INTERNET
The Journals for the Senate are available at

Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

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

SITTING DAYS—2011

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 3, 21, 22, 23, 24</td>
</tr>
<tr>
<td>May</td>
<td>10, 11, 12</td>
</tr>
<tr>
<td>June</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
</tr>
<tr>
<td>July</td>
<td>4, 5, 6, 7</td>
</tr>
<tr>
<td>August</td>
<td>16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>September</td>
<td>12, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>October</td>
<td>11, 12, 13, 31</td>
</tr>
<tr>
<td>November</td>
<td>1, 2, 3, 7, 8, 9, 10, 21, 22, 23, 24, 28, 29, 30</td>
</tr>
</tbody>
</table>

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

- ADELAIDE 972AM
- BRISBANE 936AM
- CANBERRA 103.9FM
- DARWIN 102.5FM
- HOBART 747AM
- MELBOURNE 1026AM
- PERTH 585AM
- SYDNEY 630AM

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

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

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

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

Printed by authority of the Senate
<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Judith Anne</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Arbib, Hon. Mark Victor</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Birmingham, Simon John</td>
<td>SA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>NATS</td>
</tr>
<tr>
<td>Boyce, Suzanne Kay</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Brandis, Hon. George Henry, SC</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>AG</td>
</tr>
<tr>
<td>Bushby, David Christopher</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Cameron, Douglas Niven</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cash, Michaelia Clare</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Colbeck, Hon. Richard Mansell</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Collins, Jacinta Mary Ann</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Conroy, Hon. Stephen Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Cormann, Mathias Hubert Paul</td>
<td>WA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Crossin, Patricia Margaret (1)</td>
<td>NT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Di Natale, Richard</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Edwards, Sean</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Evans, Hon. Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Farrell, Donald Edward</td>
<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Fawcett, David Julian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Feeney, David Ian</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Fierravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Fifield, Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Fisher, Mary Jo (1)</td>
<td>SA</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Foster, Mark Lionel</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Gallacher, Alexander McEachian</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2014</td>
<td>AG</td>
</tr>
<tr>
<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Hogg, Hon. John Joseph</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Humphries, Gary John Joseph (1)</td>
<td>ACT</td>
<td></td>
<td>LP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Joyce, Barnaby Thomas Gerard</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>Kroger, Helen</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2014</td>
<td>AG</td>
</tr>
<tr>
<td>Lundy, Kate Alexandra (1)</td>
<td>ACT</td>
<td></td>
<td>ALP</td>
</tr>
<tr>
<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Madigan, John Joseph</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>DLP</td>
</tr>
<tr>
<td>McEwen, Anne</td>
<td>SA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>McKenzie, Bridget</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>Senator</td>
<td>State or Territory</td>
<td>Term expires</td>
<td>Party</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>--------------------</td>
<td>--------------</td>
<td>----------------</td>
</tr>
<tr>
<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Milne, Christine Anne</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Nash, Fiona Joy</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>NATS</td>
</tr>
<tr>
<td>Parry, Stephen Shane</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Payne, Marise Ann</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Polley, Helen Beatrice</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Pratt, Louise Clare</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Rhiannon, Lee</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2017</td>
<td>LP</td>
</tr>
<tr>
<td>Ryan, Scott Michael</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Scullion, Hon. Nigel Gregory (1)</td>
<td>NT</td>
<td></td>
<td>CLP</td>
</tr>
<tr>
<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Siewert, Rachel Mary</td>
<td>WA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Singh, Hon. Lisa Maria</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Sinodinos, Arthur (2)</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>LP</td>
</tr>
<tr>
<td>Stephens, Hon. Ursula Mary</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Sterling, Glenn</td>
<td>WA</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Thistlethwaite, Matthew</td>
<td>NSW</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Urquhart, Anne Elizabeth</td>
<td>TAS</td>
<td>30.6.2017</td>
<td>ALP</td>
</tr>
<tr>
<td>Waters, Larissa Joy</td>
<td>QLD</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>NATS</td>
</tr>
<tr>
<td>Wright, Penelope Lesley</td>
<td>SA</td>
<td>30.6.2017</td>
<td>AG</td>
</tr>
<tr>
<td>Wong, Hon. Penelope Ying Yen</td>
<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Xenophon, Nicholas</td>
<td>SA</td>
<td>30.6.2014</td>
<td>IND</td>
</tr>
</tbody>
</table>

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—A Thompson
GILLARD MINISTRY

<table>
<thead>
<tr>
<th>Position</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>Hon. Julia Gillard MP</td>
</tr>
<tr>
<td>Deputy Prime Minister, Treasurer</td>
<td>Hon. Wayne Swan MP</td>
</tr>
<tr>
<td>Minister for Regional Australia, Regional Development and Local Government</td>
<td>Hon. Simon Crean MP</td>
</tr>
<tr>
<td>Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate</td>
<td>Senator Hon. Chris Evans</td>
</tr>
<tr>
<td>Minister for School Education, Early Childhood and Youth</td>
<td>Hon. Peter Garrett AM, MP</td>
</tr>
<tr>
<td>Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate</td>
<td>Senator Hon. Stephen Conroy</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>Hon. Kevin Rudd MP</td>
</tr>
<tr>
<td>Minister for Trade</td>
<td>Hon. Dr Craig Emerson MP</td>
</tr>
<tr>
<td>Minister for Defence and Deputy Leader of the House</td>
<td>Hon. Stephen Smith MP</td>
</tr>
<tr>
<td>Minister for Immigration and Citizenship</td>
<td>Hon. Chris Bowen MP</td>
</tr>
<tr>
<td>Minister for Infrastructure and Transport and Leader of the House</td>
<td>Hon. Anthony Albanese MP</td>
</tr>
<tr>
<td>Minister for Health and Ageing</td>
<td>Hon. Nicola Roxon MP</td>
</tr>
<tr>
<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>Hon. Jenny Macklin MP</td>
</tr>
<tr>
<td>Minister for Sustainability, Environment, Water, Population and Communities</td>
<td>Hon. Tony Burke MP</td>
</tr>
<tr>
<td>Minister for Finance and Deregulation</td>
<td>Senator Hon. Penny Wong</td>
</tr>
<tr>
<td>Minister for Innovation, Industry, Science and Research</td>
<td>Senator Hon. Kim Carr</td>
</tr>
<tr>
<td>Attorney-General and Vice President of the Executive Council</td>
<td>Hon. Robert McClelland MP</td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry and Manager of Government Business in the Senate</td>
<td>Senator Hon. Joe Ludwig</td>
</tr>
<tr>
<td>Minister for Resources and Energy and Minister for Tourism</td>
<td>Hon. Martin Ferguson AM, MP</td>
</tr>
<tr>
<td>Minister for Climate Change and Energy Efficiency</td>
<td>Hon. Greg Combet AM, MP</td>
</tr>
</tbody>
</table>

**[The above ministers constitute the cabinet]**
GILLARD MINISTRY—continued

Minister for the Arts
Minister for Social Inclusion
Minister for Privacy and Freedom of Information
Minister for Sport
Special Minister of State for the Public Service and Integrity
Assistant Treasurer and Minister for Financial Services and Superannuation
Minister for Employment Participation and Childcare
Minister for Indigenous Employment and Economic Development
Minister for Veterans’ Affairs and Minister for Defence Science and Personnel
Minister for Defence Materiel
Minister for Indigenous Health
Minister Assisting the Prime Minister on Mental Health Reform
Minister for the Status of Women
Minister for Social Housing and Homelessness
Special Minister of State
Minister for Small Business
Minister for Home Affairs and Minister for Justice
Minister for Human Services
Cabinet Secretary
Parliamentary Secretary to the Prime Minister
Parliamentary Secretary to the Treasurer
Parliamentary Secretary for School Education and Workplace Relations
Minister Assisting the Prime Minister on Digital Productivity
Parliamentary Secretary for Trade
Parliamentary Secretary for Pacific Island Affairs
Parliamentary Secretary for Defence
Parliamentary Secretary for Immigration and Multicultural Affairs
Parliamentary Secretary for Infrastructure and Transport and Parliamentary Secretary for Health and Ageing
Parliamentary Secretary for Disabilities and Carers
Parliamentary Secretary for Community Services
Parliamentary Secretary for Sustainability and Urban Water
Minister Assisting on Deregulation and Public Sector Superannuation
Minister Assisting the Attorney-General on Queensland Floods Recovery
Parliamentary Secretary for Agriculture, Fisheries and Forestry
Minister Assisting the Minister for Tourism
Parliamentary Secretary for Climate Change and Energy Efficiency

Hon. Simon Crean MP
Hon. Tanya Plibersek MP
Hon. Brendan O’Connor MP
Senator Hon. Mark Arbib
Hon. Gary Gray AO, MP
Hon. Bill Shorten MP
Hon. Kate Ellis MP
Senator Hon. Mark Arbib
Hon. Warren Snowdon MP
Hon. Jason Clare MP
Hon. Warren Snowdon MP
Hon. Mark Butler MP
Hon. Kate Ellis MP
Senator Hon. Mark Arbib
Hon. Tanya Plibersek MP
Hon. Mark Dreyfus QC, MP
Senator Hon. Kate Lundy
Hon. David Bradbury MP
Senator Hon. Jacinta Collins
Senator Hon. Stephen Conroy
Hon. Justine Elliot MP
Hon. Richard Marles MP
Senator Hon. David Feeney
Senator Hon. Kate Lundy
Hon. Catherine King MP
Senator Hon. Jan McLucas
Hon. Julie Collins MP
Senator Hon. Don Farrell
Senator Hon. Nick Sherry
Senator Hon. Joe Ludwig
Hon. Dr Mike Kelly AM, MP
Senator Hon. Nick Sherry
Hon. Mark Dreyfus QC, MP
SHADOW MINISTRY

Leader of the Opposition
Hon. Tony Abbott MP

Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Shadow Minister for Trade
Hon. Julie Bishop MP

Leader of the Nationals and Shadow Minister for Infrastructure and Transport
Hon. Warren Truss MP

Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations
Senator Hon. Eric Abetz

Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts
Senator Hon. George Brandis SC

Shadow Treasurer
Hon. Joe Hockey MP

Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House
Hon. Christopher Pyne MP

Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals
Senator Hon. Nigel Scullion

Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate
Senator Barnaby Joyce

Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee
Hon. Andrew Robb AO, MP

Shadow Minister for Energy and Resources
Hon. Ian Macfarlane MP

Shadow Minister for Defence
Senator Hon. David Johnston

Shadow Minister for Communications and Broadband
Hon. Malcolm Turnbull MP

Shadow Minister for Health and Ageing
Hon. Peter Dutton MP

Shadow Minister for Families, Housing and Human Services
Hon. Kevin Andrews MP

Shadow Minister for Climate Action, Environment and Heritage
Hon. Greg Hunt MP

Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship
Mr Scott Morrison MP

Shadow Minister for Innovation, Industry and Science
Mrs Sophie Mirabella MP

Shadow Minister for Agriculture and Food Security
Hon. John Cobb MP

Shadow Minister for Small Business, Competition Policy and Consumer Affairs
Hon. Bruce Billson MP

[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Employment Participation                      Hon. Sussan Ley MP
Shadow Minister for Justice, Customs and Border Protection       Mr Michael Keenan MP
Shadow Assistant Treasurer and Shadow Minister for Financial    Senator Mathias Cormann
  Services and Superannuation
Shadow Minister for Childcare and Early Childhood Learning      Hon. Sussan Ley MP
Shadow Minister for Universities and Research                   Senator Hon. Brett Mason
Shadow Minister for Youth and Sport and Deputy Manager of      Mr Luke Hartsuyker MP
  Opposition Business in the House
Shadow Minister for Indigenous Development and Employment       Senator Marise Payne
Shadow Minister for Regional Development                        Hon. Bob Baldwin MP
Shadow Special Minister of State                                Hon. Bronwyn Bishop MP
Shadow Minister for COAG                                        Senator Marise Payne
Shadow Minister for Tourism                                     Hon. Bob Baldwin MP
Shadow Minister for Defence Science, Technology and             Mr Stuart Robert MP
  Personnel
Shadow Minister for Veterans' Affairs and Shadow Minister       Senator Hon. Michael Ronaldson
  Assisting the Leader of the Opposition on the Centenary of
  ANZAC
Shadow Minister for Regional Communications                      Mr Luke Hartsuyker MP
Shadow Minister for Ageing and Shadow Minister for Mental       Senator Concetta Fierravanti-
  Health                                                            Wells
Shadow Minister for Seniors                                      Hon. Bronwyn Bishop MP
Shadow Minister for Disabilities, Carers and the Voluntary      Senator Mitch Fifield
  Sector and Manager of Opposition Business in the Senate
Shadow Minister for Housing                                      Senator Marise Payne
Chairman, Scrutiny of Government Waste Committee                Mr Jamie Briggs MP
Shadow Cabinet Secretary                                         Hon. Philip Ruddock MP
Shadow Parliamentary Secretary Assisting the Leader of the      Senator Cory Bernardi
  Opposition
Shadow Parliamentary Secretary for International Development    Hon. Teresa Gambaro MP
  Assistance
Shadow Parliamentary Secretary for Roads and Regional           Mr Darren Chester MP
  Transport
Shadow Parliamentary Secretary to the Shadow Attorney-General   Senator Gary Humphries
Shadow Parliamentary Secretary for Tax Reform and Deputy       Hon. Tony Smith MP
  Chairman, Coalition Policy Development Committee
Shadow Parliamentary Secretary for Regional Education           Senator Fiona Nash
Shadow Parliamentary Secretary for Northern and Remote          Senator Hon. Ian Macdonald
  Australia
Shadow Parliamentary Secretary for Local Government             Mr Don Randall MP
Shadow Parliamentary Secretary for the Murray-Darling Basin    Senator Simon Birmingham
Shadow Parliamentary Secretary for Defence Materiel             Senator Gary Humphries
Shadow Parliamentary Secretary for the Defence Force and        Senator Hon. Ian Macdonald
  Defence Support
SHADOW MINISTRY—continued

Shadow Parliamentary Secretary for Primary Healthcare
Dr Andrew Southcott MP

Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health
Mr Andrew Laming MP

Shadow Parliamentary Secretary for Supporting Families
Senator Cory Bernardi

Shadow Parliamentary Secretary for the Status of Women
Senator Michaelia Cash

Shadow Parliamentary Secretary for Environment
Senator Simon Birmingham

Shadow Parliamentary Secretary for Citizenship and Settlement
Hon. Teresa Gambaro MP

Shadow Parliamentary Secretary for Immigration
Senator Michaelia Cash

Shadow Parliamentary Secretary for Innovation, Industry, and Science
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Fisheries and Forestry
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Small Business and Fair Competition
Senator Scott Ryan
CONTENTS

TUESDAY, 22 NOVEMBER 2011

Chamber
QUESTIONS WITHOUT NOTICE—
  Carbon Pricing .......................................................... 9123
  Workplace Relations ...................................................... 9125
  Carbon Pricing ............................................................ 9126
  Mining ................................................................. 9128
  Australian Securities and Investments Commission .................. 9129
DISTINGUISHED VISITORS ............................................. 9131
QUESTIONS WITHOUT NOTICE—
  Mining ................................................................. 9131
  Marine Conservation ................................................... 9132
  Trans-Pacific Partnership .............................................. 9134
  Carbon Pricing ............................................................ 9135
  Cooperative Research Centres ...................................... 9137
ANSWERS TO QUESTIONS ON NOTICE—
  Question No. 1282 ....................................................... 9138
QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS—
  Asylum Seekers .......................................................... 9140
QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS—
  Carbon Pricing ............................................................ 9141
  Mining ................................................................. 9147
NOTICES—
  Presentation ............................................................. 9148
  Postponement ........................................................... 9154
MOTIONS—
  Julian Burton Burns Trust .............................................. 9154
  Social Inclusion Week .................................................. 9154
COMMITTEES—
  Migration Committee—
    Meeting .............................................................. 9155
  Foreign Affairs, Defence and Trade Joint Committee—
    Meeting .............................................................. 9155
  Environment and Communications Legislation Committee—
    Reporting Date ........................................................ 9155
  National Capital and External Territories Committee—
    Meeting .............................................................. 9155
  Economics References Committee—
    Reporting Date ........................................................ 9155
MOTIONS—
  International Development Assistance .................................. 9155
  White Ribbon Day ....................................................... 9156
COMMITTEES—
  Community Affairs References Committee—
    Meeting .............................................................. 9156
Economics References Committee—
Reference ........................................................................................................ 9156

MOTIONS—
Standing Orders .................................................................................................. 9158
Tarkine Wilderness ............................................................................................. 9158
Nuclear Weapons ............................................................................................... 9159

NOTICES—
Withdrawal .......................................................................................................... 9159

MATTERS OF PUBLIC IMPORTANCE—
Mining .................................................................................................................. 9160

AUDITOR-GENERAL’S REPORTS—
Report No. 13 of 2011-12 .................................................................................. 9173

COMMITTEES—
Rural Affairs and Transport References Committee—
Government Response to Report ..................................................................... 9175

PARLIAMENTARY ZONE—
Proposal for Works ............................................................................................ 9183

COMMITTEES—
Treaties Committee—
Report ............................................................................................................... 9183
Intelligence and Security Committee—
Report .............................................................................................................. 9191
Foreign Affairs, Defence and Trade Joint Committee—
Report .............................................................................................................. 9192

BILLS—
Defence Trade Controls Bill 2011—
Customs Amendment (Military End-Use) Bill 2011—
First Reading ...................................................................................................... 9192
Second Reading .................................................................................................. 9192

COMMITTEES—
Rural Affairs and Transport References Committee—
Government Response to Report ..................................................................... 9197

BILLS—
Tax Laws Amendment (2011 Measures No. 8) Bill 2011—
First Reading ...................................................................................................... 9197
Second Reading .................................................................................................. 9197
Clean Energy Bill 2011—
Clean Energy (Consequential Amendments) Bill 2011—
Steel Transformation Plan Bill 2011—
Assent .................................................................................................................. 9199

COMMITTEES—
Community Affairs References Committee—
Report .............................................................................................................. 9199

BILLS—
Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011—
Second Reading .................................................................................................. 9206
Third Reading ...................................................................................................... 9239
CONTENT—continued

Crimes Legislation Amendment Bill (No. 2) 2011— 9247
Aviation Transport Security Amendment (Air Cargo) Bill 2011— 9247
Veterans’ Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011— 9247
Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011— 9247

ADJOURNMENT— 9247
  Cybersmart Networking ........................................................................................................ 9247
  Heath, Sister Eileen ................................................................................................................. 9250
  Marine Conservation .............................................................................................................. 9252
  Defence Industry .................................................................................................................. 9254
  Defence ................................................................................................................................. 9256
  Chalmers, Mr Rob ................................................................................................................. 9259
  Carbon Pricing ..................................................................................................................... 9260
  National Museum of Australia: Forgotten Australians ......................................................... 9262
  Address by the President of the United States of America .................................................. 9264
  Member for Dobell .............................................................................................................. 9269
  Address by the President of the United States of America .................................................. 9274
  Member for Dobell .............................................................................................................. 9279
  Occupy Movement .............................................................................................................. 9279
  Murray-Darling Basin ......................................................................................................... 9279

DOCUMENTS— 9283
  Tabling .................................................................................................................................. 9283

Questions On Notice 9284
  Prime Minister and Cabinet: Code of Conduct Investigations—(Question No. 1047) ... 9284
  Trade—(Question No. 1095) ............................................................................................... 9284
  Sustainability, Environment, Water, Population and Communities— 9285
    (Question No. 1108) ........................................................................................................ 9285
  Families, Housing, Community Services and Indigenous Affairs— 9285
    (Question No. 1152) ........................................................................................................ 9285
  Families, Housing, Community Services and Indigenous Affairs— 9286
    (Question No. 1153) ........................................................................................................ 9286
  Treasury: Program Funding—(Question No. 1200) ................................................................ 9287
  Families, Housing, Community Services and Indigenous Affairs: Accommodation— 9287
    (Question No. 1203) ........................................................................................................ 9290
  Families, Housing, Community Services and Indigenous Affairs: Staffing— 9290
    (Question No. 1225) ........................................................................................................ 9290
  Asylum Seekers—(Question No. 1275) .............................................................................. 9291
  Infrastructure and Transport: Midlands Highway—(Question No. 1314) ......................... 9291
  Attorney-General: Emergency Alert—(Question No. 1434) ............................................. 9291
The PRESIDENT (Senator the Hon. John Hogg) took the chair at 14:00, read prayers and made an acknowledgement of country.

QUESTIONS WITHOUT NOTICE

Carbon Pricing

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:01): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer to the minister's statement yesterday that it is 'wrong to assert that Treasury modelling of the government's plan depends on the United States putting a price on carbon by 2016'. I also refer to page 111 of the government's carbon tax modelling, which states:

The modelling assumes comparable carbon pricing in other major economies from 2015-16 ...

How does the minister reconcile her statement yesterday with this statement from the government's own carbon tax modelling?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:02): I am pleased to take yet another question on modelling on a bill that has already passed the chamber. I would refer the senator to—

Opposition senators interjecting—

The PRESIDENT: Order! Senator Wong, continue.

Senator WONG: The Treasury modelling makes two key assumptions about international action. The first is that countries meet their low-end pollution reduction targets for 2020. That is, in the context of Australia, the same bipartisan commitment to which the opposition has already committed. The second is that countries have access to international abatement. Treasury officials have indicated to Senator Cormann and others that the assumption is low-end pledges— (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:04): Mr President, I ask a supplementary question. Given President Obama's statement that the US will not introduce a carbon tax, nor even take part in an emissions reduction treaty unless China and India are included, and given that the Canadians have rejected any form of carbon pricing and that Japan and Russia will not take part in the second round of the Kyoto protocol, isn't it a fact that the assumptions in the government's carbon tax modelling are now totally discredited?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:05): The answer to the second part of the question is no. On the answer to the first part of the question, I refer the senator to President Obama's press conference on 16 November, where he stated:

… we can meet the commitments we made in Copenhagen and Cancun.

The point is: we assumed in the modelling that countries would do precisely what the President has said the United States will do. We have assumed precisely what the President has said the United States will do. If the opposition are asserting that this is a question about explicit or implicit carbon prices, I would make this point: if you say direct action imposes a carbon price then you impose a carbon price. Your policy does too. What we are saying is that we assume the United States will do what they said.

(Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:06): Mr President, I ask a further supplementary question. If the United States, Canada, China, India, Japan and Korea are not the major economies referred to in the government's modelling document, can the minister tell us which economies she would nominate?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:06): Yet again Senator Abetz asks me a question which makes a false assertion. Implicit in his question very clearly is that the United States will not meet the pledges it made. That is the implicit proposition in his question, because the assumption that the government is making in its modelling—as Treasury has explained to senators on the other side—is that the United States and other major economies will meet the commitments they made at Copenhagen and Cancun. Surprise, surprise! What did President Obama say on this issue when he visited Australia? He said that the United States would meet the pledges it made at Copenhagen and Cancun. So yet again we have those on the other side asking questions which assume nonfacts. What they cannot abide is not only that the legislation has already passed the Senate—

Senator Brandis: Mr President, on a point of order: my point of order does not go to direct relevance. It goes to standing order 73(4). Very frequently in the last year or so this minister has been in breach of the prohibition not to debate the question in answering it. The standing orders say:

(4) In answering a question, a senator shall not debate it.

The PRESIDENT: Order! On my right, I need silence. Senator Brandis is entitled to be heard in silence.

Senator Brandis: Mr President, on the point of order: that is truly one of the most absurd claims that Senator Brandis has made. They constantly interject. Their questions are constantly broad and they try to define themselves when they take their points of order. They constantly change the goalposts because they just cannot get their act together on their taxes committee. This is a spurious point of order and I urge you to reject it, Mr President.

Senator Conroy: Mr President, on the point of order: that is truly one of the most absurd claims that Senator Brandis has made. They constantly interject. Their questions are constantly broad and they try to define themselves when they take their points of order. They constantly change the goalposts because they just cannot get their act together on their taxes committee. This is a spurious point of order and I urge you to reject it, Mr President.

The PRESIDENT: There is no point of order. I am listening to the minister's answer and I draw the minister's attention to the
question and the fact that there are seven seconds now remaining.

Senator WONG: As I said, the question contained an assumption which was incorrect. It is a pity that the coalition do not like that being pointed out to them. (Time expired)

Workplace Relations

Senator FURNER (Queensland) (14:09): My first question is to the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Evans. Can the minister advise the Senate what steps the government is taking to ensure fairness for women in the workplace?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:09): I thank Senator Furner for his question and his ongoing interest in these issues. Since Labor came to office in 2007 we have delivered on our promise to create fairness in the workplace while continuing to create large numbers of jobs. We are especially proud that our reforms have delivered greater fairness for the lowest-paid working Australians, many of whom are women. Labor's reforms include abolishing Work Choices and ending AWAs, the Liberal Party's preferred method of regulating—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Evans, resume your seat. Both sides: Senator Evans is entitled to be heard in silence.

Senator CHRIS EVANS: The government abolished the Liberal's Work Choices. We introduced the Fair Work Act, we delivered Australia's first Paid Parental Leave Scheme, we broadened the definition of pay equity and we restored fairness in unfair dismissal laws for 2.8 million Australians. This is delivering real opportunities and protection for women workers. We have to remember that equal pay has still not been achieved in Australia. Women still earn over 17 per cent less than men. That is clearly unacceptable in the 21st century and that is why Labor is committed to doing something about it. That is why Labor has extended equal remuneration provisions in the Fair Work Act to include the right to equal pay for work of comparative value, with more generous tests than ever before.

We are doing something about it, and it is interesting that the Liberal Party mouth platitudes about support but when it comes to actually supporting real measures, like the application for SACS workers, they go missing. They provide reasons why it should not be done. As I understand it, Joe Hockey—

The PRESIDENT: Order! You need to refer to people correctly.

Senator CHRIS EVANS: Mr Hockey, the Shadow Treasurer, regarded equal pay for SACS workers as reckless. He described moving to assist those workers as reckless. Labor actually believes it is about equality and fairness, and we will continue to pursue such policies. (Time expired)

Senator FURNER (Queensland) (14:12): Mr President, I ask a supplementary question. Can the minister advise the Senate on the progress of the current social and community services equal pay case?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:12): As the Senate would be aware, last week the government, with the applicant unions, filed a joint submission to Fair Work Australia in the current social and community sector equal pay case. The
government has argued for rates of pay which fairly and properly value the work of social and community sector workers. We just do not talk about the value of their work; we are dedicated to trying to fix the undervaluation, trying to recognise the contribution they make and trying to provide financial security and fair pay for those workers. That is why we are very keen to build support for that application from state governments, both Labor and Liberal, and we look to the Liberal opposition to join us in arguing that, rather than just providing lip-service in support of these women workers, we actually support the case before Fair Work Australia to make equal pay a reality for some of those undervalued workers who are doing so much to help the vulnerable in our community.

Senator FURNER (Queensland) (14:13): Mr President, I ask a further supplementary question. Is the minister aware of any risks to achieving fair pay for some of Australia's lowest paid workers?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:13): Those who argue for removing the Fair Work Act and returning to the sorts of policies under Work Choices are clearly those who put at risk the reforms that have benefited women workers, and clearly that is still the Liberal Party agenda. As I say, when we sought to improve the pay rates of people who have been underpaid, Mr Hockey described those moves as reckless. We also know that the Liberal opposition have not supported the superannuation reforms which allow for low-paid workers to have their super contributions tax rebated. For those earning under $37,000 a year, two-thirds of whom are women, this is a really important reform. But what did the Liberal Party do? They said, ‘We will oppose that measure because we think BHP and Rio Tinto need the support more,’ rather than pay the mining tax. In this government, we have given our priority—(Time expired)

Carbon Pricing

Senator BIRMINGHAM (South Australia) (14:14): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to evidence given by Treasury officials at the shotgun inquiry into the carbon tax legislation that beyond 2020 they modelled:

… a scheme where countries make the same emission reductions as each other relative to their ‘business as usual’ path.

So, the analysis is that OPEC countries would reduce their emissions relative to their business as usual path by the same amount as Australia. Will the minister inform the Senate precisely what level of international action is assumed in the Treasury modelling for OPEC countries, and all other countries, of the carbon tax beyond 2020?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:15): I welcome yet another question on a piece of legislation that has already passed the parliament. In relation to the question from Senator Birmingham, I refer him to the same table to which I referred Senator Abetz. I would again make the point that the assumptions in the medium global action scenario, which are transparently set out in the document, are that countries take action in accordance with their low-end pledges as made to both Copenhagen and Cancun. You would see that multistage action is assumed in the medium global action scenario, where developed countries and China lead mitigation efforts initially and all countries act by 2031. The assumption between 2013 and 2015 is for uncoordinated global action but no trade in permits and differentiated
carbon prices. From 2016 onwards countries trade either bilaterally or through a central market.

**Senator Brandis interjecting—**

**Senator WONG:** I will take that interjection. The senator said, 'That is right.'

Well, there is an assumption as to international trading. There is already international trading, so one should not assume the detail of any particular domestic policy has to underpin an assumption of there being international trading. Obviously we already have, for example, a voluntary market. We have CDM, the Clean Development Mechanism trading, which is already on foot.

In relation to OPEC there is table 3.2, but I suspect—and I am only quickly looking at this—that this may well be at 2020 and a 2050 target. The senator would see that there are assumptions in percentage— *(Time expired)*

**Senator BIRMINGHAM** (South Australia) (14:17): Mr President, I ask a supplementary question. Noting that the government's target for emissions reduction in Australia beyond 2020 is an 80 per cent reduction against business as usual and the statement by Treasury officials that they have assumed all countries, including the OPEC countries, will make similar reductions, I ask the minister: is it really the government's assumption that OPEC countries like Iran, Iraq and Saudi Arabia will reduce emissions by 80 per cent against business as usual scenarios by 2050?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:18): I do not have the modelling assumptions in their entirety in front of me—they go to some 200-plus pages.

**Senator Johnston:** Neither does anyone else.

**Senator WONG:** The interjection over there is 'Neither does anyone else.' Actually, the government has released most of them and I am sure that Senator Birmingham, a diligent senator who was on the inquiry, would be aware of that.

The assumptions have been clearly discussed in both inquiries. I note in the original question there was a reference to 'shotgun'. I would make the point that we have had some 37 inquiries on these issues. But in terms of the regional emissions allocations, the numbers I have, at page 32, do not correlate with the numbers that Senator Birmingham has just put to me. But if I am incorrect I will certainly bring some further information back for him.

**Senator BIRMINGHAM** (South Australia) (14:19): Mr President, I ask a further supplementary question. I draw the minister's attention at least to page 8 of the committee Hansard from 26 September, where this Treasury evidence was given. I further ask the minister whether any of the OPEC countries have committed to matching the government's stated objective of reducing emissions by 80 per cent against business as usual scenarios by 2050, as stated by the Treasury officials? And, if the minister is unable to name one, doesn't this demonstrate that this carbon tax modelling is flawed and should be redone?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:19): I am again asked a question that asserts an opinion based on factual assertions in the question that we do not accept. No doubt Senator Brandis will jump to his feet if I point that out, but I am not able to respond in any other way than to point out that the questioner, Senator Birmingham, is again putting facts that we do not accept and that do not accord with the answers I have given.
previously and nor do they accord with the documentation that is in the public arena.

It is the case that there is a multistage approach from 2021 that assumes various actions being taken by different nations, including OPEC. That is clearly laid out in the modelling.

**Mining**

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (14:21): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. My question is about the development of the Solomon Firetail mines by the Fortescue Metals Group and the protection of Yindjibarndi sites in the Pilbara in Western Australia. On 11 March 2011, the Yindjibarndi people were notified of the discovery of a cache of skeletal remains in FMG’s Firetail mining priority area. The Yindjibarndi Aboriginal Corporation elders visited this site and confirmed the bones were human. On 24 August and on 3 October more remains were discovered. When did the minister first become aware of the existence of these sites and what actions did he take when he became aware of these remains, if he in fact was aware of the remains?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:21): I thank the senator for her question. I am advised that the federal government will carefully consider the matters raised in the request for it to protect Aboriginal sites and objects within the Fortescue Metals Solomon Hub project area. Under the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, the environment minister can make declarations to stop activities that could injure or desecrate areas and objects that are of particular significance in accordance with Aboriginal tradition.

I am advised that some Yindjibarndi people have asked Minister Burke to use emergency powers under that act to prevent what they claim is the destruction of sacred sites at the Fortescue Metals Solomon Hub project in the Pilbara. The federal environment department will carefully consider the matters raised in that request. As part of the legal process, all interested parties will be consulted to provide natural justice. This will include giving traditional owners, native title holders and the company the opportunity to comment on the evidence that will come before Minister Burke for a decision.

As the application is the subject of a legal decision-making process, it would not be appropriate to comment on the issue further. That includes commenting on specific documentation which may be relevant to the matters raised in the request. Minister Burke will make a decision on the matter when he receives advice from his department. I am advised that the government is not in a position at this point to set a time line for how long that process may take. However, given that the application involves substantial documentation, it will take some time to carefully consider the matters raised. I understand that Minister Burke has agreed to meet with the traditional owners to listen to their concerns.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (14:23): I thank the minister for the outline of the process that will be used. In fact, he has pre-empted my second question. However, he did not answer my first question, so I will re-ask it. When did the minister become aware of the skeletal remains on this site? Was he aware of them before he received that emergency application? If he was not aware, what
processes did the department or the minister use to understand his portfolio and these very important heritage related issues?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:24): I am advised that the application for heritage protection of Aboriginal sites and objects was received on 18 November 2011. A media release from those involved on 7 November 2011 called on Minister Burke to use his emergency powers to protect Aboriginal heritage sites in the Pilbara. Fortescue Metals, in a media release of 7 November 2011, rejected the claims that it is unlawfully impacting Aboriginal heritage. I think that covers most of it, but just in case there is anything additional I am happy to take it on notice and see if there is anything the minister would like to add.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:25): That would be appreciated. Mr President, I ask a further supplementary question. The Yindjibarndi Aboriginal Corporation recently publicly released a letter from the principal archaeologist hired by FMG raising concerns about the veracity of a March 2011 archaeological report. Is the minister aware of this letter? If so, what steps, if any, is he taking to address the issues raised in the letter?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:25): I take it you are talking about Eureka Heritage. I am advised that the government is aware of this letter, but the environment department does not know at this point whether the letter was included in the request for emergency protection. I understand that the application involved around 500 pages of information and that it will take some time to process that documentation. However, I do understand that at any point the applicants can provide additional information to the department. As the application is the subject of a legal decision-making process it would not be appropriate to comment on the issue in further detail at this point, and that includes commenting on specific documentation which may be relevant to the matters raised in the request. Again, if there is anything further that I can provide, I will take that on notice and see if the minister would like to provide any further information.

Australian Securities and Investments Commission

Senator CORMANN (Western Australia) (14:26): My question is to the Minister representing the Treasurer, Senator Wong. Some notice has been given of the topic of this question. Why did the Gillard government appoint Mr Medcraft as chair of ASIC without first advertising the position, in clear breach of the government's own guidelines for merit and transparency in senior Public Service appointments and announced with much fanfare by the then Special Minister of State, Senator Faulkner, back in February 2008?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:27): I thank the senator for the question and also for the courtesy of giving me some notice of the general subject matter he wanted to traverse. Again we have an assertion in a question which is not correct. I do need to point that out, because I do not think it is reasonable in question time for the opposition to put questions to the government and to ministers which are not
correct. The assertion was made that this is a clear breach of the guidelines.

Senator Cormann: Did you advertise the position?

The President: Order! You will get a chance to ask a supplementary question. The minister is answering the question.

Senator Wong: The guidelines, at 2.6.6, set out the exemptions from the process, the circumstances which do not require a full selection process. Some circumstances may arise, and I do not propose to read them all—I assume the senator is aware of them. There is a process flagged in those guidelines whereby the minister is required to request the Prime Minister's approval to fill a position without conducting a full selection process. The Deputy Prime Minister and Treasurer sought and received an exemption from this process from the Prime Minister, and the circumstances of the exemption have been outlined by the Treasury in the response that has previously been given. The senator is shaking his head. I was advised that the Treasury indication on this was made public, but if that is not the case I will certainly come back to you.

My point is this: an exemption was sought, an exemption was granted and Mr Medcraft was appointed chairman of ASIC for a term of five years commencing on 13 May 2011. I think that deals with the senator's question.

Senator Cormann (Western Australia)(14:29): Mr President, I ask a supplementary question. Prior to Mr Medcraft's appointment as chair of ASIC, what investigations or due diligence, if any, did the government conduct into his role on Wall Street with the French bank Societe Generale and the contribution of its securities products to the global financial crisis?

Senator Wong (South Australia—Minister for Finance and Deregulation)(14:31): I might finish the last paragraph of the quote I was reading out:

On the basis that Mr Medcraft was the most qualified person for the position, Treasury advised the government, in accordance with the relevant guidelines, against advertising the position.

In relation to the question that I have just been asked, that also has been provided by Treasury publicly. Treasury has said:
Mr Medcraft also disclosed to Treasury the existence of civil proceedings from 2004 in the United States brought against Societe Generale and several other respondents. Treasury advised Mr Medcraft that, given the proceedings had been withdrawn in full, it was not necessary to disclose the matter to the government.

I think that was provided in public in response to some public questions by the press on 12 November 2011.

DISTINGUISHED VISITORS

The PRESIDENT: Before calling the next senator to ask a question, I draw to the attention of honourable senators the presence in the gallery of the Australian Political Exchange Council delegation from China. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Mining

Senator MARSHALL (Victoria) (14:32): My question is to the Minister representing the Treasurer, Senator Wong. Can the minister outline for 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) (14:32): I thank the senator for his question and the opportunity to speak about the importance of the Minerals Resource Rent Tax, a policy which is all about ensuring all Australians share in the benefits of the mining boom, a policy to fund a reduction in tax for small business and a boost to superannuation for working Australians and investment in infrastructure. This, as I have previously said, demonstrates the difference between this side of the chamber and those opposite. We want less tax on small business and more superannuation for workers; they want less tax for mining companies and higher profits for the big mining companies. And what is really interesting is that as each day goes on, as each day passes, more and more opposition members are starting to understand the ridiculous position that Mr Abbott has put the opposition in. In fact, one MP has told the West Australian it was ‘insane’ to hand back free money that was willingly being paid by the biggest miners. So there is a growing number of opposition members who understand that it is insane for the opposition to be seriously suggesting that they want to go to the next election telling small business, ‘We are the coalition and we stand for lower superannuation. We are the coalition and we stand for lower superannuation. We are the coalition and we stand for less tax on miners.’ That is the ridiculous position that the opposition have got themselves into. And now what we are seeing day by day are backgroundings for the papers—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, resume your seat. When there is silence on both sides we will proceed. Senators, if you wish to debate it the time is after question time, and you know that.

Senator WONG: Thank you, Mr President. What we are seeing in the papers day by day is more and more coalition MPs backgrounding, telling people they think this is a bad idea. ‘Abbott's policy is insane’—that is what coalition backbenchers think. (Time expired)

Senator MARSHALL (Victoria) (14:35): Mr President, I ask a supplementary question. Can the minister outline to the Senate how the Minerals Resource Rent Tax fits with the government's fiscal strategy? Is the minister aware of any alternative approaches to fiscal strategy?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:36): The government does believe it is important that this tax fits with the government’s fiscal strategy—and it does. However, what we see from the other side is the alternative approach to fiscal strategy, which is ‘we’re just going to spend but we don’t want to work out how we’re going to find the money’. This is an opposition led by a man who simply wants to make spending promises. He talks about being fiscally responsible, but all evidence points the other way—which is why we are increasingly seeing members of the opposition being prepared to speak to newspapers about the ridiculous and insane position that the coalition has got itself into. I note that we do at least have Mr Chester and Dr Washer prepared to put their names out there as people who do think this policy is wrong. One wonders, as the week goes on, how many more—(Time expired)

Senator MARSHALL (Victoria) (14:37): Mr President, I have a further supplementary question. Can the minister advise the Senate why the government focuses on ensuring major decisions such as the Minerals Resource Rent Tax package are consistent with our fiscal strategy and why it is important that spending promises are backed up by properly costed budget decisions?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:38): It was interesting to note one of the headlines in the Australian Financial Review today said ‘Abbott locks Coalition into big spend’. I am reminded of Mr Abbott yesterday who gave a speech where he talked a lot about fiscal matters. He said that a ‘terrible judgment is pronounced’ on those who do not make sure that the sums add up, all the while trying to hide on the podium in front of his $70 billion worth of cuts—

Senator Conroy: $70 billion!

Senator WONG: Seventy billion dollars worth of cuts that he is going to have to make to make his spending promises add up. The largest components of the budget are social security, defence, health, education. What are you going to cut? This is what the coalition is going to have to answer at some stage before the next election: where does the $70 billion come from? What are you going to take out of health? What are you going to take out of social security? What are you going to take out of education? And what are you going to take out of defence? (Time expired)

Marine Conservation

Senator BOSWELL (Queensland) (14:39): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister give a guarantee that as part of the marine bioregional planning process there will be a full socio-economic impact assessment that identifies the true value to the community as a result of the loss of access to marine parks for commercial and amateur fishermen? Will the minister advise the Senate if the socio-economic impact assessment for each of the proposed marine parks will be publicly released prior to the declaration of any park?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:39): I thank Senator Boswell for his question. I know he remains interested in the bioregional planning process. The Senate would be aware that Australia has made an international commitment to establish a representative network of marine reserves by 2012. This policy does fall under the responsibility of Minister Burke, but I will come back to the
The government is conducting a transparent process that includes meaningful consultation with all stakeholders and a comprehensive socioeconomic evaluation of research of reserve proposals. While the benefits of marine reserves are certainly substantial, they are not necessarily felt by the people who experience the impacts of creating them. A socioeconomic assessment of each regional marine reserve network proposal is being conducted in parallel with public consultation on the proposals. The assessment is being conducted by ABARES. It is the government's intention to release a socioeconomic analysis of each final marine reserve network prior to declaration. The assessment is examining the displacement of fishing effort that would result from the proposed marine reserves and the regional economic impacts. The assessment also includes surveys and analysis of the social and community values and potential impacts associated with the areas under consideration for new reserves.

Turning to the issue of fishing gear assessments, the fishing gear assessments have been conducted for each of the marine regions and independently reviewed by the CSIRO. The risk assessments are one input into the zoning of the proposed marine reserve networks. The risk assessments have identified a range of fishing methods—

(Time expired)

**Senator BOSWELL** (Queensland) (14:41): Mr President, I have a supplementary question. I thank the minister for that comprehensive answer and ask: will the minister give a total and unequivocal guarantee that trawling in the Great Barrier Reef Marine Park will be allowed to continue under World Heritage multi-use agreements?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:42): I thank Senator Boswell for his supplementary question. The marine bioregional plans and marine reserve zoning schemes for areas outside the Great Barrier Reef Marine Park do not apply in the Great Barrier Reef Marine Park, so they are two distinct issues. The Great Barrier Reef Marine Park is managed under its own legislation. The zoning plan for the Great Barrier Reef Marine Park is subject to consideration by parliament, as are management plans for other marine reserves. The Great Barrier Reef Marine Park Authority has already indicated publicly that the outlook report has shown the current zoning plan is working. So, where you ask for a total and unequivocal guarantee that trawling in the Great Barrier Reef Marine Park be allowed to continue under the World Heritage multi-use agreement, I bring you back to the issue that the Great Barrier Reef Marine Park—

(Time expired)

**Senator BOSWELL** (Queensland) (14:43): Mr President, I have a further supplementary question, as the minister was cut off with a couple of words to go. Will the minister assure the Senate there will be no declarations for the marine parks under the current proposals of the bioregional marine park plan prior to an agreement being reached on the management arrangements of these marine reserves with the fishing industry?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:43): In the time available, on the broader question of consultation, which
Senator Boswell raised in the first question, I can inform the Senate that the north and north-west consultations include public information sessions across Darwin, Perth and elsewhere. The development of the management arrangements is an important part of the process of establishing Commonwealth marine reserves. The development of the management plans involves two rounds of statutory public consultation and that occurs after the reserves have been proclaimed. So the reserves have to be proclaimed first, then the public consultation occurs. The south-east marine reserve network, which we are both interested in and which was established by the former government in 2007, is being managed under arrangements developed in close consultation with the commercial fishing industry. These arrangements offer a sound basis—

(Time expired)

Trans-Pacific Partnership

Senator DI NATALE (Victoria) (14:44): My question is for the Minister representing the Minister for Trade, Senator Conroy. I refer the minister to recent reports that Philip Morris has launched action challenging the government’s plain packaging legislation under the investor state dispute provisions contained in Australia’s bilateral trade agreement with Hong Kong. At the recent APEC meeting, Prime Minister Gillard announced that Australia was committed to a new trade agreement with the US and other Pacific nations. Will the government rule out committing Australia to any new treaty that contains similar dispute provisions that have the potential to restrict the government’s ability to pursue important public health reforms?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:45): I thank the senator for his question, if not for his moustache! It is also good to see that the Nationals have formed a coalition on trade policy with the Greens. In Honolulu, the Prime Minister, Ms Gillard, announced the broad outlines of the Trans-Pacific Partnership. The TPP is more than a traditional trade agreement; it will also deal with behind-the-border impediments to trade and investment. Current negotiating partners include Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, United States and Vietnam. This represents the first steps in the development of a 21st century free trade agreement, which will forge a pathway to free trade across the Asia-Pacific. TPP countries accounted for 21 per cent of Australia’s total trade in 2010 and our trade with the Asia-Pacific region accounted for around 70 per cent of our total trade. The combined economy of the current negotiating countries is already larger than that of the European Union.

