I rise on a point of order—a clarification. I am just trying to work out which standing order I have breached by reason of me not having a tie on. Because if I breached one, hasn’t Senator Crossin breached it as well?

The DEPUTY PRESIDENT: Order! There is no point of order.

Senator CROSSIN: This, of course, is also the senator across the chamber who refers to my learned colleague in front of me all the time as 'Miss' rather than as 'Senator' or 'Minister'. He does not even courteously provide her with her proper title. And he is well aware that at the end of question time there are certain people allocated to be on duty in this chamber and that other people then have other duties and are required back in their offices. So to have an outstanding go at the ministers before us who are not in this chamber to hear them take note of their answers—why would you want to waste Minister Wong's time listening to that unintelligible claptrap that comes from across the other side of the chamber?

Why would you want to waste her time? She is one of the best ministers this country has ever known when it comes to the complex issues that she has handled in her four years as a minister. Not only did she negotiate the climate change package and the bills to a point where that legislation came through both houses of parliament and was endorsed by both houses of this parliament—of course, they were not endorsed by the doormats across the road here—but she then was elevated to one of the Treasury portfolios and is now a pre-eminent person in our caucus, in the ministry and in the cabinet, and she has dealt with the most complex of legislation and complex of issues. She was there day after day during the global financial crisis, is there negotiating the minerals resource rent tax, is
there heading up our ERC process and is there making sure that we have a budget that comes in on time and on the surplus.

This is a woman that I think all Australians can rightly and proudly acknowledge as being one of the best people we have had in our Treasury team. I am more than happy today to stand up and try to make some sense of the unintelligible question that was asked by Senator Joyce. I noticed, in fact, that Senator Joyce had such difficulty today in getting his question out that he had to rush it through because he was not going to get it asked in a minute. If you were actually sitting on this side of the chamber, in his rush to get the words out there was just mumble and jumble in there. I am surprised that Senator Ludwig was able even to find the words ‘food security’ in there somewhere in Senator Joyce's rush to try to get out a question that was almost unintelligible. I am not sure if people listening to it on radio would have had any idea what the senator was asking whatsoever.

What is this really all about? This is all about the fact that Senator Joyce and his party have no alternative policies. In fact, I do not think they have any policies at all. They are very happy to line up behind the Liberal Party and just say ‘no’ to everything. I cannot believe that after yesterday's debate they have turned their backs on a package that will deliver huge investments in infrastructure in this country. When he purports to come from outback Queensland he would well know that one dollar extra towards infrastructure is one dollar he ought to be putting his hand up to grab with enthusiasm. I cannot believe that he sits on the other side of this chamber and does not put his hand up for tax breaks for small businesses; for the little businesses that sit in rural and regional outback towns, that probably struggle day after day and that will actually welcome an immediate write-off of 6½ thousand dollars in assets. They will welcome the tax breaks that the minerals resource rent tax will provide to them.

I cannot believe that if you are truly the party that represents rural and regional Australia that you have not put a tick beside assisting small business and you have not put a tick beside extra money for infrastructure. You would rather just stand behind the Liberal Party and say ‘no’ to everything. You have no creative bones in your bodies and you have no creative ability to come up with any new and original policies whatsoever.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (15:20): It is no wonder that people across regional communities and right across this country keep coming up to me and saying, 'Will this government please tell the truth! Every single time we turn around we get another mistruth from this government.' People out there are getting mighty sick of it. Today, in answers to questions, we have seen yet more of that.

Let me take the chamber to a comment by the Treasurer just this morning, talking about the estimates for the RSPT and the MRRT. The Treasurer said, 'Well, we don't do those 10-year estimates.' Let me just repeat that: 'Well, we don't do those 10-year estimates.' Guess what? Apparently, they do. Because here in this document, when I turn the page, is the 10-year estimate from Treasury. So on this hand, Treasurer: 'We do not do those 10-year estimates'; on this hand, the document: yes they do.

So the Treasurer is either completely inept or he was misleading the Australian people this morning when he made that comment. He said, 'That is a figure that has been bandied around by all manner of people.'

Senator Cormann interjecting—Senator NASH: I will take the gesture interjection, thank you Senator Cormann!
Arms up in the air in despair! Is the Treasurer completely inept or, simply, does he know he is misleading the Australian people and he does not care? 'That is a figure that has been bandied around by all manner of people'—what sort of comment is that for the Treasurer to make about something as important as the costings for the RSPT and the MRRT? 'Being bandied around,'—it is here right in front of us on the page from the Treasury documents that were provided under FOI on 14 February last year, and placed on the website. What on earth is this Treasurer doing? If he cannot get something right which is as simple as a question about whether or not 10-year estimates were provided, how on earth can the Australian people trust him to be in charge of the finances of this nation? They cannot.

Senator Boyce: They can't.

Senator NASH: Thank you, Senator Boyce; I will take that. I will have to write that to Minister Wong as well. How can anybody trust this duo—it is a bit like Laurel and Hardy—to actually run the economy of the country? They simply cannot. When we heard the minister, Penny Wong, talking just two days ago, just on Sunday—this is not a long time ago—about the costings for the RSPT and the MRRT, she said, 'We don't release 10-year costings.' Clearly, according to the RSPT and MRRT review of estimates document I have in my hand, they do release 10-year costings. It is black and white. How can they be so inept or misleading? How can they continue to tell untruths? I do not know which one it is but of any of them or all of them are completely unacceptable. How can the minister, Penny Wong, say, 'We don't release 10-year costings?' If she did not know that only 12 months ago this document was released to the public then that is an absolute failing in her duty as a minister.

It gets even better, because when we look at the figures—and there is a $60 billion shortfall once we move from the absolute shambles of the RSPT to the MRRT that the minister did with only three companies, mind you—if the Treasury had actually used the same commodity price modelling for the MRRT as they had for the RSPT, it would have been a shortfall of $100 billion. This is what we are stuck with; this is what we have got: the inept nature of this government, the Treasury team on the other side of Minister Wayne Swan and Minister Penny Wong. It is just extraordinary. There is no way they can explain the fact that they made those comments when that document was available. It was either completely inept or they actually were misleading the Australian people, and the Treasurer and Minister Penny Wong should come out and explain to the Australian people why they told those untruths and if they were in fact misleading, because to the Australian people that is entirely unacceptable.

Senator SINGH (Tasmania) (15:25): What we have heard this afternoon is some outrageous claims by Senator Joyce and Senator Nash against Minister Penny Wong and our Treasurer, Wayne Swan. These are two members of cabinet, two people with regard to Finance and Treasury, who, thanks to their fiscal responsibility, have been able today to deliver pension increases to Australian pensioners, something that the opposition did not support. They did not support it in 2009 when we started the most historical reform to pensions ever brought into this parliament. They did not support it then, they do not support it now and they do not support support for low-income Australians—no, of course not. That is why yesterday we saw in this place the opposition to the minerals resource rent tax, which will ensure that we spread the opportunities for all Australians in this country. No, they did
not support that, because they want to support lining the pockets of some of the most wealthy people in this country—that is, miners. They do not stand up for pensioners, unlike us on this side of the house and unlike the work of Minister Penny Wong and that of Treasurer Wayne Swan, who have both been able to deliver the pension increase that we have been able to give to Australian pensioners today, an historical increase over the life of this government.

On that side of the Senate they instead choose to be defensive and on the attack, because they know they have dug a hole and they cannot get out of it and that hole has a price tag of $70 billion attached to it. Why? Because they do not use the proper costings; they use catering companies to formulate the costings for their policies. We on this side of the Senate use Treasury costings which ensure that all of our policies are costed, as they should be, unlike the opposition who have now dug themselves into such a hole they cannot get out of it. It is no surprise, because we know that the last time the coalition were in government they utterly failed to use the good economic times for investment in Australia’s future. They failed to invest in health infrastructure and they failed to invest in education, and that is in stark contrast with what this Labor government is doing through the minerals resource rent tax. In fact, what we are doing is ensuring that we are using the extraordinary profits that mining companies make from the resources, which belong to all Australians, to create a better country, a better future for all Australians.

We have talked in this place about the various ways in which that will be achieved: through increasing superannuation and through giving tax cuts to small business and the like to ensure that this is about making and managing our prosperity for all Australians. The government here is ensuring that all Australians have a fair share of our resources. That is the Labor way that is based on the value of fairness, something that the coalition have no understanding of because their values are completely stark compared with ours. Their values are about increasing the profits of some of the most wealthy miners in this country. We voted to ensure that we can fund more superannuation for all Australians because we know that we have an ageing population. We know that we need to look forward to the future in this country for all working Australians so that your average working 30-year-old in Australia now will have, on the basis of their average weekly earnings, an increase of around $100,000 more in superannuation, which is much needed as they go into retirement. I look forward to opposition senators going back to their constituents after we rise from this place at the end of this week and telling them that they are going to vote against a tax cut for small business. On top of that, they are going to increase company tax if they wish to support their own paid parental leave scheme that they currently have as their core coalition policy. So tax breaks for small business and cutting the company tax rate are supported by this government but opposed by the opposition. That is outrageous and unbelievable coming from the Liberal Party, who claim they are the party that supports small business and tax cuts for small business. It is unbelievable to hear that in this place.

(Time expired)

Senator BOYCE (Queensland) (15:30): I suppose I should not be surprised that Senator Singh seems to have the same issues as anybody else amongst her colleagues in getting things right—I am not quite sure how we on the coalition side of the chamber can be both defensive and on the attack at the same time. Yes, we are defensive; of course we are defensive. We are trying to defend the rights of Australians—not just the union
bosses but the workers and the families as well. To suggest that we would somehow be ashamed to admit that we were going to do our damnedest to stop the government from going ahead with aspects of the minerals resource rent tax is just bizarre. Yes, we are going to tell people they will not get that tax cut and that it is not really a tax cut. A tax cut that is based on a great big new tax is a tax con. That is what this government is producing—a tax con.

For Senator Crossin to pretend to be somewhat hurt that anyone could suggest that Senator Wong is not the most brilliant financial mind in Australia is bizarre as well. We had Senator Wong suggesting yet again that there is going to be a budget surplus in 2012-13. If there is a budget surplus in the budget papers that are presented in 2012-13, it will simply be based on the smoke and mirrors that every aspect of this government's ability to undertake proper economic analysis is based on. It will be dodgy; it will be made up. This government not only have produced the four largest deficits in Australian history but have done so serially. They are serial deficit producers; it is all they can do. And now suddenly they are going to bring out a budget that is in surplus. They are saying: 'Don't worry about how we're going to do that—we just will, we can, we know how. We may have lost our 10-year costings. We may not know that not every small business in Australia is an incorporated company and therefore will not benefit from anything we are suggesting. We may not be able to get Fair Work Australia to learn how to read quickly enough to produce a report within four years. We may not even care about whether there are allegations relating to the activities of Mr Thomson, the member for Dobell, outside of the Health Services Union. And we think the wild rivers legislation in Queensland, which destroys any opportunity for Aboriginal owners and occupants of the Cape York area to undertake business or commercial activities themselves, is sensible legislation.'

Of course we have problems; of course we are defensive. We must be, to attempt to defend this country from the ravages of this government, which, in this last sitting week of the truncated parliamentary year that it has developed, is trying to rush through bill after bill, none of it fully thought through and none of it likely to survive more than five or six months. It is frightening and it is disturbing that the government continues to behave as though it actually thinks it will get a budget surplus. We even had the very bizarre procedure during question time of the government refusing our spokesman leave to table a Treasury document. It would not let us table a Treasury document. Why not? Because it might have proved that Treasurer Swan and his offsider Senator Wong are not in fact the best minds in Australia to run a government. They are only useful for running deficits—because you do not have to check on your figures to run a deficit.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (15:35): I am very sorry that the coalition continues to overlook the Indigenous people of—

**Senator Boyce interjecting**—

**Senator BOB BROWN:** Senator Boyce might laugh about it, but I spoke to Scott Gorringe, who represents the traditional people—

**Senator Boyce:** We actually talk to them, Senator Brown; we actually speak to them.

**Senator BOB BROWN:** You are rudely interrupting. I did not interrupt you, Senator Boyce. I am talking about Scott Gorringe, one of the traditional owners of the Cooper Creek Basin in south-west Queensland, who I did speak to. In fact, I held a joint conference with him in Queensland as they tried to get some recognition of their call for
I rise to take note of an answer given by Senator Bob Carr to a question from me during question time today. I am very disappointed that Senator Carr on the question of West Papua would immediately come to the defence of the Indonesian government and Indonesian sovereignty when that was not the substance of the question. On that issue, it is important to note where that sovereignty arises from. It arises from a huge breach of the democratic process in 1969, where the Act of Free Choice essentially resulted in a number of hand-picked people producing an outcome that was known from the start, and that is that an independent province, the province of West Papua, would effectively be handed over to the Indonesians because it was an area rich in natural resources.

But the substance of my question was very clear. The Joint Standing Committee on Treaties in December 2006 handed down a report which made two very clear recommendations that this government and all future governments should pursue—firstly, that this area be allowed access by the media and human rights monitors. We have a situation where a democratic nation refuses journalists entry into West Papua and refuses access to human rights monitors. Here on our doorstep is a situation that, frankly, is untenable. Secondly, the Australian government is financing the Indonesian military and parts of that financing are contributing to human rights abuses on our doorstep. It is simply unacceptable and the recommendations of the committee must be upheld.

Question agreed to.

PERSONAL EXPLANATIONS

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:40): Mr Deputy President, I seek leave to make a brief personal explanation as I claim to have been misrepresented.
Senator BRANDIS: Thank you, Senator Collins, for the indulgence. I claim to have been misrepresented by Senator Bob Brown. Yesterday in the debate on the 150th report of the Privileges Committee on whether there was any improper influence in relation to political donations made by Mr Graeme Wood—and in questions without notice asked by Senator Bob Brown and Senator Milne—Senator Brown, in reference to me, said, and I am reading from page 65 of yesterday's proof Hansard:

... Senator Brandis ... after two months was forced to recuse himself from this committee ...

That is capable, Mr Deputy President, of creating a misleading impression. I am, as you are aware, a member of the Privileges Committee—indeed, a former chairman of the Privileges Committee—and it is a fact that I did recuse myself from that inquiry, a fact that was noted by the chair in presenting the report and is noted in the report itself. It is quite misleading to say either that I was forced to or that I was forced to after two months.

Senator Brown made some observations in a debate in the Senate on Tuesday, 7 February 2012 in which he said words to the effect that, because I had given a parliamentary speech in the chamber in July of last year which dealt with matters that were before the Privileges Committee after Senator Kroger's reference in November of last year, I ought not to participate in the inquiry. That speech by Senator Brown was brought to my attention by Senator Johnston, the chair of the committee, the following day, Wednesday, 8 February. I thought about the matter overnight and I decided that the point made by Senator Brown was a fair point and that, because I had raised in a parliamentary speech matters which could potentially arise during the course of the inquiry, I ought to take the course of recusing myself. So I wrote to Senator Johnston on 10 February 2012 doing so. In the course of that letter, which I seek leave to table, I said:

Although I stand by what I said in the course of the debate, it is incorrect to say that I have prejudged the issues which the inquiry is likely to address. Nevertheless, having considered the matter carefully, I have decided to recuse myself. As you are aware, the law recognizes two categories of case in which a judicial officer or other relevant decision-maker should stand aside from a hearing: where there is actual bias (for instance, where there is a direct conflict of interests) and apprehended bias (where, although there is no actual bias, a reasonable objective observer might conclude that there could be).

Although the Privileges Committee is not, of course, a court or a quasi-judicial tribunal, it is nevertheless of central importance that it both act with neutrality and be seen to so act. For that reason, I consider the legal principles to which I have referred provide useful guidance and should generally be followed in a case such as this.

In view of my contribution to the debate concerning Senator Brown's relationship with Mr Wood and his interests, I have concluded that there is a sufficient basis for the principle of apprehended bias to apply to this case.

It will be obvious from what I have said that the decision to recuse myself was a decision taken entirely of my own volition. The suggestion that I was forced to do so is incorrect.

Senator Brown anticipated in his speech to the Senate on 7 February that the following day he would deliver to the Privileges Committee a letter setting out the grounds why ought to recuse myself. I in fact did not read that letter and have not read it to this day. The principles are well known to me and I applied them to myself.

It is also incorrect to imply, as Senator Bob Brown's remarks do, that there was a
reluctance on my part over some two months to recuse myself. It may be the case that two months earlier Senator Brown had made a statement that I ought to recuse myself, but if he did I was unaware of it. Senator Brown may think the world hangs upon his every word, but I do not. I first became aware of Senator Brown's complaint when Senator Johnston drew it to my attention on 8 February following Senator Brown's parliamentary speech on 7 February and, having reflected on the matter overnight, I decided on 9 February—in other words, effectively immediately—under no pressure but of my own volition to apply the appropriate legal principle and to recuse myself, which I think in the circumstances was the proper thing to do.

The DEPUTY PRESIDENT: Senator Brandis, you sought leave to table a document. Is leave granted?

Leave granted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (15:46): I seek leave to have five minutes to respond.

The DEPUTY PRESIDENT: Is leave granted?

Senator Abetz: Not at this stage, Mr Deputy President. Does Senator Bob Brown claim to have been misrepresented and require a personal explanation, or does he just want to have a five-minute go in the Senate? If he is just wanting a five-minute go in the Senate, then I would have thought that we should be entitled to know what it is about.

The DEPUTY PRESIDENT: Senator Brown, you have heard the comments of Senator Abetz. Are you still seeking leave to make a statement?

Senator BOB BROWN: Yes, I am. Let me make it clear to you, Mr Deputy President, that the Senate cannot descend into the situation that Senator Abetz requests, that senators give notice of the content of what they are going to say before they say it. I am simply asking in the wake of Senator Brandis's submission to the Senate that I have an equal opportunity to respond. He has named me—

Opposition senators interjecting—

The DEPUTY PRESIDENT: Order! Senator Brown, you are right. You have sought leave to make a five-minute statement and there should be no condition imposed upon that. It is now up to the Senate whether leave is granted or not. Is leave granted?

Leave not granted.

Senator Bob Brown: I rise on a point of order, Mr Deputy President. That is an extraordinary negation of the right of senators to speak when named in this place. I ask you to look at whether that is in order and whether that is a precedent that is going to be followed by this place.

The DEPUTY PRESIDENT: Senator Bob Brown, there is no point of order.

Senator Brandis: Mr Deputy President, I do submit that there is no point of order, but in making that submission, may I say that in the remarks I just made I did not suggest that Senator Brown yesterday deliberately misled the Senate. There is nothing in my statement, which merely charts the chronology or sequence of these events.

The DEPUTY PRESIDENT: Order! Leave was sought and leave has been denied.

Senator BOB BROWN: According to contingent orders, Mr Deputy President, I move:

That so much of standing orders be suspended as would prevent me from making a five-minute statement.

I do that because, following on that mechanism being used twice last night, senators ought to know that if they are
denied fair response in this place then there are mechanisms to ensure that there will be the opportunity for me or any other senator to make a submission in the wake of another senator. It is important that this motion for the opportunity to debate this matter be upheld by the Senate.

Senator Brandis SC sits on the Committee of Privileges. The matter of Senator Kroger, which was devised by Senator Abetz and brought before this Senate on 23 and 24 November last year, has now been thrown out by the Senate Standing Committee of Privileges. It was found to be baseless, lacking in any substance and containing misinformation which effectively would, if taken up, have misled the Senate. That was Senator Kroger's submission dealt with by the committee of privileges.

But the submission from our legal representatives, Mr Merkel, Ms Gordon and Mr Browne, to the committee of privileges in February at the time Senator Brandis is talking about was that he should be recused from the committee of privileges because, on any matter of judgment which took notice of High Court rulings in the past, Senator Brandis had no place on the committee.

Senator Brandis: That is why I recused myself.

Senator BOB BROWN: He says that is why he recused himself, but here stands the question of this SC. He had had 2½ months consideration of this matter and he did not recuse himself.

Senator Brandis: That is not true.

Senator BOB BROWN: He had no intention of recusing himself from this committee—

Senator Brandis: That is a lie!

The DEPUTY PRESIDENT: Order, Senator Brandis! You will need to withdraw that comment, Senator Brandis.

Senator Brandis: I withdraw the word 'lie', but it is not the truth to say that I had no intention of recusing myself. As I said in my statement to the Senate—

The DEPUTY PRESIDENT: Order, Senator Brandis! There will be opportunity to debate this in this suspension motion, if you wish.

Senator BOB BROWN: Senator Brandis breaks the rules, but you have pulled him up quite properly, Deputy President. This fatuous claim by Senator Brandis that it took me to draw his attention to his own tirade against Senator Milne and me—quite false—in the Senate last July, and that we had to draw his attention to his own behaviour in this place before he got off that committee because he had no legal right to be there, is a pointer to what disregard this senator, this SC, holds for the law of this country. He should know the High Court rulings. But for 2½ months he ignored them and, flouting legal practice in this country, kept himself on that committee, having judged Senator Milne and I—falsely, as we now know from the Committee of Privileges—to be guilty of behaviour that never occurred. What a remarkable failure of this legally trained member of the coalition to do the right thing by the law.

There is no doubt he knew that the submission from Mr Ron Merkel QC tore to shreds his right to be on that committee, and he got off it for that reason. He says here he did not know about Senator Brown's complaint or Senator Milne's complaint. He ought to have known because he was the one who misbehaved in the Senate in July last year when he made accusations, falsely, against Senator Milne and I. And let me tell you this, Mr Deputy President: had we not got that legal advice he would have stayed there and we would now be facing an open hearing before the Committee of Privileges.
Yet Senator Abetz has the hide to say on radio in Tasmania this morning that this is a 'legal folly'—in other words, he was not serious about this matter, he says, that put two senators before the Committee of Privileges. What a disgrace to the legal profession he is, that he should say such a thing or that he should abuse the Committee of Privileges in this way. What a performance from these two legally trained members of the Senate. They should be ashamed of themselves. *(Time expired)*

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (15:54): I have been advised for as long as I have been in this place never to treat anything that Senator Brown says as being said in good faith, but this is a very shocking example of how true that advice has been. I recused myself from an inquiry concerning serious allegations against him and Senator Christine Milne freely and of my own volition when it was drawn to my attention by Senator David Johnston that Senator Brown had made a complaint in this chamber. I thought, having reflected on the matter and having reflected on my knowledge of the legal principles, that the complaint was fairly made. That is a fact. And if you can controvert that, Senator Brown—

**Senator Bob Brown:** What a farrago!

**Senator BRANDIS:** you are welcome to, but you are calling me a liar and I am not a liar. My first awareness—

**Senator Bob Brown:** Mr Deputy President, on a point of order: I will not allow that to stay on the record. I did not call him a liar. He called me a liar and had to withdraw.

**The DEPUTY PRESIDENT:** You have no point of order, Senator Brown. Senator Brandis, you have the call and I ask you to direct your comments to the chair.

**Senator BRANDIS:** Let me state it directly for the record, which Senator Brown has asserted falsely to be otherwise. I recused myself from that hearing by a letter written on 10 February after a decision I made on 9 February, having been told the previous day, 8 February, that the day before that, 7 February, Senator Brown had made a complaint in this chamber. That was the first I became aware of Senator Brown's assertion that I ought not to serve on the committee.

The statement that Senator Brown has made that I knew 2½ months before is utterly, utterly, false. The statement that Senator Brown made that I knew about Mr Merkel's letter is utterly, utterly, false. I did not read Mr Merkel's letter, and I have not read it to this day, because I did not need the letter to be able to make the decision I made because I am well acquainted with the legal principles and I applied them in my own case.

The statement that I ought to have excused or recused myself at an earlier time is also utterly false. The committee had not proceeded upon the consideration of the reference and I was unaware of any matters in relation to what Senator Brown had been saying until they were drawn to my attention by Senator David Johnston for the first time on 8 February 2012. As I have said in my personal explanation I recused myself, after reflecting on the matter overnight, effectively at once. Senator Brown's assertion that the situation was otherwise, based on absolutely no evidence whatsoever but that can only be construed as an assertion that I have not been telling the truth to this Senate, is a deep outrage and he ought to withdraw it and be ashamed of himself.

**Senator MILNE** (Tasmania—Deputy Leader of the Australian Greens) (15:57): That is a very interesting speech from Senator Brandis in relation to what evidence
there is or there is not. I draw to the attention of the Senate a number of documents. On 22 December 2011 a letter went to the Chair of the Committee of Privileges asking that Senator Brandis recuse himself. Included with it—and I note again the date, 22 December 2011—is the Hansard of the remarks that Senator Brandis made so inappropriately on 6 July 2011.

Senator Ian Macdonald: Mr Deputy President, I raise a point of order. I had been following this on the TV monitors before I came to the chamber. My understanding is that this is a motion by Senator Brown to set aside standing orders. If that is correct then Senator Milne should not be canvassing the substantive issues but should be telling the Senate why it is essential that standing orders—the standing orders, I might say, that the Greens and the Labor Party have guillotined through this chamber—should be set aside to allow the statement to be made.

The DEPUTY PRESIDENT: Senator Macdonald, there is a technical point of order, but debate has been allowed in previous times on suspension motions to have a wide-ranging latitude, which other speakers have exercised. Senator Milne, you have the call.

Senator MILNE: Thank you, Mr Deputy President. It goes to a statement by Senator Brandis, a senior counsel. This is not just somebody who does not know the law; this is someone who was appointed a senior counsel in exceptional circumstances in Queensland after he became a senator. This person stood in the Senate and said:

But what makes this a particularly serious case, what makes this case approach the borders of corruption is that we now know that in public speeches both beyond parliament and within the Senate chamber Senator Brown and Senator Milne have sought to advance the commercial interests of that donor …

That is completely untrue and without evidence or substance, as was shown to be the case. Therefore, when this matter was referred to the Privileges Committee, a person who has a senior counsel attached to his name ought to have recused himself at the point of reference because he should have realised that he had already compromised himself, but he did not do so.

As to the next point, the letter went there. It should have happened straight away when the reference was made. The letter was received by the chair of the committee, Senator Johnston. It was sent on 22 December 2011.

Senator Brandis: Circulated the following February, you fool.

Senator Bob Brown: Mr Deputy President, on a point of order: I ask that Senator Brandis withdraw that comment he shouted. It is unparliamentary.

The DEPUTY PRESIDENT: It would be helpful, Senator Brandis, if you withdrew the comment.

Senator Brandis: The comment I made was: the letter was circulated the following February, you fool. I withdraw the words 'you fool'. The letter was circulated the following February after I had recused myself. It never came into my possession or my notice.

Senator Bob Brown: Mr Deputy President, I have a further point of order. It is not in the standing orders to allow an argument like that on a withdrawal of an unparliamentary comment and you should apply the rules.

The DEPUTY PRESIDENT: Thank you, Senator Brown. The matter has now been resolved.

Senator MILNE: As I was saying, the letter was sent on 22 December. The chair of a committee has an obligation to circulate
matters of this kind, especially since, as it has been said, matters before the Privileges Committee need to be resolved as a matter of urgency to protect the reputations of people involved. However, apparently, based on what Senator Brandis said, the chair of the committee failed in his duty to the rest of the committee to circulate that letter. However, having said that, the legal advice went to the chair of the committee—and this is important, Senator Macdonald; you listen to the sequence of events—on 8 February.

Senator Ian Macdonald interjecting—

Senator Bob Brown: Mr Deputy President, on a point of order: I ask for you to have Senator Macdonald desist. He is right next to Senator Milne and he should desist from shouting across the chamber. He might be losing the case, but he should desist from that bad behaviour.

The DEPUTY PRESIDENT: Senator Brown, I remind all senators, including yourself, not to interject and shout across the chamber.

Senator Ian Macdonald: Mr Deputy President, perhaps you have ruled but, just on the point of order, Senator Milne was quite able to respond to my interjection. She did not need the assistance of a leader like that.

The DEPUTY PRESIDENT: Order! There is nothing further to the point of order.

Senator MILNE: Just to put it on the record, on 8 February legal advice went to the chair of the committee, which he should have circulated to all members of the committee. Senator Brandis, by his own admission, said he was approached by Senator Johnston on 8 February, drawing his attention to the fact that legal advice had been received requesting a recusal.

Senator Brandis interjecting—

Senator MILNE: May I finish, Mr Deputy President?

The DEPUTY PRESIDENT: Order! Senator Brandis, it is disorderly to interject. Senator Milne, you have the call.

Senator MILNE: Thank you. As I said, on 8 February that legal advice went to the chair, Senator David Johnston, who then been raised it with Senator Brandis. Senator Brandis is careful to say that he did not read the legal advice. I do not know what Senator Johnston told Senator Brandis about the advice, but it should have been circulated to all members of the committee because that is the chair’s responsibility and it was subsequent to that—

Senator Ian Macdonald: Mr Deputy President, on a point of order: that is a clear inference against the chair of the Privileges Committee and it should be withdrawn by Senator Milne.

Senator Bob Brown: Mr Deputy President, on the point of order: that is a clear statement of process as seen by Senator Milne and it is part of this debate. Senator Macdonald is quite out of order to try to have you rule that way.

Senator Brandis: Mr Deputy President, on the point of order: in fact what I said in my statement to the Senate, as the Hansard will reveal, was that Senator Johnston drew to my attention Senator Brown's speech, not the legal advice. Senator Johnston at no time showed me the legal advice and at no time have I seen it because, by the time it was recirculated, I had asked the secretariat not to circulate any of the papers concerning the reference to me.

The DEPUTY PRESIDENT: Order! That is not furthering the point of order, Senator Brandis. Just before I call you, Senator Milne, I think you were sailing close to the wind. I remind all senators not refer to
other senators in any disparaging manner contrary to the standing orders.

Senator MILNE: As I said, on 8 February a letter was received by the chair of the Privileges Committee, which gave the legal advice supporting the call made in December asking for Senator Brandis to recuse himself. Subsequent to that, Senator Brandis, on 9 February, did recuse himself. That legal advice had been received by the chair and I note we are still hearing from Senator Macdonald about substantive matters which were proved to be false and he is continuing to prosecute falsities in this Senate.

The facts of the matter are: a request for recusal on 22 December 2011; legal advice on 8 February 2012; Senator Brandis recused himself on 9 February 2012. It is pretty obvious and the real question here is: why weren't matters dealt with in a timely manner and why weren't they circulated to all members of the committee as requested?

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:05): Let us remember what the actual issue is here. Senator Brandis gave a very restrained, very tight personal explanation. The usual forms of this place are that people give personal explanations to try to de-escalate issues, to give a quick explanation as to where they have been misrepresented. I think nobody could argue that Senator Brown's technical point was, in fact, correct. When Senator Brown wanted to speak, I wanted to know whether Senator Brown had been misrepresented by anything that Senator Brandis had said and that was not forthcoming. Senator Brown just wanted to waste five minutes time of the Senate to argue against what Senator Brandis had said. That is not the normal way we conduct business in the Senate on these matters.