Senator Milne: Mr President, I rise on a point of order. The minister was asked whether any negotiation would include the investor state dispute process. That is the question we would like answered.

The PRESIDENT: I believe the minister is answering the question. The minister still has 47 seconds remaining to answer the question.

Senator CONROY: Leaders committed to a comprehensive, ambitious trade agreement which eliminates tariffs and other barriers to trade and investment. The Australian government is committed to global trade liberalisation and agreement on regional economic integration will go a long way towards that goal. Australia will be pressing for better access to agricultural export markets in negotiations for the TPP, yet senior Nationals are putting themselves
at odds with the National Farmers Federation and Australia’s farmers with their antitrade policies. I am as confused by that as I am sure many are in this chamber. *(Time expired)*

**Senator DI NATALE** (Victoria) (14:47): Mr President, I ask a supplementary question. I thank the minister for his compliment on my moustache. It is very gratefully received, but I do not thank him for not answering the question. I will persist. Given that the Trans-Pacific Partnership Agreement may contain provisions weakening the government’s ability to negotiate lower prices for PBS medicines, will the minister confirm that Australia will not sign on to this treaty if there is any potential to compromise our ability to deliver medicines to the Australian people at the lowest possible price?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:48): It is obvious that this is a hypothetical question. It asked about something that may happen and about an outcome that has not yet been concluded. The government have made clear in its trade policy statement that Australia is committed to transparency in our trade negotiations. On the TPP, we are providing regular briefings on progress in negotiations and are continuing to consult closely with stakeholders. As is normal practice in trade negotiations, the parties have agreed to keep negotiating text confidential. Releasing text therefore would require the agreement of all parties. Even if it were possible, it would not assist informed public debate to release heavily bracketed negotiating text that often includes ambit claims and remains very much a work in progress. *(Time expired)*

**Senator DI NATALE** (Victoria) (14:49): Mr President, I ask a further supplementary question. Can the minister indicate whether the next major round of negotiations for the Trans-Pacific Partnership will take place in March in Melbourne, Australia?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:50): Once the text is agreed between parties, it will be made public and made subject to public and parliamentary scrutiny through a review by the Joint Standing Committee on Treaties. I am happy to take that part of the question I have not answered yet on notice and see if there if any further information might be available that the minister wishes to release.

**Carbon Pricing**

**Senator WILLIAMS** (New South Wales—Nationals Whip in the Senate) (14:50): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to the fact that the meat processing industry is a highly carbon-intensive industry with major emissions flowing from the use of anaerobic ponds and the use of coal in boilers. Given there is relatively no inexpensive method of reducing emissions in the meat processing industry and other alternatives require large investments in replacement capital items, can the minister outline the number of meat processing companies in Australia which are currently above the 25,000 tonne threshold and therefore are required to pay the carbon tax directly, and also how many of those would qualify for assistance under the clean energy Jobs and Competitiveness Program?

**Senator WONG** (South Australia—Minister for Finance and Deregulation)
Firstly, I am being asked to indicate specific firms which may or may not be eligible under a program which has a particular set of criteria around access, which is in part emissions thresholds. I think the senator actually asked me this in the committee stage of the legislation which, of course, as I keep reminding the opposition, has actually passed the parliament and is the law of the land—something they obviously have not got over, given their focus on it today. Even if I had at my fingertips all of the emissions data for every firm in Australia, which I do not, I do not think it would be appropriate for a minister to be suggesting that a particular firm would or would not be entitled to assistance. If we could extrapolate this to any other program it would be very unusual for a senator to ask a minister to confirm whether a particular company or business—

Senator Brandis: Mr President, I have a point of order. The answer is not directly or indeed at all relevant to the question. The minister was asked 'how many' companies, not 'which' companies. She is approaching the answer on the basis that she was asked to name companies and is declining to do so. She was not asked to name any companies. She was asked for the government's estimate of the number and only the number of companies affected.

Senator Ludwig: On the point of order, Mr President: Senator Brandis in taking the point of order has simply picked out a part of the question and then tried to re-emphasise it. It is inappropriate for Senator Brandis to do that and to rephrase the question as well. The minister has been answering the question. The minister continues to be directly relevant to the question and the way the minister is responding is dealing with the substance of the question. What the opposition are now asking for is an answer to a specific question which they have formulated because they want a particular answer. It is inappropriate to argue for that. The minister remains directly relevant.

Senator Abetz: On the point of order, Mr President: the minister was clearly answering by saying it was inappropriate to give the name of specific companies. The question was very clear. It said: can the minister outline the number of meat processing companies? How many of these would qualify? At no stage did the questioner seek the name. The minister is hiding behind the false assertion that a name was being sought in the question. Given the very specific question that was asked, I would invite you to invoke sessional orders.

The President: The minister is reminded of the question and has 32 seconds remaining. I draw the minister's attention to the question.

Senator Wong: Thank you, Mr President. I am advised that most meat processing facilities are likely to fall below the coverage thresholds of the scheme and hence would not be directly liable. All meat processors, like other industries, will obviously pay some indirect cost increase for electricity use and gas consumption. I remind the senator of the dedicated support of some $150 million for the food and beverage processing industry which is available under the Clean Technology Food and Foundries Investment Program. Meat processors that may have a direct carbon cost—

(Time expired)

Senator Williams (New South Wales—Nationals Whip in the Senate) (14:56): Mr President, I ask a supplementary question. I am glad the minister mentioned that technology. Given the Clean Technology Food and Foundries Investment Program provides just $25 million per year for investment to reduce emissions and under its guidance investments must go beyond...
replacement of capital items, can the minister explain how this funding will be sufficient when reducing emissions in the meat industry requires multimillion dollar investments in replacing capital equipment?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:56): It is a little difficult to know how to answer this because I believe—

Senator Abetz: You don't know.

Senator WONG: It is so clear that they want to fight. They are not interested in my response.

Opposition senators interjecting—

Senator WONG: I am trying to be helpful today, as I always am, but particularly helpful today—extra helpful. I think the senator is asking me to make an assertion about how the program will be rolled out in practice. My advice is that the program can be used to fund capital to reduce or even eliminate the liability, such as technology to capture and use methane for boilers or as a source of electricity. The government has also provided the Energy Efficiency Information Grants Program to help industry peak bodies such as those in the meat industry. (Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:57): Mr President, I ask a further supplementary question. Given the meat processing industry employs tens of thousands of people directly and indirectly and many regional communities depend on their continued existence to survive, why has the Gillard Labor government placed another massive cost burden in the form of the carbon tax on this industry and put so many jobs in regional communities at risk?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:57): In relation to first part, we agree that the meat industry is important. In relation to the second part, we do not agree with your assertion that putting a price on carbon will put these industries and jobs at risk. I refer you to the Treasury modelling which shows that under a carbon price meat product manufacturing is estimated—

Senator Joyce interjecting—

Senator WONG: You do not like to hear the truth, do you? Under the Treasury modelling, meat product manufacturing is estimated to grow by 12 per cent to 2020 and 137 per cent to 2050. The problem is that the facts asserted by the opposition in the question consistently fail to match up to reality. They are railing against a bill that has passed. They are railing against modelling which shows that we can grow our incomes, grow jobs, grow the economy and put in place a carbon price.

Cooperative Research Centres

Senator URQUHART (Tasmania) (14:58): My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister update the Senate on the progress of the 14th application round for the Cooperative Research Centre program?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:58): I thank Senator Urquhart for her question. Today I take this opportunity to announce that six CRCs have been awarded funding in the 14th CRC selection round—that is, $148 million invested in jobs and living standards for the Australian people. Of that, $58 million will support two new CRCs—a CRC for water sensitive cities will receive $30 million and a CRC for low-carbon living will receive $28 million. We will also invest a further $90 million to help four outstanding CRCs to continue their work. The CRC for National Plant Biosecurity will receive $30 million; the
Invasive Animals CRC will receive $19.7 million; the AutoCRC 2020 will receive $26 million; and the CRC for Polymers will receive $14.5 million. This is all about science and industry coming together to build a new Australia. I congratulate the successful groups and the CRC committee for their tireless efforts.

Senator Abetz interjecting—

Senator CARR: Senator Abetz, if you had actually spent more time on your job instead of referring to your ancient relatives, like your old mate Uncle Otto, you would actually understand a bit more about this.

Senator URQUHART (Tasmania) (15:00): Mr President, I ask a supplementary question. Can the minister advise the Senate what this investment means for manufacturers dealing with the pressures in the global market?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (15:02): These are investments that are ultimately all about people—their jobs and their living standards. They are about building a better country. This is the beauty of the CRC program. This is a program that Labor established in 1990. It is about providing the wherewithal so that everyone in this country can enjoy the prosperity that they have a right to expect.

The Invasive Animals CRC and the CRC for National Plant Biosecurity have both stood in the front line for our agricultural industries. This is how we see them in terms of dealing with agricultural pests, from rabbits to cane toads to fruit flies. We are also seeing two new CRCs working directly with communities facing up to the realities of water scarcity and carbon pollution, and leading scientists are working together, seeking to develop real solutions with businesses.

I wish all senators opposite a very merry Christmas. (Time expired)

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

ANSWERS TO QUESTIONS ON NOTICE

Question No. 1282

Senator LUDLAM (Western Australia) (15:03): Pursuant to standing order 74(5) I ask the Minister representing the Minister for Foreign Affairs, Minister Conroy, for an explanation as to why answers have not yet been provided to question on notice 1282. It has been just over 30 days since I asked this
question. I recognise that it is only a couple of days overdue, so I am not critical because I realise some of these things sometimes come in a few days late. I want to put very firmly on the record that this question pertains to matters that are urgently relevant and time sensitive and will not wait until 2012.

The consular and legal rights of an Australian citizen, the editor-in-chief of WikiLeaks, Mr Julian Assange, are the focus of my questions. It is the responsibility of this government to insist on fair and due process and the rule of law if he is extradited to Sweden to face charges there. But what is of very grave concern to me and what is of grave concern to many people around the world is the potential that he will then be rendered from Sweden to the United States, where he has broken no law.

The DEPUTY PRESIDENT: Senator Ludlam, you are entitled to ask a question, and it is a very detailed question. Would you like the minister to respond?

Senator LUDLAM: I would like to put a few comments on the record and then I will indeed seek a response from the minister.

The DEPUTY PRESIDENT: You can only ask a question of the minister and I have given you a fair bit of latitude. I will call the minister.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:05): I understand Senator Ludlam has been in contact with the office of the Minister for Foreign Affairs and that a response to his question will be forwarded tomorrow.

Senator LUDLAM (Western Australia) (15:05): I move:

That the Senate take note of the answer.

I do not intend to speak at great length, because I recognise that other senators are waiting their turn. Mr Assange was recognised as a journalist by the High Court of the UK. As a journalist and, through WikiLeaks, as a publisher, he has broken no law, just as the people who put his material on the front page of the Age and the New York Times have broken no law. My question, to which the answer is now just slightly overdue, seeks to clarify what our government has done and what our government is prepared to do to ensure that he is not subject to rendition to the United States, where, as we know, his life is under threat. There has been speculation that Mr Assange would be extradited to the United States from Sweden, but extradition requests, as we know, come with safeguards. We are much more concerned that, under a bilateral agreement between Sweden and the US, he could be transferred without any due process at all—a form of soft rendition known as temporary surrender. What happens once he gets there?

US Republicans Sarah Palin and Mike Huckabee have called for him to be executed. Palin has said he should be hunted down like al-Qaeda. Vice President Joe Biden has said that he is a high-tech terrorist and that, 'We should treat Mr Assange the same as other high-value terrorist targets.' 'Kill him,' writes conservative columnist Jeffrey T Kuhner in the Washington Times. William Kristol, former Chief of Staff to Vice President Dan Quayle, has asked:

Why can't we use our various assets to harass, snatch or neutralise Julian Assange and his collaborators, wherever they are?

'Why isn't Julian Assange dead?' writes prominent US pundit Jonah Goldberg. Last week, when the President addressed this place, he spoke beautifully of 'the rule of law, transparent institutions and the equal administration of justice', and we would like...
to see these values upheld. Mr Assange's life is in danger in the US but so too are the First Amendment principles upheld in the Pentagon Papers case. Unlike the Prime Minister and the Attorney-General, who are both lawyers, Mr Rudd recognised the principle—

Senator Brandis: You don't seem so interested in Bradley Manning, Senator.

Senator Ludlam: I am glad to raise that, Senator Brandis. Mr Rudd recognised the principle of 'innocent before proven guilty' when these matters arose. He stated quite clearly that he had a responsibility, as foreign minister, for Mr Assange's legal and consular rights. My questions have requested the foreign minister to make clear exactly what he has done, and I strongly believe it is in the interests of this parliament and the Australian people to know that our foreign minister is not only aware of the matter but taking direct action to prevent Mr Assange's rendition to the US.

My final message is to Australian newspaper editors, television and radio directors and online media editors in the press gallery and around the country, if you are listening. I congratulate you on the open letter from the Walkley Foundation that many of you and your colleagues signed last December. Now we need your voices again. The UK High Court has recognised Mr Assange is a journalist and Wikileaks is a publishing organisation. It is not, therefore, just the Wikileaks organisation that is under attack; it is all of us. At that time you said:
In essence, Wikileaks, an organisation that aims to expose official secrets, is doing what the media have always done: bringing to light material that governments would prefer to keep secret.

You also said:
... as editors and news directors of major media organisations, we believe the reaction of the US and Australian governments to date has been deeply troubling.

It is with a sense of great urgency that I call on the foreign minister to make absolutely clear what he is doing to prevent the rendition of this Australian citizen to the United States. I thank the Senate for its time.

Question agreed to.

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS
Asylum Seekers

Senator Ludwig (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (15:09): I have additional information to a response I provided yesterday to Senator Hanson-Young and I seek leave to have it incorporated in Hansard.

Leave granted.

The answer read as follows—

Senator Hanson-Young's initial question

In the UK the practice of using X-rays to determine the ages of children for criminal proceedings is unlawful and indeed can lead to practitioners facing criminal charges of assault and professional misconduct. I refer to a letter available publicly that has been sent to the Minister for Immigration and the Minister for Home Affairs from peak medical bodies, including the Royal Australian College of Physicians, the Australian Paediatric Endocrine Group, the Australian and New Zealand Society for Paediatric Radiology and the Royal Australian and New Zealand College of Radiologists. It is dated 19 August. In this letter, which refers to the assessment of ages of asylum seekers and people facing people smuggling charges, the doctors refer to X-rays of teeth and wrists as unethical, unreliable and untrustworthy. When will the Minister take on notice these issues raised by these individuals and when will the Minister—

(Time expired)
Response:
I am advised that such a letter was sent to the Minister for Immigration and Citizenship on 19 August 2011.

The letter was subsequently provided to the Attorney-General’s Department and the Attorney-General responded on 18 October 2011.

The Attorney-General’s response highlighted that:
- Minors are only prosecuted with people smuggling offences on the basis of the significant involvement in people smuggling venture or multiple ventures
- There is considerable incentive for people smuggling crew to falsely claim to be minors as the mandatory minimum penalties these offence attract do not apply to minors.
- At present there is no single procedure that can accurately assess chronological age with absolute certainty.
- Wrist X-rays are a prescribed procedure for determining age under the Crimes Act 1914.
- A representative of Royal Australian and New Zealand College of Radiologists gave evidence in support of the use of wrist X-rays before the Senate Legal and Constitutional Affairs Committee when it considered the Crimes Amendment (Age Determination) Bill 2001.
- The Australian Federal Police (AFP) and Commonwealth Director of Public Prosecutions (CDPP) rely on a number of sources of evidence to determine age, including wrist X-rays, voluntary dental X-rays and verified documentation.
- The Government has received advice that there is consensus among a significant group of forensic anthropologists and odontologists, including the Australian Society of Forensic Odontology, that tooth development is a suitable measure for determining the age of people aged up to 20 years.
- X-ray analysis is not treated as conclusive proof of age and is only used to assist the court in making age determinations.
- The AFP and CDPP consider all available evidence when deciding whether to contest a defendant's claims to age, and give them the benefit of the doubt where there is uncertainty.

Senator Hanson-Young’s supplementary questions
As the Government is defying the international scientific consensus on how dangerous it is to rely on these types of X-rays, the organisations listed in the previous question are refusing to participate in any type of X-rays for the Government. Is it the case that the Commonwealth Director of Public Prosecutions is relying primarily on one expert advice provided by Dr Vincent Low, who is indeed not a bone radiologist at all?

As I outlined earlier, in the UK the practice of this method is unlawful. Here in Australia, medical practitioners are refusing to conduct these examinations for the Government. Indeed, who is conducting these examinations for the Government? If it is only Dr Low, please explain why he is not, in fact, a bone radiologist and an expert in that field.

Response:
I am advised that it would not be appropriate to comment on the evidence led or qualifications of experts used by the AFP and CDPP in specific people prosecutions. The conduct of criminal cases is a matter for the AFP and CDPP.

However, the CDPP ensures that witnesses it calls to provide expert evidence are appropriately qualified. Expert evidence is open for scrutiny by the court and defence.

The UK Royal College of Paediatrics and Child Health has previously stated that it is appropriate to use wrist X-rays to determine age where requested by an asylum seeker.

The Therapeutic Goods Administration has certified that the use of wrist X-rays for age determination is an appropriate use of a therapeutic procedure.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Carbon Pricing

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:09): I move:
That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) and Senator Birmingham today relating to the carbon tax.

When President Obama left our shores last Thursday afternoon, not only did he leave behind him the legacy of an enhanced ANZUS relationship and the announcement of a military presence by American Marines in Darwin; he also left a legacy much more consequential to our immediate domestic politics. He blew the carbon tax out of the water. He did that by telling journalists at his press conference the previous afternoon that there was no way that the United States of America would have a carbon price or a carbon tax by 2016 or indeed in the foreseeable future. In making that announcement he destroyed the assumptions upon which the modelling for the Gillard government's carbon tax depends.

Both Senator Abetz and Senator Birmingham, in their questions to Senator Wong today, identified those aspects of the modelling which depend upon the assumption of there being a global carbon market in which the United States and other major Western economies—and, in the case of Senator Birmingham's question, the OPEC nations as well—will participate. That is a foundational assumption of the modelling upon which the carbon tax depends. It is therefore a foundational assumption for the projections of the cost to Australians of the carbon tax. It is a foundational assumption for the assessment of the compensation to households which the government says it is going to pay through the tax and transfer system.

We only have to look at the document which Senator Abetz read—that is, the incomplete, redacted but nevertheless extensive document which sets out part of the modelling upon which the carbon tax depends—to see that what Senator Abetz asserted in his question and what Senator Birmingham asserted in his question was absolutely true. If one reads from pages 31 and 32 of this lengthy Treasury document, one sees that the modelling is said to depend upon the assumption that, among other things, the signatories to the climate change framework convention at Cancun, now 89 of them, will reduce their emissions at the low end of their 2020 pledges. If you look at table 3.1, which underlies that text and sets out a summary of international global action scenario assumptions, the mechanism is described as follows:

... from 2013 to 2015 uncoordinated global action, no trade in permits, differentiated carbon prices. From 2016 onwards, countries trade, either bilaterally or through a central market.

So the existence of an international carbon market—which one also sees from the table that appears on that page of the document that the United States and China and India and Japan and Canada are participants in—is, as I said earlier, the foundational assumption of this analysis. But we know that it will not happen. President Obama has told us that it will not happen in the case of the United States. Mr Harper, the Prime Minister of Canada, has told us that it will not happen in Canada. There is no reason to believe that it will happen in China. In fact, the foreign minister, Mr Rudd, who at the time of the Copenhagen climate change convention was the Prime Minister, accused the Chinese of sabotaging that climate change convention.

Senator Cormann: He used some very colourful language.

Senator BRANDIS: He used a very colourful word, Senator Cormann, which I will not embarrass you by repeating. There is no reason to believe that Japan will participate. There is no reason to believe that...
Russia will participate—in fact President Putin has made it clear that they will not. But this is the first time that, on Australian soil, Mr Obama has said the United States will not participate. This lengthy study depends upon assumptions which have been falsified. (Time expired)

Senator URQUHART (Tasmania) (15:14): I rise to speak on the motion to take note of the answer given by Minister Wong on the government's clean energy future package. During the debate in this place on the clean energy future package, which I am proud to say passed resoundingly a few weeks ago, we have heard from many government senators highlighting our plan to tackle climate change. Even today at lunch we heard from Crown Prince Frederik on how we need a framework to lower the world's dependence on fossil fuels.

Labor has a plan and one part of that plan is significant assistance to the food processing, metal forging and foundry industries to help with the impact of the carbon price. As the world moves to reduce carbon pollution, improving energy efficiency and reducing pollution will help Australian businesses gain a competitive advantage. Many businesses have already started reducing their carbon pollution, but many have been waiting for greater certainty about the competitive landscape before taking more ambitious steps. The government's plan for a clean energy future will create that certainty.