Let us be perfectly clear on this: Senator Brandis was very tight. I think he gave a very good example of what a personal explanation ought to be. But what we have had since is both Senator Brown and Senator Milne using the forms of this Senate to then misrepresent the situation. Indeed, Senator Brandis on points of order indicated that he recused himself from the committee's deliberations before he was aware of the legal opinion.

Senator Brown's very personal, nasty attack on Senator Kroger suggesting that she does not have a mind of her own is the sort of attack that female senators can do without from male senators—

Senator Bob Brown: No, what I said was that Senator Abetz—

The DEPUTY PRESIDENT: No, that is a debating point, Senator Brown. What is your point of order?

Senator Bob Brown: I resent Senator Abetz, of all people—

The DEPUTY PRESIDENT: That is not a point of order either.

Senator Bob Brown: I have not—

Senator Brandis interjecting—

The DEPUTY PRESIDENT: Order, Senator Brandis!

Senator Bob Brown: Will you let me put the point of order? I am not going to do it while your colleague is shouting at me.

The DEPUTY PRESIDENT: The chamber is now in order. Your point of order?

Senator Bob Brown: The point of order is that I ask you to have Senator Abetz withdraw the assertion that I made some sexist comment. I never have and never will. I ask him to withdraw it.

The DEPUTY PRESIDENT: I do not believe Senator Abetz has made any
comment that needs withdrawing. Senator Abetz, you have the call.

Senator ABETZ: Thank you, Mr Deputy President. I have stated the facts. Facts are something that Senator Bob Brown has a great deal of difficulty dealing with, as does Senator Milne. As a very quick example: yesterday we were told how the Greens were subjected to a delay in relation to the Privileges Committee hearing: 'We were the ones who were being subjected to defamation, and yet the committee decided to go on holidays and not respond to any of the correspondence until the summer holidays were over.' Let's read the Committee of Privileges report paragraph 1.14: 'By letter dated 23 December 2011, Mr Browne, legal counsel for the Australian Greens, indicated that Senator Brown and Senator Milne would be seeking an extension of time to the reference.' They sought the extension of time, and yet we had senators Brown and Milne deliberately seeking to mislead this Senate in relation to the time delay. Similarly, we had senators Brown and Milne deliberately seeking to mislead this Senate in relation to the time delay. Similarly, we had Senator Brown just then asserting that what I had said on radio about the Greens being engaged in a legal frolic of their own was somehow me saying that this reference to the Privileges Committee was just a legal frolic of mine—a complete misrepresentation of the facts, a complete misrepresentation of what has actually occurred.

Back to where all this started: Senator Brandis gave a very proper personal explanation. It was not debating the issues; it was setting out the facts. No evidence has been suggested that anything in that statement is untrue. There is nothing that is suggesting that Senator Brandis has misled the Senate. Therefore, from the coalition point of view, there is no need to suspend standing orders to waste the Senate's time to allow Senator Brown to go yet again on another one of his very nasty personal attacks. We are getting sick of this Leader of the Australian Greens attacking the President of the Senate, attacking the Clerk of the Senate, attacking Senator Kroger, attacking everybody but themselves. They have no-one to blame but themselves for the dilemma that they find themselves in.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (16:11): I was not here for the commencement of this debate, but it clearly has not been one that has been terribly edifying. As I understand, this was brought on because following Senator Brandis's statement Senator Brown sought leave to respond in what has been a highly contested matter and that leave was denied although the Labor government supported the granting of leave—

Senator Ian Macdonald: Of course you support everything the Greens do!

Senator CHRIS EVANS: Senator, it was for the same reason we supported you being able to speak when you asked last night and, unfortunately due to procedural reasons, were not able to proceed. We have a general proposition that, where people act appropriately, we try to treat them with respect and allow them to make their point within the bounds of managing the chamber more broadly. So we were prepared to give leave. I know this is highly contested space. It seems to me it would have been appropriate for Senator Brown to be given the opportunity to reply to Senator Brandis and then have that be the end of the matter. Clearly that has not occurred. That is unfortunate, but I do think the issues have been aired. I think this will continue to be contested space, but I think the interests of the Senate are best served if we deal with it, and I move that the motion be put.

Question agreed to.
The DEPUTY PRESIDENT: The question now is that the motion moved by Senator Brown to suspend standing orders be agreed do.

The Senate divided. [16:17]

(The Deputy President—Senator Parry)

Ayes....................9
Noes....................37
Majority..............28

AYES

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

NOES

Abetz, E
Back, CJ
Bernardi, C
Bilyk, CL
Bosswell, RLD
Boyce, SK
Brandis, GH
Brown, CL
Cameron, DN
Cash, MC
Colbeck, R
Collins, JMA
Edwards, S
Evans, C
Farrell, D
Faulkner, J
Fifield, MP
Fisher, M
Gallacher, AM
Johnston, D
Kroger, H (teller)
Lundy, KA
Macdonald, ID
Madigan, JJ
Marshall, GM
McEwen, A
McKenzie, B
Moore, CM
Nash, F
Parry, S
Polley, H
Ryan, SM
Singh, LM
Stephens, U
Thielke, M
Urquhart, AE
Willans, JR

Question negatived.

NOTICES

Presentation

Senator Bob Brown to move:

That the Senate endorse the payment of the legal expenses of Senator Bob Brown and Senator Milne in the matter of the referral by Senator Kroger to the Committee of Privileges after receipt of and accreditation of those expenses by the President.

Senator Humphries to move:

That the Senate—

(a) notes the findings by Andrew Kirkham AM, RFD, QC into the 'ADFA Skype affair', in particular his finding that the Commandant of the Australian Defence Force Academy, Commodore Bruce Kafer AM, CSC, RAN, made no error of judgement in his decisions to commence and conclude the disciplinary proceedings against the female officer cadet;

(b) expresses confidence in Commodore Kafer's performance in his duties as Commandant of ADFA; and

(c) calls on the Minister representing the Minister for Defence (Senator Evans) to explain why the government took 85 days to release the findings of the Kirkham Inquiry.

Senators Boyce, Carol Brown, Siewert and Fifield to move:

That the Senate—

(a) notes that 21 March 2012, marks the 7th anniversary of World Down Syndrome Day and the first time that day has been acknowledged under the auspices of the United Nations (UN);

(b) congratulates Down Syndrome International, Down Syndrome associations in Australia and the hundreds of thousands of people who campaigned for World Down Syndrome Day to be officially recognised by the UN;

(c) notes that the UN resolution to recognise World Down Syndrome Day was proposed by Brazil and co-sponsored by 78 UN member states, including Australia;

(d) recognises that Down Syndrome is the most prevalent genetic cause of intellectual disability and that the characteristics of Down Syndrome have been known for centuries;

(e) acknowledges:

(i) that barriers faced by people with Down Syndrome can be overcome through the shared vision for an inclusive Australia society that enables people with disability to fulfil their potential as equal citizens, and
(ii) the multi-partisan support for a national disability insurance scheme and encourages the Australian Government to continue to push forward with the implementation of such a scheme to give Australians with Down Syndrome and other disabilities the opportunity to live fulfilling lives; and

(f) supports the celebration of UN World Down Syndrome Day by people with Down Syndrome, their families, friends and carers, and the wider community.

Senator Rhiannon to move:
That the Senate—
(a) notes that:
(i) on 13 February 2012 the then Minister for Foreign Affairs, Mr Rudd, issued a media release in response to the Sri Lankan Lessons Learned and Reconciliation Commission (LLRC) final report, stating 'The LLRC report contains constructive proposals for advancing reconciliation and reconstruction, including through reducing the presence of security forces in the North, care of internally displaced persons and media freedoms',
(ii) the Australian Government has consistently urged Sri Lanka to investigate all allegations of crimes committed by both sides of the conflict, including those raised in the United Nations (UN) Secretary-General's Panel of Experts on Sri Lanka report, and
(iii) in light of the report's failure to comprehensively address such allegations, the Government continues to call on Sri Lanka for all such allegations to be investigated in a transparent and independent manner; and

(b) calls on the Australian Government to, as a minimum, support efforts to secure a United States initiated resolution on Sri Lanka at the 19th Session of the UN Human Rights Council through the Australian permanent representative in Geneva.

Senator Waters to move:
That the Senate—
(a) notes a current report by The Australia Institute, which finds:
(i) the mining boom in Queensland is likely to destroy one non-mining job for every two mining jobs it creates, with the loss of at least 20,000 jobs should all 39 resource projects analysed proceed, and
(ii) the reality of the mining boom for the 99 per cent of Queenslanders who do not work in the mining industry is higher housing costs, higher mortgage interest rates and fewer jobs in tourism, manufacturing and agriculture,

(b) further notes the statements of the National Secretary of the CFMEU [Construction, Forestry, Mining and Energy Union] on 19 March 2012 to the effect that:
(i) the strength of the mining industry is driving up the Australian dollar to unprecedented levels and across the country Australia's manufacturing sector is under too much strain, and thousands of jobs are being lost in the finance sector too, and
(ii) Australians outside the mining industry are doing it tough because of the impact of the mining industry on the economy, causing a lot of unhappiness; and

(c) calls on the Government to:
(i) assess the real impacts of the mining boom on Queensland communities and the state's economy, and
(ii) reassess its decision to use proceeds of the Minerals Resource Rent Tax to fund infrastructure which will benefit the mining industry instead of benefiting Queenslanders through investment in initiatives such as national dental care, education funding, national disability insurance scheme, high speed rail and a sovereign wealth fund.

Senator Di Natale to move:
That the Senate—
(a) notes that:
(i) Medicare has completed audits of 89 dentists who accessed the Chronic Disease Dental Scheme,
(ii) a further 540 audits are still underway,
(iii) of the completed audits, only 12 were found to be for the non-provision of claimed services,
(iv) of the remaining audits found to be non-compliant, non-compliance is in most cases
of a technical and administrative nature, whereby the practitioner failed to provide a written quote to the patient or a treatment summary to the referring doctor in a timely fashion, and

(v) claims for full repayment of services delivered under Medicare to the community may result in undue hardship to dental practitioners who acted in good faith; and

(b) calls on the Government to waive its right to the repayment of debts incurred by dental practitioners as a result of a Medicare audit where:

(i) all services claimed were rendered properly and in good faith to eligible patients, and

(ii) the nature of the non-compliance was purely administrative in nature.

Senator Ludlam to move:
That there be laid on the table by the Minister representing the Attorney-General, no later than noon on Thursday, 22 March 2012, information relating to the most recent meeting convened by the Secretary of the Attorney-General’s Department, Mr Roger Wilkins, with Internet service providers and representatives of the film, television and music industries, including but not limited to:

(a) a list of invitees;
(b) a list of attendees;
(c) notes arising from the meeting;
(d) minutes arising from the meeting;
(e) any documentation issued to attendees;
(f) any internal departmental correspondence regarding the meeting; and

(g) any documents relating to future meetings.

Senator Abetz to move:
That the Senate—

(a) expresses confidence in the President’s handling of the recent privileges issue for which Senator Kroger sought precedence; and

(b) notes with dismay the criticisms by the Leader of the Australian Greens (Senator Bob Brown) of the President, both in the Senate chamber on 19 March 2012 and at the Senate doors on 20 March 2012.

Senator Cormann to move:
That the Corporations Amendment (Phoenixing and Other Measures) Bill 2012 be referred to the Economics Legislation Committee for inquiry and report by 8 May 2012.

Senator Bob Brown to move:
That the chair of the Committee of Privileges report to the Senate on why the letter to the committee requesting the recusal of Senator Brandis SC, dated 22 December 2011, was not circulated to committee members before February 2012.

Senator Bob Brown to move:
That recognising the Indigenous people of Australia be the first matter for the Senate each day, as it is in the House of Representatives.

Senator Boswell to move:
That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 9 June 2012:

The effect of the implementation of the Marine Bio-regional Parks policy on recreational and commercial fishing trawling, and associated industries, including:

(a) the scientific basis on which the marine bio-regions have been developed, including the location of closures, and the development of a management policy for these parks;

(b) the policy underpinning the restrictions on fishing trawlers in the green, multiple-use, general purpose and special purpose zones, and the subsequent impact on fishing licences;

(c) the cost of buying out existing fishing licences, as a result of the Marine Bio-regional Parks policy, and the development of a compensation framework for fishermen, allied seafood businesses (such as processors, wholesalers and retailers) and tourism operators who have been adversely affected by the Marine Bio-regional Parks policy; and

(d) any other related matter.
BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (16:22): by leave—I move:

That leave of absence be granted to Senator Ludwig on 21 and 22 March 2012 on account of parliamentary business.

Question agreed to.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (16:23): by leave—I move:

That leave of absence be granted to Senator Birmingham for 20 March 2012 for personal reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 27 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2010, postponed till 9 May 2012.

General business notice of motion no. 706 standing in the name of Senator Fierravanti-Wells for today, proposing an order for the production of documents by the Leader of the Government in the Senate, postponed till 21 March 2012.

General business notice of motion no. 710 standing in the name of Senator Bushby for today, proposing the introduction of the Health Insurance (Dental Services) Bill 2012, postponed till 21 March 2012.

COMMITTEES

Cyber-Safety Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:24): by leave—I move:

That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 May 2012, from 4.15 pm.

Question agreed to.

Foreign Affairs, Defence and Trade Joint Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:24): by leave—I move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Thursday, 22 March 2012, from 10.30 am, to take evidence for the committee's inquiry into Australia's trade and investment relationship with Japan and the Republic of Korea.

Question agreed to.

Migration Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:24): by leave—I move:

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 May 2012, from 10.30 am.

Question agreed to.

MOTIONS

Coal Seam Gas

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (16:24): I move:

That the Senate—

(a) notes:

(i) that there is uncertainty about the level of leakage, flaring and venting of methane during coal seam gas prospecting, extraction, transport and processing, and

(ii) an accurate measurement of these 'fugitive' emissions is necessary to assess the claims of the coal seam gas industry that
electricity production fuelled by coal seam gas is substantially less emission intensive than electricity production fuelled by coal; and

(b) orders that there be laid on the table, by 22 March 2012, the study by George Wilkenfeld and Associates Pty Ltd titled *Updated scope 3 emissions factors for natural gas consumed in Australia, based on NGERS data*, redacting where necessary any aspects of the study that are commercially sensitive.

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

The Senate divided. [16:29]

(The Deputy President—Senator Parry)

Ayes ...................... 11
Noes ..................... 27

AYES
Brown, RJ
Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Xenophon, N

NOES
Abetz, E
Bilyk, CL
Brown, CL
Cameron, DN
Colbeck, R
Edwards, S
Fifield, MP
Gallacher, AM
Marshall, GM
McKenzie, B
Nash, F
Polley, H
Stephens, U
Williams, JR

Question negatived.

AUDITOR-GENERAL'S REPORTS

Report No. 27 of 2011-12

The DEPUTY PRESIDENT (16:31): In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: *Report No. 27 of 2011-12—Performance audit—Establishment, implementation and administration of the bike paths component of the Local Jobs Stream of the Jobs Fund.*

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:31): by leave—I move:

That the Senate take note of the document.

Audit report No. 27 for this financial year paints a picture of the consequences of governments giving in to greenmail. In exchange for a vote from the Greens, the ALP yet again sold their policy soul. This audit report exposes a last-minute, rushed bad policy courtesy of the Greens, being badly administered and implemented by the ALP. This is why the Greens-ALP alliance is so harmonious. The Greens provide the bad ideas and the ALP provide the bad administration. It is a wonderful partnership.

As a relatively keen cyclist, albeit somewhat former, I support bike paths as a concept. What I do not support is waste, and waste is what has been identified by the Australian National Audit Office in this, the 27th report. I understand that there are certain people within the Australian green movement that have made derogatory comments about Senator Bob Brown being a megalomaniac. Now, with this, I think he is also a cyclepath! If you have a look at this report you can see incompetence and bad policy writ large.

Let's go to page 7 of the supporting document. In it we are told that the department did not provide its minister with recommendations as to which applications...
for bike paths should be approved. Let's just remember that these bike paths were part and parcel of Labor's so-called stimulus package and the Greens, using their greenmail, said to Labor, 'We will not support your badly thought-out stimulus package unless you give us some money to carve out.' Part of that was for these bike paths. This is what the Auditor-General looked into. He found the department did not provide its minister with recommendations as to which applications should be approved. So how were they approved? It goes on to say:

The responsible department also did not undertake any value for money analysis in respect to the employment claims made by project proponents in their applications …

Why should that surprise us? Then it goes on to say that 'the iterative process used'—very similar to Ros Kelly and the whiteboard, it would seem—to select the successful applications was inconsistent with the published Jobs Fund guidelines'. It goes on to say that they were being assessed by the responsible department as not meeting at least one of the criteria outlined in the published Jobs Fund guidelines. Despite this requirement, they were not excluded, and:

More than one quarter of the approved applications had been assessed as not meeting this key (and mandatory) criterion. This approach was taken notwithstanding that the available funding could have been fully allocated to projects—that actually did meet the criteria. So this is Labor and the Greens at it in a way that most of us would never have expected. But, yes, they do it, and they do it, unfortunately, exceptionally well. The problem is that they do it with our borrowed money, borrowing $100 million a day, ever increasing the indebtedness of our nation.

On page 10 we are told that the approach taken to the bike paths component of the stimulus package represented a missed opportunity to maximise the contribution that the money and funding available for bike path construction could make towards achieving the objectives of the then extant National Cycling Strategy. They go on to say:

In addition, the responsible department did not undertake any value for money analysis in respect to the employment claims … At the same time, other projects which claimed significant employment benefits that were located in Priority Employment Areas and had been assessed as meeting all other identified criteria were not approved.

Who approved these bike paths and what was the outcome? We are told that the risk assessment played a relatively limited role. That is polite speak for 'non-existent'. It simply did not appear as part of the government's considerations. Then it says 'the approach taken to identifying and assessing risks lacked rigour'.

The list of findings by the Auditor-General goes on and on. What is more, the Auditor-General said this at the very end of the report—the very last line:

In the above circumstances, there is no reliable data available on actual employment outcomes achieved through projects funded under the bike paths component.

Indeed, they set out that 94 per cent of the projects for which one or more jobs had been reported as having been created or retained had no supporting documentation for that claim. These bike paths were being established—allegedly—to create employment. Senator Brown bragged about it with press release after press release. He was very strong on the press releases and very strong on the announcements. But what about on the follow-through on the substance? Completely and utterly lacking.

The Auditor-General tells us on page 145 the following:
There were also 34 projects where the proponent reported employment outcomes that were significantly greater (at least double …

Listen to this for an example:

For example, Byron Shire Council in Northern New South Wales had been awarded a $168 500 grant towards the estimated $370 700 cost of constructing an asphalt shared path (for pedestrians and cyclists) approximately 750 metres long and 2.5 metres wide. The application had stated that this work would create two short-term jobs and two work experience positions.

Guess what? It goes on to say:

The final report of June 2010 stated that 53 short-term jobs had been created on a ‘part-time employment’ basis with the report providing the following further advice in respect to this number: ‘Thirty (30) Council employees were involved on the project at some stage and are on ‘wage’; payment of which is made on the basis of hours committed to the project.

Who is the Mayor of Byron Shire Council? Who dominates the Byron Shire Council? Senator Ludlam is smiling; he knows the answer. It is the Australian Greens. So the greatest example of exaggeration of the number of jobs created comes from a Greens council trying to boost the employment figures of this hare-brained scheme, dealt with by ALP and Green senators in this place in a desperate bid to get this ill-conceived stimulus package through this place.

What we have here is a wonderful dovetailing of bad Green policy with bad administration, giving us yet another mess. When you see that $40 million has been spent on this mess without any actual outcomes to point to, you start realising why this nation is borrowing $100 million a day. Just this one bike path debacle represents only 40 per cent of what we borrow in a day as a nation, which gives you an indication of the extent of the waste that is being incurred by this Greens-ALP alliance. Lest I be misrepresented, I confirm that I am a keen cyclist. I support bike paths. But one thing we as a coalition will not support is this sort of rampant waste at the expense of the Australian taxpayer.

Senator LUDLAM (Western Australia) (16:42): I rise to speak on the same matter. Like Senator Abetz, I have only been in possession of these documents for around an hour. Unlike Senator Abetz, who jumped to a whole heap of hasty conclusions to score a cheap point at the expense of cyclists, I am going to make some observations. I will acknowledge that Senator Abetz is a keen cyclist. The only thing that the coalition did not do during 12 years of government was fund cycling. I want to make some quick comments on the executive summary, which is what Senator Abetz did.

I pay a great deal of attention to documents that come from the Australian National Audit Office, particularly when it is a report on something as important as cycling infrastructure. This is all we have to show for the last couple of years of Commonwealth funding and investment in cycling programs. Senators will perhaps be surprised to learn that apart from this program, which the ANAO has provided this report on today, there is no standing Commonwealth appropriation for cycling infrastructure. As important as that is—and many of us in this place and in the broader community take advantage of this infrastructure when it does go in—there is not a single dollar of Commonwealth money spent on a standing appropriation for cycling.

The only way to get the Commonwealth government to fund cycling initiatives is to put a freeway in. Some of the larger urban freeway projects that have been put in in the last couple of years have had bike paths alongside them. Apart from that, not a single dollar has gone into cycling. That is an enormous shame.
I missed the first few moments of the no
doubt memorable contribution on this matter
from Senator Abetz. I presume that he spent
the first minute or so sLEDging the Greens for
having come up with this initiative. We did,
of course, and I am happy to take credit for
it. It was a Greens initiative to put cycling
infrastructure in with the Jobs Fund. After
that, once the government had taken carriage
of that and agreed that cycling was worthwhiLe—that putting this infrastructure
in and having a Commonwealth
appropriation for cycling was a good idea—
regrettably, the Australian Greens lost all
control and oversight of that funding.

This, quite literally, is the first opportunity
we have had to see how the government
handled it. And I think that the key takeaway
is that it takes longer than you think. What
the government was trying to do was to put
people to work on the spot, straightaway,
right at the point where we thought the world
financial system was going to seize up. I
think that what is very clearly shown,
certainly from page 17 of this short executive
summary, is that it took a lot longer than that
for people actually to get to work. What that
tells me is that the states and territories, and
probably the majority of local governments,
were not ready. When the Commonwealth
said, 'Give us whatever proposals you have
right now to put people to work on cycling
right now,' they were not able to.

The graph on page 17 quite clearly shows
that. Some of the funding is still washing
through. In fact, on page 16 it indicates that
some of the final funding will not have been
spent until next month—until April 2012.
Senator Abetz is quite right to point out that
the funding was not all dispersed right at the
point where world financial markets were
having their heart attacks and that, in fact, it
took considerably longer to put all these
projects onto the ground.

I do not know what we can take away
from that, apart from the fact that we do need
to be ready. What I take away from this is
that we do need metropolitan and regional
centre cycling strategies and plans that can
be funded and that can be built in a
systematic way. In my home state of
Western Australia and in my home city of
Perth we have just discovered that the Perth
Bike Network is effectively half built. I have
just produced a map of the Perth Bike
Network and there are these little dots,
dashes, segments and fragments of a bike
network that in no way resemble a network.
They will try and kill you when you run off
the end of some—you are spilled back into
traffic again and you are on your own.

I would contend that throwing $40 million
at the entire country really is not going to do
much more than create a couple more of
those segments. We need to get much more
systematic about funding of cycling
infrastructure. I think that what we will find
when we go through these documents in
detail is that the plans were not there. They
were not ready; the states were not able to
come to the table the moment after the
stimulus package proposal was announced
and put viable proposals in front of the
Commonwealth government. That is why we
have this lag time.

So I do not think that you will find it has
failed in terms of employment, because
ultimately these jobs were created and these
projects were implemented. They were put
onto the ground. Nothing, on my reading of
this document, indicates any kind of scandal
or wastage of funds or projects that were not
eventually adopted. All that happened was
that there was this 12- to 18-month lag in
putting them in. That tells me that we were
not ready and that the states and territories
were not ready simply to say on the spot,
'Here you go. Here are our integrated cycling
plans, and now please fund them.'
With the greatest respect, even if they had been $40 million is not enough to do the job. It is simply not enough to do that job. It amounts to about $4 million for Western Australia and that would be enough to put in about four kilometres of principle shared path, so another little segment on the map; but nothing like closing the network of safe paths that get cyclists of any age off our roads and out of traffic, and smaller paths and ways of traffic calming that do not destroy cyclists' rights and which actually create an integrated network.

We do not have such a plan in Western Australia. I know that some local governments are doing the work and are paying a lot of attention to this. I am aware of what is going on, for example, in the City of Sydney and in some other places. Certainly, from a Western Australian perspective the plans are fragmentary, they are unfunded and there is no standing Commonwealth appropriation for cycling.

In this budget cycle we have proposed a standing appropriation, and I think that what we will find is that this ANAO report will stand us in very good stead when rolling out a larger bracket of funding that is standing, and that will go towards the systematic rollout of cycling infrastructure in this country. I would contend, probably without taking a poll—I guess I could call a quorum and find out—that most of us in here cycle, either recreationally or on a commuter basis. I cycle to work every morning when I am in Fremantle and I know that there are certain parts even of that fairly short trip that are inordinately dangerous, where we are mixing it up with heavy vehicles coming in and out of the port and that that could be fixed.

There are plenty of people like me who are thrown into quite dangerous situations. Two Greens staffers that I am aware of have been knocked off their bikes on the way into work, one here in Canberra and one in Fremantle, because we are forcing cyclists to mix it up with traffic. What I hope this report will allow us to do is back up the Greens proposal for a standing appropriation in this next budget. We know that it is something that the infrastructure minister is contemplating, because I have been badgering him about it for months since we put that proposal in to government that we need a standing appropriation that is there year-in and year-out to actually build out these networks.

Perth is obviously one that I am most familiar with, but right around the country we know that cyclists, whether they are recreational or commuter cyclists, deserve safe infrastructure—and it is excellent value for money compared with funding urban freeway projects—they deserve end-of-trip facilities and they deserve to be looked after by the Commonwealth. Mr Albanese frequently gets up in front of press conferences and boasts that he doubled Commonwealth road funding. I think that in some regional areas you will find that that is justified, but there is no further justification for expanding extraordinarily expensive urban freeways, particularly when that is at the expense of public transport and cycling infrastructure.

So I look forward to getting into these documents in a bit of detail. The takeaway message for me is that it takes longer than you think. You cannot just push a button and assume that you can spend money on cycling infrastructure if state and territory planning departments have not done the strategic planning work in advance. That is something that the Greens plan to pursue. I look forward to budget night when we find that the government has in fact seen sense and that the minister announces we will have a standing appropriation for cycling funding so that the lessons in these ANAO documents...
can be learned and that some of the lessons can be implemented.

Senator IAN MACDONALD (Queensland) (16:51): I thank Senator Abetz for drawing the attention of senators to this Auditor-General's report, which identifies yet another scandalous waste of money by the Labor Party government supported by the Greens political party. I note Senator Abetz's comments and I see on page 145 the reference to the Byron Shire Council, one of the few councils in Australia that is controlled by the Greens political party. It is no surprise to me that that council got a considerable grant for their cycling project. Can I declare an interest. I also cycle here in Canberra, in my hometown of Ayr and in Townsville. I have a cycle in each of those places, which I try to ride every morning. But I can be assured that we will never have to worry about money being spent in my hometown of Ayr, because the Labor government has no interest whatsoever in rural and regional Australia. There is no way in the world that there will ever be any grants for cycleways in most parts of rural and regional Australia.

I am concerned about the Greens and the Labor Party and that the financial mismanagement we see highlighted again here in this Auditor-General's report will be repeated should the Labor Party again win government in Queensland. We know the Greens have entered into another unholy alliance with the Labor Party in Queensland, and I think Mr Katter's party as well will be helping the Labor Party to be returned to office in Queensland. Certainly the Greens have done some dirty deals for preferences, and, again, it is a pay-off for things like the wild rivers legislation, which the Labor Party introduced at the request of the Greens. The payoff was Greens preferences; in this case, Greens preferences in the electorate of Ashgrove.

In passing, I note that there are two Greens candidates in Queensland who will not be bullied by the head office of the Greens and have refused point-blank to distribute preferences in the Queensland state election. Whilst the candidate in the electorate of Townsville, Jenny Stirling, and I do not agree on much, I admire her principle in refusing to take orders from headquarters about the allocation of preferences to the Labor Party. Congratulations to her. That is a rarity, I might say. You have only to see the leader of the Greens political party in this chamber to know that those ideas of principle and honesty are never close at hand in this area.

I draw the Senate's attention to page 127 of the Auditor General's report. He says:

... the processes used to select the successful applications for bike paths component funding unnecessarily departed from the published program guidelines, particularly with respect to the decision not to limit funding to only those applications that had been assessed as meeting unemployment gateway criterion.

The Auditor-General goes on to clearly point out:

... the distribution of funding would have predominantly favoured projects in electorates held by the Australian Labor Party. Specifically:

- 76 per cent of such projects were located in an electorate held by the Australian Labor Party, involving more than 81 per cent of funding being sought in respect to such projects ...

I think this report does indicate yet again that there is a preference indicated by the government going to electorates held by the Australian Labor Party.

Could I also show, as part of Labor's mismanagement, for which Labor is renowned, that this was supposed to be a stimulus program. The global financial crisis was three or four years ago now. The stimulus was meant to create jobs then, but we find again that with the typical
mismanagement of the Labor Party the money is still being dribbled out now, two or three years after the time that that stimulus program was supposed to create job creation. This confirms my concern for my state of Queensland. Labor and financial management just do not go together in the same breath. I keep reminding the Senate that Queensland—a very, very wealthy state, with its fabulous agricultural output and its very wealthy mines—has lost its triple-A credit rating under the Labor government in Queensland and, if the Greens, with their influence on the Labor Party, have their way, Queensland will go further into debt.

I note with interest a funding proposal for an Australian anticoal movement put out by John Hepburn from Greenpeace Australia Pacific, from Bob Burton from a group called Coalswarm and from Sam Hardy from the Graeme Wood Foundation. We know all about Mr Graeme Wood. Mr Graeme Wood is the man who gave Australia’s biggest political donation ever—$1.6 million—to the Australian Greens. There have been allegations made and methinks that perhaps it is not the Privileges Committee that should be investigating these things but perhaps the police. That would be something that I think should be more closely pursued.