Under the government's Clean Energy Plan, the carbon pricing mechanism will establish a clear price path into the future for carbon pollution. Just as businesses currently take account of the likely future costs of labour, transport and materials when making their decisions, they will now factor in the cost of carbon pollution when weighing up alternative investment decisions. Greater certainty about carbon pricing will lower business and financial risk. This in turn will make it easier for the corporate sector to give the green light to key business decisions for a clean energy future such as whether to spend funds on cleaning up production facilities, improving energy efficiency or adopting new low-pollution technologies.

Through the Clean Technology Food and Foundries Investment Program, the government will provide grants worth up to $150 million over six years to the food processing industry and up to $50 million over six years to the metal forging and foundry industries. These grants will assist the industries to invest in energy efficient equipment and low-pollution technologies, processes and products.

I would like to highlight a grant to a potato processing plant in Tasmania which will assist that company to upgrade its coal-powered boilers to natural gas. This 2010 election commitment which the Gillard Labor government has delivered upon is an example of what is possible under this food and foundries investment program. The funding from the federal and state Labor governments of $3 million and $1 million respectively, together with the investment from that company of $17 million, will reduce carbon dioxide emissions by 39,000 tonnes a year—the equivalent of taking 8,000 cars off the road—and support hundreds of permanent and seasonal jobs across the north-west coast of Tasmania through cutting the energy bills of this large employer in my region. Farmers, farm contractors and service providers whose jobs and businesses depend on this company's operations will benefit from this upgrade at the plant through greater certainty and lower costs for the factory. The funding will assist this company to replace its high-energy-intensive coal boilers and install gas-fired co-generation capacity at the potato
processing plant, thereby removing the need to burn coal in the production of potato chips. While this grant was announced in the 2010 election campaign and is therefore not part of the food and foundries investment program, it is an example of what is possible through the clean energy future package for all businesses in this area. It is a clear example of how the Gillard Labor government will work with the high-power-intensive businesses in the food, metal forging and foundry industries to assist them to remain competitive through switching to low-pollution options by providing grants for energy efficient improvements.

This government is committed to working with industry, committed to working with communities and committed to working with other countries to achieve a clean energy future for our world and future generations. We are committed to working through the challenges and providing support to Australians. Under our plan, the 500 biggest emitters will pay a price on carbon and the money raised will go to support households, to support jobs and to invest in renewable energy. Under the plan of those opposite, households will be slugged, investment certainty will be cast aside and subsidies will be provided to the big emitters. That is their plan until 2020. We all know that they have not the slightest idea what they will do after 2020. It is vital for Australia's prosperity that there is a clear plan for the transition to a clean energy future.

Senator ADAMS (Western Australia—Deputy Opposition Whip in the Senate) (15:20): I rise this afternoon to take note of answers given by Minister Wong. Obviously the government is now out of excuses. Overnight we have seen that lack of support has put back any likelihood of an international carbon treaty before 2020. Instead of an agreement this year, we are now looking at eight years down the track for a carbon tax agreement. What this means is that the government's carbon tax modelling is in tatters, as my colleague Senator Brandis has described before me, the compensation is in tatters and the government is simply going to have to redo the modelling, even though they will not accept that there is anything wrong.

It appears there is no plan B in the government's modelling. They have assumed the best of all possible worlds and each day, every day, the reality hits home. The carbon tax is collapsing, the modelling is collapsing and therefore the compensation is collapsing. The government must redo this modelling before parliament rises. The coalition is very strong on the need for us to come back next week to make sure we get the real figures out on compensation. But of course, because of the Durban conference, there is no way the government would even contemplate coming back next week. They do not want to be found out about where they have gone wrong.

Ahead of the critical talks starting next week, most of the world's leading economies now privately admit that no new global climate agreement will be reached before 2016 at the earliest—and, even if it were negotiated by then, they would stipulate that it could not come into force until 2020. So where does it all go? The UK, the European Union, Japan, the United States and other rich nations are all now united in opting to put off an agreement and the United Nations also appears to be accepting this.

Flaws in the Treasury modelling have been confirmed in articles by Henry Ergas in the *Australian*, which note that the Treasury is now basing its figures on hope rather than reality. Senator Wong in her answers today really did not help us to say that it was reality, not hope. The purchase of foreign
carbon credits, of course, is crucial to the operation of the carbon tax. Australia's domestic emissions will continue to rise and will only be offset by the purchase of $3.5 billion in foreign carbon credits every year by 2020. This figure will blow out to $57 billion by 2050.

President Obama on his visit here reconfirmed that the United States will not have a cap-and-trade or carbon tax style system. He said:

In the United States, although we haven’t passed as you know, what we call a cap and trade system, an exchange, what we have done is for example taken steps to double fuel efficiency standards on cars which will have an enormous impact on removing carbon from the atmosphere.

Senator Brandis interjecting—

Senator ADAMS: That is exactly right. Thank you, Senator Brandis. And of course Canadian Foreign Minister John Baird during his recent visit to Australia reiterated that Canada would not have a carbon tax and that it had been explicitly rejected at an election. Does that sound familiar? I think it does—from a Prime Minister who said, ‘There will be no carbon tax under the government that I lead.’ At least Foreign Minister Baird has stuck with their promise, but unfortunately our Prime Minister has not, so consequently we are going to suffer—and suffer very, very hard. Then you have to look at the fact that Japan, Canada and Russia have said that they will not be in a second commitment period for the Kyoto commitment. So I do not know what is going to come from the Durban climate change conference, but I would think that it will be just the same result as we had with Copenhagen.

I was quite amused to hear that Crown Prince Frederik was going down to open the new Macarthur wind farm. Denmark have closed down a number of their wind farms. When they run out of power, guess where their baseload power comes from? It comes from Germany and it is nuclear power. Having visited Denmark, I am fully aware of what is going on there, so I think the renewable energy— (Time expired)

Senator THISTLETHWAITE (New South Wales) (15:25): We are asked this afternoon to take note of answers given by the Minister representing the Minister for Climate Change and Energy Efficiency. I find this highly ironic, given that those opposite refuse to take note of the advice of 90 per cent of credible economists in this country when it comes to this very important issue, that those opposite refuse to take note of the advice of the overwhelming majority of climate scientists in this country when it comes to the issue of climate change and that they refuse to take note of the advice of the 37-odd inquiries conducted in the parliament and by governments on this important issue, one of those being an inquiry conducted under the auspices of the Howard government by Professor Shergold under the impetus of the former Prime Minister John Howard. Indeed, those opposite refuse to take note of the advice of former Prime Minister John Howard, who, in the lead-up to the 2007 election, advocated a market based mechanism.

Well, we do take note of that advice and we understand that as an economy, as a society, we need to take action to reduce climate change and the human induced impacts of carbon emissions from a baseline scenario in our economy. Indeed, we take note of the advice of those experts that the best way to do that for our economy, for our circumstances and for our energy mix is through a market based mechanism because that is the cheapest option for our economy, the cheapest option for households and the cheapest option for businesses. It allows them to make their own decisions about the manner in which they reduce their individual carbon footprint. It comprehends quite well
the unique energy mix that we have in this country and the way that we generate electricity, most notably through cheap coal. It recognises that over time there will be a cost put on carbon emissions and that other fuel sources, most notably gas, will act as transitional fuels until we get to a scenario where we are generating more of our electricity through renewable sources.

Those opposite seek to take issue with and take note of the minister's answers in respect of the assumptions that have been made by Treasury in determining and putting together the modelling associated with the carbon price. I do not know how many times we need to explain this in this place and in other places: those assumptions are sound and those assumptions result in robust modelling. That has been the advice and the recommendation of other economists who have looked at the modelling.

Those two assumptions are simple. The first is that the 90-odd countries which have made international pledges through those commitments made at Cancun and Copenhagen to reduce their carbon emissions within their economies compared to a baseline scenario by 2020 will achieve them. They will be achieved. That is not an unreasonable assumption for anyone to make. Indeed, the United States have indicated that they will reduce their carbon emissions by 17 per cent below 2005 levels by 2020. How they do that is up to them. It is up to them as a nation of people to make a decision in their congress about how they achieve that, but we have here taken the approach, based on the advice of experts, considering our energy mix, that a market based mechanism is the appropriate way for our economy to deal with this issue because it is the least-cost option. It is the one that bears the least on Australian businesses and Australian households.

The second assumption that has been made—another reasonable assumption—is that there will be an international carbon market in 2016, by the time our economy moves from a fixed price mechanism to a floating based mechanism. This is a market that is already in operation. Indeed, companies in the United States, in China, in India and in the European Union can, if they choose to, buy permits and buy these mechanisms on an international market. They are free to trade in these permits as we speak.

These are not unreasonable assumptions to make. They are sound, they are robust and they have been credited by independent economic experts. That is why our system will work and why it is the best mechanism.

(Time expired)

Senator BOSWELL (Queensland) (15:30): The game is up for the Labor Party. Its polling today is 30 per cent, down about two or three per cent, despite the fact that the Prime Minister has been in every photo shoot with every leader of every country in the world. The question has to be asked: why are the polls moving backwards when she has had such a particularly good week? I will tell you why, Mr Deputy President. It is because the Labor Party has not convinced the Australian public that a carbon tax is a good thing. That is why its polls are moving backwards.

Let us get to the nitty-gritty of this. By 2050 there will be a $1 trillion loss to GDP. By 2020 it will be about $33 billion according to Treasury and $133 billion according to the Centre for International Economics. But where is the modelling? The modelling has not been released. Yes, thousands of pages have been released, but for the GTEM and the MMRF model, the assumptions, the variables and the underlying databases have not been released. The modelling has not been released.
Warwick McKibbin, Henry Ergas, Brian Fisher—they have all asked to see the modelling and it has not been forthcoming, despite the fact that Treasury officials have said that it is okay and that the modelling is out there. It is not out there.

During Senate estimates on Monday, 17 October, Phillip Glyde, the straight-shooting Executive Director of ABARES, said: 'You can't run the modelling. There's not enough information out there.' Senator Cormann asked if a third party could do it and Mr Glyde said, 'No, third parties couldn't do it as there's not enough information out there.' That is from the horse's mouth; that is from Phillip Glyde. He said, 'You cannot model the carbon tax with the information that's out there.' Then Treasury official Ms Quinn let the cat out of the bag, too. She said the most recent public release of the model code by ABARES was the model documentation in 2007. That is the last time that model was out, well before the carbon tax.

I do not blame the Labor Party for trying to hide this, because once that modelling gets out there—and the assumptions are based on everyone being there in 2016—it will blow its argument to pieces. It will smash it to smithereens. The Centre for International Economics tried to make assumptions on a model they did not have, and this is what came up: the government estimates the carbon tax will reduce GDP by $32 billion by 2020, while the CIE model shows GDP will decrease by $180 billion. The government estimates the carbon tax will reduce real wages by one per cent; the CIE estimates that real wages will fall by 19 per cent. The government estimates that the carbon tax will increase electricity by 10 per cent; the CIE estimates that electricity prices will increase by 30 per cent. The CIE modelling predicts average household earnings will fall by $11,360 while the government's modelling is $5,110. If the government had nothing to be frightened of it would release that modelling, but it is terrified to release it because those are the figures that are going to come out.

Between us, Senator Cormann and I have asked Senator Wong 25 or 30 times, and she has said, 'Yes, I'll take it on notice,' or 'You aren't worried what the model is; you're not going to vote for it.' We have had obfuscation, we have had every wriggle, every dive and every backfoot movement but the modelling has not been released. The government has lied to the community. It has put this economic burden around the neck of the community and it has not been modelled. The government will not release the modelling because it knows all the other assumptions are going to be much higher than what it is telling the people. (Time expired)

Question agreed to.

Mining

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:35): I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Siewert today relating to Yindjibarndi sites in Western Australia and a Firetail mine development.

The minister informed the chamber that on 18 November the minister for the environment received a section 9 emergency heritage protection application from the Yindjibarndi Aboriginal Corporation because they are very concerned about the damage to sites within the Solomon Firetail mines by Fortescue Metal Group. Mr Michael
Woodley, the CEO of the Yindjibarndi Aboriginal Corporation, or YAC, is extremely concerned about the damage to the heritage system, and he has expressed on numerous occasions his concern that, in fact, the state heritage system is in crisis. He is concerned that the heritage system and the Department of Indigenous Affairs in WA are incapable of ensuring that these important sites are protected. This is particularly because, as people may have heard in the question I asked and some of the information that I provided, earlier this year the Yindjibarndi people were notified of a discovery of skeletal remains in FMG’s Firetail mining priority area. Elders who have visited this site have confirmed that there are in fact bones stowed high up in a walled niche sealed with three stones and that these are human remains. They subsequently conducted a ceremony of purification and conciliation with the spirits of their ancestors. But since that date there have been at least two more discoveries of skeletal remains in the mining area, on 3 October and 24 October. Partial surveys in the area of the Solomon Hub have recorded 2,155 sites already. Seventy-eight of these are rock shelters. They believe the total number is likely to be much higher. One in five rock shelters featured walled niches containing ancient burials or possible ritual artefacts associated with law. They believe there is a lot more there.

This is a fairly remote area in the Pilbara. It is unallocated crown land and is recognised by archaeologists as what they call a greenfield site, meaning that as they understand it there has been no previous archaeological investigation. The Yindjibarndi believe this is an important area and they are extremely concerned that mining is starting there. There has been a lot of pressure put on the Yindjibarndi people to agree to mining in this particular area. They have strong concerns about the future of the area and that is why they have put in a section 16 emergency heritage protection application. Their fears have been heightened because, as I mentioned earlier, they recently received a letter from a principal archaeologist, who apparently did work for FMG, that raises concerns about the veracity of a 2011 archaeological report. This is another reason why they are making this heritage protection application.

It makes you wonder about how effective the system is if it has to come to this point where they are having to seek emergency heritage protection for what look like very important sites. How effective are the Western Australian heritage system and our national heritage system if mining can take place and actually disturb sites? It yet again throws up the question of the effectiveness of our heritage system in this country if at the federal and state levels these systems are failing.

It also highlights yet again the failures in the native title system. We know that we have a split between some of the traditional owners in the area. I think that highlights yet again the failures of our native title system. These licences were granted by the National Native Title Tribunal with the assurance that any sites of significance associated with the religious practice of the Yindjibarndi people would be protected by the Aboriginal Heritage Act. It appears that that condition is not being met, which is why this group has made this emergency application. I urge the minister to deal with this issue as a matter of urgency. (Time expired)

Question agreed to.

NOTICES
Presentation

Senator CASH:
Senator BERNARDI: To move:
That the Senate—
(a) recognises that sport is integral to life for so many Australians;

(b) acknowledges that the Australian netball team, the Australian Diamonds, led by captain Ms Natalie von Bertouch and coach Ms Norma Plummer, in 2011 won the World Netball Championships in Singapore; and

(c) congratulates:

(i) Australian Diamonds defender Ms Laura Geitz who won the Liz Ellis Diamond and ANZ Championship Player of the Year honours at the 2011 Australian Netball Awards on Saturday, 19 November 2011,

(ii) Ms Kimberlee Green who was named Holden Australian International Player of the Year recognising her outstanding performance during the Holden Netball Test Series and World Championships,

(iii) Australian Diamonds shooter Ms Catherine Cox who was named New Idea's Favourite Diamond by the publication's readers,

(iv) Ms Liz Ellis, Australia's most capped player, and South Australia's Ms Julie Francou who were inducted into the Australian Netball Hall of Fame for recognition of their outstanding contributions to the game, and

(v) all in the netball community, the players, coaches and umpires whose dedication and passion allowed them to reach the pinnacle of netball, being the World Champions.

Senator ABETZ: To move:

That the Senate—

(a) recognises that the ANZUS Treaty came about following the close cooperation of the United States of America (US) and Australia and New Zealand during World War II;

(b) notes that:

(i) in the 60 years since the ANZUS Treaty formalised Australia's alliance with the US, it has enhanced peace and security in our region and beyond, and

(ii) one survey found that 82 per cent of Australians say the alliance with the US is important for Australia's security;

(c) welcomes the announcement that approximately 2,500 American marines, along with US Air Force and other personnel will ultimately be stationed at the Robertson Barracks in Darwin and elsewhere;

(d) views the ANZUS Treaty as a cornerstone of Australia's future security arrangements; and

(e) rejects all attempts to undermine the ANZUS Treaty, including the policy of the Australian Greens of ending the treaty.

Senator ABETZ: To move:

That the Senate—

(a) notes the Howard Government's 2007 decision to sell uranium to India subject to appropriate bilateral and international safeguards;

(b) calls on the Australian Labor Party National Conference to approve the sale of Australian uranium to India;

(c) looks forwards to the improved trade and security relations with India which will flow from this initiative;

(d) recognises the positive contribution nuclear energy makes to reducing greenhouse emissions; and

(e) rejects the view that alternative technologies can provide a comparable low-emissions baseload energy source for India.

Senator DI NATALE: To move:

That the Senate—

(a) notes that:

(i) 1 December 2011 marks the 50th anniversary of the raising of the Morning Star flag by the people of West Papua, a day celebrated as the unofficial day of Papuan independence, and

(ii) the Papuan people will celebrate this anniversary with gatherings and protests throughout the province as is their legal right; and

(b) calls on the Minister for Foreign Affairs (Mr Rudd) to:

(i) pay close attention to the events that unfold in West Papua on this date, and

(ii) express to the Indonesian Government Australia's hopes that no human rights abuses will be committed on the West Papuan people on this anniversary.
Senator BERNARDI:

Senator MADIGAN: To move:

That the Senate notes:

(a) that 17 December is the anniversary of the shooting of Polish workers in Gdynia in 1970, where soldiers fired into the crowd of defenceless workers emerging from their trains to return to work, killing and wounding hundreds,

(b) that, as the protest spread, the communist Government under Soviet rule then deployed special police squads and soldiers equipped with heavy tanks and machine guns, killing 40 people, wounding more than 1,000 people and arresting 3,000 people; and

(c) the failure of the pro-Warsaw Pact Socialist Party of Australia to condemn these crimes against humanity.

Senator BIRMINGHAM: To move:

(1) That a select committee, to be known as the Select Committee on the Australia Network service, be established to inquire into and report by 31 January 2012, on the following matters:

(a) the management and delivery of the Australia Network service;

(b) the 2010 decision to undertake an open tender process for the contract for the operation of the Australia Network service;

(c) the conduct of the tender process for the Australia Network service; and

(d) the Australian Broadcasting Corporation Amendment (International Broadcasting Services) Bill 2011; and

(e) any other related matter.

(2) That the committee consist of 6 senators, 3 nominated by the Leader of the Opposition in the Senate, 2 nominated by the Leader of the Government in the Senate and 1 nominated by the Leader of the Australian Greens.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and

(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and, as deputy chair, a member nominated by the Leader of the Australian Greens.

(6) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(7) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and the deputy chair at a meeting of the committee.

(8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to examine.

(10) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
(12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator XENOPHON: To move:
That the following matters be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 14 April 2012:

(a) the need for national law reform surrounding evidence relating to child sex abuse, specifically looking at the role federal laws could play in requiring documents relating to child abuse, particularly child sexual abuse, to be held for a minimum of 30 years;

(b) the need for national law reform to prevent the destruction and concealment of documents which should be retained in the public interest, including documents in relation to potential legal proceedings;

(c) the circumstances under which documents should be categorised as Cabinet-in-Confidence;

(d) the appropriateness or otherwise of victims of child abuse, particularly child sexual abuse, being required to sign confidentiality agreements as part of any compensation arrangements and the need for any consequential law reform;

(e) in relation to events relating to allegations of abuse in the John Oxley Youth Detention Centre in Queensland from 1988:

(i) the shredding of documents by the then-Queensland Government in 1990 relating to the alleged rape of a resident at the John Oxley Youth Detention Centre in 1988, and other abuses and the implications these actions had on the ability of victims and others to pursue their legal rights with reference to section 129 of the Queensland Criminal Code, and the need for a national approach to the protection of such documents,

(ii) previous Queensland Government initiated inquiries and federal parliamentary inquiries into the matters referred to at the John Oxley Youth Detention Centre,

(iii) whether evidence provided to previous Senate committee inquiries about the shredding of the documents referred to was misleading, or whether evidence was withheld from previous Senate committee inquiries and whether there is any new evidence relating to these matters, and

(iv) the relevance of considering the matters raised in paragraphs (a) to (d); and

(f) any other related matters.

Senator BOB BROWN: To move:
That the Senate notes:

(a) the Gillard Government's failure to consult with the Australian public or the Parliament on the recent decision to deploy troops, ships and aircraft from the United States of America in the Northern Territory; and

(b) the security, environmental and social consequences of this decision.

Senator HANSON-YOUNG: To move:
That the following bill be introduced: A Bill for an Act to amend the Crimes Act 1914, and for related purposes. Crimes Amendment (Fairness for Minors) Bill 2011.

Senator RHIANNON: To move:
That—

(1) The Senate notes that:

(a) the Lobbying Code of Conduct (the Code) has been in operation since 1 July 2008;

(b) the Standing Committee on Finance and Public Administration recommended in September 2008 that it conduct an inquiry into the operation of the Code in the second half of 2009;

(c) no such inquiry took place;

(d) the details of the Government's review in 2010 were not made public; and

(e) the stated intent of the Code is to promote trust in the integrity of government processes and ensure that contact between lobbyists and government representatives is conducted in accordance with public expectations of transparency, integrity and honesty.

(2) The following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 1 March 2012:
The operation of the *Lobbying Code of Conduct* and the Lobbyist Register.

(3) In undertaking the inquiry, the committee must consider:

(a) whether the Code is adequate to achieve its aims;

(b) whether the application of the Code should be extended to include all members of parliament and, if so, how this might be done;

(c) whether the Code should be confined to organisations representing clients, or should be extended to organisations which lobby on their own behalf;

(d) whether the exemptions under sections 3.5 (a), (b), (c) and (f) are justified; and

(e) any other related matters.