As I was saying, this funding proposal for the anticoal movement is a typical Greenpeace-Greens blueprint for how you destroy Australia. It has happened in the timber industry and it has happened in the forestry industry, and here is the blueprint. It tells how you can make it happen in the coal industry. The strategy is all set out there for anyone to see: disrupt and delay key infrastructure, constrain the space for mining, increase investor risk, increase cost, withdraw social licence, build a powerful movement. And so it goes on, chapter and verse in fine detail, as to how you can destroy an industry and destroy Australia. It is this political party, supported by these same groups, that is supporting the Queensland government on Saturday and wanting the Queensland government to get back into power. We have seen the price of that in Queensland—shut down Cape York and shut down western Queensland. It does not matter to the latte sippers in the leafy suburbs of Brisbane if people in the north, who make their livelihoods out of that country, are dispossessed; it does not matter if Indigenous people in Cape York and western Queensland are dispossessed; it does not matter if those of us in rural Australia and regional Queensland who rely on farming and mining are dispossessed—because the Greens want to lock more and more places away. Don’t worry about that! The Greens, who generally live in the leafy suburbs of Brisbane, do not care, as long as it does not worry them. Shut down the means of production! This document I refer to—partly funded it seems again by Mr Graeme Wood—about stopping the coal export boom
is a cracker. I would urge everyone to have a look at that and understand how the radical green movement, supported by the Greens political party, works in this area.

This report of the Auditor-General on the mismanagement of the bike paths component of the local jobs stream of the Jobs Fund should be compulsory reading for any voter before they go to vote in any election anywhere. They will see yet again that you simply cannot trust the Labor Party and their Green mates with money. They are incompetent, have no financial understanding and just waste taxpayers' money. *(Time expired)* I seek leave to continue my remarks later.

Leave granted.

**BILLS**

**Stronger Futures in the Northern Territory Bill 2012**

**Explanatory Memorandum**

**Senator LUNDY** (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (17:02): I table a replacement revised explanatory memorandum relating to the Stronger Futures in the Northern Territory Bill 2012 and a replacement explanatory memorandum relating to the Stronger Futures in the Northern Territory (Consequential and Transitional Provisions) Bill 2011.

**COMMITTEES**

**Public Works Committee**

**Report**

**Senator POLLEY** (Tasmania—Deputy Government Whip in the Senate) (17:03): On behalf of the Parliamentary Standing Committee on Public Works, I present two reports of the committee, the 75th annual report, and the 2nd report of 2012—*Referrals made in November 2011: Construction of projects two and three of the Christmas Island New Housing Program; proposed development and construction of housing for Defence at Ermington, Sydney.*

**Senator POLLEY**: by leave—I move:

That the Senate take note of the reports.

I seek leave to continue my remarks later.

Leave granted.

**Senator BOYCE** (Queensland) (17:03): I cannot claim to have had the long membership of the Public Works Committee that some of the others on the committee have—particularly the deputy chair, John Forrest, who has been on the committee for his entire parliamentary career—but I do share the concerns that the coalition has raised in a supplementary statement attached to the annual report and I would like to share some of the concerns that Mr Forrest initially brought to my attention when I joined this committee.

I should first of all point out that the Public Works Committee is the oldest committee in this place; it will be 100 years old in September this year. Under the Public Works Committee Act 1969 all public works that have an estimated cost exceeding $15 million must be referred to the committee and cannot be commenced until the committee has made its report to parliament. I think it might be best to very quickly go through what the act says the committee will consider. It says:

(a) the stated purpose of the work and its suitability for that purpose;

(b) the necessity for, or the advisability of, carrying out the work;

(c) the most effective use that can be made, in the carrying out of the work, of the moneys to be expended on the work;

(d) where the work purports to be of a revenue-producing character, the amount of revenue that it may reasonably be expected to produce; and
(e) the present and prospective public value of the work.

I joined the committee in 2011, and in that year the Public Works Committee conducted inquiries into 11 works with a combined cost of $780.7 million. It also looked at 48 medium works proposals—works with a value between $2 million and $15 million—with a combined value of $433.3 million.

The Public Works Committee has had a fine reputation for acting in a nonpartisan way to oversee the very judicious and effective spending of taxpayers' money. So it is sad that, in this report, the coalition has been prompted for the first time ever to produce a supplementary statement looking at bodies that have been exempted from the oversight of the Public Works Committee—in particular, the National Broadband Network and also the Aboriginal land trusts. I know that, in both cases, there was very strong concern expressed by the committee around the motivation for doing so. It is interesting to note that even the committee's annual report, which all the coalition members of the committee support, comments that whilst the government has established the Joint Committee on the National Broadband Network to oversee NBN Co.:

Notwithstanding its establishment, the Joint Committee does not possess the powers of the Public Works Committee.

This, of course, is one of the things that has prompted the coalition members of the committee to be so concerned. The Public Works Committee, a highly respected and nonpartisan committee, has been replaced by a committee with fewer powers to oversee the NBN Co. As Mr Forrest has already said in the House of Representatives, we are very concerned about the reasons behind these exemptions and we are very concerned that they are being done for reasons that are outside the genuine need to protect commercial-in-confidence material and to make sure that public money is well spent. In his comments, Mr Forrest said:

... what needs to be understood quite strongly here is that the executive of the parliament does not own the money that gets spent by the agencies it regulates. It belongs to the people of Australia. I do not think that is a point that this government acknowledges often enough or cares about.

Mr Forrest pointed out that partisanship has, in general, been 'left at the door' in the Public Works Committee because we are examining works that are there for the good of all. This committee has looked at detention centres and the building thereof without it becoming a political issue. It has been handled sensitively. There have been visits by members of the committee to Christmas Island. That was handled without great problems by this committee. It has a very, very long tradition of almost 100 years and yet we have the very sad circumstance of the NBN not being subject to this committee.

I join Mr Forrest and the other coalition members of this committee in saying that I believe this is a travesty. The new committee does not have the powers that the Public Works Committee has and nor does it appear to be functioning in quite the way that the Public Works Committee would have in the same circumstances. The committee's most critical responsibility, I guess, is to ensure that every cent of Australia's taxpayers' money is spent wisely and judiciously. That is an objective that this committee has rigorously pursued and has a reputation for rigorously pursuing.

We continue to be extremely concerned about the government's response here. There has never been a leak from the Public Works Committee that any of the current members of the committee are aware of and yet they deal with highly sensitive infrastructure plans and proposals all the time. It is very
hard to draw any conclusion about the fact that the NBN Co. was not put under the scrutiny of the Public Works Committee, except to suggest that it was a political move by this government to lessen the rigour of the scrutiny that NBN Co. would be exposed to. Certainly it is a very worrying trend if the government is to pursue this pathway of being more concerned with getting its politics right than with getting the scrutiny right. I seek leave to continue my remarks later.

Leave granted.

Senator CASH (Western Australia) (17:12): by leave—I rise to take note of the second report of 2012, *Referrals made in November 2011*, in particular is it relates to construction of projects 2 and 3 of the Christmas Island new housing program. Like so many documents that are tabled in this place, this report of the Parliamentary Standing Committee on Public Works is yet another document that refers, yet again, to the need for the Labor government to spend even more money in a particular area because of its grotesque failure when it comes to managing Australia's borders. In this report, the alleged sum is $26.6 million that is required to build additional accommodation on Christmas Island. It is interesting to note that at clause 2.45 of the report, which is a final committee comment, the committee says this in relation to the spend of an estimated $26.6 million of taxpayers' money:

The Committee notes the challenges the Department faces in ensuring that all three projects fit within budget and meet the projected scope and schedule …

Then, at clause 2.46 of the report, the committee notes:

The Committee trusts that the Department will keep the Committee updated, should there be any further changes to scope or cost, as the projects progress.

I can almost guarantee to the Senate that there will need to be a further update to this place. There is no doubt that the scope of this project is going to change, because, as is stated quite clearly in the document, the need for this additional accommodation is due to the pressure that is being placed on Christmas Island. Why do we have yet another committee report documenting what will be a further unnecessary spend of taxpayers' money? The reason is quite simply this: as we have said in this place before, instead of taking decisive action to stop the boats coming to Australia, in the first three months of 2012 alone we have seen 16 boats arrive carrying 1,258 people, despite the heavy weather patterns, which in normal circumstances, if we were not faced with the current policies of the Labor government, would deter people from making the dangerous journey to Christmas Island.

We have made it very clear since August 2008, when the Labor government rolled back the proven measures of the Howard government, that the only way you stop the boats and the only way you stop the Public Works Committee from having to table reports that refer, yet again, to a further spend of taxpayers' money is by taking tough measures, and those tough measures are quite simply the measures that were rolled back by the then Rudd Labor government.

Why do I say that this committee document represents yet another waste of taxpayers' money? When you actually look at the committee document and you go to clause 2.1, it states:

The Department of Regional Australia, Local Government, Arts and Sport states that the Christmas Island facility is facing a critical housing shortage which impacts on the provision of public services.
Then at 2.5 of the report the department is kind enough to elucidate exactly why this critical shortage is occurring. It states:

Project 2 comprises the construction of a further 14 dwellings to accommodate the increase in personnel required for policing, health, administration and education services.

And I have to say, just as an aside, I bet there are plenty of country towns in Queensland, in New South Wales and in my home state of Western Australia that would love some additional accommodation—for local coppers, for the local doctors and for the nurses et cetera—but they do not get that because we are wasting money on Christmas Island due to the failed border protection policies of the current government. At clause 2.5 it goes on to say:

The increase in the number of dwellings corresponds with the growth in the island's population due to an escalation in immigration activity on Christmas Island.

There you have it—an admission by the relevant department that the reason this committee has had to table this report, which refers yet again to a further spend of taxpayers' money, is directly in relation to the increase in activity on Christmas Island, which we all know is as a result of boats that continue to come to Australia because of this government's failed border protection policies.

The reality however is that this $26 million is literally a drop in the ocean. Across the entire immigration portfolio, and not including last year's blowout, the increase for the four years to 2014-15 is $759 million. This is $559 million more—almost three times more—than the $197 million that the Treasurer and Minister Bowen told the taxpayers that the bill would be for this particular portfolio when they released MYEFO for the period of November last year.

This document may only refer to $26 million, but the document is also qualified in that it says that even the committee itself believes that the department is not going to be able to stick to the $26 million estimate. We all know why. It is because the scope of the project will change. The scope of the project is directly related to the number of IMAs coming to Australia. We all know that the government—because I have asked the question in estimates—expects an increase in the number of IMAs going forward. The total number of arrivals since August 2008 has been 15,912 people and the total number of boats since August 2008 is 288. There is no doubt that Minister Bowen has vacated the policy space in this area. In fact there was an article today that referred to the final dismantling of the bricks in John Howard's wall on border protection, and this committee report really does say it all. Under this government, what taxpayers will continue to see until the proven measures of
the Howard government are restored is cost blow-out after cost blow-out. Quite frankly, that is just an absolute disgrace. And it is contempt for the Australian taxpayer that this government will continue to come into this place and table document after document that treats taxpayers' money as if it was growing on a tree, because it does not. I seek leave to continue my remarks.

Leave granted; debate adjourned.

DOCUMENTS

Tabling

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

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

BILLS

Road Safety Remuneration Bill 2012

Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:22): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:23): I table statements of reasons justifying the need for these bills to be considered during these sittings and two revised explanatory memoranda relating to the bills and I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches and the statements of reasons incorporated in Hansard.

Leave granted.

The documents read as follows—

ROAD SAFETY REMUNERATION BILL 2012

Road transport accounts for over 1.7 per cent of Australia's total GDP and employs over 246,000 Australians.

Australia's freight task has increased at an annual rate of 5.6 per cent and is forecast to continue growing.

Given the vast distances of this nation, the government knows that a safe and productive transport sector is in the interests of all Australians.

The economic importance of transport is one side of the story.

Sadly, there is another side.

Each day four people are killed and another 80 are seriously injured on our roads, on average.

Last year, 1,368 Australians lost their lives on our roads.

A further 30,000 were hospitalised.

The statistics for truck driving are particularly grave.

It is the Australian industry with the highest incidence of fatal injuries, with 25 deaths per 100,000 workers in 2008-09.

That is 10 times higher than the average for all industries.

It has been calculated that the cost to the Australian economy of this is $2.7 billion a year.

While the economic cost is important, it is the human cost that really counts.

Very few Australians have not been affected by the loss of a loved family member, a work mate or a friend.
The effect is devastating: too many lives cut short too young.

The Government is committed to doing all that is necessary to ensure that our truck drivers, whether they be an employee or a self employed owner-driver, have a safe and fair workplace, while sustaining the long-term viability of the road transport industry. The Governmentrecognises the important role of small businesses, particularly owner drivers in the road transport industry.

They provide flexibility for businesses to meet demand for the delivery of goods, particularly in rural and regional areas—small businesses make up around 60 per cent of the road transport industry, yet they make up far less of the income earned in that industry.

Almost 30 per cent of owner drivers are paid below the award rate and many are unable to recover the cost of operating their vehicle.

In 2008, the National Transport Commission's review into remuneration and safety in the Australian heavy vehicle industry found that:

...commercial arrangements between an array of parties to the transport of freight, including load owners/clients and receivers, consignors and brokers, freight forwarders, large and small fleets as well as owner/drivers have a significant influence on safety.

Drivers are at the bottom of the contracting chain and have little commercial ability to demand rates which would enable them to perform their work safely and legally.

In this market, owner drivers are often forced to accept work at the going rate or have no work at all.

Not only is remuneration for owner drivers low, working hours are long.

There are other issues that affect the payment systems for owner drivers and employee drivers and impact the productivity of the industry.

Unpaid queuing time was highlighted as a major issue in the transport industry during fatigue-related reforms and consultation for Safe Rates, Safe Roads Directions Paper.

According to the National Road Transport Operators Association, distribution centres regularly require drivers to wait up to 10 hours before loading or unloading.

Drivers are not paid for this waiting time and cannot claim the waiting time as an official rest break, which impacts on both income and fatigue management.

The loss of ten hours’ driving time is an incentive to make up for lost time, by driving additional hours, speeding or contravening mandatory fatigue management systems.

Any improvements that can be made to these practices will bring about positive change for the road transport industry and will provide incentives for transport companies and warehouses to increase efficiency by minimising waiting times.

To date, a national approach to safety issues that address pay as well as pay-related conditions in the industry, particularly for owner drivers, has not been taken.

The bill being introduced today reflects the government's commitment to taking the necessary next steps in addressing the underlying economic factors which create an incentive for, or encourage, unsafe on-road practices.

The measures being introduced will ensure pay and pay related conditions encourage drivers to drive safely, manage their hours and maintain their vehicles.

This will benefit the industry and it will benefit the wider community.

The bill seeks to reduce the number of road transport fatalities and injuries. This is important for truck drivers and their families, but it is also important for industry and it is important for all who use our roads in the community.

Improved conditions, including work-life balance and other health benefits for truck drivers and their families will also contribute to a safer industry.

The bill will reinforce and lock in the benefits of previous reforms, including those achieved by both industry and governments, whilst complementing the role of the National Heavy Vehicle Regulator.

It is another important step in removing economic incentives for unsafe behaviour.
The Government recognises that owner drivers have chosen to be independent contractors and operate as small businesses.

The bill establishes a system that will assist road transport industry small businesses, while ensuring that owner drivers maintain their status as independent contractors.

This legislation will play an important role in removing the incentives for employee and owner drivers to drive in ways that increase the risk of deaths and injuries on the road.

The safety of truck drivers and the community is paramount.

Key elements of the bills

The bill being introduced today will establish a new Road Safety Remuneration Tribunal, whose objects are to promote safety and fairness in the road transport industry.

The bill complements existing federal legislation such as the Fair Work Act 2009 and the Independent Contractors Act 2006; current state-based schemes dealing with owner driver contracts; and the National Heavy Vehicle Regulator laws.

The principal objects of the Road Safety Remuneration Bill recognise the government's intention to provide a framework that promotes a safe industry by:

Ensuring that drivers in the road transport industry do not have pay and pay-related incentives and pressures to work in an unsafe manner. This includes unsafe work practices such as speeding and working excessive hours.

Ensuring that road transport drivers are paid for their work, including loading or unloading their vehicles or waiting for someone else to load or unload their vehicle.

Developing and applying reasonable and enforceable standards throughout the road transport industry supply chain to ensure the safety of road transport drivers.

Ensuring that hirers of drivers and participants in the supply chain take responsibility for implementing and maintaining those standards.

The bill empowers the tribunal to inquire into sectors, issues and practices within the road transport industry and, where appropriate, determine mandatory minimum rates of pay and related conditions for employed and self-employed drivers.

The tribunal will be able to concurrently consider matters, for example safety issues that impact on both employee and owner drivers, such as addressing waiting times.

These determinations, to be known as Road Safety Remuneration Orders, will be in addition to any existing rights employed drivers have under industrial instruments and owner drivers have under their contracts for services.

The tribunal's approach will be evidence-based and research-focused.

With this approach, the tribunal will have regard to issues such as:

- the need to apply fair, reasonable and enforceable standards in the road transport industry to ensure the safety and fair treatment of road transport drivers;
- the likely impact of any order on the viability of businesses involved in the road transport industry;
- the special circumstances of areas that are particularly reliant on the road transport industry, such as rural, regional and other isolated areas;
- the likely impact of any order on the national economy and on the movement of freight across the nation;
- the need to minimise the compliance burden on the road transport industry.

The bill also gives the tribunal a role in approving collective agreements made between owner-drivers and a hirer. These agreements will build on a Road Safety Remuneration Order. The tribunal will have an important role checking to see that economic incentives to drive unsafely have not made their way, inadvertently or not, into the agreement.

As those opposite would know, owner drivers can already collectively bargain and enter collective agreements.

New South Wales, Victoria and Western Australia have exemptions under the Competition and Consumer Act, to allow for owner drivers to...
collectively bargain. Owner drivers in others states and territories are able to apply to the Australian Competition and Consumer Commission for authorisation to collectively bargain and enter into collective agreements.

This Bill will result in a consolidated system of collective bargaining for owner drivers and hirers, which complement the objectives of the Bill and the existing state systems.

The tribunal's dispute resolution functions will commence on 1 January 2013, unless the Tribunal is satisfied that exceptional circumstances exist in relation to the dispute.

The tribunal will be empowered to resolve disputes between drivers, their hirers or employers and participants in the road transport industry supply chain about remuneration and related conditions in so far as they provide incentives to work in an unsafe manner.

The tribunal will deal with a dispute as it considers appropriate, including by:

- mediation or conciliation;
- making a recommendation or expressing an opinion; or
- arbitration with the consent of the parties.

Fair Work Australia will be assisting the tribunal with dual appointments, ensuring a mixture of Fair Work Australia members and expert members with qualifications relevant to the road transport industry.

The tribunal secretariat will be provided by the General Manager of Fair Work Australia.

The bill also establishes a compliance regime for the enforcement of orders made by the tribunal, safe remuneration approvals and any orders arising out of a dispute.

These compliance functions will be performed by the Fair Work Ombudsman.

In addition, the Fair Work Ombudsman will provide education, assistance and advice to owner drivers, employees and the industry.

Conclusion

The bill is the Government's response to the report of the National Transport Commission that the Minister for Infrastructure and Transport Minister commissioned, but it is also in response to numerous reports over many years, including the Burning the midnight oil report, which was done by the House of Representatives committee. This has been an issue which has been talked about for a long time, but not acted upon until today.

While transport safety outcomes have improved over the years, there are still an unacceptably high number of truck accidents and deaths.

Without further action, the number of accidents will remain unacceptably high, impacting truck drivers, their industry and the wider community.

Lasting reform is necessary.

This reform is necessary and it must be directed at addressing the specific problems of the industry.

This bill does just this.

STATEMENT OF REASONS
ROAD SAFETY REMUNERATION BILL 2012

Purpose of the Bill

The Road Safety Remuneration Bill 2012 establishes the Road Safety Remuneration Tribunal which will: inquire into sectors, issues and practices within the road transport industry and, where appropriate, determine mandatory minimum rates of pay and related conditions for employed and self-employed drivers; approve road transport collective agreements between a hirer and all self-employed drivers; and resolve disputes between drivers, their hirers or employers and participants in the road transport industry supply chain.

The Bill was introduced with the Road Safety Remuneration (Consequential and Related Provisions) Bill 2012.

Reasons for urgency

The Government is committed to doing all it can to reduce deaths and injuries caused by trucks on our roads. Road accidents involving heavy vehicles have an adverse impact on the whole community, including truck drivers, their families, other road users and businesses that are
reliant on the transport of goods across Australian roads.

The Bills are a measured and informed response to a significant body of Australian and international research that links pay and pay related conditions to safety outcomes for truck drivers. The Government firmly believes that these Bills will improve safety on Australian roads for all road users.

The Road Safety Remuneration Bill establishes a Road Safety Remuneration Tribunal which is intended to commence operation on 1 July 2012. Passage of the Bill during this Parliamentary sitting is essential to ensure that the tribunal is set up and the necessary appointments are made in time for it to commence its important work.

ROAD SAFETY REMUNERATION (CONSEQUENTIAL AMENDMENTS AND RELATED PROVISIONS) BILL 2012

The Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012 makes consequential amendments and provides for other matters in connection with the Road Safety Remuneration Bill 2012.

The Bill excludes decisions made by the Tribunal from judicial review under the Administrative Decisions (Judicial Review) Act 1977.

The Bill also provides that the Tribunal's dispute resolution functions will commence on 1 January 2013, unless the Tribunal is satisfied that exceptional circumstances exist in relation to the dispute.

The delay in commencement will give the Tribunal time to establish, consider research, begin developing work programs and build up some industry expertise before commencing to resolve disputes.

This delay will make it easier for the Tribunal to manage the implementation of the Bill and will also give industry stakeholders time to become familiar with the new regulatory framework in relation to dispute resolution.

STATEMENT OF REASONS

ROAD SAFETY REMUNERATION (CONSEQUENTIAL AMENDMENTS AND RELATED PROVISIONS) BILL 2012

Purpose of the Bill

The Road Safety Remuneration (Consequential and Related Provisions) Bill 2012 was introduced with the Road Safety Remuneration Bill 2012. The Bill amends the Administrative Decisions (Judicial Review) Act 1977 to exclude Tribunal decisions from the operation of that Act. The Bill also provides that the Tribunal must not to deal with a dispute under Part 4 of the Road Safety Remuneration Act 2012 before 1 January 2013, unless it is satisfied that exceptional circumstances exist in relation to the dispute.

Reasons for urgency

The Government is committed to doing all it can to reduce deaths and injuries caused by trucks on our roads. Road accidents involving heavy vehicles have an adverse impact on the whole community, including truck drivers, their families, other road users and businesses that are reliant on the transport of goods across Australian roads.

The Bills are a measured and informed response to a significant body of Australian and international research that links pay and pay related conditions to safety outcomes for truck drivers.

The Government firmly believes that these Bills will improve safety on Australian roads for all road users. It is essential that this Bill be passed by the Parliament as soon as possible so that the Road Safety Remuneration Tribunal can commence its important work on 1 July 2012.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Insurance Contracts Amendment Bill 2012

First Reading

Bill received from the House of Representatives.
Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:24): I 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 LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:25): I table a statement of reasons justifying the need for this bill to be considered during these sittings and a revised explanatory memorandum relating to the bill and I move:

That this bills be now read a second time.

I seek leave to have the second reading speech and the statement of reasons incorporated in Hansard.

Leave granted.

The documents read as follows—

THE INSURANCE CONTRACTS AMENDMENT BILL 2011

The Insurance Contracts Amendments Bill 2011 introduces amendments to provide for a legislative framework so that regulations can be made to establish a standard definition of flood for home building, home contents, small business and strata title insurance policies and a Key Fact Sheet in relation to home building and home contents insurance policies.

What this Bill shows, once again, is that this Gillard Government is both pro business and pro consumer.

This Bill delivers on the Government's commitment to provide consumers – everyday individuals, modest hardworking families and striving Australian enterprises -- with a better understanding of what is included in their insurance policies and in particular, the extent to which policies provide cover for flood and what cover for flood actually means.

In recent times there has been a distressing increase in the occurrence of major natural disasters.

In 2009, the Black Saturday Bushfires spread across over 450,000 hectares in Victoria.

In 2010-2011, areas of Queensland, New South Wales and Victoria experienced severe flooding with Queensland also suffering the effects of Cyclone Yasi.

A substantial portion of the financial costs of losses resulting from these natural disasters was met by insurance with claims estimated at $3.64 billion for Queensland alone.

These catastrophic events highlight the importance of insurance and making sure that individuals, families, communities and governments have effective insurance cover in place to guard against and recover from disasters.

In April, I released a consultation paper, "Reforming flood insurance: Clearing the waters".

It contained proposals for a standard definition of flood and a Key Fact Sheet -- both of which were designed to ensure insurers communicate more effectively with consumers. Industry and Consumer groups indicated broad support for these measures.

This Bill will implement these proposals with the aim of helping consumers make effective decisions in relation to their insurance needs, through increased clarity and accessibility of key information.

Standard definition of flood

Schedule 1 to the Bill will amend the Insurance Contracts Act 1984 to introduce a legislative framework for standard definition of the term flood for home building, home contents, small business and strata title insurance policies.

This should have been done years ago --- indeed it ought to have been done decades ago. The confusion has lingered on for far too long.

So I am pleased the Gillard Government has demonstrated our willingness and capacity to grasp the nettle and, with the collaboration of
industry, clarify for Australian families and businesses what constitutes a flood.

The definition is designed to provide a clear and easily understandable meaning for what is commonly known as riverine flooding, namely the covering of normally dry land with water that has escaped or been released from the normal confines of any lake, river, creek or other natural watercourse or alternatively, any reservoir, canal or dam.

A standard definition of flood will reduce consumer confusion regarding what is and is not included in insurance contracts. It will also avoid situations where neighbouring properties, affected by the same inundation event, receive different claims assessments because the policies covering them use different definitions of flood.

Further, this measure will improve consumers’ ability to evaluate potential insurance policies and compare ‘like’ products between different insurance providers.

Whilst the measure will not mandate the inclusion of flood cover in all insurance policies, it will ensure that whenever the term flood appears in any of the relevant classes of insurance contracts, it will be taken to have this meaning. Insurance contracts must not include the term flood (or any related terms) except in association with the proposed definition. This restriction will also prevent relevant contracts from including compound phrases based on the term flood (for example flash flood or accidental flooding).

The detail of this measure, including the actual wording of the standard definition, will be made in regulations contained in the Insurance Contracts Regulations 1985. Draft regulations containing these measures will be released for public consultation by the end of the year.

Key Facts Sheet

Schedule 2 to the Bill will amend the Insurance Contracts Act 1984 to provide a legislative framework to allow regulations to be made to introduce a requirement for insurers to provide a Key Facts Sheet outlining key information in relation to home building and home contents insurance policies.

The Key Facts Sheet will enable consumers to access key information in relation to home building and home contents insurance policies in a concise and easy to understand format. This will assist consumers in making more appropriate decisions when entering into these types of insurance contracts.

In order to ensure consumers are able to effectively utilise the Key Facts Sheet, insurers will be required to provide this document to consumers as soon as they have requested information on the particular policy.

The introduction of the Key Fact Sheet will make the purchase of home building and home contents policies simpler for consumers, assisting them to compare policies with a consistent document, and facilitate more informed decision making.

The detail of these measures, including the specific content of the Key Fact Sheet, will be made in regulations contained in the Insurance Contracts Regulations 1985. The draft regulations containing these measures will be released for public consultation in the new year. The Key Fact Sheet will be consumer tested before being finalised.

Conclusion

The Gillard Government is committed to improving the insurance market in Australia and we have announced our response to the recommendations put forward by the National Disaster Insurance Review to provide an improved insurance market for all Australians.

I thoroughly believe that in some unexpected, unsought for and undesired way, natural disasters do tend to help us in Australia to rediscover and remind us of our greatest strengths.

In this great continent that we call home, we are witness to the physics and chemistry of Mother Nature working their way across the lucky country in a way that makes you question that famous tag, 'lucky', that's famously attached to Australia.

But if we remain strong and resolute in the way that we pull together perhaps 'lucky' is still the best way to think, despite all that brutal water, wind and fire.
In doing this though we should of course never take our communal good fortune for granted.

This legislation is mindful of our good fortune, even in tough times --- and our communal fellowship, whatever the prevailing winds.

The amendments in this Bill are an important first step in improving Australia's insurance market through better disclosure of insurance cover for consumers -- and clearing up the lingering confusion.

Further details of the amendments are contained in the explanatory memorandum.

STATEMENT OF REASONS
INSURANCE CONTRACTS AMENDMENT BILL 2012

Purpose of the Bill
The Insurance Contracts Amendment Bill introduces amendments to the Insurance Contracts Act 1984 for a legislative framework to allow regulations to establish:

- a standard definition of 'flood' for riverine flooding for Home Building and Home Contents (combined or individual contracts), small business and strata title insurance contracts; and
- a Key Facts Sheet to provide consumers with key information regarding Home Building and Home Contents insurance contracts (combined or individual).

Reasons for Urgency
To ensure the policy intent of the two measures contained in the Bill can be achieved regulations are required to be made. The making of regulations cannot occur until after the Bill has received Royal Assent.

Debate adjourned.

Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012

First Reading
Bill received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:26): I 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 LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (17:26): 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—

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT (R 18+ COMPUTER GAMES) BILL 2012

I am pleased to present this Bill, which will introduce an R 18+ category for computer games.


This reform has been a long time coming. Agreement to introduce an R 18+ category has been reached after 10 years of negotiations with the States and Territories.

Over these ten years the Australian computer game industry has grown – along with the number of Australian computer gamers.
Research conducted by Bond University suggests that nine in every ten Australian homes now has a device for playing computer games. The average age of Australian computer gamers is 32 – with women making up 47 per cent of computer game players. The Australian gaming industry is forecast to grow at a rate of about ten per cent a year – with forecasts predicting it will reach $2.5 billion annually by 2015.

A lot of Australians are passionate about this reform. When the Attorney-General’s Department released a discussion paper on the introduction of an R 18+ classification category for computer games in 2009 they received 58,437 submissions in response. 98 per cent of these supported the introduction of an R 18+ category.

The former Minister for Home Affairs and Minister for Justice - Minister O’Connor – pursued this issue throughout his time in the portfolio.

Last year he led the discussion of this issue with State and Territory Attorneys General at the Standing Council on Law and Justice. At their July meeting the Ministers decided to support this reform.

This bill will implement the Commonwealth’s obligations as part of this agreement – and State and Territory jurisdictions will follow with their own legislation later this year.

It is anticipated that the Act provided for in this Bill will come into effect on the first of January next year.

Debate adjourned.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

COMMITTEES
National Broadband Network Committee
Membership
Message received from the House of Representatives notifying the Senate of the appointment of Mrs D’Ath as a participating member of the Joint Standing Committee on the National Broadband Network.

BUDGET
Consideration by Estimates Committees

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (17:27): Pursuant to order and at the request of the chairs of the respective committees, I present reports from the Senate Education, Employment and Workplace Relations Legislation Committee, the Environment and Communications Legislation Committee, the Finance and Public Administration Legislation Committee, the Foreign Affairs, Defence and Trade Legislation Committee and the Legal and Constitutional Affairs Legislation Committee in respect of the 2011-12 additional estimates, together with the Hansard record of the committees' proceedings and documents received by committees.

Ordered that the reports be printed.