**Senator RHIANNON:** To move:

That the Senate—

(a) notes that:

(i) the University of Sydney in the week beginning 20 November 2011 announced 340 planned job cuts to academic and general staff, due to a forecasted budget shortfall, placing further pressure on staff to meet the increased teaching demands that will arise from uncapped student places next year,

(ii) other universities have recently announced similar job cuts due to budget pressures, including La Trobe University's plans to shed up to 230 academic and general staff in 2012, 50 jobs at Macquarie University and mooted cuts to the University of New South Wales and the University of Melbourne Arts faculties,

(iii) while Australia's total expenditure on tertiary education is in line with the Organisation for Economic Co-operation and Development (OECD) average of 1.6 per cent of national gross domestic product (GDP), Australia's public funding levels of 0.7 per cent of GDP are one of the lowest of any OECD country, falling well short of the OECD average of 1 per cent,

(iv) Australia is the only OECD country to go backwards in terms of public expenditure on tertiary education institutions in real terms since 1995, leaving Australia lagging behind the United States of America, Finland and Canada, as well as being overtaken by Denmark, Korea and Sweden during this period,

(v) chronically low public funding of universities has resulted in an unhealthy reliance on international student fees, creating budget uncertainty which has placed increased pressure on academic staff and students, with higher student to staff ratios and fewer resources, reducing the overall quality of teaching and learning at universities, and

(vi) the *Review of Australian Higher Education* (the Bradley review) recommended a 10 per cent increase in university student base funding, and Australia still awaits the release of the Lomax-Smith review of base funding; and

(b) calls on the Government to:

(i) immediately increase public funding by 10 per cent per government-supported university student, as recommended by the Bradley review, to give budget certainty to universities, and

(ii) set a longer term target to invest 1 per cent of GDP to fund universities, to bring Australia in line with the OECD average, to ensure that Australia maintains a quality tertiary education sector and remains internationally competitive.

**Senator CORMANN:** To move:

That there be laid on the table by the Minister representing the Treasurer, no later than noon on 2 December 2011, the following information relating to the Department of the Treasury 2011 modelling of its carbon tax/emissions trading scheme to 2050:

(a) all of its modelling, including the actual models, model documentation, exogenous assumptions, all underlying databases and datasets, codes and specifications used by Treasury, including but not limited to the Global Trade and Environment Model and the Monash Multiregional Forecasting Model, in a form that would allow the reproduction and scrutiny of the Treasury results by third parties; and

(b) any other model simulations undertaken relevant to the abovementioned policy scenarios but not publicly released.
Senator HEFFERNAN: To move:
That the time for the presentation of reports of the Rural Affairs and Transport References Committee be extended as follows:
(a) biosecurity and quarantine arrangements—to 21 March 2012; and
(b) Foreign Investment Review Board national interest test—to 14 March 2012.

Senator SIEWERT: To move:
That the following matter be referred to the Community Affairs References Committee for inquiry and report by 12 September 2012:
The provision of palliative care in Australia, including:
(a) the factors influencing access to and choice of appropriate palliative care that meets the needs of the population, including:
(i) people living in rural and regional areas,
(ii) Indigenous people,
(iii) people from culturally and linguistically diverse backgrounds,
(iv) people with disabilities, and
(v) children and adolescents;
(b) the funding arrangements for palliative care provision, including the manner in which sub-acute funding is provided and spent;
(c) the efficient use of palliative, health and aged care resources;
(d) the effectiveness of a range of palliative care arrangements, including hospital care, residential or community care and aged care facilities;
(e) the composition of the palliative care workforce, including:
(i) its ability to meet the needs of the ageing population, and
(ii) the adequacy of workforce education and training arrangements;
(f) the adequacy of standards that apply to the provision of palliative care and the application of the Standards for Providing Quality Care to All Australians;
(g) advance care planning, including:
(i) avenues for individuals and carers to communicate with health care professionals about end-of-life care,
(ii) national consistency in law and policy supporting advance care plans, and
(iii) scope for including advance care plans in personal electronic health records; and
(h) the availability and funding of research, information and data about palliative care needs in Australia.

Senator BOYCE: To move:
That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 24 November 2011, from 11.30 am.

Senator LUDWIG: To move:
That the Senate not meet from Monday, 28 November to Wednesday, 30 November 2011.

Senator HANSON-YOUNG: To move:
That the Senate congratulate the Australian Refugee Council on its 30th anniversary – 30 years of wonderful work, advocacy and promotion of Australia’s multicultural society, offering important support to new arrivals and refugees.

Senator EGGLESTON: To move:
That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 1 November 2012:
The importance of the Indian Ocean rim for Australia’s foreign, trade and defence policy, with particular reference to:
(a) trade and tourism opportunities for Australia;
(b) Australian mineral exports, including competition and synergies in the region;
(c) strategic developments in the Indian Ocean, including the growing Indian and Chinese naval influences and their implications for Australia and the region more generally; and
(d) the Indian Ocean Rim Association and its future directions.
Postponement

The following items of business were postponed:

General business notice of motion no. 438 standing in the name of Senator Siewert for today, relating to the North West Slope Trawl Fishery, postponed till 24 November 2011.

General business notice of motion no. 442 standing in the name of Senator Siewert for today, proposing the introduction of the Fisheries Management Amendment (North West Slope Fishery Partial Closure) Bill 2011, postponed till 24 November 2011.

General business notice of motion no. 576 standing in the name of Senator Milne for today, relating to Trans-Pacific Partnership free trade agreement, postponed till 23 November 2011.

MOTIONS

Julian Burton Burns Trust

Senator McEWEN (South Australia—Government Whip in the Senate) (15:42): At the request of Senator Singh, I move:

That the Senate—

(a) commemorates the 9th anniversary of the 12 October 2002 Bali bombings in which 202 people, including 88 Australians, died and 240 sustained injuries;

(b) notes that as a result of the attacks, survivor Mr Julian Burton OAM was inspired to found Australia's first burn injury organisation, the Julian Burton Burns Trust;

(c) commends the work of the Julian Burton Burns Trust in implementing burn injury prevention programs, care and support services for burns patients and their families and advancing world class research into burns treatment;

(d) recognises that:

(i) 220 000 Australians will suffer a burn injury every year,

(ii) Indigenous people living in remote areas are up to 25 times more likely to suffer a serious burns injury than those living in metropolitan areas,

(iii) burn injuries cost the Australian Government $1.5 billion annually in health care costs, and

(iv) the vast majority of burn injuries are preventable; and

(e) supports the establishment of a national burn injury prevention plan to reduce the incidence of burns in Australia and improve research, treatment and outcomes for burns patients.

Question agreed to.

Social Inclusion Week

Senator WRIGHT (South Australia) (15:42): I move:

That the Senate—

(a) notes that:

(i) 19 November to 27 November 2011 is Social Inclusion Week, and

(ii) Social Inclusion Week aims to help Australians feel valued and to give people the opportunity to participate fully in society;

(b) recognises that:

(i) many Australians face isolation and exclusion associated with financial disadvantage, poor educational attainment, poor physical and mental health, lack of accommodation, lack of access to transport, unemployment and rental stress,

(ii) building relationships and networks within local communities, workplaces, families and friends can address isolation and exclusion by supporting people who may be unable to help themselves, and

(iii) the entire community will benefit from addressing poverty, improving educational, transport and employment services and enabling all people to participate fully and with dignity in community life; and

(c) calls on the Government to:

(i) collaborate effectively across all tiers of government to encourage people who are otherwise isolated and excluded to connect with networks and groups within the community, and
(ii) address the needs of marginalised people through equitable provision of basic services and adequate levels of welfare.

Question agreed to.

COMMITTEES

Migration Committee

Meeting

Senator McEWEN: At the request of Senator Singh, I move:

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 8 February 2012, from 10.30 am to 12.30 pm.

Question agreed to.

Foreign Affairs, Defence and Trade Joint Committee

Meeting

Senator McEWEN: At the request of Senator Furner, I move:

That the order of the Senate of 1 November 2011 authorising the Joint Standing Committee on Foreign Affairs, Defence and Trade to hold public meetings, be varied by omitting paragraph (b) and substituting:

(b) on Thursday, 24 November 2011, from 10 am to 11 am.

Question agreed to.

Environment and Communications Legislation Committee

Reporting Date

Senator McEWEN: At the request of Senator Cameron, I move:

That the time for the presentation of the report of the Environment and Communications Legislation Committee on the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011 be extended to 1 March 2012.

Question agreed to.

National Capital and External Territories Committee

Meeting

Senator McEWEN: At the request of Senator Pratt, I move:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 November 2011, from 12.30 pm to 1.45 pm.

Question agreed to.

Economics References Committee

Reporting Date

Senator KROGER: At the request of Senator Bushby, I move:

That the time for the presentation of the report of the Economics References Committee on the capital market for social economy organisations be extended to 24 November 2011.

Question agreed to.

MOTIONS

International Development Assistance

Senator RHIANNON (New South Wales) (15:43): I move:

That the Senate—

(a) notes that:

(i) the United Nations (UN) target to reduce global poverty and provide sufficient resources to meet the Millennium Development Goals is that rich countries should devote 0.7 per cent of gross national income (GNI) to overseas aid,

(ii) the Gillard Government has committed to increase overseas development assistance (ODA) to 0.5 per cent of GNI by 2015,

(iii) on 21 June 2010 at a Micah Challenge event at Parliament House, the Leader of the Opposition Mr Abbott committed the Coalition to increase ODA to 0.5 per cent of GNI by 2015, stating 'I want to make it very clear that the goal of 0.5 per cent of national income in overseas development aid is a bipartisan one',
(iv) the commitment to increase Australia's ODA to 0.5 per cent of GNI by 2015 still lags behind many other developed nations, including Britain, Ireland, Spain, Germany and France, and

(v) the funding for overseas aid should be protected from any budget cuts between now and 2015; and

(b) reaffirms a bipartisan commitment to increase the ODA budget to at least 0.5 per cent of GNI by 2015.

Question agreed to.

White Ribbon Day

Senator CASH (Western Australia) (15:45): I move:

That the Senate—

(a) notes that 25 November 2011 marks White Ribbon Day, the United Nations' International Day for the Elimination of Violence against Women;

(b) recognises that:

(i) statistics show one in three women in Australia has experienced violence since the age of 15 and one in five has experienced sexual violence,

(ii) all forms of violence, including physical, sexual, financial and psychological are unacceptable, and

(iii) the social and economic cost to Australian families and all Australians that stem from domestic violence and violence in the home are devastating;

(c) acknowledges that:

(i) all women, regardless of their status, deserve to live their lives free from the trauma, despair and impaired health that violence can inflict on them, and

(ii) whatever a person's circumstances, the role of government is to keep them safe from violence; and

(d) encourages all Australians to purchase a white ribbon and wear it on White Ribbon Day to highlight that violence against women is simply not acceptable.

Question agreed to.
(g) the effect that fixed currencies have on Australia’s terms of trade; and
(h) any other related matters.

Senator XENOPHON: Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: I have been told how my colleagues will vote on this—that the government and the coalition will be opposing this motion. Just last week President Obama told us:

“We need growth that is fair, where every nation plays by the rules … and where currencies are market driven so no nation has an unfair advantage.”

Treasurer Swan said last month that:

“It’s important that all countries move to market-determined exchange rates to stop artificially depreciating their currency relative to others including the Australian dollar …”

He went on to say that, if it does not happen, it will have devastating consequences for Australia. So I am hugely disappointed at the indications that I have received that the government and the opposition will oppose this motion. I am disappointed that, despite the comments from President Obama, despite comments from Treasurer Swan and despite the fact that economists around the world—including the US Chairman of the Federal Reserve Ben Bernanke and the RBA’s Glenn Stevens—agree, for instance, that China’s currency is undervalued, the government and the opposition do not seek to look further and deeper at this issue.

This motion does not call for anything other than an inquiry by the Senate Economics References Committee. It is about looking at the issue of fixed currencies, seeing what impact fixed currencies have on the price of imported and exported goods and finding out whether domestic industries are able to compete fairly against goods imported from countries that do not have floated currencies. It is baffling. These terms of reference are based on the terms of reference of the WTO’s working group that will be held on this issue in 2012, at the instigation of Brazil. It is a global issue. This motion is to hold a Senate inquiry, with very broad terms of reference, into the impact fixed currencies have on imports and exports and on Australian industries. That both the government and the opposition want to bury their heads in the sand disappoints me greatly.

Question put.

The Senate divided. [15:52]

(The Deputy President—Senator Parry)

Ayes ...................... 11
Noes ...................... 39
Majority ................ 28

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

NOES
Adams, J
Bernardi, C
Birmingham, SJ
Brown, CL
Carr, KJ
Colbeck, R
Crossin, P
Eggleston, A
Fawcett, DJ
Fifield, MP
Furner, ML
Kroger, H (teller)
Lundy, KA
McEwen, A
McLucas, J
Nash, F
Pratt, LC
Sinodinos, A
Sterle, G

Back, CJ
Bilyk, CL
Boyez, SK
Cameron, DN
Cash, MC
Cormann, M
Edwards, S
Faulkner, J
Feeney, D
Fisher, M
GallACHER, AM
Ludwig, JW
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Singh, LM
Stephens, U
Thistlethwaite, M
Motion

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (15:55): I move:

That the application of the standing orders, presidential rulings and past practices for the order of call to speak in debate (as outlined in the Procedure Committee’s Second report of 1991) be updated by adding, "that the leader of a minority party, as defined by section 3 of the Parliamentary Entitlements Act 1990, be given the call after an Opposition senator leading for the Opposition but before a leader of other non-government parties".

Question put.

The Senate divided. [15:57]

(The Deputy President—Senator Parry)

AYES

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

NOES

Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Singh, LM
Stephens, U
Thistlethwaite, M
Xenophon, N

Motion

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (16:00): I move:

That the Senate—

(a) notes:

(i) the Tarkine is the last great unprotected wilderness in southern Australia and is recognised to be of World Heritage significance,

(ii) the Tarkine has been under consideration for inclusion on the National Heritage List since 2004, making it the longest continuous assessment process in the history of the National Heritage process,

(iii) the delay in heritage listing means mining companies only need be assessed on potential impacts on threatened species and not the impacts on heritage values, which include wilderness, geological, cultural, flora and fauna diversity and natural history values,

(iv) the recently referred Venture Minerals Limited tin, tungsten, copper and hematite mine at Mt Lindsay is a Pilbara style open cut super pit to a depth of 220 metres that will devastate an area of 3.5 km by 3 km of the Tarkine rainforest wilderness,

(v) this proposed pit is within an existing reserve and is completely inconsistent with the protection of the Tarkine,

(vi) the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) is legally unable to consider the impacts on the rainforest, the 25
watercourses to be disrupted, or the recognised wilderness values of the area in the mine’s assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) unless the Tarkine is heritage listed, and

(vii) a diseased Tasmanian devil has been discovered on the eastern side of the Arthur River, making the area to the west of the Arthur River the only disease free part of Tasmania, highlighting the urgent need to permanently protect the Tarkine from further major developments, including mining and roading that directly threaten the devil; and

(b) calls on the Minister to:

(i) immediately include the Tarkine on the National Heritage List before he considers the Venture Minerals Limited proposed mine under the Act,

(ii) acknowledge that Venture Minerals Limited has deliberately split the project for assessment purposes,

(iii) require Venture Minerals Limited to submit the entire mining proposal for the Tarkine area for assessment,

(iv) recognise that failure to list the Tarkine before 2 December 2011 is a deliberate choice to exclude heritage values from the mine proposal assessment, and

(v) acknowledge that a decision not to list the Tarkine on the National Heritage List is a decision to prioritise mining over the protection of wilderness values.

Question put.

The Senate divided. [16:01]

(Preceding Motion)

(Preceding Motion)

Ayes....................9
Noes.....................42
Majority..................33

ARYES

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

NOES

Adams, J
Bilyk, CL
Boyce, SK
Brown, CL
Carr, KJ
Colbeck, R
Crossin, P
Eggleston, A
Fawcett, DJ
Fifield, MP
Furner, ML
Kroger, H (teller)
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Singh, LM
Stephens, U
Thistlethwaite, M
Williams, JR

AYES

Back, CJ
Birmingham, SJ
Brandis, GH
Cameron, DN
Cash, MC
Cormann, M
Edwards, S
Faulkner, J
Feeney, D
Fisher, M
Gallacher, AM
Ludwig, JW
Madigan, J
McEwen, A
McLucas, J
Nash, F
Pratt, LC
Sinodinos, A
Sterle, G
Urquhart, AE
Xenophon, N

Question negatived.

**Nuclear Weapons**

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:04): I move:

That the Senate asserts that the Treaty on the Non-Proliferation of Nuclear Weapons should be upheld with no exception.

Question agreed to.

**NOTICES**

**Withdrawal**

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (16:04): I withdraw notice of motion No. 1 standing in my name.
MATTERS OF PUBLIC IMPORTANCE

Mining

The DEPUTY PRESIDENT: I inform the Senate that at 8.30 am today the Leader of the Opposition in the Senate, Senator Abetz, and Senators Brandis, Cormann, Fifield and Siewert each submitted letters in accordance with standing order 75 proposing a matter of public importance for discussion. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Brandis:

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

The Gillard Government's continued secrecy and lack of accountability on revenue assumptions and costs regarding its mining tax.

Is the proposal supported?

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

The DEPUTY PRESIDENT: I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator CORMANN (Western Australia) (16:05): Labor's mining tax is a bad tax from a bad government which came out of a bad process. When bad governments like the Gillard government do bad things badly, as with the mining tax, they inevitably go for the cover-up. They try and keep stuff-ups that they have done along the way secret, they try and cover up their actions and they try and cover up the impact of their actions because they are embarrassed. The government's actions and the outcome of its actions are there for all to see—the dog's breakfast which is the MRRT negotiated exclusively and in secret between the Prime Minister, the Treasurer and the three biggest mining companies in Australia while all of their competitors were excluded. People across Australia well understand that there is a lot this government is trying to cover up because it would not withstand public scrutiny. We should just pause for a moment to remind ourselves how this whole process started. Former Prime Minister Kevin Rudd commissioned the Henry tax review. The Henry tax review was supposed to be this once in a generation opportunity for root and branch reform of our tax system, to make our tax system simpler and fairer. Of course, what we have ended up with in this mining tax is a new multibillion dollar tax on an important industry for Australia which is manifestly more complex and less fair than the status quo. With any new tax, the things the parliament is interested in scrutinising and the things that people across Australia are interested to know are how much revenue it will raise and whether the revenue assumptions that the government has based its revenue estimates on are credible, whether they withstand scrutiny. Similarly, with any promises to spend money and any promises that are attached to the revenue from a particular tax, people across Australia and in the parliament want to know how much it will cost, whether the costs are legitimate, whether they are properly founded and whether the government has done its homework properly.

If the government comes up with a new tax, you would like to think that the budget overall will be in a better position than when you started. In relation to both the revenue that is to be collected from the mining tax and the cost of all of the promises that the government has attached to the mining tax revenue, this government has been ducking
and weaving and avoiding public scrutiny. The Senate, through various committees and through orders of the Senate passed by this chamber, has asked the government to release the mining tax revenue assumptions—commodity price assumptions, production volume assumptions—to enable proper scrutiny of whether the revenue the government tells us is to be raised from the mining tax will eventuate. There are very serious question marks in relation to this.

We have to remind ourselves that this government negotiated this tax, this dodgy deal, with the three biggest mining companies, who are quite relaxed about it. People argue that the reason they are so relaxed about it is that they will not actually end up paying the tax. This is a deal that the Prime Minister negotiated exclusively and in secret, behind closed doors, without any direct involvement from Treasury, without any direct involvement from any official. It was a negotiation directly between the Prime Minister, the Treasurer and the Minister for Resources and Energy and the managing directors of these big multinational companies. Rumour has it that the mining tax deal was typed on the BHP computer and that it was signed there and then by the Prime Minister, the Treasurer and the Minister for Resources and Energy.

The government claimed at the time of the deal that it would raise $10.5 billion, and people were surprised. How come it will still raise $10.5 billion when the original resource super profits tax was supposed to raise $12 billion and the government has made many concessions? People were surprised that there was going to be what was on the face of it such a small fiscal impact, such a small impact on the budget bottom line. What this secretive and non-transparent Treasurer failed to fess up to at the time was that the government, behind closed doors, on the quiet, had made some significant changes to the underlying assumptions. They had made some significant changes to the commodity price assumptions, to the production volume assumptions and to about 100 other assumptions.

Are we allowed to know what these assumptions are? No, we are not. But what we do know is that, if the changes in those assumptions had been applied to the original resource super profits tax, rather than $12 billion it would have raised about $24 billion over the first two years. Out of the $10.5 billion from the MRRT over the first two years, $6 billion was based on changes in assumptions. The government says, 'We can't possibly give you those assumptions because those revenue assumptions are based on commercial-in-confidence data provided to us by the big three mining companies with whom we negotiated this tax.'

So not only are those big three mining companies allowed to design the tax but they are also the only ones allowed to know what the government's assumptions are. Here we have a government that negotiated a tax which helps those big three mining companies to further concentrate their market power, a tax which gives those three big companies an unfair competitive advantage and makes it harder for smaller local miners—those aspiring to be the BHPs and the Rios of tomorrow—to compete with the big three. But we are also told that the big three are the only ones allowed to know what the government's assumptions are. The parliament is not allowed to know. The people of Australia are not allowed to know. All of the competitors of those big three who were sitting in the closed room with the Prime Minister and the Treasurer are not allowed to know.

This mining tax package is a serious fiscal train wreck in the making. The cost of all of the promises that Labor has attached to the
mining tax will be higher than the revenue the MRRT is expected to raise from 2013-14 onwards. That is a situation that will become worse and worse, year in, year out. That is because right now we have record terms of trade. We have the best terms of trade in 140 years. We have high commodity prices. As we have high commodity prices, there will be a supply response around the world. Other suppliers of iron ore and coal will come onto the market and increase the supply, which is why Treasury expects that over time the revenue from the mining tax will trend down—and Treasury information released under FOI earlier this year about the revenue expectations shows this. It is a highly volatile revenue because it changes with the commodity price. It changes with fluctuations in the exchange rate. It changes with a range of variables. But what we do know is that it is trending down over time. The cost of all of the promises that Labor has attached to the mining tax will continue to increase, increase, increase.