Senator FAULKNER (New South Wales) (17:28): by leave—I move:

That the Senate take note of the reports.

I want to make some very brief remarks this afternoon about the Finance and Public Administration Legislation Committee's report on the 2011-12 additional estimates. I commend to the Senate the committee's unanimous report. I am sure the Senate would be aware that the F&PA Committee deals with the parliamentary departments and the portfolios of Prime Minister and Cabinet and Finance and Deregulation. This
afternoon I will just focus some brief remarks on the Department of Parliamentary Services. At the additional estimates a range of important issues was examined by senators: the new Australian Parliament House website, IT and security systems, the establishment of the Parliamentary Budget Office, the retirement of the Secretary of DPS and the resignation of the Parliamentary Librarian, the protest on the parliamentary forecourt on 27 January, bullying in DPS and the scandal surrounding the sale of billiard tables by DPS. It is important to note that senators at those estimates hearings constrained their questioning of DPS because we had only a limited amount of time.

I remind the Senate, though, that in June last year the committee received a reference from the Senate for the committee to inquire into the performance of the Department of Parliamentary Services. Needless to say, this is an important and substantial inquiry. So far, the committee has received 23 public submissions and a similar number of confidential submissions. Let me assure the Senate that all members of the Finance and Administration Legislation Committee, from all political parties represented in this chamber, are treating that inquiry into the Department of Parliamentary Services very seriously. There is a strong interest from senators in a range of critical issues about the Department of Parliamentary Services, such as the adequacy of the current parliamentary oversight of the department and the relationship of DPS to the chamber departments, as well as the adequacy and effectiveness of the services provided by DPS.

There is real concern about the workplace culture of DPS, with a particular focus on allegations of bullying and concern about staff selection procedures. There is a real interest also in the committee about heritage issues and the management of Parliament House assets—furnishings, fixtures and significant heritage items that we have here in the building—and there are issues to be addressed about the leadership of the Department of Parliamentary Services and the department's administration, including the commercial and contractual arrangements that the department has entered into.

I do thank the Senate for providing me with this brief opportunity to assure the Senate, and those who might be interested in these matters outside the Senate, that these issues will receive close attention from all the members of the Finance and Public Administration Legislation Committee as we progress our inquiry into the Department of Parliamentary Services in the months ahead and, of course, I can assure the Senate that our good work on estimates committees will continue.

Senator BACK (Western Australia) (17:34): I will be brief in talking about the report of the Education, Employment and Workplace Relations Legislation Committee on the 2011-12 additional estimates. One area that I am keen to draw to the attention of the chamber is that confirmed in item 1.11 of the report. That was the move of higher education away from this committee to the Senate Economics Legislation Committee and the concern, as expressed by my colleague Senator Mason, that there was not sufficient time to be able to investigate and scrutinise the higher education elements in the Employment, Education and Workplace Relations Legislation Committee. That was the move of higher education away from this committee to the Senate Economics Legislation Committee and the concern, as expressed by my colleague Senator Mason, that there was not sufficient time to be able to investigate and scrutinise the higher education elements in the Economics Legislation Committee as indeed there had been under the Employment, Education and Workplace Relations Legislation Committee.

I also draw attention to item 2.9 of the report—Timely supply of evidence. Responses to questions during the hearing uncovered the fact that erroneous information had been provided to the
committee in answers to questions on notice. I am pleased to record that the chair emphasised that corrections to evidence must be presented to the committee not only in a timely manner but as quickly as is practicable for the benefit of members of the committee and the chamber.

I turn to the Office of the Building and Construction Commissioner. I note the report of the commissioner, Mr Johns, in which he advised the committee that since October 2005 the ABCC had litigated 90 matters and had been successful in 76 per cent of those matters, that being 84 per cent, and that in the last financial year alone the ABCC had finalised 15 matters and been successful in 13 of the 15, being in excess of 90 per cent.

In estimates the committee addressed the levels of confusion among many volunteer organisations, particularly as the Safe Work Australia and fair work provisions will apply to them. There was a robust discussion in this area and it is one that I think all senators need to be conscious of and concerned about. In the work that we do we all come into contact with the many hundreds of thousands of volunteers around Australia who provide their time and their labour, their expertise and their interest on a free-of-charge basis, and it would be very difficult to estimate the effect on the budget of the impact of volunteers. I think it behoves this chamber to ensure that, having regard for legislation, for safe work activities, for fair work et cetera, we do not in any way endanger the enthusiasm, the expertise or the contribution of volunteers in the role that they play in assisting the community. Subsequent to estimates I have had representations from emergency service volunteers in my state of Western Australia, particularly bushfire brigade members and the bushfires brigade volunteer organisation, which you, Acting Deputy President Marshall, would be aware I have a close affinity to. They are coming to the conclusion that they are almost becoming an unwanted species—unloved, if you will. Some of the conditions upon which they now must act are making it such that they are not enthusiastic about acting as volunteers. There are two types of volunteerism, of course. One is associated with improvements to community and the wellbeing of people. The other one is the essential service that is offered by volunteers in areas where it is impossible and uneconomical to replace those with paid services. So I urge that we remain vigilant to the needs of volunteers when we are considering this area.

There has been in this chamber—I do not intend to labour it—much discussion of the activities of Fair Work Australia, particularly its general manager, in terms of the presentation of the report into the Health Services Union Victoria. I believe that matter has now been resolved and that report, belated as it is, is before the chamber and in the public arena. One can only hope the precedent has now been created and, when the next and subsequent reports of Fair Work Australia are to hand, there will be no delay in actually making them public in the interests of all participants.

My final comments relate to ACARA. Subsequent to estimates I was disturbed to learn of allegations of some degree of bias by ACARA. The example given to me was in the last round of NAPLAN testing. I think it was year 7 or year 9 students. These students were asked to critically analyse a piece. The heading of the piece was 'From moo to roo'. I know my colleague the Minister for Agriculture, Fisheries and Forestry would be interested in this too. The text of the document basically was associated with the inappropriateness of cattle production in this country, the inappropriateness of cloven-hoofed animals in our environment and the question of whether there should be a move from cattle
production to kangaroo production. This is what these students were asked to critique. The person who presented the piece to me complained to ACARA. They said to him: 'No, you've taken it the wrong way. This was just a piece upon which they were asked to give a critical analysis of bias.' The observation of this man—a principal with long experience in a school system—to them was, 'I don't think that when I was in year 7 or year 9 I had the capacity to critically analyse a document of that nature and comment on it from the point of view of bias.' I will be taking this matter up with ACARA, because the last thing I want to see from a body as important to the Australian education system as ACARA is for it to present to relatively young students a document which I would perceive to be inappropriate and ask those students to comment on it.

I commend the report under the signature of the Acting Deputy President in his capacity as chair of the legislation committee and thank the Senate for the opportunity to take note.

Question agreed to.

**BILLS**

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

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator RONALDSON** (Victoria) (17:41): As we lurch towards another guillotine on which I presume the Greens will be joining the government, it is another marvellous example of democracy. You say one thing for years and then, when push comes to shove, all of a sudden there are completely different rules. But we expect that from the Labor-Greens alliance. Those opposite do not like being told, but it is a Labor-Greens alliance. As I said before, you people will die by that sword, as you deserve to in due course.

I want to repeat some of the comments that have been put on the record by my colleagues in relation to this bill. We strongly oppose it. We believe that every Australian, whether they be an employer or an employee, deserves to go to their workplace and operate in an environment where basic law and order is enforced. This bill abolishes the body that ensures that law and order is enforced in the building and construction industry. This bill will strip away the protections of workers to work in a safe and lawful environment. The replacement agency will be a toothless tiger that will again roll out the red carpet to lawlessness, violence and thuggery.

Let us be absolutely sure about the motivation for this bill. This is wholly motivated by the Australian Labor Party because it protects their interests. They are doing this because they are completely and utterly beholden to the trade union movement and they seek to rejuvenate the worst aspects of the Australian industrial landscape for their own cheap political and financial purposes. If the bungled Craig Thomson inquiry is anything to go by, we are going to have a lot of confidence in the Fair Work Australia building industry inspectorate. That will be the ultimate toothless tiger. We have absolutely no confidence.

This is a sop to us and to others to say that we are replacing like with like. It is absolutely not. It is an apple replaced with an rotten banana. We do not believe in any way that the independence of the inspectorate will be anything but biased. It will be compromised under the supervision of the same incompetent ex-union officials who run Fair Work Australia at the moment. We know full
well that we are heading back to the Dollar Sweets dispute of the 1980s for cheap political purposes driven by the Australian Labor Party. It is actually about turning back the clock even further to the 1950s when society was divided along class lines and class warfare determined industrial relations in this country. We heard from Senator Cameron earlier on. Senator Cameron was brought up in Bellshill. That was where he learned the class warfare that we heard about in his speech today. When he talks about employees without unions as slaves, you know that class warfare is alive and well.

I know others want to speak in this debate, so I will keep my comments reasonably short. However, I just want to go through some other matters which again need to be put on the public record. The benefits of the ABCC were increased productivity of 10 per cent in the building and construction industry and an annual economic welfare gain of $5.9 billion per year. When you talk about a billion dollars with the Australian Labor Party and the Gillard government it just rolls off the tongue, but that is $5.9 thousand million of economic welfare gain for our economy that we are talking about. It reduced inflation by 1.2 per cent and increased GDP by 1.5 per cent. The number of working days lost annually per thousand employees in the construction industry fell from 224 in 2004 to 24 in 2006. Building costs have fallen by about 20 or 25 per cent and long project delays have been dramatically reduced.

Why would it be, do you think, that the Labor Party is so keen to get this bill through? Let us have a look at some other figures that may or may not have been talked about in this debate. Let us talk about union donations to the ALP, for example. In 2010-11, the national ALP received donations and other receipts from: the AMWU of $100,000; the CFMEU, $1,020,000; the ETU of the New South Wales branch, $20,000; and the Communications, Electrical and Plumbers Union, $500,000. And people are wondering why this bill has come before the Senate. If you were a new arrival in this country and looked at this, you would ask, 'What's the debate about?' The debate is about the excessive influence of the trade union movement in this country where it can actually determine that a body that has delivered economic and other gains to this country be removed at the behest of the Australian Labor Party. Let us look at the New South Wales branch: the AMWU, $100,000; CFMEU, $120,000; and the ETU in New South Wales, $1 million. In Victoria: ETU, $300,000; and CFMEU, $200,000. All they are doing is locking in their primary source of income with this bill.

It is interesting isn't it?

You will be particularly interested in this, Mr Acting Deputy President Marshall, knowing your very keen affection for the man I am just about to talk about. We talk about cash for comment. We have got comment for cash in the member for Corangamite. It is comment for cash, not cash for comment. On 6 June 2008, Misha Schubert in the Age wrote that Victorian Labor MP Darren Cheeseman said the public would be alarmed to learn how the laws work—they are the laws we are just about to get rid of now. He said that one of the issues is that the building industry workers—wait for this—under 'this legislation have less rights than criminals or terrorists'. I am sure that was one of the lines you did not give him, Mr Acting Deputy President. Guess what we saw in the Age on 18 August 2010. We saw an exclusive from Ben Schneider. Mr Mighell—that is Dean Mighell of course—from the ETU said:

… his union would make small donations to the marginal-seat campaigns of Labor's Mike Symon in Deakin and Darren Cheeseman in
Corangamite. In the 2007 election campaign, the ETU spent hundreds of thousands to get those two candidates elected.

Here we are on 18 August 2010 talking about money that was put in by the ETU and we refer back to Mr Cheeseman's comments after the election, after they got the ETU money, on 6 June. So it was comment for cash. He got the bickies and they got the comment. He got the dollars and Mr Cheeseman made the comments. It is no more and no less than political payback, and it is a complete and utter disgrace.

I hope that those opposite in I reckon about 12 months time when we see the outcome of this disastrous bill today will have the gumption to reflect on what they have done. I hope they will have the gumption to go back and put back in place the independent umpire that delivered economic results for this country for everyone—an independent umpire that was not there at the behest of the trade union movement or the Australian Labor Party. The sooner you bring that body back the better we will be.

Senator EDWARDS (South Australia) (17:51): I rise to speak about the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2011. This bill is really about abolishing the Australian building and construction commission. Labor is giving the green light to militant unionists to return to the bad old days of illegal standover tactics, thuggery and sabotage. The Prime Minister has caved in to those on the left of the Labor Party led by the shrewd Senator Cameron. The union movement is flexing its muscle here in parliament and is forcing its backward vision upon the Australian economy. Abolishing the Australian building and construction commission is another ideological crusade for this Labor-Green government that will only damage Australia's productivity. Australians must understand just how successful the ABCC has been in grabbing those militant unionists by the scruff of the neck and dragging the construction industry out of the Wild West and into the modern era. I am not too young to remember the dark days of the BLF.

The Labor Party has never seen an Australian success story that it has not tried to sabotage. Under Labor's legislation the responsibility for investigations into the construction sector will lie with the Fair Work regime. This sad parade is, for turning a lion for the Australian people into a lamb for the militant unions. Labor's new legacy will be an agency that will roll out the red carpet to the old days of taking Australia's productivity hostage—days that Senator Cameron yearns for.

This is the very essence of appeasement. Just as the Prime Minister promised before the 2010 election, 'There will be no carbon tax under a government I lead,' so in 2007 Prime Minister Gillard also promised to keep 'a strong cop on the beat' in the building and construction sector. The Prime Minister has broken her word once again. Again and again I stand up in this place with my colleagues holding Prime Minister Gillard to account over her now plethora of broken promises. If it takes a Fair Work agency over three years to manage one single investigation into the activities of one union, how on earth are they going to manage multiple investigations into complex issues in sectors which are populated by some of the toughest employers and most militant unions in this country?

This bill leaves a vacuum in which workers will have little protection from the biggest bullies in the school yard. The Cole royal commission recommended the creation of the ABCC but this Labor government wants to return to the mob rule of the bad old
days. How fickle and shallow this bill is! As Labor parliamentarians in this place rushed to pay homage to the faceless powerbrokers outside this place who put them there, even Labor's ideological ally, the honourable Murray Wilcox QC, was shocked by the ongoing violence and intimidation by unions. His report was commissioned to give a veneer of respectability to Labor's cave-in to the demands of militant unions. This Labor-commissioned report states that between 1 October 2005 and 3 February 2009 the ABCC conducted 128 compulsory interrogations and launched 36 court proceedings seeking the imposition of a civil penalty upon one or more building industry participants. The report went on:

Most of the completed proceedings have been successful, many because of information acquired by the ABCC at compulsory interrogations. Also, the Law Council has been critical of this green-wash Labor amendment. Labor love to wax lyrical about the national interest. They often accuse us of not acting in the national interest but here we have a Labor amendment that relegates the national interest to a mere footnote on the vaulting ambition that burns bright within the militant union bosses.

Breaches of the law should be dealt with by a prosecutor without fear or favour and irrespective of private parties coming to private arrangements. Labor's bill means that, depending on the size of your wallet, you can avoid investigation and prosecution from the relevant authority. Big unions and big business will benefit, at the expense of individual workers and contractors. A cacophony of building industry advocates' voices have bellowed their strong opposition to the government's bill. They are best summarised by the Housing Industry Association, which states:

The bill now opens the door for perpetrators of illegal workplace behaviour to buy or coerce their way out of prosecution.

As I acquiesce to my Senate colleague from South Australia, Senator Xenophon, I say that the work of the Australian building and construction commission is as important today as when it was established in 2005. The coalition will restore the ABCC at its first available opportunity.

Senator XENOPHON (South Australia) (17:57): I am very grateful to Senator Edwards for giving me the time to speak to the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, because this debate will be truncated—it will be guillotined, in effect, at 6pm. So my contribution, of necessity, will be brief—in fact, two minutes and 30 seconds.

I can indicate that I have real reservations about supporting the second reading stages of this bill, and indeed this bill generally, for a number of reasons. My first concern is principally one of process. I am concerned that there were some last-minute amendments moved in the House of Representatives that the Senate committee did not have an opportunity to appropriately assess. These were significant amendments, alluded to by Senator Edwards, in terms of agreements.

I do understand the argument of those in the union movement who regard the legislation in terms of the ABCC to be discriminatory but I think that if we are going to do our job properly then there ought to be an opportunity for the Senate committee that is charged with looking at this matter to investigate it appropriately. I think that the amendments moved in the House of Representatives were significant enough to warrant that. That is why I voted with the coalition last night in relation to
these matters being referred to a committee. That was defeated.

That does not mean that I do not support the general thrust of this bill, but there is a fundamental issue of process. The fundamental process is that it is our job in the Senate to appropriately scrutinise bills from the executive arm of government. There was a last-minute amendment. That amendment has not been appropriately scrutinised; in fact, the move to have it appropriately scrutinised was defeated. That is why I have real reservations about this bill proceeding in its current form.

That does not mean to say that I do not think there needs to be significant reform to the ABCC or that I do not think there is a need to replace it with a Fair Work building industry inspectorate, but for me this bill fails at the first hurdle—that is the hurdle of process, because the government has not wanted this matter to go off to committee in terms of last-minute amendments which I believe are quite significant.

The PRESIDENT: The question is that the bill be now read a second time.

The Senate divided. [18:03]

(The President—Senator Hogg)

Ayes.......................36
Noes.......................30
Majority.................6

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Evans, C
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L

AYES

Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

NOES

Abetz, E
Bernardi, C
Boyce, SK
Bushby, DC (teller)
Colbeck, R
Edwards, S
Fifield, MP
Heffernan, W
Joyce, B
Macdonald, ID
McKenzie, B
Parry, S
Ronaldson, M
Scullion, NG
Williams, JR

Back, CJ
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fisher, M
Humphries, G
Kroger, H
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Xenophon, N

PAIRS

Brown, RJ
Carr, RJ
Faulkner, J
Sherry, NJ
Wong, P

Fawcett, DJ
Johnston, D
Birmingham, SJ
Ferravanti-Wells, C
Adams, J

Question agreed to.

Bill read a second time.

The PRESIDENT (18:07): The question now is that amendment (1) on revised sheet 7217, circulated by the opposition, be agreed to.

(1) Clause 2, page 2 (table item 2), omit the item, substitute:

2. Schedule 1, items 1 to 93 A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.
2. Schedule 1, items 1 to 93

A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.

2A. Schedule 1, items 94 and 94A

1 January 2014.

2B. Schedule 1, items 95 to 104

A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.

The Senate divided. [18:07]

(The President—Senator Hogg)

Ayes.............................29
Noes.............................35
Majority.........................6

**AYES**

Abetz, E
Bernardi, C
Boyce, SK
Bushby, DC
Colbeck, R
Eggleston, A
Fisher, M
Humphries, G
Kroger, H
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Xenophon, N

**NOES**

Bilyk, CL
Brown, CL
Collins, JMA

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Crossin, P
Evans, C
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

**NOES**

Di Natale, R
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

**PAIRS**

Adams, J
Birmingham, SJ
Cormann, M
Fawcett, DJ
Fierravanti-Wells, C
Johnston, D

Wong, P
Faulkner, J
Carr, KJ
Brown, RJ
Sherry, NJ
Carr, RJ

Question negatived.

**The PRESIDENT** (18:11): The question now is that amendment (1) on sheet 7220, circulated by the opposition, be agreed to.

Schedule 1, items 94 and 94A, page 48 (line 19) to page 50 (line 10), omit the items, substitute:

94 Sections 73 and 73A

Repeal the sections.

The Senate divided. [18:11]

(The President—Senator Hogg)

**AYES**

Abetz, E
Bernardi, C
Boyce, SK
Bushby, DC
Colbeck, R
Eggleston, A
Fisher, M
Humphries, G

**NOES**

Bilyk, CL
Brown, CL
Collins, JMA

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Back, CJ
Boswell, RLD
Brandsis, GH
Cash, MC
Edwards, S
Fifield, MP
Heffernan, W
Heffernan, B
Joyce, B
The PRESIDENT (18:15): The question is that the remaining stages of the bill be agreed to and that the bill be now passed.

The Senate divided. [18:15]

(The President—Senator Hogg)

Ayes.......................35
Noes.......................29
Majority....................6

AYES

Kroger, H
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Xenophon, N
Brown, CL
Collins, JMA
Crossin, P
Evans, C
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
Mile, C
Polley, H
Rhiannon, L
Sterle, G
Urquhart, AE
Wright, PL

NOES

Bilyk, CL
Brown, CL
Collins, JMA
Crossin, P
Evans, C
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
Mile, C
Polley, H
Rhiannon, L
Sterle, G
Urquhart, AE
Wright, PL

PAIRS

Adams, J
Birmingham, SJ
Cormann, M
Fawcett, DJ
Fierravanti-Wells, C
Johnston, D
Wong, P
Faulkner, J
Carr, KJ
Johnston, D
Carr, KJ

Question negatived.

Bill read a third time.
Higher Education Support Amendment Bill (No. 1) 2012
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator MASON (Queensland) (18:19):
This bill seeks to put into effect several changes to the Higher Education Support Act. The bill will increase the maximum amount a higher education provider may charge under the compulsory student services and amenities fee from $250 to $263 as a result of an indexation mistake in the Higher Education Support Amendment (Student Services and Amenities) Act 2011.

In October 2011, the government passed the Higher Education Support Amendment (Student Services and Amenities) Act 2011. This act allowed universities to charge students a maximum of $250 per year in compulsory student services fees. The government anticipated the bill would have passed by 1 January 2011—i.e. their anticipated commencement date. However, the bill was delayed, I think because of the robust discussion and debate in this chamber that seemingly went on forever. But when the bill was passed it still contained the references to 1 January 2011, being the date on which the original $250 base amount was applied with indexation to take effect every year from 1 January 2012 onwards. So the assumption that the government, and indeed the act, were acting upon was incorrect. They thought the bill would pass before it did and, therefore, the date that the indexation was to apply from was incorrect.

The bill before the Senate this evening seeks to change the date on which the base figure is applied from 1 January 2011 to 1 January 2012. It also seeks to change the maximum base amount from $250—which you may recall, Madam Acting Deputy President, was the amount discussed many times in debate—to $263, being the amount which would have been able to be levied had the Higher Education Support Amendment (Student Services and Amenities) Act been passed by its original commencement date. That, in effect, is what the bill is doing. There are several other aspects of the Higher Education Support Amendment Bill (No. 1). This bill also changes all references to the Melbourne College of Divinity to that organisation's new name, the MCD University of Divinity. It changes the rounding up of debts under HECS to a rounding down to the nearest dollar and clarifies the study rights for students studying veterinary science and dentistry through HECS. The change to the Melbourne College of Divinity is important. It sounds like a minor administrative matter but the use of the word 'university' is a very controversial one in higher education, because it clearly denotes research and, in terms of marketing, gives institutions a significant edge. In the case of the Melbourne College of Divinity, the word signifies a greater concentration of research, and it is a word that is being jealously guarded by Australia's existing universities. While it perhaps seems like a minor change to many listening this evening, within the university sector it is a marked change and it will certainly be a marked change for the Melbourne College of Divinity.

In terms of changing the rounding up of debts under HECS to rounding down to the nearest dollar, that is rather minor but it simply stops students being forever charged interest on very small amounts. The administration of those debts is not something that any responsible government...
would leave as is, so the opposition supports the proposal.

The situation in relation to dentistry and veterinary science students is quite interesting. Dentistry and veterinary science students' fees have a higher cap than most other university courses, and there is a reason for that: for dentistry and veterinary science students the cost of the courses, both to the students themselves and to the government, to the taxpayer, is much higher. Both dentistry and veterinary science students are expensive to train. What this act seeks to do is restrict the students' use of the HECS-HELP system to only those studies that result in a qualification recognised as the minimum qualification by the governing body, rather than the existing system which allows students to continue studying until they have specialised. What that means is this: it is important because, when dentistry students, for example, are studying, the minimum qualification for them to be able to qualify before they do professional years is a Bachelor of Dental Surgery. What this bill does is ensure that that qualification is covered by the HECS-HELP debt but, in future, any graduate studies post that qualification are no longer covered. So, again, this is a way of rationalising HECS-HELP study arrangements. Similarly, veterinary science students—and my friend Senator Back will say that we need more veterinary scientists in Australia, and that might be right—are very expensive to train. It is one of the most expensive courses in universities. Again, the idea is for the HECS-HELP debts to cover the initial training, the bachelor's degree, but not any postgraduate or specialist qualifications. We regard that as inappropriate. Again, the coalition supports those changes as we think they are rational administrative changes.

The coalition supports all the changes except the change in amount from $250 to $263. The Senate might ask why. The coalition, I think, has been very consistent on this. The coalition does not believe that students should be slugged extra because the government did not manage to pass its legislation on time and, when it did, it forgot to put the new dates in the act. When we go into committee I will be moving an amendment that seeks, therefore, to keep the base amount at $250. We do not believe that students should be paying for the government's mistake.

You might recall the long debate in this chamber about this issue. I will not go through the entire debate again but it is an issue that is important clearly to the youth wing of the Liberal Party, the Young Liberal Movement, and the Australian Liberal Students Federation. For them this is a totemic issue. I suspect my friend Senator Evans or Senator Carr would say, 'Well, Senator Mason, perhaps it's about time you got over what happened to you at university 30 years ago.' They may well argue that. But the point I would make is this: as a matter of principle this is extremely important to the coalition. You might recall that the debates we had stretched over hours and, even though finally the debate was guillotined, the government, to its partial credit at least, allowed the debate to go on longer than many thought it would. That is because many coalition senators in this place learnt some of our skills, some good and some bad, at university, either with the student federation or with the Young Liberal Movement. So for us it is an issue of high principle and certainly not one that we can compromise on. I suspect that the government would wish this simply to go through as a matter of administration—as a matter that should be passed, perhaps waved through with a quick admonishment—but, no, we see this as far more serious than that. For us this is a serious matter, a principle,
and one on which we are not prepared to compromise. We never have and I suspect we never will.

I will not recapitulate all the arguments I used last time. Suffice to say that I and all my coalition colleagues have said many times both here and in the other place that the coalition does not believe its students should be forced to pay compulsory fees for services that most of them do not want or cannot access. We do that for several reasons. We argue that the changing demographics throughout our country and culture mean that most students today simply do not have the time, the inclination or the opportunity to use the services that are offered at university. Quite frankly university today is nothing like it was 30 years ago when I was attending. For that reason, with a changed demography, the fact that so many more students—

**Senator MASON:** I am glad Senator Polley is interjecting. It is a matter also of changing demography and changing culture. One of the reasons the coalition opposes these measures, and always has done, is that universities today are much more mainstream than when I was at university 30 years ago and they are not elite. Students today are much older and more mature. Many more study part time and, indeed, many study in the evenings. Many more students now work than did when I was back at university, and they have to balance family commitments much more than they did a generation or two ago. So there has been an enormous demographic and cultural change throughout our 39 universities.

There are around 130,000 students now studying externally. These students will never have the opportunity to use the services they are being forced to pay for. That is why we oppose these measures. The 130,000 students studying externally are expected to pay for other students to use the services that they themselves cannot and will not use. According to the government and the Greens it is okay to ask those students, who are often balancing family life and jobs, to pay for school leavers and those studying full time. And the disadvantaged are subsidising the advantaged. But what is so unusual about that from this government? Nothing.

The government has never understood that, far more than 30 or 40 years ago, we live in a credentials culture, where young Australians go to university to gain a degree in the same way that we go to a job to work. It is far more about getting credentials than it is about receiving a broad liberal education. I do not necessarily like that change. I prefer the idea of a languid liberal education. However, very sadly, those days are long gone. What happens today is that many young Australians go to university to gain a
professional or other credential. That is the fact. And they have neither the time nor the inclination to use certain student services. But this bill expects them to pay for services that they cannot or will not use. Again, the opposition opposes that.

Most of the staff in my office are studying part time. They are part of generation Y. I think it is fair to say that generation Y are much less collectivist, much less committed to institutionalised civil society than Senator Carr and I were back in our heyday—although perhaps Senator Carr's heyday is yet to come.

Senator Kim Carr: It certainly is; speak for yourself!

Senator MASON: Suffice it to say that generation Y sees institutionalised civil society quite differently than people of my vintage or Senator Carr's. That means they are more likely to join a Facebook or organise their own time in their own way than to join some group at university—far more so. This, coupled with the change in the demography of Australian universities, means far fewer students go straight from high school into university these days—about half as many, proportionally, as 30 years ago. And what does that mean? It means the nature of the services that need to be provided has changed enormously. The government does not quite understand that—and perhaps it never quite has.

I could talk about this for a long time—and I know my friend Senator Carr has heard me on this topic many times. Suffice it to say that most of the services and activities provided by student unions tend to be superfluous, in the sense that they already exist and are being provided by the universities themselves, by the government and by the non-government voluntary sector. Many of them are free, others are heavily subsidised, and all of them are available to university students without discrimination or prejudice. For those reasons, the coalition simply do not support the aspect of the bill relating to the indexed amount. Of course, the coalition opposed compulsory student unionism when the bill came before this place last year—and I suspect we will never change our opposition to that. It is a strange thing. Outside of university, students would never expect everyone in their suburb, for example, to pay a levy or a tax so that they could enjoy rugby union, but it seems that somehow people think that because someone goes to university they should be slugged a fee so someone else can play rugby union or rugby league or join the beer appreciation society. Why is that? Why do we change the nature of civil society, whether that is in a university or a community, all of a sudden? Again, the government never answers that. It says, 'Oh, this is an appropriate thing.' In fact, what it does is that it tends to bolster causes that some activist students become involved with. I know my good friend Senator Humphries would agree with that. That is what it tends to do.

I know it is early days yet and many of my good friends among the vice-chancellors tell me—as I am sure they tell Senator Kim Carr and, indeed, Senator Evans—'It doesn't matter; student radicalism has died, Senator Mason.' But my concern is that money that is appropriated by universities for so-called student activities will be appropriated by students who do not represent a majority of students but only those who are activist—in other words, not by the general majority who are out there working or raising a family but by full-time students who generally are younger and generally come straight from school, as indeed I did. The fact is, though, that the world has changed.

The government has done a good thing for the universities with the uncapping of student numbers. It has freed the aspirations
for many more Australians to come to university, but most of those, as the government well knows again, will be part-time, external and often disadvantaged students. And do you know what will happen? In the end, they will be subsidising the more advantaged.

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (19:39): I rise to support the Higher Education Support Amendment Bill (No. 1) 2012. This bill is a straightforward but necessary bill to clarify some aspects of the Higher Education Support Act, which, among other things, is the vehicle by which our universities are provided with Commonwealth government funding. The bill clarifies the application and operations of the indexation provisions of the Higher Education Support Amendment (Indexation) Act. The Commonwealth contribution amounts under the Commonwealth Grant Scheme include the maximum student contribution amounts, the FEE-HELP limit, the maximum OS-HELP amount and the maximum amount of the student services and amenities fee on 1 January 2011. The bill makes clear that the amounts that are indexed on 1 January 2012 are the 2011 indexed amounts.

The bill is technical in nature, but, nevertheless, the changes included in it will benefit the higher education sector in Australia. It will deliver to them. Mind you, that could be said about any bill that this government brings into the parliament relating to higher education. We have been determined as a government to undo the damage done to the higher education sector by the Howard government. I repeat: we are about undoing the damage that the Howard government did to higher education in this country. This damage started with the savage cuts in 1996 and continued as that government pursued a course of chronic underinvestment in universities, coupled with constant meddling in their internal administration. The Gillard Labor government, in contrast, sees universities as important partners in an agenda that recognises education in all its forms as core to achieving our objectives for economic prosperity and social equality in this country.

Following the advice of the Bradley review, the government has set ambitious targets for participation in higher education in the medium term. By 2025, we want 40 per cent of Australians between 25 and 34 years of age to have a bachelor level qualification or higher degree. The government’s investment in our higher education sector of much fairer and more generous support for students has seen a 27 per cent increase in the number of student places at universities since 2007, or 150,000 extra university students in Australia. There are further targets for universities to meet in terms of the participation and graduation of people from traditionally underrepresented groups, such as Indigenous people and those from low socioeconomic backgrounds as well as those from rural areas. The targets are bold targets, but they have been matched by equally bold reforms to help the higher education sector to meet them.

Chief among those is the shift from 1 January this year to demand driven funding. No longer will the Commonwealth government decide how many students will study what course at which university, effectively setting caps on course numbers according to how many Commonwealth funded places go to each university. Instead, under the demand driven funding model, universities are free to make their own decisions about how many students they are prepared to enrol in particular courses. Students who meet those enrolment requirements set by a university will attract Commonwealth funding to match their enrolments. Such a big change has required
universities to think about what they have to offer and what they need to do to meet the needs of students in the broader community. The government has made available structural adjustment funding and numerous rounds of grants to boost infrastructure and to reward quality teaching to help universities make this transition—a stark contrast to the dark days of the Howard government.

The bill before the Senate also amends the Higher Education Support Act 2003 to clarify the application and operation of indexation arrangements in the act. It updates the definitions for 'course of study in dentistry' and 'course of study in veterinary science' and updates the Melbourne College of Divinity's name in light of its approval to operate under the title 'MCD University of Divinity'. The bill also allows for technical amendments to the calculation of the voluntary repayment bonus to resolve rounding issues. The bill will amend the definitions for 'course of study in dentistry' and 'course of study in veterinary science' to clarify that only students undertaking courses of study in dentistry or veterinary science that satisfy the minimum academic requirements for registration as a dentist, veterinary surgeon or veterinary practitioner are eligible for the higher FEE-HELP limit.

The Melbourne College of Divinity has been approved by the Victorian Registration and Qualifications Authority to operate under the name MCD University of Divinity until 31 December 2016. Students can make a voluntary repayment towards their HELP debt to the tax office at any time. Voluntary repayments of $500 or more currently attract a five per cent bonus on the payment amount. When calculating the effect of a person making a voluntary repayment of his or her HELP debt, the act provides for a person to obtain a five per cent bonus and includes rounding rules in calculating whether a person has repaid their debt and the amount of debt repaid if it is only a partial repayment.

Currently, the effect of the rounding rules are that: (a) when making a full repayment, the person benefits from the rounding amount because the amount of payment required to pay off their debt in full is reduced because the cents are rounded down; and (b) when making a partial repayment, the person is disadvantaged because the value of the reduction to the outstanding debt due to a payment is rounded down. The bill amends the act to provide that when calculating the effect of a person making a partial repayment towards his or her HELP debt, the amount will be rounded up to the nearest dollar. The cents would continue to be rounded down to determine the amount required for the full repayment of a person's HELP debt amount. Effectively, the rounding rules will now always benefit a person making a voluntary repayment.

Senator Mason in his comments returned to the coalition's preoccupation with student organisations. Let us be very clear: the student services and amenities fee legislation does not require universities to give funds to student organisations, although we would hope that, where student organisations are best placed to provide needed services, universities will. The senator may also be unaware that universities, in setting the student services and amenities fee, have chosen a range of fees which reflect a range of enrolment patterns. Fees set so far range from $15 to the full amount of $263.

The passage of time meant that there were ambiguities in the act about the application of indexation provisions to the amount in the act on 1 January 2011. This made clear its intention regarding indexation of these matters in both the explanatory memorandum and the debate in the parliament.
These amendments do not change the intent of the parliament in passing this legislation but do add clarity to that indexation that should have been applied to the amount in the act on 1 January 2011, and that the amounts that are indexed on 1 January 2012 are the 2011 indexed amounts. The bill reflects the government's continued commitment to improving Australia's higher education sector and expanding opportunities for Australians to obtain high-quality higher education. As I mentioned at the start of this speech, the bill seeks to clarify the application of indexation provisions in the act for a range of amounts relevant to the higher education sector.

I have to say, I am sure not only that Senator Mason—as we heard in his contribution—has a fixation on the student services and amenities fee but also that the other contributors will dwell on the same narrow point. The fee of up to $263 per year can now be charged by the universities to offset the cost of providing student services and amenities. These fees go to things such as child care, food outlets, legal services and sporting facilities on our university campuses. We just heard from Senator Mason his evaluation of how the university campus has changed and how there are more people studying part time and so there are people trying to balance work and family. Surely these services such as child care and sporting facilities are necessary in having a well-balanced lifestyle.

But you can always guarantee that for those opposite anything that has the word 'unionism' in it is going to be opposed. They can change their position when it comes to things like supporting a tax cut to companies—they can change their philosophical point of view there—but, when it comes to student unionism, they will always be consistent. You can put your house on it.

The fee was reinstated with the passage last year of the Higher Education Support Amendment (Student Services and Amenities) Bill 2011. The battle over a student services fee has been a very long one. In fact it is a battle that most of those senators opposite have been fighting since their own days at university. Even now you only have to say the words 'student union' and you will have them in a lather. That evil word 'union', even in association with students, is like a red rag to a bull for those opposite.

I am proud to be part of a government that has emphasised the importance of education. If you are talking about BER funding and the success that has been in my home state of Tasmania, every single school—private, public, Catholic, independent—is thankful to this government for investing in education. This bill builds on top of that. We go from primary school to high school to college and now to university, and we are actually putting the runs on the board, unlike those who, when they were in government for 11½ very long years—and we know what they did—tried to pull down the universities as they did the health system. I commend the Higher Education Support Amendment Bill (No. 1) 2012 as another plank in the Labor plan to return Australian universities to the once proud position they held in the world and to meet the future needs of Australians to enjoy the benefits that flow from the Gillard government's vision and policies for the future of this great country.

Senator HUMPHRIES (Australian Capital Territory) (19:51): I am pleased to follow that fevered contribution from Senator Polley with something a little more measured and relevant to the bill. I have to say, with great respect, that a great deal of what Senator Polley had to say in that contribution did not relate to what appears in the bill I have in front of me, the Higher
Education Support Amendment Bill (No. 1) 2012. Extolling the various reforms the government is enacting with respect to funding of universities is a fine piece of debating rhetoric but unfortunately does not relate to what is in front of us at the moment. In fact, what is in front of us at the moment is the government correcting what I think is best described as a mistake or an oversight in the legislation that was passed only—

Senator Mason: That is very kind!

Senator HUMPHRIES: Yes, that is very kind language. It was more like a shemozzle that the government enacted in passing the legislation in October last year. I think 'ambiguity' was the gentle word that Senator Polley used, but there is nothing ambiguous about this, Senator Polley. This needs to be fixed because it was a mess, a stuff-up, when it happened.

The guts of this legislation is about removing choice from university students. It is about saying to those students: 'You students, uniquely in the Australian community, do not have freedom to decide what you belong to and how much you pay to belong to that organisation. You do not have the freedom to make that decision and, most particularly, you do not have the freedom to decide whether your money goes to that particular exercise or it does not.' When I have heard in recent days members of the government in this place talk about the pressure on working families, I can only remember that some of the most pressured members of working families today in Australia are people studying at tertiary institutions.

When I was at university, when Senator Mason was at university and when other colleagues here such as Senator Back and perhaps Senator Payne were at university, we had the great privilege of not having to pay university fees. That happened to have been because of the era in which we passed through universities, when the pressure that students face today was not there. Today, students do pay fees, and quite steep fees. As a community we need to be aware of the pressure that they are under, as they engage in their studies, to both work and study in order to get through their degrees. Being aware of that pressure, what does this government decide to do? Wouldn't a government that was cognisant of the pressure on working families decide that it could do something to help them by removing or relieving fees they would otherwise have to pay? No, not this government. This government has decided that, uniquely among all Australians, university students need to pay a compulsory fee in order to engage in a particular activity in the community, which is to study at a tertiary institution. They have to pay that fee, whether they can afford it or not and whether they will use the services or not.

Senator Polley talked about the wonderful things that are available on campuses—the childcare facilities, the food services and so on. I quite agree that, compared with what was available in my time at university, some of those services are quite good. But let me make two points about that. First of all, there are many people who, even with the best will in the world, cannot access those sorts of services. To take a small example, a member of my staff lives in Canberra and is studying at the University of Western Australia. My member of staff will have to pay the fees that this bill will impose on him—$263. He has never been to Perth. He is most unlikely to get there or spend any time there during the course of his degree, but he has to put in $263 every year in order to be able to access the right to study at that university by virtue of legislation the government is reinforcing today to impose a compulsory student fee.
The second point is that we generally give people in our society the freedom to assess what is good value for money. We give them the freedom to say: 'This particular organisation, this club, this association, this professional body, this sporting group provides a service which I think is worthwhile, it would suit my needs and I choose to belong to it. I will put my dollars into that because I get something out of it.' People in all sorts of areas of society and at every socioeconomic level have that choice and they exercise it on a daily basis. But the one people we do not give that freedom to are those who study at universities. Patronisingly, we tell these future leaders of our nation, because that is what we hope people going through our universities will be: 'You can't decide for yourself whether paying a fee to this organisation is in your best interests. We know it is. We will require you to join and to pay the fee to that organisation, in effect.' That is just disgraceful.

So why is the government doing this? It is in the government's interests, and I am sure the Greens will rush forward to support this contention, that student organisations be well resourced. It is nothing to do with services. Don't give me this rubbish that you want people to have access to child care, that you want them to be able to go and get subsidised meals. If I want childcare or if I want subsidised meals I can choose to belong to organisations to get those services. But you want those organisations to be well funded and you have decided that, rather than put that money in from the universities or from the public purse, you want students to stump up that cost.

**Senator Polley:** You're just totally opposed to it, just be upfront!

**Senator HUMPHRIES:** We will see with the passage of this legislation the reinforcement of this system where students are effectively required to make a choice, most of them involuntarily, to belong to organisations or to subsidise organisations that they do not believe are good value for money or they do not want to belong to or they actually disapprove of belonging to. This is most unfortunate. So, yes, Senator Polley, members on this side of the chamber have fought a very long battle about this because as a matter of principle we believe the choice ought to exist.

I belonged to student organisations when I was at university. I was active in student organisations. Patronisingly, we tell these future leaders of our nation, that is what we hope people going through our universities will be: 'You cannot decide for yourself whether paying a fee to this organisation is in your best interests. We know it is. We will require you to join and to pay the fee to that organisation.' That is just disgraceful.

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tax. It will come to the stage soon where students will be going to Mr Bumble the beadle and saying, 'Please, sir, can I have more?' We all know that Mr Bumble will bellow back 'More!' because it has all been spent and there is none left.

The only reason, as has been outlined by my colleagues Senator Humphries and Senator Mason, that we are considering this at all has been a failure of the government to place its legislation before the Senate on a previous occasion. A very, very wise person said not so long ago in this place, 'It is not what a household or a business or a country or a government does; it is how well it does it.' It is not what it does; it is how well it does it. Do we not see evidence this evening of the failure of this Labor government in how well it has done it—in how poorly it has presented before this place the anomaly which we are now asked to try and address, and that is a discrepancy of $13, being $263 vis-à-vis $250?

We have a senator in this place whose parents came to this country as migrants. It did not matter what they did in their employment. What did matter was how well they did it. In a sense, the indicator for them as to how well they did it was to see their son come into this place. How well have that same man and his spouse done what they have done when only last weekend he had the opportunity to view his daughter receiving her doctorate? What an amazing story in three generations has played out this week in this Senate. That is the action of a household holding to that principle of not what they have done but how well they have done it. The Kodak company introduced digital photography and did not do it well. As we know, they are now in bankruptcy.

I turn to the performance of the Australian government. In this place in recent days, and in late November last year, we have seen the government, in combination with the Greens political party, fail to enable this Senate to do its work and allow senators to stand in their place in this chamber and represent the views of their constituents and their states in the very vigorous debates that have taken place. No doubt we will see more evidence of that this evening. A carbon dioxide tax—not a carbon tax but a harmless odourless gas tax—is going to be imposed on the citizens of this country that we are not yet contemplating. But, of course, it is another example of this government failing in the sense of how well it has done its task.

I now move to the question of university education. Let me outline in this same vein what my colleague Senator Mason espoused to Universities Australia the other day absolutely in concert with the principle of it is not what you do but how well you do it. Senator Mason made the observation to the vice-chancellors of Australia that the Liberal-National Party higher education policy is about quality and standards, not only about numbers. Time does not permit me this evening to reflect on the failures of Labor governments going back to Kim Beazley Sr and the Hon. John Dawkins in their failures in educational policy in this country. But I do look forward to the opportunity of spelling out those failures which have led to the very high incidence now of the need for 457 visa holders to prop up the necessary expansion in our country and in the state that you and I, Mr Acting Deputy President Bishop, represent. There is the fundamental difference. This side of the chamber wants to address itself to how well it does it. The other side is only interested in what it does. I suggest to you that it is outcomes in higher education that count. It is those who graduate from our institutions of higher learning, not the numbers that we put in.
If time permitted I would reflect more accurately on the fact that it is not low socioeconomic students historically in this country who have been the disadvantaged ones in attaining higher education. It has been those in rural and remote areas of the state who have not been able to get to universities in the cities to undertake university studies because we do not have a policy in this country which allows those who must travel away from their homes to receive financial support.

Reference was made here to dentistry and veterinary science. I thank Senator Polley for her comments on that, but I must correct my colleague Senator Mason. He made reference to his time at the University of Queensland as being a languid liberal education. Let me assure you, Senator Mason, across the campus in St Lucia, down where the vet school was, there was no languid education; it was a very, very serious and hardworking education. For what it is worth, for those who think costs these days are high, we from other states of Australia had the undeniable privilege of paying 150 per cent of the student fees. I am pleased to see Senator Sterle come into the chamber because—I am sure I will not embarrass him—it was about him and his family that I was referring earlier when I commented about the quality of a family that saw the principle in the criterion of how well that family has acted in the achievements of that family. That fact that you are here, Senator Sterle, pleases me from that point of view.

Going back, if I may, to this amendment: it says in the case of veterinary science that the amendments as proposed will restrict a student's use of the HECS HELP system to only those studies which result in a qualification recognised as the minimum by the governing body rather than the existing system, which allows students to continue studying until they have specialised. I think that is a ridiculous amendment. Already veterinary science students in their undergraduate programs study for six years. Surely, with the challenges we have in biosecurity, One Health issues, viral diseases and those others affecting this country and the region in which we exist, the last thing we should be doing is cutting off financial support at the end of their undergraduate years. It might be of interest to those in the chamber to know that veterinary science is the most expensive course at university; and, while it is not relevant to this discussion, it is lamentable that at the end of a six-year course of study—probably one of the hardest at universities—the average length of time for full-time members of the profession now is 3½ years. Three and a half years in a profession that took them six years to get their undergraduate degrees for. So I am not happy with an amendment which cuts off that financial support at the end of that period of time.

Let us reflect for a moment, if we may, on whether or not students actually want this compulsory student fee or unionism. A study undertaken at the time this matter was being reviewed indicated that 59 per cent—almost 60 per cent—of students polled opposed compulsory student fees. A second point: only five per cent—one in 20—bothers ever voting in student union elections. Senator Mason is quite right, as is Senator Humphries: the demographic has changed completely from a scenario where we all went from school to university and those from low-socioeconomic families, as indeed I was myself, either received Commonwealth scholarships or undertook cadetships in which departments paid for our education. Today, of course, we know that two-thirds of students are not full-time students straight from school. We know a very high proportion are now in the workplace. We know that their university study is not part of
a languid liberal experience but in fact something they do to achieve a qualification so they can improve their status, their career opportunities and their earning ability. So they do not want the sorts of services which are now compulsorily going to be applied to them.

We know, for example, that there are some 200,000 external students who will never, ever use the services of this annual $263. We know that, whether a student is full time or part time, they will be paying the $263. In fact, I checked recently with a student who is enrolled at two universities in Perth undertaking different programs and will be called upon to pay, I understand, not $263 but double that sum of money: $516. So there are many anomalies in this particular activity.

We know that the generation Y students are averse to club membership. We need only have a look at sporting clubs. We need only have a look at service clubs in this country to know that the same young people who are very keen on a game of squash, tennis or cricket are not willing to join clubs; they would rather make private arrangements for that recreational pursuit. They are not akin and attuned, as we were in the postwar period, to actually joining clubs. They have no interest in these sorts of services and facilities. There is no good reason why they should be compulsorily paying these fees.

There is one other point that I think is important, and that is that the university students of today are the business and government agency leaders of tomorrow. They are the people who we expect to lead the Australian community, this nation and the region into the future. Do we want a scenario in which we are encouraging a level of compulsory payment for a service that they will not want by a group of people who understand that those are not the sorts of offerings that will be made to them?

I conclude my contribution to this debate in this way. It is the case that we are discussing it in the first place simply because of a failure: a lack of discipline of this government. We originally were asked to look at a proposal involving $250 per annum. This side of the chamber opposes that anyhow. It was due to slackness and laziness. It was due, in fact, to an inability to manage the legislative process that caused us this evening even to be addressing this position. I say again that this simply is an example of adherence to the key performance indicator of this government: the extent to which it can rip off its unsuspecting citizens without them knowing it or until such time as it is too late for them to take any action. I recommend that this chamber rejects this amendment, as it so richly do. There is no occasion at all in which we should commend this government for its failure to manage legislation, to bring it before the chamber and to have it dealt with in a way that is acceptable not only to the Senate but to the parliament and to the people of Australia.

The PRESIDENT: The time for consideration of this bill has expired. The question is that this bill be now read a second time.

Question agreed to.

Bill read a second time.

The PRESIDENT: The question now is that schedule 1, items 2 and 4 stand as printed.

The Senate divided. [20:20]

(The President—Senator Hogg)

Ayes ......................36
Noes ......................30
Majority .................6
Bill read a third time.

**Road Safety Remuneration Bill 2012**

**Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012**

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

**Senator ABETZ** (Tasmania—Leader of the Opposition in the Senate) (20:22): The proposition that remuneration equates to safety is flawed. It has no basis in fact. Yet this flawed and unsubstantiated thinking is the basis on which the Greens-ALP alliance comes before this place advocating for the Road Safety Remuneration Bill 2012 and the Road Safety Remuneration Bill (Consequential Amendments and Related Provisions) Bill 2012.

Honourable senators interjecting—

The PRESIDENT: Senator Abetz, you are entitled to be heard in silence. Senators not participating in the chamber, leave silently, please.

**Senator ABETZ:** It is ironic that we are discussing a proposal for a separate authority with a separate set of laws for the road transport sector when the ALP's vehement opposition to the Australian building and construction commission was based on the so-called principle that we need one set of laws for all. So a special authority for the building and construction sector is described as unconscionable and unprincipled and it is said that it should be abolished, and so the gaggle of ex-union bosses and their Green alliance partners voted. Yet here we are, just two hours later, with the same gaggle voting for a separate authority with separate laws for the road transport sector. All of a sudden a separate authority and separate laws are good. It is principled and it needs to be implemented! This forked-tongued approach
to public policy, disappointing as it is, should not surprise. It is in tune with promising that there will be no carbon tax and then implementing it.

Let’s talk about the carbon tax and its impact on road safety. Labor senators may laugh. Senator Sterle may take a fit in his seat—I do not know what he is doing—but let me remind Labor senators of some quotes. It has been said:
Under the carbon tax, drivers will be forced to do longer hours, sweat their trucks further, have less maintenance, and that means more deaths.

And it has been said that changes in fuel tax credits and excise levels ‘will result in more truck driver deaths and related harm unless drivers can fully recover their costs’. The quote goes on:
Truck drivers are approaching the union and asking how they can ensure the tax will not just be another hit on running costs that they won’t be compensated for. I reckon that’s a pretty good question.

Isn’t it amazing? The Labor senators have now gone quiet because they recognise the person who said all these things: none other than the national secretary of the Transport Workers Union, Mr Tony Sheldon. He was deliberately linking the carbon tax with the possibility of more deaths on our roads for the road transport sector. That is what Mr Sheldon said on Ten News on 11 July 2011. So here we have it. We know, courtesy of the national secretary of the Transport Workers Union, that if you genuinely wish to reduce road deaths then you would repeal the carbon tax.

Senator Jacinta Collins: No, he didn’t say that.

Senator ABETZ: What he said, Senator, was:
Under the carbon tax, drivers will be forced to do longer hours, sweat their trucks further, have less maintenance, and that means more deaths.

Whether Senator Collins likes it or not, that is what a current trade union boss has said. So we know, courtesy of the national secretary of the Transport Workers Union, that if you genuinely wish to reduce road deaths then you would repeal the carbon tax.

But, the carbon tax having been foisted on the road transport sector, the Transport Workers Union clearly flexed its muscle and demanded this legislation as their price to go quiet on the carbon tax, as they unconscionably have.

The carbon tax, which was going to cost truckies’ lives according to Mr Sheldon, all of a sudden is no longer an issue, because the Transport Workers Union has been bought off with a separate, expensive tribunal—a tribunal which can issue road safety remuneration orders with respect to remuneration and related conditions on its own initiative if it is in relation to a matter identified in its work program or, at its discretion, on application from an industry participant or an industrial association with respect to something that is, or is capable of being, included in the tribunal’s work plan. The road safety remuneration orders will—get a load of this!—override a Fair Work Australia award or agreement if the order is more beneficial than the Fair Work Australia document—either award or agreement. What a huge vote of no confidence in Ms Gillard’s Fair Work Australia regime. The regime that was going to cover all workers and deliver justice for all workers is, all of a sudden, not good enough. We now need another body to override the decisions and determinations of Fair Work Australia to get a better outcome for the Transport Workers Union, who have been so very badly dunned in relation to the carbon tax. This, of course, is all being done in the name of reducing road fatalities involving the road transport sector.

But according to the Bureau of Infrastructure, Transport and Regional
Economics, during the 12 months to the end of June 2011, 185 people died from crashes involving articulated and heavy rigid trucks, a figure that, I am sure, is sobering for all of us. For articulated trucks, that actually represented a decrease by an average of 3.5 per cent per year over the three years to June 2011. For heavy rigid trucks, it was a decrease by an average of 14.7 per cent per year over the three years to June 2011. So we are actually seeing a reduction in road fatalities involving the road transport sector in raw figures and percentage terms, in circumstances when the road freight task of this nation has been increasing exponentially. As we have been getting even more and more trucks on our roads, one would anticipate on the law of averages that the accident rate and, as a result, the fatality rate might increase. But no: as the freight task has grown and there are ever more trucks on the road before, the rate of fatalities has in fact decreased.

Interestingly, it is clear that the attempt to link road safety and remuneration rates and conditions for truck drivers assumes that the overwhelming majority of road accidents are actually the fault of the heavy vehicle driver. That is false and does a great disservice to those truck drivers. NatRoad makes the point that research by the New South Wales Roads and Traffic Authority concludes that the heavy vehicle driver is at fault in only 31 per cent of fatal crashes involving a heavy vehicle. They go on to say that it cannot be expected that driver remuneration will have any bearing on the remaining 69 per cent of fatal crashes involving a heavy vehicle. They go on to say that it cannot be expected that driver remuneration will have any bearing on the remaining 69 per cent of fatal crashes involving a heavy vehicle. The bill, even if it does all it alleges it will do, will do nothing to address the causes of the other 69 per cent of crashes. That in itself exposes the myth and the cynical use of road safety for this particular piece of legislation. That is because well over two-thirds of the crashes and fatalities of which we speak—indeed, 69 per cent—are not related to the truck or the heavy rigid vehicle in any way, shape or form. Yet somehow, miraculously, if we are to pass this legislation then we will get rid of these very unfortunate and regrettable fatalities. There is no logical basis to link remuneration with road safety. Indeed, we have seen an ever decreasing rate of fatalities involving trucks as the road haulage task has been ever increasing.

Let’s turn to the issue of red tape. The heavy vehicle industry is already subject to numerous regulations and legislation relating to driver safety, at both a state and a national level. These include independent contractor legislation, workplace health and safety legislation and the soon-to-be-implemented national heavy vehicle regulator. NatRoad points out:

There are existing laws that apply to wages, conditions, contracting arrangements, road use, vehicle standards, fatigue, speed, mass, dimension, loading, substance abuse, record keeping as well as general workplace health and safety obligations.

This bill will add further complexity to an already bureaucratic area. In New South Wales, for example, the bill will be the fourth layer of regulation for driver fatigue.

Senator Sterle interjecting—

Senator ABETZ: It looks as though Senator Sterle, yet again, is suffering from fatigue, although he is not driving anything anywhere, least of all his own career.

Senator Sterle: I’m sick of listening to your crap.

Senator ABETZ: What a charming individual. These ex-trade union officials cannot help themselves, can they, really.

The ACTING DEPUTY PRESIDENT (Senator Boyce): Senator Abetz, please address your statements to the chair. Senator Sterle, I did not hear you clearly but please
be careful about the language that you are using.

Senator Sterle: I'll save it for outside, Madam Deputy Chair.

The ACTING DEPUTY PRESIDENT: Thank you.

Senator Abetz: The sort of language we just heard from Senator Sterle is the great intellectual height to which they soar when they cannot deal with the issues and the facts that are being laid on the table before them. Do they seek to dispute the facts from the relevant bureaus? Do they seek to dispute the statistics? Of course they do not, because they cannot. So what do they do? They descend into the gutter and use the sort of language that we were just subjected to from Senator Sterle.

Senator Sterle: I've got more. I'll just save them for outside.

Senator Abetz: He interjects and tells us he has got more. I have no doubt that that senator across there would have more of that sort of language. That he is proud of it is just, quite frankly, astounding. But let us not be too distracted from that which is before us, and that is the huge layer of red tape that will be imposed over the sector for no discernible road safety benefit or dividend.

The bills would also erode the concept of an independent contractor, something that the trade union bosses are so very desperate to do. They see every independent contractor as somebody who is aspirational, someboody who wants to be their own boss, somebody who wants to move ahead in the world, and they would like to see them as an employee subject to the dictates of a trade union boss. These bills would also cover, regrettably, independent contractors, who are currently outside the jurisdiction of the Fair Work Act. In doing so, the bills will create a new class of employment relationship that is neither employer-employee nor a hirer-independent contractor. This will remove the independence of owner-drivers and will significantly reduce their autonomy.

The Independent Contractors Association argues that the actions of a small number of dangerous drivers who are already breaking existing laws is being used as a justification for making owner-drivers subject to provisions similar to those in the Fair Work Act. The Civil Contractors Federation argues that a consequence of issuing road safety remuneration orders to owner-drivers would be the setting of a floor price or benchmark which may not take into account the individual specifications of a particular job. An operator who has 10 years experience in a particular type of cartage would be rewarded the same as an operator who has little or no experience. This point is picked up the Independent Contractors Association, which argues that the price fixing element will reduce competition, increase prices and lead to a less efficient and less effective transport sector within our nation.

By reducing the autonomy independence of owner-operators, the bills will have a significant impact on the state of employment relations in our nation. We will for the first time have a new type of employment relationship whereby independent contractors in the heavy vehicle sector are treated differently to independent contractors in any other industry. Indeed, if we go through the coverage of the bills we note that they will only cover approximately 80 per cent of employees and 60 per cent of owner-drivers because of the constitutional limitations on the bills. It is the same as Labor's so-called claim in relation to small business tax deductions and the lower rate of tax, which only applies to companies and not to the 70 per cent of small businesses that are partnerships or sole traders.
In dealing with the definition of the road transport industry, it is interesting that even a body such as the Post Office Agents Association in their submission to the House inquiry—

Senator Sterle: Them grubs.

Senator ABETZ: And Senator Sterle has another outburst.

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

Senator ABETZ: These are individual business—

Senator Sterle: Touched a nerve, have I?

Senator ABETZ: You have, Senator Sterle. Senator Sterle has touched a nerve with his interjection. This constant denigration of small businesspeople by the likes of Senator Sterle does get under my skin because I have no difficulty in seeking to champion their cause and no difficulty in championing the cause of the Post Office Agents Association which was outlined in their submission to the House inquiry. They stated, 'It seems unlikely that the bill would improve road safety for mail contractors.' And yet they could well be caught by this bill. What a ridiculous situation to observe: mail contractors are now in the same situation as the long haulage truck drivers.

We as a coalition believe that there is an alternative. The coalition is in favour of a multifaceted, holistic approach to improving road safety in the heavy vehicle industry. This will include better roads, awareness programs, education initiatives, industry codes of conduct, building more rest stops and passing lanes, and looking at ways to use technologies to improve road safety. The New South Wales branch of the ATA noted in their submission to the House inquiry that mandatory safe driving plans for long haul drivers, GPS tracking devices, full compliance with work health and safety regulations and fatigue and speed laws, as well as the adoption of suitable industry codes of practice, are the best ways of delivering enhanced safety and fairness across the road transport industry.

The Australian Logistics Council also notes the success of voluntary industry codes and the national chain of responsibility and fatigue management requirements that will be contained in the NHVR. The coalition in principle supports all of those initiatives and sees them as a more viable way of improving road safety in the heavy vehicle industry. The coalition opposes these bills, realising that the bills, while dressed up as road safety bills, are in fact another grab for power by trade union bosses. (Time expired)

Senator XENOPHON (South Australia) (20:43): I will be supporting the Road Safety Remuneration Bill 2012 and the Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012, and I will outline my reasons shortly. Before I do, I want to reflect on a couple of issues. Firstly, the government—and this was a point that was made very well by Senator Fisher—says that the ABCC is discriminatory because it deals with a particular class of employees and that there ought to be one rule for all. I am not necessarily against the idea of different rules in different areas. Sometimes there are compelling reasons to take a different approach on an industry by industry basis. That is why I am not necessarily against the abolition of the ABCC or its functions. For that reason, I do not think that it is inconsistent for me to support a specialist tribunal if the focus is safety. There is another issue at stake here. The opposition says that this is about an industrial matter rather than a safety matter, in a sense. I want to make this clear, and it is perhaps something that the opposition has not made
clear: I have serious concerns about the modern award system in its current form. I have serious concerns about small businesses who tell me that they are shutting their businesses on Sundays because they cannot afford to pay people double time. I have concerns that there are young people—students—who tell me that they are quite happy to work for time and a half, not double time, because it is not economical for the business to stay open. I think that is a debate that we have to have.