The Senate inquiry into the mining tax has conservatively estimated that over the next decade the cost of Labor's promises attached to the mining tax will be about $20 billion higher than the revenue it is going to raise. And that was before decisions were made in Western Australia, New South Wales, Tasmania and South Australia to make changes to their royalty arrangements in relation to iron ore and coal. The changes to the royalty arrangements in New South Wales and Western Australia alone have blown a $3 billion black hole in Treasurer Swan's budget, because of the dodgy mining tax deal that the Prime Minister and the Treasurer signed up to with the big three miners. They have promised to credit all state and territory royalties against any MRRT liability. This incompetent government never even thought to talk to the states and territories about their intentions in relation to royalty arrangements into the future before signing on the dotted line. Here we have Prime Minister Gillard and Treasurer Swan promising the managing directors of BHP, Rio and Xstrata that they are going to credit all of the state and territory royalties, and the Prime Minister and the Treasurer were too incompetent to ask Premier Barnett, Premier Rann and the Premier of New South Wales at the time, Kristina Keneally, what their intentions were in relation to their royalties into the future.

This is where this government just does not get it when it comes to tax reform. This government are so addicted to spending and so desperate for more cash that they are always looking for another ad hoc tax grab, but they have not got the time to go through the proper processes. They have not got the time to do the hard yards when it comes to tax reform. Genuine tax reform in this area—resource taxation and royalty arrangements—needs to be based on proper engagement between the Commonwealth and the states. This is a terrible government—and there is a lot of evidence on that—and they are pursuing a bad tax which came out of a bad process. Of course this parliament should not go ahead with it. The Greens in this chamber should join with the coalition to force this Labor government to release all of the secret information in relation to the revenue and the cost of the related measures. They can do it. (Time expired)

Senator THISTLETHWAITE (New South Wales) (16:16): The minerals resource rent tax is sound economic and social policy—a recommendation of the Henry tax review and a reform supported by the overwhelming majority of economists in our nation. It is a reform that will ensure that the benefits of the mining boom that are being enjoyed by a few multinational, large miners—the majority being overseas
owned—are shared by all Australians and that the revenue is directed to occupational superannuation, to tax breaks for small businesses and to investments in regional infrastructure.

I often wonder what Australian families think of the debates that occur in this place. The average Australian worker would be just getting home from work at the moment after a hard day's work, facing the prospect of paying the mortgage, school fees and bills, and getting by from week to week. What would they think about the approach that is being taken by the coalition to this major, important economic reform that will redirect some of the benefits of the mining boom and place it in the hands and the pockets of Australians through increased retirement incomes and tax breaks for small businesses?

The most profitable miners in this country are doing well. At its last AGM, Fortescue Metals announced a $1 billion profit—its largest so far. BHP, our largest miner, announced a $22.5 billion profit—and a majority of that was generated from the minerals boom that is occurring in Australia. Rio Tinto announced a 30 per cent increase in their first half figures for this year. This reform is aimed at ensuring that these big miners pay their fair share—and it is the big miners that will pay this tax—and at putting back into the Australian economy some of the benefits that they get from extracting a non-renewable resource, a resource that is owned by the Commonwealth, by the people of Australia, and selling it on the open market for a very big profit.

The opposition have sought to criticise the consultation process. I think Senator Cormann's words were that some of these people were 'in the back pocket of the government'. Well, the Policy Transition Group was established and they have undertaken a 12-month process, and there have been two rounds of public consultations. A Resource Tax Implementation Group has been established and it is made up of industry representatives—

**Senator Cormann:** Chaired by whom? Chaired by the former chairman of BHP. Chaired by whom?

**Senator THISTLETHWAITE:** I will go through some of the members of the Resource Tax Implementation Group, Senator Cormann. They include: Grant Cathro, partner at Allens Arthur Robinson, a tax law expert; Frank Drenth, executive director at Corporate Tax Association; Teresa Dyson, partner in tax law at Blake Dawson; Yasser El-Ansary, tax counsel at the Institute of Chartered Accountants—

**Senator Carol Brown interjecting—**

**Senator Cormann:** Chaired by whom? Chaired by whom?

**The DEPUTY PRESIDENT:** Order! Senator Cormann, that is an unusually extra interjection, so please resist. Senator Carol Brown, please resist shouting across the chamber. Senator Thistlethwaite, please direct your comments to the chair.

**Senator THISTLETHWAITE:** Basil Mastilis, a partner at Ernst & Young; Noel Mullen, the deputy chief executive at the Australian Petrol Production and Exploration Association; Anthony Portas, head of tax at Asia Pacific Anglo American; and Gordon Thring, corporate and international tax partner at Deloitte. These are the people who, in the words of Senator Cormann, are 'in the back pocket of the government' when it comes to drafting this piece of legislation. They provided valuable input through the legislative drafting process and it reflects the view of the government that this is a necessary reform and one that we have consulted widely on.
The revenue raised from this tax will go to funding superannuation increases in our economy. We will move the compulsory superannuation level from nine to 12 per cent over the course of the next eight years. With an ageing population and an increasing burden on our budget and on our social security system, this is a major economic reform and an important economic reform. Up until a couple of weeks ago, it was opposed by the opposition, in line with their historical opposition to occupational superannuation in this country. When the Labor Party sought to introduce superannuation in the 1990s, it was opposed by those opposite. Now we have in our economy $1.3 trillion of funds under management and those funds are used for investment and growth by companies and to support jobs.

Senator Williams: What about the industry super funds?

Senator THISTLETHWAITE: In fact, Senator Williams, during the global financial crisis when debt markets were frozen, when access to liquidity was difficult to come by, it was Australian superannuation funds that were invested in businesses, many in the mining industry. CBus, the construction industry superannuation fund, is one big investor in BHP and Rio. They are putting back into the mining industry, ensuring that there are sufficient investment funds for growth. Those opposite always oppose superannuation and up until a few weeks ago, they were opposing the increases in the superannuation guarantee from nine to 12 per cent being funded by this important reform. These reforms are supported broadly by the funds management industry and by the superannuation industry. A recent report by the Allen Consulting Group—a very enlightening insight into the state of superannuation in this country—highlights the fact that the increase from nine per cent to 12 per cent over the course of the next eight years will increase our nation's gross domestic product, our income, by 0.33 per cent to 2025. That means in 2010 dollars there will be an extra $5.4 billion in our economy because of this reform. That $5.4 billion will fund the retirement incomes of working Australians and provide an important pool of investment sources for business growth.

The other aspect of the revenue generated from this reform will be to provide assistance to companies in the form of an instant asset write-off, increasing from $1,000 to $6,500 over the course of the coming year. That will benefit 2.7 million small businesses throughout the country. The company tax rate will fall from 30 per cent to 29 per cent, funded by the minerals resource rent tax revenue—again, opposed by those opposite, those who claim to be advocates and supporters of the growth of small businesses.

We have often heard of the infrastructure bottlenecks that exist in our economy. The revenue generated from this tax reform will ensure that we invest in rural and regional communities, most notably in freight lines and overcoming bottlenecks associated with port infrastructure. Overwhelmingly, the revenue used from this tax will ensure a more healthy, stable economy into the future. It will boost retirement incomes, which is important for our ageing population, and it will provide tax breaks for small businesses. What a great shame that the mighty Liberal Party, the party of the free market, of business enterprise, of government getting out of the way, is opposing these reforms that will provide a big boost to retirement incomes, secure our economic growth into the future and ensure assistance for small businesses in our economy.

Those opposite come into this place and seek to make points about modelling. Senator Cormann made some comments.
about the modelling associated with this. Indeed, he has been one of the principal opposition critics of the Treasury modelling on the carbon price. Let us have a look at the Liberal Party’s record on modelling. At the last election they refused to submit their election costings to independent expert analysis. Why was that? When they did, the costings came up $11 billion short—an $11 billion black hole. They said that they had their costings independently audited by a group of auditors from the North Shore of Sydney who signed off on them. When we had a look at the costings, we saw that those auditors would not give an unqualified audit of the Liberal Party’s election costings. Yet the Liberal Party comes in here and criticises the government’s modelling, when all the facts associated with the carbon price and this important reform are on the table.

We have had leaks from the shadow cabinet which indicate that there will be cuts of $70 billion to services under a coalition government. Then we had the almighty backflip on occupational superannuation a couple of weeks ago when the shadow finance minister Andrew Robb was not told that the coalition would not repeal the increases in superannuation. This will add an extra $12 billion to their budget bottom line costings. Ours is a sensible reform, it is costed and the Australian public needs it. (Time expired)

Senator EGGELESTON (Western Australia) (16:26): The dishonesty of Prime Minister Gillard’s lie of not having a carbon tax has been extended to secrecy over the assumptions underlying this mining tax. This means the supposed benefits for superannuation, a reduction in company tax and the elimination of the deficit all have to be said to be in doubt. This version of the mining tax was conceived in secrecy as a result of a deal between the three big mining companies—BHP Billiton, Rio Tinto and Xstrata—and it excluded the smaller mining companies represented by AMEC. Those small companies are a very important sector of the mining industry. AMEC rightly complains that this proposal is anti-competitive and, as it stands, the tax will create an uneven playing field between the formative iron ore and coal miners—those trying to cut their teeth in the business—and the large conglomerates. It appears that the Labor Party is happy to be in bed with the big boys: BHP, Rio and Xstrata. So much for their rhetoric. Boy oh boy, what a revelation!

There are estimates, which have varied widely, of how much revenue this tax will raise. Last July, in 2010, we were told the tax would raise an estimated $10.5 billion over its first two years. Strangely, later in the MYEFO document, revenue was downgraded quite substantially by almost $3 billion to $7.4 billion, being the estimate of what this tax would raise. In the May budget this year, however, the revenue from total tax raised magically increased to $7.7 billion in the first two years and then $11.1 billion for the first three years. It seems to me that these figures are as much of a roller coaster as the Prime Minister’s polling—up and down, all over the place—and give no real indication of what we can rely on.

The government claims taxes are variable because the prices of minerals vary so much, as do exchange rates. Well, there is some doubt in that. In many ways there are long-term projections made, with future markets and so on. The best that can be said as to the revenue value of the minerals tax is that it is very uncertain if it is based on such uncertain prices and so many uncertainties in the modelling. In the view of the miners who were not consulted, the smaller miners, the AMEC group in particular, this tax will not raise anything like the revenue projected.
Andrew Forrest, the head of Fortescue Metals Group, claims the three big miners who did the secret deal with the government to set up this tax will pay far less tax than the new players and the smaller miners. In fact, it has been estimated that the smaller miners will pay at least four per cent more than the big miners, and that is quite a substantial amount of money. We have to ask whether that is fair. The big miners are well-established big operations, whereas a lot of smaller miners are trying to get their operations off the ground. The concept that they should have to pay more tax is quite unreasonable. It means this tax is actually a discouragement to the future development of the mining industry.

We are told that the revenues generated from this tax will be allocated to improving superannuation, reducing company tax and, most importantly, eliminating the deficit. But, even though the government has these fine ideals, it seems very strange that it is denying the parliament the right to see the modelling underlying this tax. Surely it is reasonable for parliament to have the modelling, if for no other reason than the government's claim that the tax will help it return to surplus in 2014. Yet no information is being provided to the parliament. That has to be a matter of concern to us all.

As I said, the AMEC group of companies and FMG say that this tax was conceived in a secret deal between the government and the big miners—BHP, Xstrata and Rio—and we are told that the modelling was done by BHP. That is another thing which must make us a little bit concerned. BHP is a very large company, having a different set of figures to those of the smaller miners; perhaps modelling done by such a very big company does not translate particularly well into the operations of the smaller miners.

The Gillard government claims to be committed to openness and transparency, but in practice secrecy and opaqueness seem to be the order of the day for this government. Given the Prime Minister's acknowledged record of misleading the Australian people—to put it at its nicest, or lying, as some of my colleagues have said—over the carbon tax, parliament has every right to be rather dubious about the rationale for this tax and the underlying assumptions which have led to this tax being set at the rate that it has been. I think parliament has every right to demand access to the data underlying this tax to test the validity of the government's projections. The government claims that the information is supposed to be in confidence and that the Information Commissioner will arbitrate the release of documents to the parliament'. I must say I have never heard of the Information Commissioner before; it is a public office which I was totally unaware of. But here we are—we have got an information commissioner who is going to arbitrate what the representatives of the people of Australia are entitled to know about the underlying assumptions this government made in setting up this tax. In my view it is very important to remember that the parliament and the Senate are the representative bodies of the people of Australia. It is quite outrageous that this government is denying the parliament access to its modelling figures.

The Prime Minister's office claims that the functions of the Information Commissioner do not include 'reporting on or arbitrating disputes between the executive and the parliament'. I come back again to the simple proposition that the parliament represents the people of Australia, and this is one place where the people of Australia have the right to expect answers to questions raised on their behalf. It would seem to flow as a logical conclusion from the government's position.
that this government does not believe that the parliament should have sufficient information to make an informed decision on this matter.

It is a pretty outrageous and sad matter that we are contemplating, where a government is proposing to set up a super tax which other countries, our competitors, do not have and which will disadvantage our mining industry, making it less competitive. Part of the naivety of this government seems to be its failure to understand that the mining industry is truly international and that the big mining companies in this country can shift their projects and their money to other parts of the world, like West Africa, the gulf, Canada and Brazil, and it is an easy thing for them to do. That is something that this government simply does not understand. It is going to damage the industry which has made Australia's economy so strong.

In conclusion, I return to the fact that the parliament represents the people of Australia and it is the people of Australia to whom the Gillard government is saying, 'We are not going to tell you what the underlying assumptions for this tax were.' That is outrageous.

Senator STERLE (Western Australia) (16:36): Before I make my contribution—sadly, I have only five minutes—I want everyone to know that I have the greatest respect for my colleague from Western Australia Senator Eggleston. But, unfortunately, Senator Eggleston has been hijacked by the nonsense coming out of the billionaire brigade in Western Australia. It is an absolute disgrace. Let us get a real handle on what this tax is all about before I go any further. Senator Eggleston, you suggested that Labor is in bed with the big boys. I tried not to laugh too loud. I look at Clive Palmer—

Senator Eggleston: He's a big boy.

Senator STERLE: I am not talking about the size of the man. He is a major mining identity who is, I believe—and I will be corrected if I am wrong—a major donor to the National Party. For crying out loud!

Let us get back to what this mining tax is really all about. This is a tax on companies that mine iron ore and coal once the companies have made a $75 million profit. It does not kick in until they get to $75 million in profit. The language that is being used in this discussion by Senators Eggleston and Cormann is nothing short of misleading. We hear that this mining tax is going to kill the mining industry, kill the goose that laid the golden egg, absolutely jeopardise Australia's mining industry, send mining offshore. That is complete and utter nonsense. We are talking about putting a fair and just tax on these companies once they have got to $75 million in profit.

I only have five minutes but I could talk for an hour underwater with a gob full of marbles on this because I am so passionate about it, coming from WA. But I want to have an argument based on truths. I want to have an argument based on realities. I do not want to have an argument that is being misled by the rubbish coming out of the mouths of billionaires like Andrew Forrest. It is absolutely incredible to think that in evidence given to a parliamentary committee, I think as late as last week, one of Andrew Forrest's representatives actually told the committee that FMG had not paid any company tax, and that when Andrew Forrest addressed a meeting of his shareholders he said FMG expected to pay 'less than $20 million a year'. It was so small as to equate to a 'rounding error' for a company forecasting $4 billion in earnings. This is the same fella who prides himself on being on the front page of every newspaper saying, 'The Prime Minister won't return my call. It is going to send me broke.'
I am going to share a little secret with senators opposite, as long as they promise not to tell anyone else out there. I met with Mr Forrest. I met with him at his request last year, not long after he and that other small-business person Miss Gina Rinehart, with the big pearls, were waving signs saying 'Stop the tax'. Mr Forrest—promise you will not tell anyone—'hinted' to me in no uncertain terms that if the mining tax were to go ahead it could jeopardise his Solomon Hub project. What a load of absolute nonsense!

The truth is starting to come out now. I just hope that every Australian actually hears the truth about Mr Forrest, this Robin Hood of the iron ore industry and the small miners.

What is a small miner? I have spent a lot of time in the Pilbara and a lot of time in the Kimberley and the goldfields. Please tell me what a small miner is. Is their Mercedes-Benz any smaller than that of the miners from BHP or Rio Tinto?

And what nonsense from Senator Cormann—of all people to suggest that Labor is in the pockets of BHP and Rio Tinto. Senator Eggleston, you are nodding in agreement. That is what he did say? Okay. Senator Cormann, if you are listening out there, take 30 steps outside and say it out there on the steps tomorrow morning. Do a doorstop and accuse us of being in the pockets of the big miners.

Madam Acting Deputy President Adams, I say to you, as a good Western Australian and a colleague I have great respect for: I just want an argument based on truth—not on falsities, not on lies and not on complete deception from Western Australian billionaires who will absolutely not be impacted unless they earn $75 million in profit. Wouldn't you like to earn $75 million in profit before you had to pay tax? I know I would. (Time expired)
The government want us to trust them with the information and the facts around the mining tax, yet they cannot be trusted to tell the truth. It was the very thing that Senator Sterle wanted to talk about in his contribution—the truth around the mining tax—yet Senator Sterle neglected to let us know that this is a deal that Prime Minister Gillard did with three big mining companies before the election, after using it to assist her to knife her leader Kevin Rudd and then move on to the election.

_Senator Carol Brown interjecting—_

_Senator COLBECK: _Senator Carol Brown might like to tell us what she has done to assist the Savage River mine, where magnetite is mined on the west coast of Tasmania. They still do not know their status under the mining tax—whether they are in or whether they are out. Mr Wilkie came out yesterday quite flamboyantly saying that he had worked with the government to raise the threshold on the mining tax for Tasmania, but he has done absolutely nothing to assist this company mining magnetite on the northwest coast of Tasmania. They still do not know whether they are in or out. That is a truth of this particular piece of legislation. Here is a company which is in the iron ore game, but they are actually mining a product which, when it comes out of the ground, has very little value. They do not know at what point they are going to be taxed. Senator Carol Brown quite rightly sits quietly because she has done nothing to help that business. Mr Wilkie did nothing to assist that business—and he is one of the people who had the whip hand in the negotiations. He is one of the people who had the opportunity to decide whether this tax got passed. He came out triumphantly yesterday to tell the Tasmanian people that he had had the threshold raised from $50 million to $75 million. That might be an achievement, but one of the major mines in Tasmania still does not know its status. Had Mr Wilkie been aware of some of the issues going on around the state and had he not been focused just on Hobart, he might have been able to make a difference. That is one of the truths of this mining tax.

Another truth of the mining tax is that the government tried to give the impression to small businesses across the country that they are going to get a tax rebate. Small businesses which are companies will get a tax rebate under this legislation, but 65 per cent to 70 per cent of them are not companies and they miss out on the tax rebate. So there is nothing in it. That is another truth of this piece of legislation.

_Senator Sterle:_ What do you mean? Two million companies will get a tax break. What companies aren't companies?

_Senator Williams:_ Partnerships.

_Senator COLBECK:_ Partnerships and sole traders—they do not get a tax break out of this. In fact, they potentially get a tax increase. The 65 per cent to 70 per cent of small businesses which are not company structures potentially get a tax increase because the 25 per cent entrepreneurs tax offset is gone under this piece of legislation. The 25 per cent entrepreneurs tax offset disappears under this piece of legislation—another truth. So rather than getting a tax cut as a small business, they get a tax increase as a small business—because they lose the tax offset which was part of the Howard government's 2004 election policy. That demonstrates the attitude of this government to small business—small businesses are the ones they get their union mates to go around and attack, trying to turn them around and change them into a different form of business. That is what happens to those small businesses, that 65 per cent to 70 per cent of...
small businesses which do not get any benefit out of this process.

The government also tried to tell small businesses and the employees who work in them that this process is going to fund an increase in the superannuation rate. But this process is not going to fund an increase in the superannuation rate; the employers are going to fund an increase in the superannuation rate. That is the truth of this legislation. The employers will fund it or, in some cases, it will be the employees of the business who will suffer a reduction in salary increases as a result of the increase in the superannuation guarantee. That might be a small percentage, but it is going to happen.

In fact that is what Henry said. That is what the Henry tax review, where this whole process started, said. The recommendation from the Henry tax review was to leave the superannuation rate at nine per cent. So the government cannot come in here and argue that Henry supports the mining tax on one hand because on the other hand he was making a very different recommendation when it came to superannuation.

In fact that is what Henry said. That is what the Henry tax review, where this whole process started, said. The recommendation from the Henry tax review was to leave the superannuation rate at nine per cent. So the government cannot come in here and argue that Henry supports the mining tax on one hand because on the other hand he was making a very different recommendation when it came to superannuation.

You might look back and say, 'How do you end up with a decent small business here in Australia?' The answer to how you end up with a decent small business in Australia is to start with a big business and put this lot in government. You only have to look at the steel industry to get a demonstration of that. The two biggest players in the steel industry were worth $8 billion back in February. Now they are worth $3 billion. They have had $5 billion wiped off the value of their shares since February.

Senator Sterle: How is that our fault? It is the Aussie dollar.

Senator COLBECK: No, it is not because of the Aussie dollar, Senator Sterle. The steel rescue package only commits them to the retention of a fraction of their existing business. One of them is already closing down a smelter. The other one told us yesterday that their Whyalla smelter is on watch—it has 12 months. That is what is happening under this government. They bring out a steel transformation plan, but it is a bit late—because they have already transformed the steel industry. They have turned it from an industry where the two major companies were worth $8 billion at the top to one where those two companies are worth only $3 billion. That is a transformation all right.

They come in here and they want to talk to us about truth. The real truth is that you cannot trust this government. You cannot trust what this government says. It does not matter what arguments they try to put here in the chamber or what arguments they try to put outside. This is the government which promised the Australian people, 'There will be no carbon tax under a government I lead.' All of them were elected on that promise. Every single one of them was elected on the promise, 'There will be no carbon tax under a government I lead.'

Then we come to the 'year of decision and delivery' and what are the deliverables? A carbon tax and a mining tax. They are the key deliverables for this government—new taxes. Then, when they start talking about the offsets to the mining tax, the reality is that they are going to spend more than they raise from the mining tax. What sort of fiscal responsibility is that? How can they come in here with any credibility? 'There will be no carbon tax under a government I lead'—we have just passed a carbon tax and now they want to pass a mining tax.