But I see this bill in a different category. I think that this bill is about issues of safety and that these are quite distinct from the issues that relate to small businesses, because of the influence of Coles and Woolworths with regard to this industry. This bill is about taking a national approach to safety issues relating to pay and conditions in the road transport industry. It establishes this tribunal, the Road Safety Remuneration Tribunal which, importantly, will be empowered to resolve disputes between drivers, hirers, employers and participants in the road transport industry supply chain. That is important because there is a complete disparity of bargaining power in that supply chain, and the drivers are the ones who are often the most vulnerable. They are the ones that cop it in terms of fatigue and a whole range of issues.

I just want to make it clear to my friends in the government and in the opposition and, indeed, the crossbenches that I think there are some industrial things that we are making a mess of in this country and that the modern award system is coming up with a whole range of presumably unintended consequences that are really hurting small businesses, but this bill is a very different approach.

The tribunal will be able to inquire into issues and practices within the road transport industry and to determine mandatory minimum rates of pay and conditions for employed and self-employed drivers. Road transport is a growing industry that employs over 246,000 Australians and accounts for over 1.7 per cent of Australia's total GDP.

We need to make sure that this industry is safe, not just for the drivers but for every other road user in this country. This industry has the highest incidence of fatal injuries of any industry in Australia, with 25 deaths per 100,000 workers in 2008-09, making fatalities in the road transport sector 10 times higher than the average for all industries. That is not to mention other road users who get killed or injured in trucking incidents.

Last week I was visited by Lystra Tagliaferri, who bravely came to urge me to support this bill. With Ms Tagliaferri's permission, I would like to share the story of how her late husband, David, was killed, and her own courageous response.

Last year, David was stopped on the side of a Western Australian road. He had a flat tyre, which he was changing with the help of another motorist. While the two men were changing the tyre an out-of-control truck veered off the road straight into them, killing both men. The truck driver had been on the road for 13 hours and was found to have taken antidepressants and diazepam, which had contributed to the accident. The driver had also taken a small amount of marijuana, but this was found to be non-contributory to the crash.

The driver pleaded guilty—and he deserves credit for pleading guilty, rather than contesting it—to two counts of dangerous driving causing death. The driver has been imprisoned. I said before that Ms Tagliaferri has been courageous in her response, as not only has she found it in her heart to forgive the truckie but to ask questions as to why he was driving so
erratically and drugged up to try and prevent this from happening to other families. I think it is important to note that David was just 44 years old and left behind two young children.

Ms Tagliaferri, along with David's sister, Ms Sawyer, are seeking answers as to what the company's role was in this and where the law sits in these sorts of circumstances. I will be supporting the application to have the Western Australian coroner look into these matters. I think it is important that there be a coronial inquest. I will do everything that I can to support such an application for the coroner to hear this matter.

Today we have the opportunity to clarify where the law sits, and to protect truckies from the insidious pressures that come down the supply chain—and they are insidious pressures. Our nation's truck drivers face unrealistic and often impossible deadlines and schedules. This results in truckies driving too far, too fast and for too long. In these circumstances our truck drivers are set up to crash, with deadly consequences. Their rate of accidents is unacceptably high.

We need to ask who set these impossible deadlines and schedules that result in the road industry being the deadliest in Australia. It is no secret that a very substantial proportion of trucks on our roads each and every day are carrying goods for major retailers. The market dominance of retailers such as Coles and Woolworths allow them to dictate to transport companies and truckies on delivery schedules and price. There is a real issue of drivers being forced to queue, unpaid, for hours to load and unload at the depots of Woolworths and Coles, forcing drivers to then work long hours to make a buck.

I believe that this bill before us goes some way to addressing those issues, to ensuring that truck drivers are properly remunerated and not forced into impossible schedules. I believe that, in delivering food to our tables, truckies should not feel so pressured that they resort to substances to keep them awake—dangerous substances that increase the risk of a crash. I find it remarkable that we are here debating to give truckies a fair go, to remunerate them properly and also to remove those pressures on supply lines. I see the pressures in our horticulture sector, where farmers are too scared to speak out against Coles and Woolworths because they feel so intimidated and fearful. The same thing is happening in this industry.

I think this is an issue in my home state of South Australia. I know that Steve Shearer, who represents trucking companies and who is a person I actually have a lot of regard for—

Senator Sterle: I don't!

Senator XENOPHON: Senator Sterle says he does not; I do. I have worked well with him on a whole range of issues, and I am happy to engage Mr Shearer, who has expressed real concerns, about this because I do respect him. I think that such is the nature of this industry and such is the nature of the pressures that we have that it is essential that we tackle this once and for all.

I just want to conclude by referring to a couple of other things. I have heard stories of employees accepting cash payments, still at rates higher than what they are normally paid, simply because if they did not the employers would not be able to open as penalty rates are too high. That goes to other industries, and shows how the system can be manipulated. I think that it is important that there be fair remuneration, but that is something that our truckies do not have the luxury of. In the trucking industry, truckies are forced to wait around, unpaid, while their trucks are loaded and unloaded. There are no penalty rates in sight for them and they have to work excessive hours in order to make a
living and to pay for their trucks—often they are owner-drivers.

To those who say this bill is purely about industrial purposes, I do not believe that is the case. It is about having safer roads, and that involves decent remuneration—not excessive remuneration—it is about protecting drivers from those who dominate supply chains, forcing truckies into impossible schedules, and it is about safety. It is about having drivers who are not too tired, it is about having drivers who do not need to resort to drugs—which is unacceptable on any occasion—and it is about drivers having the support they need to do the job well and safely.

Ultimately, it is about saving lives. I think the time has come to have an industry that has one of the best rates of safety in this country, not the worst. I believe that this bill will go some way in achieving that. I support the bill.

Senator GALLACHER (South Australia) (20:52): I rise to speak in support of the Road Safety Remuneration Bill 2012 and a related bill. After a lifetime in the transport industry, and as a member of the TWU for 35 years and an official for 23 years, I want to set all that aside to talk about my experience in road safety. I was appointed acting transport commissioner of the National Road Transport Commission by the then minister for transport, John Anderson. I was appointed by the Governor of South Australia to the Road Safety Advisory Council of South Australia, and I was also appointed by the Governor of South Australia to the Motor Accident Commission as a director for some five years. But I will set aside my union experience to talk about my experience in the road safety area.

We see 250 deaths a year and 1,000 injuries. Unfortunately, deaths are quantifiable; you can put a dollar value on the death. You can quantify it; it can be insured and paid out and the grieving families will deal with their grief, bury their dead and get over it, albeit they will remember their loved ones forever. But, when it comes to 1,000 injuries, insurers, families and the people who act as directors of the Motor Accident Commission dread those 1,000 injuries. A closed head injury can cost $5 million to $6 million. The families will live with that all of their lives. We are killing 250 people, and we have 1,000 injuries, and we have a transport task that is set to double.

Today I heard Minister Shorten asked whether this will bring the road toll down. He was very careful in his answer, and he covered all bases. But the reality is that, with the transport task set to double, it is unlikely that the road toll will be brought down and it is unlikely that the number of injuries will be brought down. But what we can do is put in place safe systems of work for people who carry this economy, people who work as hard as is humanly possible and who work when most Australians are asleep. They work at the wrong time of the day in relation to their circadian rhythms, so we really do have to do something about road safety. To write this off as a cynical exercise in union power is completely misleading. The cost of these injuries to the national economy is estimated to be about $2.7 billion. If we look at the transport task doubling, then we can add zeros to that.

Now fatigue is inseparable from remuneration. If a driver is held over for four hours in a loading bay and then needs to go on and complete his task of earning a decent living for his family, his decision is simple: do I feed my family or do I pull up and go home with half a day's pay? These things are quite clear and unequivocal. The driver who decides, after being held up for four hours, to work out the rest of his allotted kilometres—
to earn the wages to feed his family, to keep the company that he is employed by in work with a supply chain participant who is merciless—will accumulate a sleep debt. There are a couple of things you could do. You could stop eating—you could probably go for three or four weeks without eating—or you could stop drinking for a few days. But you cannot stop sleeping. You will accumulate a sleep debt and, when that debt is due and payable, you will go to sleep. Unfortunately microsleeps of three to five seconds at 100 kilometres an hour can have tragic consequences. If the pilot of a jumbo jet happened to have a microsleep of three seconds while landing the plane, everybody would be thinking, 'Gee, that is a huge problem.' It is no different with a B-double truck of 53 tonnes.

Senator Xenophon mentioned a coronial inquiry. Let me tell you about the first coronial inquiry into transport. According to Dr Philip Swann, it was around 1740 in the County of Sussex. A carter and his driver were killed. A coronial inquiry was held which ruled two remarkable things: (a) the driver had fallen asleep because he was tired and (b) the horse was blind. Now at the Remote Areas Conference in Alice Springs a number of years ago, I asked all the operators in that area: how many blind horses are your drivers in charge of? The answer was 500 to 600, because that is the horsepower of trucks that we currently operate. So, in road safety terms, we must pass this bill in order to protect the travelling public of Australia; allow truck drivers who start in good shape in the morning to return home to their families; take off the pressure, which is merciless, that the supply chain providers put on the companies and ultimately the drivers; and simply allow truck drivers to have a decent living and a fair wage and get home to their families in one piece.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (20:59): No-one disputes the issues of road safety. They are at the forefront of everybody's mind. The issue of truck drivers being able to stop is something on which there has been a lot of concentration. The issue here is how much you pay truck drivers. Is it determined by a panel that can be dominated by—to be honest—TWU members and safety issues? That is what we need to concentrate on. We are completely mindful of making sure we do everything in our power to make the roads safer. To be honest, we will be moving for inland rail—getting back to short-haul road transport and trying to get as much long-haul road transport onto rail as we possibly can. But there is nothing in this bill that will protect road safety per se. The government has provided no evidence that greater pay will reduce road accidents and fatalities. We all want to be paid more; that is a natural human aspiration. But it is the same argument as this: if we pay doctors more, will they be more successful with their operations? I do not think so; they are probably doing the best job they can at the moment. If we pay bricklayers more, will they be better at laying bricks? Probably not, but they will probably try to lay a lot more bricks than they currently do.

One of the concerns we have is that, if we go away from paying a salary and instead pay according to the amount of work done, it is motivation to do more work—and that means you are going to be more tired. If this bill is about safety, why has the government transferred responsibility from the Department of Infrastructure and Transport to the Department of Education, Employment and Workplace Relations? Industry representatives, truck drivers and small business owners question whether a link can really be made between remuneration and road safety. No-one doubts
for a moment that people want to be remunerated at the highest possible level they can get; that is the natural instinct of all people who work, including me and everyone in this chamber. But does this legislation make the roads safer? I do not think it does. If it does, the evidence has not been presented to the Senate in a form that wins the argument.

In their submissions to federal inquiries, reputable industry bodies such as the Australian Logistics Council and the Australian Industry Group clearly say they do not believe there is a link between road safety and remuneration rates; they certainly say it has not been proven. NatRoad's theory is that drivers will, for a time, increase their labour availability in response to higher wages. That is what most people do—because higher wages are a reward and generally increase their incentive to work while decreasing the relative attraction of leisure time because of its greater opportunity cost. In essence, if you get paid more per hour then you are going to try to work more hours. If you work more hours, does that make you safer? Not necessarily. It might make you wealthier, it might make you better remunerated, but it does not necessarily make you safer. Even the Ai Group has doubts. They stated:

Even if a causal connection between remuneration and unsafe practices is presumed to exist it does not follow that establishing higher minimum rates or prohibiting certain methods of payment will result in drivers changing their unsafe practices.

There are so many other issues that need to be addressed for owner drivers, such as registration rates on trailers and trucks. As much as possible, these issues need to be addressed. This is an area where people are being done over.

Also, we do have concerns about how the major retailers are treating owner-drivers. We do have a concern that not only are they being exploited but so are farmers. We have tried to be as vociferous as we possibly can on that. We have stated the case on behalf of dairy farmers and vegetable growers, who, like truck drivers, are just small business people. But we have not yet been convinced of the argument that paying people more money, by means of a tribunal, to grow more lettuces makes them a safer tractor driver or that paying them more for a litre of milk, which they probably deserve, makes them a safer dairy farmer. Likewise, does paying them more money to drive a truck make them a safer truck driver? We are not engaging in an argument about whether people have been exploited. We are engaging in an argument—because it is the premise of this legislation—about whether a connection has been made between the rates being paid and the safety outcomes on the road.

Senator John Williams was a truck driver, so in the National Party there are strong sympathies with the issue of the exploitation in owner-driver pay rates. We are aware of those issues; we are not blind to them. Discussions have been held even tonight about what this issue means. Without labouring the point, the premise of this is that there is a connection between how much people are paid, as determined by a tribunal, and how safe a process is. But we think it goes beyond just that.

These laws require a business to ensure that workplace risks are 'as low as reasonably practical'—ALARP. Not only has this legislation not been given the opportunity to prove its effectiveness but, as the Australian Logistics Council notes:

There is a direct collision between the philosophy of this Bill, which raises the spectre of inserting command/control regulation in an area where other laws require the application of ALARP principles—which in one way places greater burdens on operators as ALARP implicitly
requires implementation of 'best practice' and continuous improvement.

Additionally the Ai Group has suggested that the regime undermines the operation of the Fair Work Act by overriding decisions of the existing industrial tribunal. By implication, the Fair Work Act must be flawed and unable to produce appropriate remuneration and conditions for the employee truck drivers, which is something that should be taken up in the Fair Work Act rather than being dealt with in this bill. Employees in the heavy vehicle industry are already subject to the modern award principles of the Fair Work Act. Does this lead to a conclusion that the minister believes that the government's Fair Work Act provisions are not working, or is the bill an attempt to push up the wages for truck drivers? If there is an issue with the Fair Work Act, the Australian Labor Party should deal with it through the Fair Work Act.

This bill is yet another layer of red tape for businesses and the heavy vehicle industry to deal with. The industry is already subject to numerous regulations and legislation at both the state and national levels relating to driver safety. These include independent contractors legislation, workplace health and safety legislation and the soon-to-be-implemented National Heavy Vehicle Regulator. NatRoad points out:

There are existing laws that apply to wages, conditions, contracting arrangements, road use, vehicle standards, fatigue, speed, mass, dimension, loading, substance abuse, record keeping as well as general workplace health and safety obligations.

The bill will add further complexity to an already bureaucratic area. In New South Wales, for example, the bill will be the fourth layer of regulation for driver fatigue. One would note, by listening to channel 40 on any night on the Newell Highway or any of the major roads, drivers continually dealing with the issues of regulation, especially, and necessarily, in fatigue management and weights. These are issues of safety and I suppose they are necessary encumbrances, but a direct correlation between how much they are paying you to do a job and safety is not clearly drawn. What is clearly understood is that, if you have a centralisation in any marketplace and you have two major players—say, Coles and Woolworths—who have the capacity to determine a rate, you are probably going to get done over—and that does not just go for truck drivers; that goes for dairy farmers, vegetable growers and a whole range of people who are trying to deal with this issue.

To be honest, this is something that the National Party has been harping on for a long while and being derided about—sometimes by our own side, to be honest, and sometimes by Dr Craig Emerson. He gives a splendid rendition of how evil we all are for bringing these sorts of things up. Maybe I look forward to a time in the future when there can be a bit more understanding across the chamber on issues where certain people and certain industries are getting done over. Maybe we might be able to, in a joint way, understand the issues that are not just exclusive to truck drivers but may also be part and parcel of other issues—not just for the TWU but for farmers as well.

Without labouring the point, we are not emphatically opposed to this. We oppose it, but we are not going to town on it. We understand and have strong sympathies with owner-drivers. We understand the complexities and the discrepancies and the corruptions and the mechanisms by which they should be paid a fair rate for what they do. But in this instance we do not believe that the argument has been clearly drawn in the Road Safety Remuneration Bill on the premise that there is a clear connection between road safety and what people get.
paid. I am not casting any aspersion at all on whether what they are being paid is fair. That is a completely separate issue. It is like the fact that we do not believe that many farmers are being fairly paid but we do not think that paying them more—although they should be paid more because that would be fair—is going to make them safer farmers; it will probably just mean they are being dealt with in a fairer way.

Senator STERLE (Western Australia) (21:11): I acknowledge the contribution from Senator Joyce. Senator Joyce and I have a lot in common. Some may not think that, but we entered the parliament together and we do enjoy each other's company. Like you, Senator Joyce, I do believe Australia's farmers are getting a pretty rough deal.

I would have to say that, in the seven years that I have been in this building, this would be the crowning achievement of my political career, although Senator Abetz may think it is going nowhere. I can inform all those in the chamber that 30 years of my working life has been dedicated to the improvement of conditions for Australia's owner-drivers and Australia's transport workers. As everyone in this building knows, even though Senator Abetz may not like it for himself, when I rise to talk about road safety and the issues facing Australia's trucking industry and Australia's truckies, unlike Senator Abetz I know what I am talking about. I have been a small business man. I know what it was like for my wife in the early days to be sitting there worried sick because the phone call had not come when I was supposed to be in Fitzroy Crossing, or I may have been supposed to be in Port Hedland that night and the reverse charges phone call did not come on the Telecom box, because I did not have a mobile phone.

I suffer this myself at times. Senator Abetz, you really should be in the chamber and you will get a lesson in what actually happens in Australia's trucking yards and Australia's trucking families. My 21-year-old son, who I am so bloody proud of—I am sorry; I am so damn proud of—is a young Australian truckie. He is 21 years of age and he is busting his backside to get his road train licence so he can start line hauling. He is driving semitrailers around Perth and he carts to the mining companies in Western Australia's north-west. When my son says to me, 'Dad, I'm going to be in Meekatharra tonight at eight o'clock; I'll give you a buzz,' and that phone call does not come through, every parent in this building and every parent listening would appreciate the tightening in my gut when I think, 'Where the hell is he? Is everything all right?'

My father was a truck driver, so I am second generation and my boy is third generation. We have actually had a doctor sneak into the family—I do not know where she came from! When my father was out trucking, carting furniture across the Nullarbor for Gills Transport, I was too young to appreciate the dangers that he went through every fortnight, pedalling that little bucket of nuts and bolts across the paddock. But my mum was not too young. My mum knew darn well what was going on. And we did not even have a telephone.

So I get a little bit annoyed when I hear the tripe from Senator Abetz, when he attacks my credibility on this issue. Was I rude to him, Madam Acting Deputy President? Yes, I was, and you pulled me up—and I tell you what: there is a bit of me burning in my gut wanting to be a lot ruder to him. How dare he treat me like this! But I will carry on the conversation outside, Senator Abetz, and in fact I will throw another challenge to you. Your mate Mr Truss would not take up the challenge: challenge me to a debate on road safety and the link between road safety, remuneration...
and fatigue and our truckies getting home each night to their families. Let us take the fight out there, Senator Abetz. Come on out, mate! You pick the states; you pick the trucking yards!

The ACTING DEPUTY PRESIDENT (Senator Boyce): Order, Senator Sterle, address your remarks through the chair, please!

Senator STERLE: I will blue you; I will debate you! Don't flood it with the likes of Ken Phillips. Don't flood the meeting with the likes of the Australian Trucking Association—and out of respect, Madam Acting Deputy President, I will leave it there. There is the challenge, Senator Abetz. While Senator Abetz was playing kiddie politics in the Liberal Party in the Tasmanian university, or wherever he went, I was playing with road trains. Bring it on, Senator Abetz!

It is a happy night. I am happy. I am so happy that I cannot stop laughing. For that, I want to express my sincere thanks to the hardworking men and women in our trucking industry. I look up into the gallery at that young good-looking rooster in the blue shirt there, Mr Frank Black, an owner-driver, a bloke like me—no, a bloke better than me. He is still out there peddling. I have long hung up the riding boots; I surrendered. Frank is still going. Frank was interviewed on numerous television programs, and I watched them, and there were numerous news articles. Frank represents owner-drivers on the Australian Trucking Association Safety Council, I think it is—and if it is not, we will correct the record. He is a man who has been at the forefront of the fight for decency and safety and a proper remuneration for Australia's trucking fraternity. I dip my hat to you, Frank. I know you have been here for the last two days but you have also been here on numerous other occasions. I have met with Frank in Queensland, convincing owner-drivers that, if you want to get home safely and if you want to see your kids get through school and graduate and make a decent living, you have to be remunerated for your efforts. Not only is there the cost of running your truck, fixed and variable, but you must also have a safe and sustainable rate.

We should be proud of Australia's truck drivers. We are not embarrassed to be truckies. We are not embarrassed that we did not go to university. We are not embarrassed because we do not carry around some piece of paper with a lovely red ribbon on it that says, 'Aren't I wonderful? I went to TAFE college.' I do not have that. I have got a heart the size of a lion and I have got a road train licence. I have got my union card in my pocket and no-one is getting that from me.

I want to sincerely congratulate and thank the leadership of the Transport Workers Union while I am at it—and may I declare, in case someone out there in Liberal land missed it, that I am a proud member of the Transport Workers Union and I have been a proud member for 30 years. I joined the Transport Workers Union in 1981 as a young owner-driver. Actually, hang on; let us go back a bit. I actually joined the Transport Workers Union as a young 16-year-old cocky in 1976 when I first walked through the doors of Ansett Wridgways—and they may have been just Wridgways back then. I was told, 'We should be in the union, boy.'

Senator Edwards interjecting—

Senator STERLE: Through you, Madam Acting Deputy President, you can carry on. Don't be a smart-A, mate! If you want to have a bubble about road safety, take it outside! I will carry this on. You are not that smart.

The ACTING DEPUTY PRESIDENT: Order! Senator Sterle, through the chair,
please, and do not direct comments to other senators.

Senator STERLE: I will sort this out later with Senator Edwards. He thinks that he is quite comical when we are talking about road safety.

I had joined the union in 1976. When I became an owner-driver, I was that smart; my boss told me that because I was an owner-driver I did not need to be in the union. I thought, ‘Okay, that is fine.’ It took me a year to work out that—he had just pulled the wool over my eyes. So in 1981 at Wridgways all I wanted was a decent, safe and sustainable wage, and income for my small business—my tiny business: me, and then in 1982 it became me and my wife. So I joined the union again.

For 30 years I have been fighting for safe, sustainable rates. But these guys up there did it. I did not do it. I could not do it. We actually had the ability under the leadership of Tony Sheldon, ably assisted by Michael Kaine, the national assistant secretary of the Transport Workers Union. I notice Peter Biagini up there, the Queensland branch secretary—it is great to see you, Pete. And there have been a gaggle of hardworking owner-drivers and wives who have pushed like heck to one day see this dream come true, and today it is going to come true. I will now celebrate, but in sharing my celebrations I am also very mindful that I want to give my friend and my colleague from Queensland Senator Mark Furner the ability to have some words as well. So I will surrender some of my time.

But what I would like to do, with your indulgence, Madam Acting Deputy President, is to say very, very clearly that there is nonsense being peddled by those who do not know what they are talking about. I am telling you, as an owner-driver, there is a damn strong link. Do you think that as an owner-driver I would drive, and my colleagues out there who are still doing it would drive, when feeling absolutely RS? You feel absolutely shattered because you have probably had about eight or 10 hours sleep in the last two or three days.

In Western Australia in the 70s and 80s when I started trucking, we did not have fatigue management. Well, actually we did. Once you bumped over one of those little white posts with the red reflector on it—uh-oh—it was time to manage your fatigue. That was our fatigue management. Do you think we truckies got home feeling like trash every week because we loved to feel like trash? We felt like that because our rates of pay did not adequately provide us with the ability to have a minimum of eight hours sleep. Senator Joyce’s contribution—balanced, heartfelt. Senator Abetz—what an absolute disgrace.

But with the little time I have left I do wish to take this opportunity to sincerely thank some very special people who need to be thanked. There are the Baldwins, Irene and Ian, and the Western Australian ladies who came to the parliament last week and the week before, as Senator Xenophon mentioned: Lystra Tagliaferri and Lisa Sawyer—and I will not go into it, but we know they lost their husband and brother—and Suzanne De Beer and her mother-in-law Johanna De Beer, whom I met, who had come across from South Africa. Suzanne had lost her husband and Johanna had lost her son. To the TWU drivers and delegates: Frank Black—you’ve already got one plug, mate, but I’ll give you another one, good onya, cobber!; Mark Trevellian; Dale Haining; Euan Scott-Bell; Ray Childs; Billy Burka; Ian Vaughan; Paul Freyer; Alan
Taylor; John Waltis; Paul Dewberry; Dudley Wellard; Dennis Wilcox; Paul Walsh; Tony McNulty; my old mate George Clarke—love you, Georgie, great work!; Charles Mackay; Arthur Fasoulis; Paul Remadeno; Robert Ireland; Andrew Villias; Robert Burles; Graham Batten; and Brad Webster.

To the TWU Veterans, who I enjoyed a cup of coffee with the other day with, and we manage to meet every time we are in New South Wales as our federal-state councils and conferences: Dave Lupton, Brian Thomas, Peter Cooley, Steve Whittick, Col Neal and Kevin Sweeney. It is great they are still around to enjoy this dream that has come true.

To my very, very dear friend and blood brother Jimmy McGiveron from WA: Jimmy, fantastic mate, you gave me my start in the union movement and I dearly thank you for that. I still have not escaped the clutches and we are still out there battling. I will be battling alongside him till the day I fall.

To my good mate Senator Alex Gallacher: well done, brother! I know how hard you fought for owner-drivers and Australia’s truckies all these years.

On that note, Madam Acting Deputy President, I could go on for the next hour with a gobful of marbles under cement, but I do want my friend and colleague Senator Mark Furner to have his opportunity to speak. I commend the bill to the Senate.

An incident having occurred in the gallery—

The ACTING DEPUTY PRESIDENT (Senator Boyce): Silence, please, in the gallery! I am sorry, Senator Furner, but Senator Fisher is the next speaker.

Senator FISHER (South Australia) (21:23): Thank you, Madam Acting Deputy President, and I will attempt to keep my comments short so that others have time to speak tonight. At the outset I want to defer to the obvious experience in the industry which some in this chamber have and also those associated with the industry who are in the gallery. Whilst we in the coalition have significant reservations about this bill, I also want to make it very clear that nothing that we say or do is intended to in any way take away from the pain and distress suffered by families of those who have been affected by injuries or fatalities on the road and in this industry.

A convenient starting point is Senator Sterle's pride in his achievements after having sought for many years safe and sustainable rates for the trucking industry. For our side of the chamber, that is the nub of the problem. Whilst one injury is one too many and one fatality is one too many, safe and sustainable rates are not necessarily the same for each and every person driving a truck on the road in this country. One man's or one woman's sustainable rates are not necessarily another man's or another woman's sustainable rates. That is one of the reasons why we do query strongly the link that is supposed to exist or what the government says exists between what this bill is supposed to do and safety on our roads.

But, first of all, on a matter of principle: over the years in the lead-up to today's passage of the bill to effectively abolish the Australian Building and Construction Commission, the clear call from industry and the clear answer from this Labor government was that there should be one set of laws for all workers, regardless of their industry. You do not need to look very far to find evidence of that. The member for Blair, Mr Neumann, in August 2009 said in the House:

The truth is that the Cole Royal Commission into the Building and Construction Industry was ... to ensure that the salary and conditions of those
hardworking men and women in the building and construction industry would find themselves subject to a different rule of law than any other worker in any other industry. 

He went on to say:

I have a fundamental belief that whether you live in Palm Beach, Perth, the Torres Strait or Tasmania, there should be one law for all.

Around the same time, unionist Ark Tribe was on trial in the Adelaide Magistrate's Court for alleged breach of the law on building sites. He was strongly supported by rallies from day to day, depending on when his court appearances were. On one of those days, as was reported in the Weekend Australian on 31 October 2009:

About 300 people rallied in support of Mr Tribe under scorching sun in a central Adelaide Park yesterday as he appeared before the Adelaide Magistrates Court.

He was cheered into court by workers chanting: 'One law for all'.

That was the measuring stick. That was what then mattered. Again, on 28 September 2010, a press release issued by the ACTU about the ABCC said:

The ABCC has wasted millions of dollars while health and safety in the industry has not improved. There should be one set of laws for all workers regardless of the industry they work in.

There is no qualification to any of these comments. It is clear from members of government, from members of peak union body, from workers in the streets that they were saying, in the context of the building industry but without constraining those comments to the building industry, that there should be one set of laws for all workers.

The government dominated Senate committee inquiry into the building industry bill of course saw the writing on the wall, knowing that this Labor government wanted, around much the same time as abolishing the ABCC, to introduce this bill to cater specially for the road transport industry, as well as a bill to increase special protections for those in the textile and clothing sector which I think this chamber will deal with tomorrow. The government has had the building industry bill this week knowing that it had another couple of new sets of laws that were not about one set of laws for all workers but about creating very different and specific sets of laws for workers in the road transport sector and the textile sector. So the members on the government committee saw fit to say—and this is my description of their conclusion; I am not quoting them—that they supported 'as a general principle' one set of laws for all workers, therefore they watered down their previously absolute commitment to one set of laws for all workers regardless of industry or circumstances to a general principle in most circumstances. That paved the way, of course, for this bill we are now considering and for the textile bill that will follow later.

The then Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Evans, in November last year was reported, when talking about this bill, as saying that the government wanted to create this tribunal to set pay rates in the trucking industry because of the circumstances of owner-drivers. He was quoted as saying: 'The government has only ever intervened to protect vulnerable workers at the risk of exploitation. TCF outworkers and owner-drivers are the two groups that meet this test. It ought to be no surprise that the coalition as a matter of general principle is prepared to consider specific laws for specific industries but also that the building and construction industry remains one of those sectors with vulnerable workers who are subjected to exploitative terms and conditions and subjected to thuggery and lawlessness on building sites. The message from us to this...
The government has not been able to explain—and, with respect, senators opposite have not yet explained—how paying truck drivers more will result in fewer road accidents. Despite our sympathy for the exploitation and the unpaid work which we have acknowledged does take place, we have not seen empirically illustrated by members opposite, or in any other place or way, how paying more will mean safer roads. For example, at what precise uniform pay point, if any, will the four gentlemen in the gallery and every truckie on the road decide to get more sleep rather than drive more hours? At what precise pay point, if any, will every truckie on the road decide to try to avoid every other risk which they take daily when driving on our roads? How will more pay for each and every one of our truckies, including the good gentlemen in the gallery, stop accidents which are caused by other users on the road but which just so happen to involve a truck? I do not see it, and I am really sorry that I do not get it. It is on that basis that we are concerned about the ability of this bill to deliver the outcomes that the government says it will.

I am drawing to a close so that Senator Furner can make some comments. We are also very disappointed at the truncated debate. We are very disappointed that the Senate rejected the motion of Senator Abetz to refer this bill to a Senate committee, because there are very important questions which we should be able to ask and which may indeed have benefited the government’s quest in the establishment of this tribunal. For example, there are very important questions about how these safer rates are going to be determined. What process will be used? Will they be individual, truckie per truckie? Will they be individual trucking company per trucking company? Will they be state based? Will they be on some sort of group basis? Will it be, as Minister Albanese
reportedly said on 23 November 2011 in the Financial Review, that the changes will ensure a level playing field by giving participants a forum to complain about 'cowboys who try to undercut and put in unreasonable conditions upon truck drivers who might be desperate to get that job'? What does it mean that this tribunal will be able to do? What powers will it be able to exercise in attempting to come to an outcome? Will the outcome be, for example, sectorally based or will it be, as a spokeswoman for Minister Albanese said, 'The system was designed for sectoral determinations but this does not exclude individual companies making an application to the tribunal for determination? We deserve to have had answers to those questions and others like them. So do the Australian people. We are disappointed that we did not get that opportunity.

Thank you for allowing me to contribute tonight.

**Senator FURNER** (Queensland) (21:37): It is a proud moment for me. It is a proud moment to have followed the likes of Senator Sterle and Senator Gallacher and to have present in the gallery tonight, to represent real reforms to the transport industry, where reforms are needed, workers who are vulnerable, workers who I have represented in my career and the first union I worked for: the Transport Workers Union Queensland branch. It is a union that I am extremely proud of. I am proud to see here tonight representatives from that union in the gallery: TWU National Secretary Tony Sheldon, TWU National Assistant Secretary Michael Kaine, Peter Biagini from the Queensland branch and Frank Black, an owner-driver from Queensland.

The other side indicated that they do not get it. I can understand why they do not get it, but it is not rocket science. Anyone can work out why we need to fix this problem. Conversely, you can look at it this way. I have been involved in situations where owner-drivers are under pressure running up from Sydney to Brisbane and running back empty because they cannot get a load back. So the incentive is to get up, get unloaded as quick as possible and get back for another load. These are the challenges we are facing in the industry. These are the challenges of lack of maintenance, lack of sleep, the taking of illicit drugs to make sure you get from point A to point B, main contractors paying subcontractors rates that have been agreed upon between the Transport Workers Union and the industry and ignoring those rates, the snowball effect down the path of paying company or employee drivers the incorrect rates at all. I have been privileged to be in situations where we have enforced those rates for the right reasons: to make sure that they are paid the right rates but also to make sure the roads are safe not just for transport workers but also for road users.

That is what the other side just do not get. They do not understand this is not just an issue that affects transport workers; this is an issue that affects everyone throughout our nation who uses our roads, regardless of whether it be on the black box running up the highway to Darwin or out in the western blocks of Queensland. It is an area that needs to be concentrated on. It is an area we need to resolve. And let's face it: just about everything we use, everything we wear, everything we consume comes on a truck. This is why we need to look after drivers and ensure that they have the right to work in a safer workplace environment—the same basic rights that many of us already enjoy.

A lot of us go to work each day. We come to the Senate each day. We do not come to work in this Senate each day thinking we are going to be injured, and I am sure drivers do not go to work each day after they have
kicked their tyres, checked their oil and their water, jumped in that huge vehicle of anything up to 55 tonnes and headed on down the highway wishing that they might end up in a situation where they might be involved in an accident and kill some poor family. They are pushed into situations where they have had that situation created. It is a situation we need to correct.

We need to protect them, and this is why. More than 246,000 Australians are employed in our road transport industry. In 2008-09, there were 25 deaths per 100,000 workers, and this casualty rate is 10 times higher than the average of all industries. Annually, thousands of people are involved in truck accidents, with about 250 losing their lives per year. Minister Shorten indicated recently that Australian truck drivers have been pushed to the limit. Some have been pressured to cut corners on safety and maintenance, some to speed in order to meet unfair and unrealistic deadlines, some even taking illicit substances to keep themselves awake to get to destinations on time, putting their lives and the lives of other Australian road users on the line just to make a decent living, repay their debts and make ends meet.

The Road Safety Remuneration Bill 2012 seeks to create a road safety remuneration tribunal and to improve pay and conditions for drivers. It is not just about pay; it is conditions: looking at rest breaks, looking at the way they operate the vehicles, looking at the extreme conditions and the surrounds they work in, looking at the roads they drive on.

And let's not get started talking about roads. There were 11½ years that those opposite neglected our roads under their reforms. It was not until we came in, through the national building infrastructure program, to correct roads like the Bruce Highway in my state of Queensland, that we got on the road to making those roads safer for every driver, whether they are truck drivers or drivers of passenger vehicles on the roads. Our program is fixing and reforming the neglect those opposite were involved in for 11½ years.

The report of the House of Representatives Standing Committee on Infrastructure and Communication states:

The safety aspects of the bill relate to removing the incentives for drivers to work excessive hours by improving their pay and also providing, in some cases, compensation for delays in unloading cargoes. It is proposed that this will reduce their chances of having an accident.

The report also states the tribunal's responsibilities include it to be 'empowered to inquire into sectors, issues and practices within the road transport industry and, where appropriate, determine mandatory minimum rates of pay and related conditions for employed and self-employed drivers by making Road Safety Remuneration Orders (RSROs).' By having rates of pay determined, it means that drivers will not have to rush and put their and other people's lives on the line so they get paid.

On 14 March, Lateline aired a story on the trucking industry. Reporter Kerry Brewster said truck drivers were not paid for loading and unloading times. That is a reality. You go out to some of those distribution centres, whether it be Coles or Woolworths, and you will see drivers sitting in their vehicles or walking around their vehicles to try to maintain some sanity, waiting for hours and hours for their vehicles to be unloaded. In some cases, at the end of the day they are told: 'Sorry, your vehicle won't be unloaded today. Come back tomorrow.' That is unjust, it is unfair and it is something we should not be allowing in this particular industry.

Kerry Brewster interviewed a gentleman here in the public gallery today, Frank Black,
who told her there were penalties for arriving late. Frank said:
They either charge you a financial penalty or sometimes they re-book your delivery slot, which nine times out of 10 is the following day.
Put yourself in that situation: you are a small business person trying to make ends meet, trying to provide for your family and to put food on the table and you arrive at a distribution centre and you are told to come back tomorrow. How do you operate in that sort of time frame? How do you operate in that sort of business? This bill will fix those sorts of issues. Because of this penalty, Mr Black says he tries anything to beat the clock. I have been privy to the circumstances, as I referred to earlier, of what happens when people cut corners to beat the clock.

I reflect on a situation with the company Northline when I was an official at Eagle Farm. We had a campaign to make sure we got road train drivers paid at the correct rate. Northline was the only remaining company that refused to pay the agreed rates. So, as any good union official would do, we set up a campaign at their entrance and started talking to drivers as they entered the business. There were different road train drivers on the line of the campaign talking to the Northline drivers to make sure they were being paid the right rates. Sure enough, they were not. So the campaign spread until Northline succumbed and agreed to pay the correct rate so the road train drivers could make sure that their vehicles were maintained correctly and had the right rubber on the road. This legislation is about making sure that these things are fixed.

It really concerns and annoys me when I hear about Mr Black's plight as a driver. It is amazing that I was referring to a time back in 1989 and 1990, a few decades ago, and here it is still happening in this industry. It is something that should have been fixed decades ago. The only things blocking it now are those opposite. We on this side understand the reasons why this needs to be fixed. The only speed bumps in the road are over there—those opposite. These drivers who do our nation a service should not be putting their lives at risk and, ultimately, the lives of our families and other road users at risk just to put food on their tables.

Unpaid waiting times is also an area where the tribunal will have powers to investigate and to take action if it appears the times are likely to have an adverse effect on safety. The National Secretary of the Transport Workers Union, Tony Sheldon, believes now is the time to make our roads safer. He said:
Parliament now has the opportunity to vote on legislation to make a seismic difference to safety on our roads. They have the power to make our roads safer, to allow truckies a fair go and to stand up to the major retailers who care only about their bottom line.

How true that statement is. On 8 March Mr Sheldon also spoke about an incident involving a truck driver at excessive speeds. He indicated:
While I support the determination of investigators to cut down on unsafe road practices in the trucking industry, until such time as we address the core issues in the industry, dangerous behaviour will continue to be encouraged. The fundamental issue is the demands of major retailers such as Coles and their economic power in road transportation. Coles and other major retailers control 32% of the entire freight movement in the country. Their economic power allows them to demand ever more from drivers and transport companies. We have had more than 20 years of commissions, coroners reports and inquiries which have highlighted time and again the link between the transport safety crises and economic factors.

I think I have referred to just about every occasion where drivers are put to the limits in their industry. There is probably a
multitude of other examples I could mention. In conclusion, I am extremely proud to be here this evening to make sure this bill passes this chamber. I commend the bill to the chamber.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (21:49): I rise to speak on the Road Safety Remuneration Bill 2012 and the Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012. I back up what my leader Senator Joyce said: we are not overly concerned about this legislation. Even though we are not voting for it, it is one of the things I am certainly not going to die in a ditch over.

I was a truckie. It was a great pleasure just six months or so ago to drive a Kenworth with a friend of mine from Inverell to Canberra. I must admit that drivers are a bit spoilt today with these automatic trucks. When I started in the seventies we had 200 horsepower and they were dangerous times. There were no Jacobs brakes, no tri-axles, three decks of sheep, two decks of cattle and just bogey trailers.


Senator WILLIAMS: I am trying to make a simple presentation. If you want to get into a blue, I can bring on a blue. We could start talking about the $515 million tax you are going to place on truckies on 1 July 2014. You talk about profitability and truckies surviving and you are going to hit their industry with a $515 million tax. Do you want me to continue or are we going to go back to the civil form?

Senator Farrell: Madam Acting Deputy President, on a point of order: we are talking about legislation that relates to transport workers. The convention is that Senator Williams should sit down while I make my point of order. We are talking about the transport industry, not other legislation.

Senator WILLIAMS: Let us talk about road safety. We are talking about safe rates. We are talking about what truckies are paid, especially the contractors when they unload at Coles and Woolworths. I do not have a problem with what you are proposing. I was a pig farmer and I used to sell pigs to Woolworths. Woolworths told us they would not buy imported pig meat, but six months later they were buying imported pig meat. Why? Because it was a bit cheaper. They looked at the bottom line dollar. So I have had a bit of experience in this field.

We are talking about profitability. We are talking about road safety. None of us wants to see more crashes on the road. There was one at Urunga just a couple months ago where the truckie just came round a corner and there was a Falcon ute on the wrong side of the road. The truckie had to veer off the road, he went through a house and a young chap was killed. What a tragic incident. Sadly, most of the time the truckies are blamed when most of the time it is not the truckie's fault. We know how professional the drivers are and we know how committed they are to their work. The point I make is that there are a lot of things that can be done. Madam Acting Deputy President, you know very well that the former National Party leader John Anderson insisted that the 18½c rebate be returned to the trucking companies when the road-user charge came in. He said that if he did not get it he would resign his position as minister. That is what brought a big lot of money back to the truckies. Now 3½c has been taken by this government. So
this government is actually taking another $250 million in tax from the truckies.

Let's look at the truck stops. This has a lot to do with safety on the road. If you go up the Pacific Highway of a night you will find that if the truckies have not pulled up by 9 or 9.30 then they cannot get into a truck stop. That is a serious problem. The government are spending $17 million a year on truck stops; I urge them to spend more. It is an important issue. We know that in New South Wales some good truck stops have been established but there are many more to go. I ask members of the government, over on that side of the chamber, to look at establishing more truck stops.

I know that big business is hard; they look at the bottom-line profit. As I said, I was a pig farmer and I used to sell pigs to Woolworths. I have had first-hand experience. I urge the government to establish its tribunal fairly. Do not just stack it with members of the Transport Workers Union. Have people on the tribunal from the transport industry—people who know the industry and who are in the industry—not just those who are representing the workers. Then, and only then, will you see fairness in the tribunal. That is one concern I have and I trust that the government will take that on board, so that the tribunal when it is in place on 1 January next year is a fair tribunal.

We all want people to get home to their families. I remember the crazy things I did when I was driving trucks. In those days you would work 35 hours out of 40 hours and have little sleep. It was crazy. That was in the days before logbooks. Then, when logbooks came in, we carted livestock so we were exempted from the logbooks. I remember the trips down the Stuart Highway, with 500 kilometres of corrugations which were six inches to a foot deep, the bulldust holes and the danger of it all. They were crazy days and I am glad it is different today.

The trucks are now much safer. With the braking systems—the Jacobs engine brakes—and the stability in the trailers the trucks are certainly a lot safer these days. Thank goodness, because in the early days it was crazy. I remember Phillip Fazulla from Broken Hill. He had a load of sheep on his truck. He ran off the road going down towards Yunta. He hit a tree and he was killed. That is just one example that comes to my memory of someone who was simply working too many hours.

I realise what it is like. I know that some people in the transport industry pay their drivers for 1½ hours to unload. Sometimes it might take the drivers 30 minutes to unload; sometimes they might take two hours. They give the drivers a kilometre rate and they are happy with it. We know that the state and federal awards in terms of the kilometre rate were endorsed by this government. They were part of making it up and putting it in place. It is all about fairness. I say all the time in this place that life is about fairness. We want people treated fairly. We want the companies who pay the rates treated fairly. We want the truckies and the drivers treated fairly.

As I said—following on from my leader Senator Joyce—we do not have major problems with these bills but we do question whether they will be the silver bullet to prevent deaths. I hope they are. We will see how these bills perform when they are introduced. But I also urge members of the government to look at what they are going to do to the trucking industry—I could make this a big issue—on 1 July 2014. Look at pollution from trucks. Senator Sterle would be well aware that if you have one 400 Cummins driving down the road it will put out more pollution than 50 new Euro 5
motors. Fifty trucks today will put out less pollution than just one of the old 14-litre Cummins trucks. We know how much the truckies have cleaned the pollution up. They have done the right thing. Sadly, the new trucks use a bit more fuel, which produces a bit more carbon dioxide, because it is linked directly with fuel usage. The truckies have done their bit with pollution. These days you do not see the black smoke pouring out of the trucks as they go up the hills. The truckies have done their bit to keep their rigs safe. We just need to have them treated fairly.

The National Party is not going to die in a ditch about this issue but I will certainly be watching what happens. As you know I have been in the industry for many years and I have seen dangerous, crazy times. I am glad those times are not here today. But I urge the government to consider what you will do to the industry with that extra 7c a litre road user charge.

I also urge the government to consider the issue of the truck stops. I have raised this issue at Senate estimates hearings. Truckies do work hard; they carry our country. Look after them with more truck stops. The government are spending just $17 million a year on truck stops yet they are collecting an extra $250 million a year from the road user charge of four years ago. Think about the safety issues related to truckies being able to pull over and use the shower and toilet facilities, not just have somewhere to park. These are issues I have taken up with Duncan Gay, the new roads minister in New South Wales.

Let's hope that whatever happens we have people getting home to their families and that we have fewer accidents and fewer deaths on the road. Sadly, we will probably always have accidents, but let's hope they are reduced. I have questions about this legislation. I repeat that I want the tribunal set up in a fair manner, not stacked one way. If it is stacked one way, you know what this side of the parliament will do: we will oppose it all the way. So be fair about that. Let's hope that the end result is that there will be some saving of lives, and let's hope that there is some fairness shown to the contractors and small businesses. At the same time, treat those companies that are paying the truckies fairly—especially the smaller companies. With regard to back loads and livestock it is a whole different kettle of fish in terms of the same rate either way. You cannot expect someone to take six decks of sheep from Inverell to Brisbane, bring home 20 head of cattle and charge the same rate on the way home. It does not work like that; it cannot work like that. That issue needs to be looked at as well. With that, I will let Senator Thistlethwaite say something.

Senator THISTLETHWAITE (New South Wales) (21:58): I rise to speak in this debate on the Road Safety Remuneration Bill 2012 and the Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2012. In February this year I met with George Oei, a truck driver in the electorate of Wentworth, one of my duty electorates. George spoke to me about his plight as a truck driver and encouraged me to sign the TWU pledge to support this bill and bring about safer roads in Australia. Tonight I rise on a promise, as a proud member of the Labor Party, to support the Transport Workers Union campaign and to support these bills to make our roads safer, not only for Aussie truckies and their families but for the road-using public in Australia.

I will not go on with a lengthy speech because time does not permit, but I want to deal with one of the claims of the opposition—that is, the claim that there is no connection between road safety and rates of
remuneration when it comes to trucking. That is simply wrong, and the Transport Workers Union has spent decades doing research and studies and campaigning to prove, indisputably, that that claim is wrong. I say to those opposite who make that claim: just ask the family of a truck driver who has unfortunately passed away on our roads, having to sit at their vehicle day and night to get the most out of it because a contractor has forced them to work because of unfair rates of pay. I saw in New South Wales what a difference it made in 1995 when provisions such as this were entered into the Industrial Relations Act.

**The ACTING DEPUTY PRESIDENT (Senator Crossin):** Order! The time allocated for this debate has expired.

**The PRESIDENT:** The question is that these bills be now read a second time.

The Senate divided. [22:04]

(The President—Senator Hogg)

Ayes.......................40
Noes........................32
Majority....................8

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Question agreed to.

Bills read a second time.

**Third Reading**

(The President—Senator Hogg)

Ayes ......................40
Noes ......................32
Majority ....................8

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Wong, P
Birmingham, SJ
Adams, J

Question agreed to.
Bills read a third time.

Crimes Legislation Amendment (Powers and Offences) Bill 2012
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (22:11): The coalition supports measures that improve the crime-fighting abilities of our law enforcement agencies. The coalition therefore supports the aims of the Crimes Legislation Amendment (Powers and Offences) Bill 2012, which are to provide further tools to ensure the effective investigation of crimes and enforcement of laws and to strengthen the safeguards applicable in those investigations.

The most complex provisions of this bill aim to increase the transparency and reduce the complexity surrounding the procedures governing the collection, use and analysis of DNA forensic material. These amendments implement recommendations from the report DNA forensic procedures: further independent review of the Crimes Act 1914, which was presented to parliament in 2010. The amendments seek to reduce the complexity of the procedures in part I(d) of the Crimes Act, reduce inconsistencies between jurisdictions in forensic procedures for law enforcement purposes, ease the collection and exchange of forensic information between law enforcement agencies across jurisdictions and impose accreditation requirements on laboratories dealing with DNA samples. Importantly, the bill also seeks to ensure that safeguards are maintained and in cases extended. In particular, children and incapable persons will have clearer opportunities to object to DNA testing.

The bill also aims to increase the Australian Crime Commission’s information sharing capabilities to enable the agency to share information with Commonwealth, state and territory agencies and international law enforcement and intelligence bodies. Amendments will further provide the Australian Commission for Law Enforcement Integrity with a contempt power aimed at improving the commission’s capability to investigate corruption. It seeks to deter uncooperative witnesses by providing a powerful mechanism for the Integrity Commissioner to deal with those who might seek to mislead or obstruct his inquiries.

The bill also contains measures to deal with the emergence of new illicit substances,
such as 'miaow miaow' and 'Special K', which are apparently the demotic names for drugs. Amendments will list additional drug substances and quantities to be subject to the full range of Commonwealth serious drug offences. I was afraid that Mr Lambie was having a joke at my expense. The bill makes amendment to Commonwealth parole. Currently, there is no ability to refuse parole to a federal offender who is serving a sentence of imprisonment of less than 10 years, even if corrective service agencies believe the offender should not be granted parole. These amendments originate in the 2006 report of the Australian Law Reform Commission entitled, *Same crime, same time: sentencing of federal offenders*. Parole should not be an automatic entitlement and, so far as possible, prisoners serving sentences for state and federal offences should be treated equivalently. Therefore, the amendments will make release on parole of all federal offenders a discretionary decision consistent with the approach taken in the states and territories.

Further amendments provide that a federal offender's parole period will end on the same day as his or her sentence, and that the parole supervision period may extend to the end of the federal offender's parole period. Currently for federal sentences other than life imprisonment, the maximum parole supervision period is only three years. Amendments will also empower state and territory fine enforcement agencies to enforce Commonwealth fines through nonjudicial enforcement actions without first obtaining a costly and time-consuming court order.

Finally, the bill proposes amendments to allow a court to restrict the publication of certain matters in relation to applications for freezing orders and restraining orders to prevent the publication of certain matters—for example, details of proceeds of crime applications—to prevent prejudice to the administration of justice.

Let me take a moment to reflect upon the Labor Party's record on crime and criminal law enforcement. The bill, which is about enhancing the crime-fighting abilities of our law enforcement agencies, invites us to consider how effectively resourced those agencies have been by the government. The bill makes welcome improvements to the crime-fighting ability of the Australian Crime Commission; however there is a tension between that ambition and the practice of the Rudd and Gillard governments. This government has hampered the ability of the Australian Crime Commission to discharge its functions by forcing it to cut staff by 19 per cent and to send home more than 100 officers seconded from the state and territory police forces. Labor has also imposed cuts on the Australian Crime Commission's budget, equating to a cut of 8.9 per cent over the forward estimates.

The Australian Customs and Border Protection Service is the agency charged with protecting Australia's borders. One of the core functions of Customs is to keep dangerous goods, illicit drugs and weapons out of the country and out of the hands of organised criminal syndicates. This government is hampering the work of Customs by forcing it to cull one in five senior executive service officers as a result of Labor's decision to take an axe to Customs funding. And, as we heard in Senator Cash's question to Minister Ludwig in question time today, the number of inspections of airborne cargo into Australia has been reduced from more than 60 per cent to fewer than 10 per cent in the life of this Labor government.

In addition, this Labor government has cut aerial surveillance by $20.8 million and 2,215 aerial surveillance hours—or more
The coalition understands the problems that stem from illegal drugs, gang violence and other forms of organised crime. It is therefore essential that the Gillard government stops stripping funds from agencies like Customs, whose role is to screen cargo and protect our borders, as the more illegal firearms and drugs that enter the country the more incentives and reasons criminals will have to create violence in the community.

In recent times we have seen escalated violent displays and criminal activity by bikie gangs across the country. As a result, the Liberal Western Australian state government and the Liberal New South Wales state government have responded by introducing tough legislation aimed at striking organised crime at its core. The federal Labor government, on the other hand, continues to cut funding and resources from these key agencies. It is high time that this government matched its rhetoric with political will and substantive resource allocation in taking a strong stand against organised crime in our community and reducing the antisocial behaviour that places ordinary Australians at risk. Our frontline crime-fighting agencies, in short, do not get the support that they need and deserve and that the community expects from this government, which has its priorities all wrong.

Nevertheless, as I indicated earlier, this bill does make some worthwhile amendments to the legislative framework for fighting crime, informed by independent reviews and the work of the Australian Law Reform Commission. Those measures have the support of the coalition, which will accordingly be voting for the bill.
Offences) Bill 2012. The bill proposes significant reforms to streamline and modernise a number of laws to equip Commonwealth law enforcement agencies with appropriate processes and resources so that they may adequately respond to modern forms of organised crime. There is no doubt that our law enforcement and justice systems have changed considerably over recent decades and are increasingly facing new and emerging issues. Indeed, over the last 20 years, we have seen massive advances in technology, communications and travel, and organised crime and other criminal networks have adapted accordingly. Our law enforcement agencies must also adapt and respond to these changes.

The Greens understand that law reform in this area is necessary and important in order to be able to adequately respond to this ever-changing and complex landscape, where the degree and sophistication of organised crime is increasing. However, as I have said here before, despite the imperative to act effectively and decisively against organised crime, Australia must also ensure that our justice system at all times respects and safeguards the democratic freedoms and human rights of those it affects. As everybody here would agree, we need to strike the right balance. The balance to be struck in this case is to most effectively combat modern organised crime in a way that does not unduly infringe upon people's human rights.

Evidence was presented to the House of Representatives Standing Committee on Social Policy and Legal Affairs regarding the first draft of this bill. Based on the recommendations of that committee’s report, the government introduced amendments to the bill, and now the government has committed to consider further recommendations of that committee. On this basis, the Greens believe that an appropriate balance has been struck in the final presentation of this bill.

This bill is largely procedural and technical in nature, seeking to reduce complexity, streamline provisions and ensure consistency across jurisdictions and transparency in the law. However, stakeholders did raise some concerns in relation to amendments to the Australian Crime Commission Act that enable the commission to share information and intelligence with government and private sector bodies. The Law Council of Australia and the Rule of Law Institute were concerned that these provisions were unduly broad and lacked sufficient safeguards to protect individuals' rights.

While the Greens agree with the Law Council—that aspects of the new section 59AA, relating to the sharing of information with government bodies, enable a much broader scope for information sharing than ever before—we also understand that, in order to effectively combat international criminal networks and serious global organised crime syndicates, there is a need for our law enforcement agencies to share, in certain appropriate circumstances, information across Australian government departments and agencies and with their foreign counterparts. Notwithstanding this, we agree that this provision could have been strengthened to improve protection of individuals' rights, and we refer to recommendation 3 of the committee report, which recommends that the Attorney-General undertake an audit of the investigative and coercive powers available to security and law enforcement agencies in order to identify the full scope of powers available to those agencies, the extent to which an individual's right to privacy is abrogated by these powers and, on that basis, whether these powers are necessary or justified. The Attorney-General's office has
indicated that it agrees to this recommendation, and the Greens are of the view that the government must undertake this audit as a matter of priority.

We also note that the government made changes to section 59AB, relating to the sharing of information with the private sector, in accordance with recommendations made by the Rule of Law Institute and adopted by the committee report. As a result of these changes the Australian Crime Commission CEO may only disclose information to proscribed bodies corporate where it would not prejudice the safety of a person or prejudice the fair trial of a person who has been charged with an offence. In addition, the Australian Crime Commission may impose conditions on a body corporate to ensure that disclosed information will not prejudice the reputation of a person. These changes directly respond to issues highlighted by stakeholders. As a result of these changes, I am satisfied that this amendment improves safeguards for individual employees so as to avoid inadvertent or prejudicial disclosure of information under this bill. On that basis, I commend the bill to the Senate.

Senator McEWEN (South Australia—Government Whip in the Senate) (22:26): In the short time left I would like to add a short contribution to this debate about a very important piece of legislation, the Crimes Legislation Amendment (Powers and Offences) Bill 2012. I note that it is the government's role to see that our courts and our legal system work smoothly. It is the government's view that our law enforcement agencies must have all the tools they need to fight crime, and this bill gives the Commonwealth law enforcement agencies those very tools.

This bill improves upon information sharing between the Australian Crime Commission and other Commonwealth, state and territory agencies, foreign and international agencies and the private sector to enable them all to combat serious and organised crime in Australia. It amends the Criminal Code and the Customs Act to fight the emergence and importation of illicit substances, including through controlling five additional illicit substances. At the same time as fighting crime, the government is establishing strong safeguards and protections for victims and members of the public. For example, the bill increases the availability of interpreter services to people undergoing a DNA procedure.

This bill has been referred to the House of Representative Standing Committee on Social Policy and Legal Affairs for inquiry and that committee produced an estimable report, a very comprehensive analysis of the legislation before us tonight and well worth consideration by senators. That report was tabled by the committee on 29 February 2012, and amendments were made to the bill in the House as a response to the committee's recommendations. With those few words that I would like to add to the debate tonight, I recommend the bill to the chamber.

Senator RYAN (Victoria) (22:29): Sadly, we have less than a minute to continue debating the Crimes Legislation Amendment (Powers and Offences) Bill 2012.

Senator Brandis: Because of the guillotine.

Senator RYAN: That would be because of the guillotine, Senator Brandis; you are quite right, but I would like to highlight the comments. As Senator Brandis has outlined, this is a bill that is broadly supported by the coalition. But undermining this bill is Labor's record—this government's record—with respect to resourcing the fight against crime in Australia. While this bill contains
many provisions about standardising parole and particular aspects of the laws of evidence, it is hard to take this government's claims seriously. It talks about the importance of addressing this issue in Australia but, when we have seen such a drastic cut to the Australian Crime Commission—such a critical body which looks at organised crime that crosses state boundaries and which is international in nature—and seen more than 100 officers sent home to our state police forces, it is very hard to take this government's particular claims seriously.

The ACTING DEPUTY PRESIDENT (Senator Crossin): It being 10.30, I shall now put the question that this bill be read a second time.

Question agreed to.

Bill read a second time.

Third Reading

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (22:30): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Crossin) (22:30): Order! I propose the question:

That the Senate do now adjourn.

Radisich, Ms Jaye Amber MP

Senator PRATT (Western Australia) (22:31): It is my sad honour to rise today to deliver a vale for my friend and colleague Jaye Radisich, the former member for Swan Hills in the Parliament of Western Australia. Jaye passed away on Saturday, losing a battle with cancer that she had valiantly fought, and at many stages won, over the last decade. Jaye was a true believer in the labour movement and the Labor Party, and a trailblazer with great energy and intelligence who brought a much-needed shot of youth to the Gallop and Carpenter governments. First elected in 2001, Jaye went on to become a parliamentary secretary in the Carpenter government before retiring at the 2008 election. I managed Jaye's second election campaign and it gave me a very personal insight into her steely determination. She put absolutely everything into the campaign. It was a very stressful and at times emotional campaign. Sometimes the strain showed on all of us—as it does in campaigns—but the campaign produced a great result. Jaye drew on her courage time and time again in her battle with Wilms's tumour, an uncommon cancer that rarely occurs in adults as it did in Jaye's case.

At the 2001 state election Jaye and I became the youngest women elected to the WA Legislative Assembly and Legislative Council respectively. Indeed, to this day, Jaye remains the youngest woman ever elected to the WA parliament. Despite her historic status, Jaye did not initially regard herself as a natural advocate for women or gender equality. With time, however, her perspective changed and she became a fierce advocate. In her final major speech to the Western Australian parliament she expressed her own surprise at having become a champion of the feminist cause. That change, she said, was a result of witnessing firsthand the gender gap that still existed between men and women in both politics and in the workforce. I would like to lay upon the record in this place the words she used to describe the challenge of gender quality in Western Australia during that final speech:

When I was elected to this place in 2001, I did not know that seven years down the track I would be standing here taking a feminist point of view and arguing about gender issues. As you are aware, Madam Deputy Speaker, I attended university. At
that time more women than men were enrolled in the commerce degree that I commenced than in my arts and law degrees. I thought that was how things were, that people would be judged on their merits and that we were all equal. However, the longer I spend in my professional and working life, the more I realise that this is, sadly, not the case. I fear that Western Australia is further behind the eight ball than are other jurisdictions around the world. It is already on the record that I joined the Australian Labor Party because I believed it had a better approach to equality and equal opportunity than the other major party. Now is the time for the Labor Party and the Labor government to take a leadership role on an issue that is clearly unresolved.