Senator CAMERON (New South Wales) (16:52): I think this debate demonstrates the clear difference between the Labor Party and the coalition, because the Labor Party is standing up for eight million Australians,
standing up for small business, standing up for decent infrastructure in this country and standing up for the right of all Australians to get a fair go out of the mining boom. And what about the coalition? Over there, they are defending their mates in the mining industry, defending those who are funding the coalition, defending those who are flying coalition senators around the world, over to India, to attend Bollywood weddings. That is the difference between us. We care about the future of this country. We care about delivering a decent society in this country. All you care about is trying to make sure that industry pays its fair share. And we care about making sure that industry pays its fair share. And we care about delivering a decent society in this country. All you care about is trying to make sure that you get more and more funding from the businesspeople that you defend day in, day out. And why are you defending them? You are defending them to make sure that they do not pay a reasonable amount of tax. It is outrageous for you to come here and talk about the Gillard government's continued secrecy and lack of accountability on revenue assumptions and costs regarding its mining tax.

You had all day today to develop some questions for question time on this issue that you are making all the noise about today. What did you do? You did not ask a question of a minister on this issue—not one question. Then you come here with your fake outrage and say this is a huge issue, but there was not one question in question time. You come here and run all the arguments in support of some of the richest people in this country, some of the people who are making huge profits, huge personal fortunes, out of Australia's mineral resources—not their mineral resources but our mineral resources. You come here and you defend them. Why do the Liberal and National parties defend them? Because they are your election bankers. They are the people who are putting the money into the coalition to bankroll your election campaign, so you come here and put the Australian public second to your funding from your rich business mates.

You talk about accountability and assumptions regarding the mining tax. Let me tell you about accountability in the coalition. The coalition under Malcolm Turnbull called for the establishment of a Parliamentary Budget Office—remember that? Malcolm Turnbull as Leader of the Opposition said we should have a Parliamentary Budget Office because he wanted accountability. He wanted access to assumptions and costs. So what happened? A parliamentary inquiry into the Parliamentary Budget Office was established, and I was on that parliamentary inquiry. There was a joint position arising out of the parliamentary budget inquiry that we should establish a Parliamentary Budget Office to make sure that there was accountability on revenue and assumptions so that the public knew what the financial position was of promises that were made by the coalition, by the Labor Party, by the Greens and by the Independents during an election campaign. A unanimous position was adopted by that parliamentary inquiry. What happened? The recommendations went up and immediately the coalition said, 'Uh-oh, no way. We are not going to be accountable during the election campaign.'

And why would the coalition want to be accountable during the election campaign? In the last election campaign, the Treasury found a $10.6 billion hole in the promises that they were making and then they blamed some leak in Treasury as to why they would not submit their promises for scrutiny by the Treasury. This is the same Treasury that served John Howard and Peter Costello; the same Treasury that serves this Labor government. They said, 'No, we're not putting our election promises to the Treasury
or to the department of finance because we don’t trust them!—the same people who for 11½ years provided advice to John Howard and Peter Costello.

What did the coalition do? They were so upfront about accountability on revenue and assumptions that they got some accounting firm in Western Australia to cook the books to try and make it look as if they had a reasonable position on their election promises. But, as to the most experienced people in the country on analysing government funding, government programs and government promises—the two groups are the Treasury and the department of finance—they would not go near them.

So do not come here talking about accountability and do not come here talking about openness, because you have rejected the Parliamentary Budget Office. If you are truthful and you want to stand up with some credibility, when the bill comes to the Senate you stand up and make the same speeches about accountability, support the Parliamentary Budget Office and submit your shonky costings to the Parliamentary Budget Office at the next election. The reason you do not support the Parliamentary Budget Office is that you have no concern about accountability—absolutely no concern. You want to mislead the Australian public on your economic costs. You want to mislead the public on where you are going with your promises.

Why would you want to submit again to the Parliamentary Budget Office? You have admitted that you have a $70 billion black hole—$70 billion that you have to find before you can actually deliver reasonable policies to the Australian public at the next election. By the time you fund all the crazy promises that have been made, we know what is going to happen: you are going to have to slash 12,000 jobs in the Public Service and the services for ordinary Australians will disappear. You want to cut the health system, the education system and the welfare system, because that is what you will have to do to fund your $70 billion black hole. That is a reality. So do not come talking to us about assumptions in costs, accountability and secrecy. You are the ones who want to keep the secrets. You are the ones who do not want to be accountable. You are the ones who will not put your election promises to the Parliamentary Budget Office.

Let us go back to the issue of why the coalition would want to run away from that approach. Take Twiggy Forrest. I think Twiggy Forrest should be renamed—he should be Twiggy No Tax, because he is not paying any tax. He is a billionaire. Andrew Forrest’s net worth privately, off the back of our mineral resources and for one individual, is $6.2 billion. He is a major supporter and a major bankroller of the coalition. Why would they argue for more tax for him when they put themselves before the national interest? That is the position that the coalition are taking. Then there is Gina Rinehart—net worth $9 billion. Gina Rinehart has been out there on the picket line, with her Armani gear on and pearls flying around, at the mass meeting of the millionaires. The Rolls-Royces are out there saying they do not want to pay more tax: ‘I’m worth $9 billion but I don’t want to pay more tax!’ They had their mass meeting and the Rolls-Royces were queuing up for three kilometres down the main street of Perth. That is not like any mass meeting I have seen. The security guards were out there—it was all on!

Gina Rinehart has $9 billion. Clive Palmer, with $5.05 billion, is again a major Liberal supporter. Why would the coalition want to make him pay more tax? When he does not pay tax to help the Australian public
he is shoving it into the coffers of the coalition for their election campaign. That is what this lot are all about. Do not get muddled up by any arguments about modelling or about secrecy—there is no secret to what this is about. It is not about modelling; it is about making sure that at the next election their election coffers are full of money donated by Twiggy 'No Tax' Forrest, Gina Rinehart and Clive Palmer. That is what they want to do, so do not come here lecturing us about what should happen to tax.

The difference between the Labor Party and the coalition is that we want people to get a fair go out of our natural resources. This is an opportunity for Australians to get something out of the mining boom and stop lining the pockets of the billionaires. There is $80 billion worth of investment in the mining industry over the next few years. I heard Senator Eggleston talk about how the mining industry will desert us and go overseas. I know one area they want to go to, and that is Zambia. In Zambia the government had to plead with the mining companies to get them to pay any corporate tax. The only tax the mining companies were paying in Zambia was the tax on what the workers earned. The workers earned their wages and paid their tax and that was the only tax the mining industry paid in Zambia. That is what the coalition would like, because then they would have a really big bank balance to go to the next election on. They come here and support their corporate mates: the small miners like Twiggy No Tax. What a joke! Personally, he is worth more money than a lot of our industries in Australia, yet the coalition do not want his company to pay any more tax—although it is not more tax because he has not paid any tax.

We want a fair go for Australians. That is the difference between the coalition and the Labor Party. We want the richest people in this country who are exploiting our mineral resources to pay a fair share of tax. We want the billionaires to pay a bit of tax to help build the schools, the infrastructure, the hospitals and the education system of the future. We want workers in Australia to get a decent retirement, not just billionaires like No Tax Twiggy and Gina Rinehart. They should stop flying Senator Joyce and Julie Bishop overseas to India in a private jet. Put that money back into Australia and stop looking after the coalition. That is my message to the billionaires in the mining industry.

The ACTING DEPUTY PRESIDENT (Senator Adams): The time for the discussion has expired.

AUDITOR-GENERAL'S REPORTS
Report No. 13 of 2011-12
The ACTING DEPUTY PRESIDENT (Senator Adams): In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 13 of 2011-12:
Performance audit: Tasmanian freight equalisation scheme.

Senator COLBECK (Tasmania) (17:07): by leave—I move:
That the Senate take note of the document.
In commencing my remarks on the Auditor-General's Report No. 13 of 2011-12: Performance audit: Tasmanian freight equalisation scheme, I note the history of this scheme. It was instigated by the Howard government and improved by the Howard government over a number of years. The Tasmanian Freight Equalisation Scheme is of significant importance to the Tasmanian economy and contributes something like $100 million per annum to equalise the cost of transporting goods to and from Tasmania, particularly in the manufacturing sector.

There are a number of points in the Auditor-General's report that I want to note.
One of those concerns the increased complexity of the scheme that has developed over a number of years. I recall the Productivity Commission review that was undertaken in 2006 and the government's response that it would retain the scheme in its current form but conduct a parameter review. The parameters are basically the rules under which the scheme operates. It was my view that there needed to be some modifications to the parameters under which the scheme operated at that time, but unfortunately the opportunity was not formally taken up by the current government.

I do understand that the operation of the scheme is very sensitive in Tasmania. It is a sensitive issue because of the important role it plays, particularly in supporting a number of the food processors and also some of the key manufacturing industries in Tasmania. But there are some elements of the parameters that need to be reconsidered and I think that is an important part of the process.

One really concerning element that came out in the audit was the number of times that Centrelink actually met its 15- and 30-day processing targets. They were only met nine times between July 2009 and June 2011. That is a pretty concerning statistic because what we are talking about is providing assistance back to industry in Tasmania. For Centrelink to only meet the monthly targets of 15 and 30 days nine times in that period of time is a concern.

One of the things that concerned me about the way the scheme was operated in the past, even under our government, was that when the annual cost reviews were completed they were not necessarily put into place. You got into a situation where every five years or so the changes in costs around the freight task had moved by four or five per cent. So then trying to redesign and adjust the scheme and the rates that were being paid under the scheme became a major exercise. It seemed to me that dealing with the cost increments on an annual basis as they were calculated was a much better way for the scheme to operate, regardless of which way those cost increments moved. I think that there is a real opportunity for some very positive changes to the scheme, bearing in mind that some of the companies that are supported by the Tasmanian Freight Equalisation Scheme are major contributors to the Tasmanian economy.

About 20 companies are major claimants under this scheme. When you look at the number of businesses that actually do operate under and take advantage of the scheme, it is quite significant. There are some 1,500 or 1,600 companies that take advantage of the Tasmanian Freight Equalisation Scheme. Those statistics on processing its claims in less than 15 days increased from 57 per cent to 79 per cent. I would have to say I think there is significant room for improvement there. I think that the government paying its bills within its target time only 79 per cent of the time is disappointing. I recall from the government's procurement guidelines that the target rate for those sorts of figures is somewhere in the early 90s—93 or 94 per cent. I think that would be a more ideal target. It is obvious that the management of this scheme needs to focus much more on meeting its obligations within the targeted time frames set by this government.

The concerning thing is that, rather than looking at the detail and working with industry on the parameters, what we effectively get out of this is yet another review of the scheme, which is due to commence in 2011-12. Far from looking at it and working closely with industry, we are just going to go through another review process. One of the things that concerned me about the way the scheme was operated in the past, even under our government, was that when the annual cost reviews were completed they were not necessarily put into place. You got into a situation where every five years or so the changes in costs around the freight task had moved by four or five per cent. So then trying to redesign and adjust the scheme and the rates that were being paid under the scheme became a major exercise. It seemed to me that dealing with the cost increments on an annual basis as they were calculated was a much better way for the scheme to operate, regardless of which way those cost increments moved. I think that there is a real opportunity for some very positive changes to the scheme, bearing in mind that some of the companies that are supported by the Tasmanian Freight Equalisation Scheme are major contributors to the Tasmanian economy.

About 20 companies are major claimants under this scheme. When you look at the number of businesses that actually do operate under and take advantage of the scheme, it is quite significant. There are some 1,500 or 1,600 companies that take advantage of the Tasmanian Freight Equalisation Scheme.
Equalisation Scheme in a range of scales, and 1,074 of those businesses only claim between $500 and $10,000 a year. Two hundred and twenty-four, or five per cent, claim from $10,000 to $50,000 a year; four per cent, or 51 companies, claim $50,000 to $100,000 a year; and 75 companies, or 22 per cent, claim $100,000 to $1 million a year. As I said, the majority of the funding goes to some of our major food processors, paper manufacturers and other companies that make a major contribution to the Tasmanian economy. About 20 of those claim more than $1 million, or 67 per cent of the funds claimed under the Tasmanian Freight Equalisation Scheme.

As I said, I am more than proud to have played a significant role with my Tasmanian Liberal Senate team colleagues in the initial implementation and certainly the improvement of this scheme over recent years. I note that it was at the 2007 election that both the coalition and the Labor Party included the Bass Strait islands in this scheme. It has made an important contribution to the trade of those particular businesses on both Flinders Island and King Island.

I recommend to the government that they look very closely at ensuring that Centrelink have the resources available to them to make sure that their targets for payment processing and paying the claims under the Tasmanian Freight Equalisation Scheme are actually met. I think that a success rate of only 57 per cent is pretty poor. I acknowledge that there has been some additional work and that has raised it to 79 per cent, but I think that we ought to be targeting a much higher processing compliance rate.

As I have said, this is an important scheme for the viability of a lot of business in Tasmania and so we want to make sure that that work continues. I commend the Auditor-General for the report. It is important that the way the government's money is used in supporting Australian business and, in this particular case, the taxpayers and businesses in Tasmania is properly scrutinised. It is good to see that many of the provisions that Centrelink have in place are actually meeting the requirements of good expenditure of Australian taxpayers' funds. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

COMMITTEES

Rural Affairs and Transport References Committee

Government Response to Report

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:17): I present the government's response to the report of the Rural Affairs and Transport References Committee on its inquiry on pilot training and airline safety, including consideration of the Transport Safety Investigation Amendment (Incident Reports) Bill 2010, and seek leave to have the document incorporated in Hansard.

Leave granted.

The document read as follows—

Government Response

Senate Rural Affairs and Transport References Committee Inquiry

Report on Pilot Training and Airline Safety; and Consideration of the Transport Safety Investigation Amendment (Incident Reports) Bill 2010

November 2011

Introduction

On 30 September 2010 the Senate referred the following matter to the Senate Rural Affairs and Transport References Committee (the Committee) for inquiry and report by 17 November 2010:
(a) pilot experience requirements and the consequence of any reduction in flight hour requirements on safety;

(b) the United States of America's Federal Aviation Administration Extension Act of 2010, which requires a minimum of 1500 hours before a pilot is able to operate on regular public transport services and whether a similar mandatory requirement should be applied in Australia;

(c) current industry practices to recruit pilots, including pay-for-training schemes and the impact such schemes may have on safety;

(d) retention of experienced pilots;

(e) type rating and recurrent training for pilots;

(f) the capacity of the Civil Aviation Safety Authority to appropriately oversee and update safety regulations given the ongoing and rapid development of new technologies and skills shortages in the aviation sector;

(g) the need to provide legislative immunity to pilots and other flight crew who report on safety matters and whether the United States and European approaches would be appropriate in the Australian aviation environment;

(h) reporting of incidents to aviation authorities by pilots, crew and operators and the handling of those reports by the authorities, including the following incidents:

(i) the Jetstar incident at Melbourne airport on 21 June 2007, and

(ii) the Tiger Airways incident, en route from Mackay to Melbourne, on 18 May 2009;

(i) how reporting processes can be strengthened to improve safety and related training, including consideration of the Transport Safety Investigation Amendment (Incident Reports) Bill 2010; and

(j) any other related matters.

The Australian Government thanks the Committee for its examination of these matters and the recommendations it has presented for consideration.

**Aviation safety—Our most important priority**

In December 2009 the Australian Government released the National Aviation White Paper, Flight Path to the Future, Australia's first ever comprehensive national aviation policy.

The White Paper confirmed that aviation safety is the Government's first and foremost priority in aviation.

The Government is committed to enhancing aviation safety and maintaining Australia's internationally regarded high quality aviation safety standards and performance.

This commitment was reiterated in the Ministerial Statement on Air Safety tabled by the Minister for Infrastructure and Transport on 4 July 2011.

Many of the aviation safety initiatives outlined in the Aviation White Paper cover issues examined by the Senate Committee's report.

In particular, the Government has acted on the safety funding and regulatory reform issues outlined in the Committee's recommendations.

In the May 2010 Budget the Government announced an additional $89.9 million in funding for the Civil Aviation Safety Authority (CASA) over four years.

This additional funding is being used to fund almost 100 new and ongoing staff in key surveillance roles, and to invest in the development and maintenance of safety standards and regulatory development.

The additional funding is also providing for expanded and ongoing training for CASA staff and to make sure there are sufficient resources to properly regulate Australian administered airspace, which covers almost eleven per cent of the earth's surface.

This funding represented an unprecedented 30 per cent increase in CASA funding and provides some long term stability in the Authority's funding base.

The CASA Board has recently confirmed that with the additional funding provided by the Government that CASA is now adequately funded to meet the challenges and performance...
expected of a world class aviation safety regulator.

In March 2010 the Government established a dedicated regulatory drafting taskforce involving specialists from CASA and the Office of Legislative Drafting and Publishing. The Taskforce was established to target the completion of the long outstanding maintenance, operations and flight crew licensing regulations.

The Taskforce has already made substantial progress in completing the maintenance regulations and is currently drafting several of the air transport operations and licensing regulations specifically referred to in the Committee's recommendations.

Draft regulations will be made available for public comment before they are finalised. The regulations will provide improvements to areas such as regular public transport operations, flying training, flight crew licensing and training and checking operations.

Committee recommendations

The Committee examined a range of issues related to the aviation safety regulatory framework for pilot training, the regulatory reform program and CASA funding, incident reporting and the Australian Transport Safety Bureau's (ATSB's) processes, as well as fatigue management and cabin crew training requirements.

The Government's responses to the Committee's twenty two recommendations are attached. These responses have been developed in close consultation with Australia's two key independent aviation safety agencies, CASA and the ATSB.

The Government's response highlights that most of the recommendations are already being addressed through funding, regulatory reform and reporting initiatives of this Government.

Recommendation 1

The committee is of the view that an Air Transport Pilot Licence (ATPL) should also be required for first officers in high capacity regular public transport (RPT) jet aircraft such as Boeing 737, A320 and other aircraft of similar or greater capacity, and that consideration be given to implementing this as a standard.

Response

The Government notes the Committee's view.

However the Civil Aviation Safety Authority (CASA) has advised that the Committee's view is not consistent with the International Civil Aviation Organization's (ICAO) licence privileges for the Commercial Pilot Licence or Multi-crew Pilot Licence which are replicated in Australia under the Civil Aviation Regulations 1988.

These regulations permit the holder to fly an aeroplane as co-pilot while the aeroplane is engaged in regular public transport (RPT) operations.

CASA is not aware of any ICAO Contracting State that requires a co-pilot to hold an ATPL and further notes that, in many countries, employment as a co-pilot is the only available pathway for a pilot to accumulate the aeronautical experience required for the granting of an ATPL.

However under the proposed new Part 61 of the Civil Aviation Safety Regulations 1988 (CASR) CASA plans to introduce a requirement for captains and co-pilots to hold the same type of rating qualification and instrument rating and receive the same level of training (for example, stalling and some engine failure manoeuvres during take-off).

These draft regulations are expected to be available for public comment by the end of November 2011.

Recommendation 2

The committee recommends that for non-jet operations which employ low-experience first officers, operators be required to provide enhanced supervision and mentoring schemes to offset such lack of experience.

Response

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

CASA is reviewing existing criteria in relation to induction and line training requirements for flight crew deemed to have low experience levels. This will be done in consultation with industry stakeholders and any changes to these criteria
would be applicable for all pilots conducting regular public transport (RPT) operations.

The new draft Operations regulations currently being developed by CASA will also detail the responsibilities of aircraft operators before they assign new or low experienced crew members to a flight.

**Recommendation 3**

The committee recommends that Air Operators Certificate (AOC) holders be required to develop and implement 'green on green' policy positions relating to the use of low experience pilots in RPT operations, to maximise, wherever possible, the collective experience level of flight crew.

**Response**

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The proposed new CASR Part 121 covering 'Air Transport Operations by Large Aeroplanes' includes a provision that would require operators to establish procedures to ensure that inexperienced flight crew members are not crewed together.

CASA has also developed "Acceptable Means of Compliance" guidance material to assist operators address the regulatory requirements in the development of their crewing practices.

These draft regulations are expected to be available for public comment by the end of November 2011.

**Recommendation 4**

The committee recommends that Civil Aviation Safety Regulation (CASR) Part 61 ensure that all prospective regular public transport (RPT) pilots be required to complete substantial course-based training in multi-crew operations and resource management (non-technical skills) and human factors training prior to, or in reasonable proximity to, initial endorsement training; the committee recommends that the Civil Aviation Safety Authority (CASA) expedite, and assign the highest priority to, the implementation of CASR Part 61.

**Response**

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The proposed CASR Part 61 introduces a requirement into the flight crew licensing system for a pilot conducting multi-crew operations to have completed a course of multi-crew cooperation training that includes theoretical and practical application of human factors or non-technical skills competencies (including Crew Resource Management).

These draft regulations are expected to be available for public comment by the end of November 2011.

**Recommendation 5**

The committee recommends that the Civil Aviation Safety Authority (CASA) ensure that Part 61 of the Civil Aviation Safety Regulations currently being reviewed place sufficient weight on multi-engine aeroplane experience as opposed to the current recognition of glider and ultra-light experience.

**Response**

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

CASA has confirmed that the proposed CASR Part 61 'Flight Crew Licensing' prescribes minimum aeronautical experience requirements that meet or exceed the experience standards specified in Annex 1 to the Convention on International Civil Aviation (i.e. the Chicago Convention) for each aircraft category rating on a flight crew licence.

Furthermore, the new regulations would require that the total experience requirements specified for an integrated course of training be conducted in a recognised aeroplane, that is, an aeroplane that is registered by CASA, by another ICAO contracting state or is operated by the Defence Force of Australia or of another contracting state.

Aeronautical experience accumulated in gliders or ultra-light aircraft may be used to satisfy part of the requirements specified for a licence, although competency-based training ensures an applicant has been assessed as competent to perform a task to the standards
specified for the licence in a recognised aeroplane.

These draft regulations are expected to be available for public comment by the end of November 2011.

**Recommendation 6**

The committee recommends that the Civil Aviation Safety Authority (CASA) be required to undertake a risk assessment of current simulator training to assess whether the extent, aims and scope of such training is being utilised to achieve optimum safety outcomes rather than minimum compliance objectives.