More than four years after Jaye spoke those words they continue to ring true in this place and in parliaments around the nation. In May 2006 Jaye delivered a grievance in the WA parliament specifically highlighting her concerns with the gender pay gap in this country, particularly in Western Australia. She reminded the parliament that pay and equity are not merely a matter of economic inconvenience; Jaye argued it is a fundamental breach of fairness and justice in our society—and she is entirely right. She urged the state government to address this problem directly, calling for an end to inquiries, reviews and commissions. The problem, she said, is not a lack of information about the problem but a lack of political will to implement the solution. In that way, Jaye was never shy about speaking the truth, even when it meant taking the issue up to her own government. I know that she was very proud of the progress we have made on this issue at a federal level. While there will always be others to take up the cause, I will mourn the loss of Jaye's formidable intellect and courage.

More than anything else, however, Jaye was a loyal servant for her electorate. She was a tireless advocate for better public education, health care and environmental protection in Perth's north-eastern suburbs. The list of local projects that Jaye delivered in just to terms with stun even the most experienced members of parliament. During her tenure she oversaw the redevelopment of several schools in the electorate of Swan Hills, including Bullsbrook District High School, Eastern Hills Senior High School and Darlington Primary School. She fought for and delivered two much-needed new schools to the rapidly growing suburb of Ellenbrook—Ellen Stirling Primary School and Ellenbrook Secondary College.

But even these major investments in education barely scratch the surface of her legacy. She petitioned the government for the reinstatement of the 24-hour emergency ward at Swan District Hospital—and succeeded. Also, knowing that safety was a key concern in her rapidly growing electorate, Jaye delivered vital infrastructure that meant her constituents would be safe in their homes and on the roads. She championed a new police station at Ellenbrook, oversaw the duplication of Middle Swan Road and delivered passing lanes on Toodyay Road. Finally, she stood up for the precious environment in the Perth Hills. She was a firm believer that local communities understand their interests the best, so she organised visits with community groups to logging sites in her electorate. Her achievements and dedication demonstrate just how passionately Jaye fought to ensure that families in her outer metropolitan electorate were not disadvantaged compared to their inner city counterparts. As a member for the east metropolitan region myself, it was an honour to work with her on many of these important local issues.

Jaye retired from the WA parliament in 2008; however, the legacy of her service does not end there. She went on to become the Chief Executive Officer of the Council of Small Business Organisations of Australia,
COSBOA, a position in which she forged strong ties between government and business during the height of the global financial crisis. In their vale for Jaye, the Council of Small Business Organisations honoured her in much the same way that I have. They paid tribute to a woman who was 'a passionate and talented advocate for the small business community'. While this vale cannot even begin to sketch out the extraordinary achievements that Jaye had in her life, I hope it goes some way to communicating the respect and admiration that people had for her in the community, public and private sectors.

Jaye was public about her cancer—as a busy public figure it was not something she could hide. I also know that, though this was difficult, she knew it was a story worth sharing with others. It was worth sharing so that people would understand the importance of organ donation and access to good treatment and as a symbol of courage and inspiration to others. She went in search of new treatment in China. She kept a blog titled *My search for a miracle cancer cure in China*. I cannot even begin to contemplate how difficult this was, but she did it because she wanted to share her experiences with others so they could learn and benefit from her own journey. It is an inspiring read and an illustration of Jaye's pure courage in the face of adversity.

Jaye's death is a reminder to me of what it really means for our health system to be able to intervene and save people, to treat cancer and other diseases and to give people a second chance at life. She died on the same day as Margaret Whitlam and I am struck by the fact that two wonderful Labor women left us on the same day. I raise this because I cannot help but mention the unjustness of the fact that Jaye left us after just 35 years. She deserved 90.

I hope it is of some solace to those she leaves behind who loved her that she packed as much as she did into her 35 years. It is unthinkable to me that someone who always had so much vitality even while so incredibly unwell could be gone from us so soon. We have lost a great Labor champion. A courageous woman has been lost from the world far too soon—a true and tireless champion for the needs of others.

I know Jaye's family is incredibly proud of her and all she achieved in her short life. It is little solace to them when she had so much more still to give. Jaye has been much loved by many and, at this difficult time, my thoughts are with her parents, grandparents, family and friends and her partner, Brad. Jaye loved them all fiercely and I know they loved her. My heartfelt condolences are with you all.

Vale, Jaye. Your light has gone, but the light on the hill burns brighter because of you.

RAAF Accident, Canberra 1957

Senator IAN MACDONALD (Queensland) (22:41): This speech is dedicated to Mrs Alma Shaw, Mr Jim Macdonald, Mrs Kim Best and Mr Doug Mackrill, who sat in the gallery of this chamber last night to join me in this speech, on a night which had particular importance to them but when the speech, unfortunately, was unable to be delivered because of the speaking guillotine in place. This chamber is a place of words—words that may represent ideas or ideals but all too often words that, once uttered, are gone. The news cycle reinforces the short-term nature of much that is spoken in this place, but I want to tell a story of how some words which had their genesis in this chamber five years ago have linked the lives of a number of people hitherto unknown to each other. This had a sequel yesterday morning at a
commemorative service at the Royal Military College at Duntroon.

At 8.20 pm on last night's date, but 55 years ago, four young men lost their lives in a fatal air crash in the grounds of the Royal Military College. All were members of the RAAF operating from Fairbairn Airbase who were on night training landing and take-off exercises in their Dakota aircraft, No. A65-112 of No. 86 Transport Wing of the Royal Australian Air Force. Five years ago, on the 50th anniversary of that terrible accident, I spoke about the accident in this Senate. One of those young men, the captain of the aircraft, was my brother, Flying Officer Neil Macdonald. The other crew members were second officer Flight Sergeant Noel Charlton, navigator Sergeant Ian Mackrill and signaller Sergeant Maxwell Coombe. They were ordinary young men, two with wives and one of those eagerly anticipating the birth of his first child in 36 days.

For the crew of this aircraft, what started out as a normal training exercise ended in tragedy. But for the selfless action of the pilots that night, the accident could have involved the loss of many more lives of men, women and children in the married quarters at the Royal Military College at Duntroon. Since that time, through a series of events and actions—in particular the efforts of the daughter of Flight Sergeant Charlton—the families of those young men have become linked.

When I spoke five years ago I said that I had raised this matter not just to commemorate the lives lost in 1957 but also to pay tribute to all those men and women in Australia's military history who have lost their lives while serving their country away from a combat zone. As I said then, all service men and women who volunteer for service in our defence forces are at risk from the very nature of their work. We all owe our service personnel a very high debt of gratitude and it is important that from time to time we remember those who gave their lives in the service of their country.

I also quoted a statement made to the House of Representatives on 20 March 1957 by the then Minister for Air and Minister for Civil Aviation, the Hon. Athol Townley MP, who broke the news of the accident the night before to the Australian parliament and concluded by saying:

The words spoken that night in the Senate five years ago touched a chord with Andrew Bolt, the respected and well-known columnist, who wrote in a blog on 21 March 2007 that he had heard my speech while driving home from a function the previous evening. He saw fit to write generously about that speech and the incident and in fact kindly included in his blog the full text of my speech that night.

As fate would have it, a couple of years after I made that speech, a lady by the name of Kim Best was using the internet as part of a research project into her father, whom she had never known and who had died just 36 days before she was born. She came across my speech and immediately made contact by email. She told me that her father, Noel Heathcote Charlton, had been the second officer on the aircraft and that her mother, Clare, had died a few years later. She has lived her life without any knowledge of her father and with only a very brief time with her mother. As senators, we can appreciate that she felt the emptiness of those who have had no connection with their parents. As Kim said to me when she first contacted me:

I am trying to discover for the first time as much as I can about my dad—I have one aunt and
uncle left—that is the sum total of my family so I do not have much to go on.

When Kim Best contacted me, I was able to put her in touch with my sister-in-law, Alma, who had always been very much a part of our family, and from that point onward Kim has done a considerable amount of research, so that through her efforts she feels that she has at last connected with the parents she never really knew. Kim tracked down the court of inquiry transcripts and has made contact with many people who were associated with her father prior to his death.

As a result of her dedicated research, Kim has located the younger brother of Sergeant Mackrill, Douglas Mackrill, and also a Mrs Irene Windsor whose father was a cousin of Sergeant Coombe.

In August last year I received an email from a 72-year-old by the name of Noel Hutchins, a 20-year veteran of the RAAF, who recounted how at the time of his recruit training he was at RAAF Canberra but had never been in the air. His officer commanding had arranged for him to have his first flying experience with some flying crews doing training exercises around Canberra. He remembered going with my brother and his crew on a number of occasions, but on the night of the crash he was away from Canberra as a volunteer—fighting fires as fate would have it. He told me that he had recently googled to see if he could find any information on the crash he had remembered and came across my speech in the Senate in 2007, and has subsequently made contact with me. Kim Best has been corresponding with Mr Hutchins and actually met up with him for lunch just before Christmas last year.

One of the bloggers who responded to Andrew Bolt's writings said:

… I remember that crash 50 years ago very well being a staff cadet at Duntroon at the time and was called out to do what we could which wasn't much. There was much discussion at the time how the pilot had successfully avoided not just the married quarters but all the accommodation areas at Duntroon and for which we remain eternally grateful.

All of those people are linked by their experience of that tragic event 55 years ago and in different ways are drawn together by some words in this chamber five years ago.

That speech had its sequel yesterday morning when a small group of people gathered at the memorial which now stands on the exact place where the aircraft crashed, and they remembered those who had given their lives in the service of their country. The small group included my brother's widow, Alma; Sergeant Charlton's daughter, Kim; Mr Doug Mackrill, the younger brother of Sergeant Mackrill, and his wife, Barbara; my brother Jim, who has worked with and encouraged Kim in her quest for information; as well as my wife, Lesley, and me. Also in attendance were the Commandant of the Royal Military College, Brigadier David Luhrs CSC and, representing the Chief of Air Force, Group Captain Ken Robinson, and other senior officers and warrant officers. The chair of the Duntroon Heritage Committee, Lieutenant Colonel (Retired) John Bullen, who was, coincidentally, a young cadet in college rooms at RMC when the Dakota went overhead in its final moments in 1957 and was one of the first on the scene, was also in attendance yesterday morning. Also there yesterday morning was Mr Ross Howarth, the Duntroon archivist, who was the originator and driving force behind the concept of a plaque to mark the previously unrecognised site of the crash. He has been a wonderful adviser and friend to Kim and, through her, to all of us, the families of the aircrew who lost their lives on that fateful day 55 years ago.
The service was conducted by the Duntroon chaplain, Air Commodore the Venerable Dr Royce Thompson, and Padre Robyn Kidd. We thank them for the friendly, sensitive manner in which they performed their duties. The presence of these significant Defence Force personnel there yesterday morning is a tribute not only to those four young men who died all those years ago but also to others in the Australia's Defence Forces who similarly have given their lives for their country. We, the families of the four young men, were honoured to receive yesterday lapel pins presented to us on behalf of the Chief of Air Force in recognition that our loved ones, who were valued members of the Royal Australian Air Force, died in service. We will, as the Chief of Air Force said, wear the pins in remembrance and with pride.

Whilst this story is close and personal to me, it reflects the wider reality that many men and women from all walks of life pay the ultimate sacrifice in the service of their country. Were it not for their willingness to take the risks associated with being in the Defence Force, either in the combat zone or in duties away from warlike activities, you and I and our children and their children could not enjoy the life which we as Australians are privileged to call our own.

Mining

Senator RHIANNON (New South Wales) (22:51): Last year at CHOGM the Prime Minister launched the government's Mining for Development Initiative. The stated aim of this initiative is to help developing countries find sustainable ways to exploit their natural resources for economic development. The program could bring benefits to low-income countries, but right now it has the potential to set back development in these countries and bring Australia into disrepute. This is an issue the Minister for Foreign Affairs, Mr Bob Carr, needs to give close attention to.

A total of $127 million has been earmarked from the aid budget for the fund, which will target over 30 developing countries in Africa, the Asia-Pacific and Latin America. It will provide up to $31 million for practical advisory, education and training services to developing countries; up to $29 million for mining scholarships; $20 million over four years to improve public sector capacity in mining regulation in developing countries; and $22 million to support select mining NGOs. This money is additional to other aid money going to mining related initiatives.

AusAID already operates in the mining sphere, but this is a big shift in its aid priorities. In the recent estimates, AusAID reported contributing last year to an IMF natural resource wealth trust fund which seeks to improve macroeconomic management in resource rich developing countries. It also funded numerous study tours to Australia for representatives from 18 African countries to visit Australian mining operations, at a cost of $1.4 million. I was advised that most of the major Australian mining companies were involved, with BHP Billiton and Rio Tinto singled out. AusAID indicated that over the next two years that activity will come under the Mining for Development Initiative. I am still awaiting advice from AusAID on notice about its spending on other mining programs over the past five years.

AusAID is at pains to stress that it does not give money directly to the mining industry but, rather, gives money to countries that are trying to develop a mining industry. However, the way the mining aid program is structured with generous government funding means the mining development initiative will bring enormous benefits to the
mining companies operating in Australia who are gaining access to representatives from resource rich developing countries. We know the mining companies that our government aid officials are taking these visitors to meet with are vying with their global competitors to enter the developing markets in low-income countries. So this mining aid program makes me question who stands to benefit more from spending Australian aid dollars this way—the developing countries whose representatives visit here on study tours or the multinational mining company executives they meet with?

In the last estimates I questioned AusAID to better understand what steps it is taking to ensure this huge shift towards mining related aid in the aid budget does not benefit mining companies over low-income countries. The response from AusAID is that representatives of developing countries will be brought to Australia to learn about social and environmental safeguards from the likes of BHP Billiton and Rio Tinto. The environmental and occupational health and safety of record of these companies, however, is tarnished in Australia and pales into insignificance compared with their record in developing nations such as Papua New Guinea, with numerous large-scale mining disasters, most notably BHP's Ok Tedi mine. If the Mining for Development Initiative is not run under strict guidelines to ensure the benefits go to low-income countries, this aid assistance will most certainly flow to big mining companies as well as boosting the workload of AusAID's consultants.

Another stated aim is to teach developing countries to leverage off mining developments to provide local economic opportunities for men and women in the communities where mining is taking place. But how is this apparent opportunity balanced with the environmental problems that mining developments will inevitably bring? Our government is committed to aid spending that reduces global poverty and provides sufficient resources to meet the Millennium Development Goals: to eradicate hunger and poverty, reduce childhood mortality, improve health care and education, promote gender equality and empower women, combat HIV-AIDS, ensure environmental sustainability and develop a global partnership for development.

It is problematic that our aid program is offering mining related assistance to improve resource governance, sustainability and development, promoting mining as a sustainable industry for economic development in poor countries. There is no doubt that low-income countries with rich mineral resources can gain economic benefit from mining, but there are serious credibility issues with the Mining for Development Initiative. The detail has not been provided on how the Australian government plans to ensure this is not more corporate welfare for the mining sector. The Prime Minister's announcement on the MDI stated:

Australia is an expert in developing mineral commodities using environmentally responsible practices.

Clearly the Prime Minister has not toured the same mining operations that I have. I have met with traditional owners of the Lake Cowal goldmine in West Wyalong, New South Wales, who have struggled for so many years against the Barrick Gold Corporation, the world's largest goldmining company, which has carried out nothing short of environmental vandalism on their land. I have flown over the miles and miles of open-cut coalmines in the Upper Hunter Valley of New South Wales that have forever eradicated the soil structure and underground water connectivity of that land—land mined by companies like Rio Tinto and BHP Billiton that has been
obliterated and can never be rehabilitated to its original state. I have attended huge anti coal seam gas rallies and inspected huge cracks in the riverbeds of our precious drinking water catchment areas in southern Sydney where toxic gases now bubble up in these once pristine creeks through cracks caused by subsidence from BHP Billiton's longwall coalmining operations.

The environmental record in Australia of many mining companies is far from excellent, by every reasonable measure except their own. If we cannot get it right with mining companies in Australia, what makes us think we can teach governments in low-income countries how to control mining companies? I think many Australians would join me in questioning the government's aid-spending priorities by investing in mining related initiatives in this way. In Matthew Benns's excellent book, Dirty Money, chapter 9, titled 'Horn of Plenty', tells the story of an Australian goldminer, Mineral Deposits Ltd, which began operations in Senegal a few years ago, moving into Sabodala in the Kedougou region, where agricultural business had been transacted successfully without paperwork for generations. The farmers quickly found themselves without any land and struggling to survive, whilst the miner boasted to the shareholders its plans to remove 180,000 ounces of gold per year from its 640 square miles of mining lease. I will quote directly from Dirty Money:

Oxfam visited Sabodala in late 2010 and found that local people were not opposed to the mine but were frustrated that they could not get any work there. Chief Cissokho told the aid workers, 'If you come to my house, take my land and then I send my son to you for a job and you say "No he has no qualifications" then you are no use to me.' When those same villagers protested against the lack of jobs for locals, police clashed with demonstrators resulting in two deaths and 26 arrests. African human rights groups found that people were stripped, beaten, tortured and humiliated. Some farmers were lucky enough to be paid for their land. One farmer received $1,600 for his farm, a tiny amount from an Australian company that reported revenue in 2009 of $160 million. The President of Senegal told a mining conference in 2010:

We've been mining since independence but we're still poor. Where has all that money gone?

Mineral Deposits Ltd was financed by the British government's Commonwealth Development Corporation to the tune of $16 million, with the stated aim to foster growth in sustainable business to help raise living standards in developing countries. Yet the company paid virtually no taxes in Senegal. It records no profits there, instead redirecting its profits to the tax haven of Mauritius.

Matthew Benns goes on to quote the Australia High Commissioner to South Africa, Ann Harrap, as saying last year:

… the growth in Australia's commercial presence in Africa has been extraordinary with 48 companies and 143 projects added in 2010 alone. This is where we need to be very careful how our aid money is being spent.

We know from our own experience that mining does not create huge numbers of jobs and the jobs it will create in developing countries will often be very dangerous. The proceeds of mining will largely flow overseas to the shareholders of these international mining companies. Mining operations can cause more social and environmental problems than they solve. I really question if this program is the most effective use of aid resources. Yes, low-income countries need assistance to ensure their mineral resources are only exploited if the wealth stays with local communities and environmental damage is minimal.
Food and Grocery Industry

Senator URQUHART (Tasmania) (23:02): Have you ever thought about how important our food manufacturing industry is? It is more than just the food we buy in the supermarket and that which we serve at our kitchen tables. The Australian food manufacturing industry is a critical and dynamic part of our economy. Our food industry ensures security, quality and safety in the food we consume, with high quality standards expected and met by our producers and manufacturers. It also supports Australian businesses and jobs across the nation, including in many of our rural and regional towns and communities. But the industry faces significant threats that have seen business closures, job losses and the disappearance of a range of brands from our supermarket shelves.

Recently I had the pleasure of hosting workplace delegates from the AMWU’s Food and Confectionary Division who visited Canberra to urge federal parliamentarians to take action on the issues threatening Australia’s food processing industry. I congratulate Heidi Stenschke from Cerebos Sydney, Jenny James from the Gippsland Food Company, Peter Brown from Mars Ballarat, Deb Green from Heinz Echuca and Leigh Monson from Simplot Ulverstone for coming to Canberra to share their stories and their vision for the future of their industry. They, like I, recognise that food manufacturing is a critical industry in our economy and that it is the largest sector of Australia's manufacturing industry.

Food and beverage manufacturing turns over $86½ billion dollars and earns just under $15 billion dollars in exports annually. There are 225,000 people directly employed in the food and beverage manufacturing industry, while hundreds of thousands more are indirectly employed in primary production, printing, packaging, transport, logistics, maintenance and science and technology. Manufacturing businesses recognise the benefits of a skilled workforce, provide skills and training for young people, and are a leading engine for R&D and for innovation. They are key platforms to making Australia competitive and unlock long-term sustainable economic growth.

Importantly, many of the more than 30,000 food and beverage manufacturing businesses that operate in regional Australia use the agriculture produced in their region, boosting employment and diversifying their local economy. For example, Simplot Ulverstone produces frozen potato products from potatoes grown in the lush fields of north-west Tasmania. The facility purchases $40 million worth of potatoes annually from over 300 local potato growers. Its sister facility in Devonport produces frozen vegetables from locally grown peas, beans, carrots and broccoli—among others—but also uses some imported product to smooth production across the farming cycle.

Australian food has always been able to sell itself on its high safety standards and quality expectations backed by investigation and testing regimes that ensure Australia’s food production and manufacturing is safe and trusted by consumers. In fact, 60 per cent of Australians look for country of origin labelling to make purchasing decisions as they substitute ‘product of Australia’ for health information. Unfortunately, these same standards are not applied to processed food coming into Australia, creating an uneven playing field for local producers and manufacturers and threatening food safety. Australia enjoys the landmass, agriculture, horticulture and processing skills to feed its nation and export food to the globe. Loss of manufacturing skills and capabilities, coupled with an increasing reliance on imported food, has the potential to threaten...
both the security and sovereignty of our food supply.

The delegates met with all members of the Select Committee on Australia's Food Processing Sector as well as members and senators with food manufacturers in their electorates and raised major issues of concern to them and the workers they represent. It was definitely a busy few days for them. An issue for the delegates was the concentration of the food retail market in Australia, a market where just two companies, Coles and Woolworths, control as much as 80 per cent of all sales.

The big two are not just retailers, but they also manufacture their own private label brands in direct competition to stand-alone manufacturers. As a result, consumer choice and ability to 'shop around' has been severely hampered. The resultant market power means that Coles and Woolworths are able to set prices and dictate contractual terms to producers, resulting in manufacturers shedding jobs, relocating or exiting the market completely. This market share has continued to grow despite the entry of new players such as ALDI and Costco. Shelf space is vital for independent retailers and Coles and Woolworths use this to leverage producers in negotiations. This has led to only one or two preferred suppliers in many food categories, with other independent brands being replaced by private labels. In just the last seven years, the amount of private labels on premium shelf space has almost doubled, and the supermarkets have not doubled the number of shelves in their stores.

The delegates were concerned that private labels are given premium shelf space regardless of quality, consumer preference or price because doing so drives out competition and increases the supermarkets' profit margins. Despite claims that private label goods create benefits for local processors through an ability to utilize spare capacity, there has actually been a proportionate increase in imported food and an increase in the private label share of supermarket sales over the past nine years. And, as if the current level is not enough, Woolworths's new CEO has stated that they plan to double the sales of their private label in the next five years.

The delegates then highlighted how current labelling of food products in Australia, particularly country of origin labelling, creates confusion for consumers. Terms such as 'Made in Australia' can be misleading to consumers as the product may have been grown and harvested elsewhere. Still more confusing is the use of labels such as 'Made in Australia from local and imported ingredients', leaving consumers confused about which ingredients were sourced locally and what quality standards have been applied. About 60 per cent of Australians look for country of origin labelling when they purchase a product for the first time as they substitute it for health information. They read 'Australian Made' to mean quality and safety so it is vital that labelling is clear, accessible and understood by consumers.

The delegates told of the great opportunities available to Australia's food processors to export their goods to the rising middle class in Asia. They also told of Australia's challenge to make sure that we keep manufacturing here. Many multinational food companies, wooed by tax and trade concessions by Asian governments, already have established processing centres or are choosing to establish production facilities in Asia. To take advantage of Asian growth, Australian producers need to invest in research and development to drive innovation and open new markets. Further, our food industry must
continue to lift productivity through investment in innovative new products which need to be researched and developed and require new food technologies, new plants and equipment and investment in a skilled workforce.

The role of the CSIRO must be noted here in developing innovative food technologies to benefit Australia’s food industries and consumers. An example of their work is the Preshafruit juices, which began life in the labs at the CSIRO. The company now make the claim that they deliver ‘the freshest, healthiest juice that tastes like you are biting into the fruit’—I tried the apple one and definitely agree! And this is needed in the face of increasing importation of food products, especially through private label sourcing. Cheaper imports that are not produced to the same standards required in Australia threaten local manufacturers and the jobs they provide. Imported food products are not subjected to the rigorous testing nor held to the same high standards that local food processors are. Through our trade arrangements with New Zealand, which does not have country of origin labelling laws, food arrives in Australia as a product of New Zealand although ingredients are often sourced from other countries with much lower safety standards than ours.

The rise of food imports and the subsequent loss of local manufacturing and, with it, the food growers who supply them threatens Australia’s capacity to continue to enjoy sovereignty of its food supply. As the world’s population continues to grow, many countries are seeking to secure their own food supply. It is not unimaginable that today’s exporters could cease sending food overseas in favour of supplying their own population. Australia needs to be capable of processing its own food and supplying its own people in the first instance.

The delegates told of job shedding in a number of food manufacturers as they recognise they can no longer compete against low-price imports or in a hostile market created by the supermarket duopoly. Despite the challenges ahead for the food manufacturing industry, it was encouraging to hear that many of the politicians from both sides were receptive to the delegates’ concerns. Workers in the food manufacturing industry know their industry—they know the issues and they actively look for solutions. There are countless stories of how collaborative workplaces are innovative workplaces. When workers are empowered to share their solutions to a problem, real solutions are achieved and the tired, defeatist arguments used by some to cut wages and conditions are not required.

It is in this spirit that these delegates came to Canberra to look constructively at the problems their industry faces. I thank them for their efforts in sharing their perspectives in Canberra and encourage them to continue advocating with their colleagues to improve the way Australia manufactures food and beverage products into the future.

Senate adjourned at 23:12

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.]

Airspace Act—Airspace Regulations—Instrument No. CASA OAR 038/12—Determination of airspace and controlled aerodromes etc Amendment Instrument 2012 (No. 2) [F2012L00595].

Defence Act—Determinations under section 58B—Defence Determinations—
2012/13—Disturbance and motor vehicle allowance – amendment.
2012/14—Post indexes – amendment.
2012/15—Deployment payment.

No. 44 (February 2012) [F2012L00592].
No. 45 (March 2012) [F2012L00593].

Higher Education Support Act—Fit and Proper Person Specified Matters 2012 [F2012L00598].

Radiocommunications Act—Radiocommunications (Communication with Space Object) Class Licence Variation 2012 (No. 1) [F2012L00596].

Social Security Act—Social Security (Australian Government Disaster Recovery Payment) Determination 2012 (No. 3) [F2012L00594].

Tabling
The following government documents were tabled:

Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2010 to 31 August 2011.


Australian Postal Corporation (Australia Post)—Statement of corporate intent 2011-12 to 2013-14.


Treaty—Multilateral—Fifth Agreement to Extend the 1987 Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology, done at Bali on 15 April 2011—Text, together with national interest analysis.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Sky News**
*(Question No. 1022)*

Senator Bob Brown asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 23 August 2011:

1. Will the Australian Government require Sky News to reveal:
   (a) the details of the nature and extent of its discussions with Chinese state network China Central Television (CCTV) in relation to the agreement the two broadcasters signed on 17 August 2011; and
   (b) what assurances of coverage, access and freedom of the press in China has CCTV given Sky News.
2. To what extent will the Government take into account the agreement and discussions between Sky News and CCTV in relation to the Sky News bid for the Australia Network tender.
3. What commitments have or have not been given by Sky News about its access and expansion into the Chinese market in relation to its bid for the Australia Network.

Senator Conroy: The answer to the honourable senator's question is as follows:

The Australian Government commenced an open tender process for the Australia Network service early last year. The government was subsequently advised that due to significant leaks of confidential information, the tender process had been compromised to such a degree that a fair and equitable outcome may no longer be achievable. As a result, on 7 November 2011, the government decided that it was in the best interests of all parties that the process be terminated.

The government subsequently decided that making the service a permanent feature of the Australian Broadcasting Corporation (ABC) would enable Australia Network, in combination with the resources of Radio Australia, the ABC's international radio service, to best deliver international broadcast services on behalf of the government.

**Immigration and Citizenship**
*(Question No. 1534)*

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 6 February 2012:

With reference to the following examples of skilled workers in the technical and trades areas in Western Australia who were eligible under the previous points test, yet are ineligible under the points test that became effective on 1 July 2011:

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### QUESTIONS ON NOTICE

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#### 33 year old mechanical engineer with competent English and 8 years w/exp

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#### 29 year old electrician with competent English and 8 years w/exp

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<td>W/exp</td>
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<tr>
<td>Quals</td>
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<tr>
<td>Aust Study Language Partner</td>
<td></td>
</tr>
<tr>
<td>Sponsorship</td>
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</tr>
<tr>
<td>125 (eligible)</td>
<td>60 (ineligible)</td>
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#### 41 year old construction project manager with proficient English and 8 years w/exp

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<tbody>
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<td>Sponsorship</td>
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</tr>
<tr>
<td>105 (eligible)</td>
<td>60 (ineligible)</td>
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#### 40 year old mechanical engineer with proficient English and 8 years w/exp

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<tbody>
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<td>Quals</td>
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</table>
(1) What is the policy rationale behind technical and trades workers being eligible on 30 June 2011 and ineligible on 1 July 2011.

(2) Does the department have any plans to review the points test.

(3) What feedback has been received relating to the points test.

Senator Ludwig: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) Technicians and Trades Workers continue to be eligible for independent skilled migration under the points test implemented on 1 July 2011.

The policy rationale behind the reforms to the skilled migration program was to realign the program to be more responsive to labour market demand for skills in Australia. The skilled migration program is made up of a number of different categories designed to meet Australia's diverse labour market needs. The reforms in recent years have emphasised employer sponsored skilled migration, providing more places in the program for skilled migrants sponsored by an employer into a skilled job. The Continuous Survey of Australia's Migrants shows that employer sponsored permanent migrants have the best rates of skilled employment out of the different migration categories. Employer sponsorship represents a key pathway for technical and trades applicants, either through the employer nominated scheme (ENS) or regional sponsored migration scheme (RSMS) permanent visa streams, or the 457 temporary skilled stream.

The examples provided refer to points-tested skilled migration, which is one category in Australia's skilled migration program. Applicants in this category do not have employer sponsors and so are required to achieve a pass mark in the points test, which awards points on the basis of key skills and attributes that are indicators of the potential for future success in the Australian labour market. The July 2011 points test has been redesigned to ensure those coming through the points tested categories have the highest level of human capital available, so they are best placed to find work in their chosen fields across all occupations.

(2) Skilled migration is constantly monitored and reviewed to ensure it meets Australia's economic needs. This includes but is not limited to the points test. It also extends to the annual review of the skilled occupation list, as well the annual migration program consultations that inform the decision to set a skilled migration program number. One key tool for managing the points tested categories is the points test pass mark, which can be adjusted by the Minister as economic need dictates.
(3) During consultation on the composition of Australia's migration program for 2012-13, some stakeholders expressed concern about the higher standard of English language required of some skilled migrants under the current points test. While the threshold English language requirement remained the same, additional points were made available for superior English language ability. The importance of competent language skills to settlement in Australia and functioning in the workplace, particularly where the migrant does not already have an employer sponsor, underlies why English language proficiency is a key element of the points test.