**Response**

The Government does not support this recommendation as CASA has confirmed that the existing legislative and oversight regulatory framework already covers this type of training activity. The conduct of aircraft endorsement and recurrent training in an approved simulator is already subject to CASA oversight and CASA currently assesses and approves the relevant training programs used by RPT operators.

CASA is currently considering implementing regulatory changes that will increase the use of simulators for flight training and checking activities, including the conduct of certain emergency procedures, which can be more safely and effectively conducted in a simulator than in the actual aircraft. This work is being undertaken with regard to risk assessment requirements and cost benefit considerations.

It is expected that CASA will be putting out for public comment an updated proposal on simulator training by the end of November 2011.

**Recommendation 7**

The committee recommends that the Civil Aviation Safety Authority (CASA) expedite, and assign the highest priority to, the implementation of Civil Aviation Safety Regulations (CASR) Part 141 ‘Flight Training Operators’ and Part 142 ‘Training and Checking Operators’.

**Response**

The Government notes this recommendation which was already being progressed through the established aviation safety regulatory reform program.

The Government has already put in place a dedicated regulatory drafting task force involving specialists from CASA and the Office of Legislative Drafting and Publishing.

CASA is expected to release draft regulations for CASR Parts 141 and 142 for public comment by the end of November 2011.

**Recommendation 8**

The committee recommends that the Government require the Productivity Commission or another suitable body to undertake a review of the current and future supply of pilots in Australia, with particular reference to the general aviation and cadet training pathways, and HECS HELP and VET FEEHELP arrangements.

**Response**

The Government does not support this recommendation.

Skills Australia, an independent statutory authority, currently provides advice on Australia’s current, emerging and future workforce skills and development needs. Skills Australia will be replaced in 2012 by the National Workforce and Productivity Agency, which will continue to have responsibility for providing workforce development and sector and regional skills planning advice to Government and industry.

Assisted by the expanded role of the Transport and Logistics Industry Skills Council, which has developed training packages for the aviation industry to improve planning and skills development for key occupations such as pilots, these agencies are well placed to examine future demand and supply issues in relation to pilots in Australia.

**Recommendation 9**

The committee recommends that the Civil Aviation Safety Authority (CASA), the Australian Transport Safety Bureau (ATSB) and Australian aviation operators review the final findings of France's Bureau of Investigation and Analysis into Air France 447, including consideration of how it may apply in the Australian context. Subject to those findings, the committee may seek the approval of the Senate to conduct a further hearing in relation to the matter.
Response

The Government supports this recommendation as it confirms current agency practice.

Australia's independent safety regulatory and investigatory agencies, CASA and the ATSB, and industry, routinely examine the outcomes of accident investigations and consider their implications for the safety of Australian aircraft operations.

Both agencies are monitoring the French investigation into the accident of Air France Flight 447 and when the findings of the final report have been issued, which is expected next year, CASA and the ATSB will review any implications for Australian aviation.

Recommendation 10

The committee recommends that the Minister for Infrastructure and Transport provide a report to Parliament every six months outlining the progress of the Civil Aviation Safety Authority's (CASA) regulatory reforms and specifying reform priorities, consultative processes and implementation targets for the following 12-month period.

Response

The Government does not support this recommendation.

The Government notes that progress with the regulatory reform program is already reported to Parliament through various forums including CASA's annual report, briefing and information provided at Senate Estimates hearings and through CASA's regular meetings with industry stakeholders.

Regulatory reform activities, including consultation undertaken, are detailed on the CASA website and in the Explanatory Statements and Instruments registered on the Federal Register of Legislative Instruments.

Recommendation 11

The committee recommends that the Government undertake a review of the funding to the Civil Aviation Safety Authority (CASA) to ensure that there is sufficient specific funding to support an expedited regulatory reform process.

Response

The Government notes this recommendation.

The Government provided an additional $89.9 million in funding for CASA over four years announced in the 2010 Budget. Part of this funding is being used on the regulatory reform program.

Recommendation 12

The committee recommends that, as an ongoing measure, the Government provide the Civil Aviation Safety Authority (CASA) with specific funding to enable it to offer salaries that are competitive with industry; in addition, or as an alternative, the Government should consider implementing formal mechanisms for the sharing of expertise between industry and CASA.

Response

The Government notes this recommendation which has already been implemented.

The Government provided an additional $89.9 million in funding for CASA over four years announced in the 2010 Budget.

The CASA Board has confirmed that with the additional funding provided by the Government that CASA is now adequately funded to meet the challenges and performance expected of a world-class aviation safety regulator.

Recommendation 13

The committee recommends that the Transport Safety Investigation Amendment (Incident Reports) Bill 2010 not be passed.

Response

The Government supports this recommendation.

The submissions made by the ATSB and CASA in relation to this matter are referred to by the committee in formulating this recommendation. The submissions continue to represent the position of both organisations.

Recommendation 14

The committee recommends that the current prescriptive approach needs to be supplemented with a general obligation to report whenever the...
'responsible person' believes that there is an urgent safety risk that must be addressed.

**Response**

The Government notes this recommendation which is already being progressed.

The Government notes that the consultation package on reforms to the mandatory incident reporting scheme in the *Transport Safety Investigations Regulations 2003*, which the ATSB took to industry last year, included proposed changes to the reporting regime to make reporting responsibilities clearer, including when there is an urgent safety risk.

These revised regulations are currently being drafted.

To the extent the recommendation refers to reporting processes within Safety Management Systems, CASA is taking these considerations into account. CASA will be looking to the outcome of the work ICAO is currently undertaking in this regard, in which Australia is actively engaged.

**Recommendation 15**

The committee recommends that the Australian Transport and Safety Bureau (ATSB) review its approach to the investigation and publication of human factors with a view to achieving a more robust and useful learning tool for the industry.

**Response**

The Government supports this recommendation in-principle.

The ATSB already has a robust approach to the investigation and publication of human factor issues which was recognised in 2009 when the ATSB received an award from the International Society of Air Safety Investigators for its world-leading work in human factors.

An example of the ATSB's continuing commitment and approach to investigations into human factors to help explain accidents and incidents is its research report: *Evaluation of the Human Factors Analysis and Classification System as a Predictive Model* released in December 2010.

**Recommendation 16**

The committee recommends that the Australian Transport and Safety Bureau (ATSB) review existing processes for the categorisation of aviation events to ensure that miscategorisation is minimised and opportunities for system improvement are not lost.

**Response**

The Government notes this recommendation which is already being progressed.

The consultation package that the ATSB took to industry in 2010 included proposed changes to the reporting regime to make reporting responsibilities clearer, including the categorisation of events.

These revised regulations are currently being drafted.

**Recommendation 17**

The committee recommends that the Civil Aviation Safety Authority (CASA), in concert with the Australian Transport Safety Bureau (ATSB), consider developing and publishing guidance on model reporting to minimise understatement of the actual or potential significance of aviation events.

**Response**

The Government notes this recommendation with revised reporting already being progressed.

Annex 13 to the Chicago Convention already provides guidance on, and establishes standards for, the content and style of incident reports. The requirement to report is specified in the *Transport Safety Investigation Act 2003* and Regulations. A notification form is published on the ATSB website.

Through the work the ATSB has been undertaking with the aviation industry since 2010 on revising reporting requirements, the ATSB has been seeking to provide more advice to industry on better reporting practices. The explanatory material that will exist in support of the new regulations will provide further guidance to industry.

**Recommendation 18**

The committee recommends that Civil Aviation Safety Authority (CASA) require
operators to observe the highest standards of incident reporting from their personnel and provide appropriate training as part of the safety promotion function of their Safety Management System (SMS).

Response

The Government notes this recommendation which is already covered in existing safety, regulatory, legislative and oversight provisions.

The Civil Aviation Orders (CAO) 82.3 and 82.5 set out the minimum requirements for a SMS.

These orders both require safety promotion systems and specifically list safety communication as a requirement that is documented in an operator's SMS. CASA has also developed a Civil Aviation Advisory Publication on these matters.

An operator must be able to demonstrate to CASA that they have developed an effective hazard identification and risk management process as part of their SMS, and that this has been communicated to all operational personnel.

These personnel in turn must have received appropriate training in hazard identification so as to more effectively identify potential hazards in their workplace and report them into the SMS.

CASA's regular surveillance of operators also involves the monitoring of SMS performance within the operator's system, which includes consideration of the continuing capability of reporting and associated safety data processes.

Recommendation 19

The committee recommends that, in order to enhance 'just culture' and open reporting of incidents, aviation operators should ensure that their relevant managers are adequately trained in procedural fairness.

Response

The Government notes this recommendation.

The implementation of the recommendation is a matter for aviation operators.

However, it is noted that CASA's Civil Aviation Advisory Publication (CAAP SMS-1(0) - Safety Management Systems for Regular Public Transport Operations) already refers to concepts of 'just culture' in the context of an operator's organisation.

Recommendation 20

The committee recommends that, following the release of the International Civil Aviation Organization (ICAO) fatigue guidelines, the Civil Aviation Safety Authority (CASA) should expedite necessary changes and/or additions to the regulations governing flight and cabin crew fatigue risk management as a priority.

Response

The Government notes this recommendation which is already being progressed.

Since the Senate Committee's report was completed, there has been a major international development in consideration of fatigue matters with the release by ICAO of an amendment to Annex 6 of its Standards and Recommended Practices (SARPs) and the provision of guidance material in relation to managing fatigue for aviation personnel.

CASA is currently conducting a standards development project relating to fatigue management and has invited the participation of key stakeholders in a Working Group to progress the assessment of ICAO's advice with a view to implementing the SARPs, where appropriate, into the Australian regulatory framework.

The Working Group commenced its consideration of these important issues in October 2011. It is further expected that CASA will be providing a regulatory proposal for public comment early in 2012 for flight crew and by mid-2012 for cabin crew.

Recommendation 21

The committee recommends that, in the event that the International Civil Aviation Organization (ICAO) fatigue guidelines do not extend to cabin crew duty limits and fatigue risk management more broadly, the Government should amend the Civil Aviation Act 1988 to include cabin crew fatigue risk management under the Civil Aviation Safety Authority's (CASA) regulatory oversight.

Response

The Government notes this recommendation.
However the recommendation is no longer required as the amended ICAO SARPs for fatigue risk management cover cabin crew.

**Recommendation 22**

The committee recommends that the Civil Aviation Safety Authority (CASA) specify the type of training and amount of training required for cabin crew, including mandatory English language standards.

**Response**

The Government supports the recommendation in-principle.

The proposed new CASR Sub-part 121(O) covering ‘Air Transport Operations by Large Aeroplanes’ will introduce thorough, comprehensive requirements relating to cabin crew training and checking.

These draft regulations are expected to be available for public comment by the end of the year.

While English is the international language used by domestic and international cabin crews, ICAO does not specify English language proficiency standards for cabin crew as such. However noting the Committee’s recommendation, CASA will assess the need for such an inclusion in its assessment of the relevant proposed new Operations regulations.

**PARLIAMENTARY ZONE**

**Proposal for Works**

*Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:18):* In accordance with the provisions of the *Parliament Act 1974*, I present a proposal for works within the Parliamentary Zone relating to landscape works and the installation of a concrete bench at the High Court of Australia. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

*Senator FEENEY:* I give notice that, on Thursday, 24 November 2011, I shall move:

That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone relating to landscape works and the installation of a concrete bench at the High Court of Australia.

**COMMITTEES**

**Treaties Committee Report**

*Senator BIRMINGHAM (South Australia) (17:19):* On behalf of the Chair of the Joint Standing Committee on Treaties, I present the 122nd report of the Joint Standing Committee on Treaties on treaties tabled on 23 August 2011, 13 and 20 September 2011 and 13 October 2011. I seek leave to move a motion in relation to the report.

Leave granted.

*Senator BIRMINGHAM:* I move:

That the Senate take note of the report.

I am pleased to present this report of the Joint Standing Committee on Treaties, report no. 122, which contains the committee's views on a series of treaties tabled in the parliament on 23 August, 13 and 20 September and 13 October 2011. This contains a range of agreements, as I indicated, and one of the more important agreements covered in this report is the International Convention for the Suppression of Acts of Nuclear Terrorism, of which the committee has approved.

This treaty will establish an international framework for criminalising certain conduct relating to nuclear material and other radioactive substances or devices. The convention lists a series of crimes specifically related to nuclear terrorism, including performing an act of terrorism with nuclear materials, planning or threatening such acts or acting in support of such acts. The convention encourages international cooperation to prevent such crimes, which I am sure all members of the Senate would agree come with enormous potential
consequences, and encourages further international cooperation to ensure such crimes are investigated and prosecuted and ensure the extradition of persons who commit such crimes. Although Australian legislation largely covers the treaty's requirements, the treaty's provisions will strengthen our already existing legislation.

As all members of this place and indeed all Australians recognise, the issue of international terrorism has had a high profile over the last decade since the tragic terrorist attacks on the United States on 11 September, 2001 and following attacks, particularly those in Bali, targeting many Australians. The idea that terrorists could get access to either nuclear weapons or nuclear material is of grave concern to the international community and, of course, to all Australians, hence Australia's strong support for all international efforts to ensure that this outcome does not occur and the welcoming of this treaty as a step to hopefully strengthening our resolve and actions in that regard.

On a related issue, the committee also examined and approved the agreement between the government of Australia and the European Atomic Energy Community, otherwise known as Euratom, for cooperation in the peaceful uses of nuclear energy. The treaty governs cooperation on the peaceful uses of nuclear energy and is consistent with Australia's other bilateral agreements. It is also Australia's first such agreement to include specific provisions on nuclear safety.

As I indicated, the treaty with Euratom for cooperation in the peaceful uses of nuclear energy is consistent with our other bilateral agreements. It is part of the very high benchmark that Australia sets—one of the highest in the world—for the export of uranium for peaceful purposes with the countries to which we export. It is a benchmark that one would expect to be applied equally in any agreement that might be struck with India.

I cannot help but note the difficulty the government has got itself into over the export of uranium to India. The Labor Party has long been tied up in knots when it comes to uranium mining and the export of uranium. I well remember the early debates in my home state about whether uranium should be mined, whether Olympic Dam should be established and whether uranium should be mined from a site such as Olympic Dam. I remember that former Premier Mike Rann when he was but a backbencher strongly opposed the establishment of the Olympic Dam mine.

Senator Feeney: He's the hero of Olympic Dam; it's his mine!

Senator BIRMINGHAM: Yet at the end of his career he was proclaiming it, as Senator Feeney rightly says, as his mine. It was quite a conversion that Premier Rann underwent during his time in public office. It was a not dissimilar conversion to that which the new South Australian Premier has undergone. He also is someone from the Left of the Labor Party who would always have opposed the export of uranium to India, but he was very quick, as the new Premier, to spruik Olympic Dam and its economic benefits to South Australia.

Senator Feeney: The power of common sense.

Senator BIRMINGHAM: I do welcome the conversions of former Premier Rann and new Premier Weatherill to positions recognising the economic common sense of pursuing uranium mining and exporting it for safe and peaceful purposes to relevant countries. On 18 September 2008, the Hansard reminds me, I spoke about a Treaties Committee report about a very
similar agreement on the export of uranium and nuclear materials to Russia for peaceful purposes. At that time, the Labor members, the government members, of the Treaties Committee opposed the ratification of that agreement. So we had the perverse situation where Australia had set in place an agreement to export uranium to China but the government was saying, 'We're not sure about Russia'. The leadership was saying, 'We're all for the export to Russia,' yet the Labor members of the Treaties Committee said no to ratification of the Russian agreement. Of course, the government was saying no outright to India then.

I welcome the conversion of the Prime Minister which led to her saying yes to India, but I do question the motives behind the conversion. I do not believe for a moment that the Prime Minister sat in her office going over a thorough analysis of whether we should put to one side the longstanding provision of the Labor Party about the nuclear non-proliferation treaty being a prerequisite. I do not think for a moment that the Prime Minister sat there studying the implications of this change. I do not think for a moment that she sat there studying what it would mean for India and what it might mean for greenhouse gas emissions. I think quite simply that the Prime Minister decided that she wanted to pick a fight, at the national conference of the Labor Party next month, on her terms rather than having a fight on everybody else's terms, as she was being shoehorned into. It was a case of 'Let's look down the list'.

Senator Feeney: That sounds like a compliment!

Senator BIRMINGHAM: Indeed, Senator Feeney would see it as a compliment to the Prime Minister. To a political tactician, as Senator Feeney is, I am sure it would be a compliment. I would like to think that public policy is made in a slightly wiser way. Indeed, on this side we are proud that we have shown a consistent approach to this issue—

Senator Feeney: Consistent! How much uranium have you sold to India over the last 10 years?

Senator BIRMINGHAM: Our policy position since we were in government has been clear: we were happy to embark on this process and to work with the countries in this direction when we could see it was possible to set in place a sensible framework. The sensible framework is one that is very similar to the Euratom treaty that is being considered here. This will provide a model. I hope that we see further discussion at the international level, as the Treaties Committee has highlighted in other reports, on how we bring countries like India into a nuclear weapons convention framework, on how we actually ensure that we have responsible management of nuclear weapons in these non-NPT states. However, that does not mean that Australia should not provide uranium to a country like India, the world's largest democracy, for peaceful purposes under the same strict conditions that we impose for so many other countries.

This report covers a number of other treaties, including two providing for air services agreements between Australia and the Czech Republic and between Australia and Vietnam, as well as an exchange of notes between the government of the United States of America and the government of Australia concerning space vehicle tracking and communication facilities, which cover the centre located at Tidbinbilla here in the ACT. This agreement is a tangible expression of international cooperation in space exploration. Australia gets practical benefits from this arrangement, including overseas training for our personnel and
investment in facilities in Australia. This exchange of notes will continue a productive and successful relationship that has lasted over 50 years. It is with pleasure for all of those, particularly in the ACT, who work in this facility or who have been to this facility that the committee recommends that binding treaty action be taken.

The exploration of space, while led by larger countries such as the United States, is an international endeavour. On occasion it can unite humanity in common purpose and achievement, as happened with the first moon landing. Australia has been very proud to play its role in assisting these endeavours, and such facilities are critical to them. The committee concludes that this and the other treaties covered in report No. 122 should all be supported with binding action. I thank the secretariat very much for their assistance throughout these inquiries. On behalf of the committee, I commend the report to the Senate.

Senator LUDLAM (Western Australia) (17:29): I rise to add my comments to those of Senator Birmingham, to thank him for his work and, as ever, thank the secretariat and staff of the Joint Standing Committee on Treaties for their work. Unfortunately, in this instance, the committee has let us down and missed a very important opportunity to reassess the sale of uranium to countries in Europe where most Australians, I believe, think it is going to safe pairs of hands where nothing can possibly go wrong and where meaningful safeguards are in place. In the wake of the horrific disaster in Japan earlier this year, the tabling of the Joint Standing Committee on Treaties report No. 122 this afternoon gives us an opportunity to pause, take breath and look at what actually happens. We do not agree that this treaty should simply be uncritically renewed, as essentially the majority report indicates.

What is happening here demonstrates a fundamental denial of the risk of the uranium trade. It glosses over the steep decline in nuclear capacity in Europe. The industry there has been in decline literally for decades—since the early 1980s—and it perpetuates the delusion that the safeguards regime actually provides meaningful safeguards. It provides political safeguards. The safeguards regime that is spoken of at such length in this report is political safeguards. It allows the Prime Minister to wave her hand and say: 'We have accounted for Australian obligated uranium in nuclear material. Their safeguard system is in place.' I suspect that very few people who get up in this place and talk with such confidence about the safeguards regime have the foggiest idea of what is involved at both an accounting and an enforcement level.

Key European players like Germany and Switzerland are pulling out of the nuclear industry. Austria and other European countries have formed an anti-nuclear block to push for a nuclear-free Europe, and nuclear energy has been in decline in the eurozone for many decades. This treaty says that it is the first agreement to include specific provisions on nuclear safety. So we thought that was interesting and that it was good that the treaties committee had dug into that a bit as the first agreement of its kind to include provisions on nuclear safety. So we thought that was interesting and that it was good that the treaties committee had dug into that a bit as the first agreement of its kind to include provisions on nuclear safety. We dug into it to work out exactly what it was invoking, and it turns out that it simply notes the existence of four pre-existing treaties. That is all it does—it invokes four pieces of paper that already existed. As demonstrated by the events at Windscale—now known as Sellafield, because after the fire there they had to change the name of the place—Three Mile Island, Chernobyl and now Fukushima, you cannot do nuclear safety by simply cross-referencing bits of paper. Senior officials have now admitted that Australian
obligated nuclear material was at the Fukushima Daiichi site—probably in all of the destroyed reactors. That does not seem to have sunk in with this government.

Renegotiating this treaty was an opportunity for Australia to demonstrate that it has learned something from the disaster in Japan, but after the glib and rather dismissive comments of Senator Birmingham just now we will wait and see if anything of sense is put on the record by the government. I find it difficult to imagine how bad a nuclear disaster has to get for Australian policy makers to wake up. Although many people think having a triple or quadruple full-scale meltdown on Japan's Pacific Coast is a worst-case scenario, it is not. These things can get worse, and Japanese authorities are now reporting what they believe may be continuing fission events inside the melted fuel at the base of one or more of the reactors in Japan, which are throwing out certain types of isotopes that occur only when fission is operating. In other words, these reactors, in some uncontrolled form, could start up again because the moderators that keep these plants from blowing themselves all across the landscape have melted along with the fuel and are now lying in a puddle at the base of the reactors, having gone right through the floor.

The Japanese authorities and the IAEA are now starting to report hints that occasional criticality or fission events may still be occurring. We may not yet have seen the worst of a disaster. Authorities there now freely admit they are not sure how they are going to bring those plants under control. How do you do that when you have got in the order of 1,000 tonnes of melted uranium fuel lying in a blazing heap that has gone part way through the floor of the reactor buildings on an earthquake-prone coast? What are they supposed to do, when human beings will never go inside those containment vessels or inside the core of those plants again? What exactly is the proposal? Yet the Australian government, with the full and uncritical support of the opposition, intends through instruments like this treaty to just keep shovelling the stuff out the door.

Now there is the madness of India. If we thought the Japanese run a tight ship, and they do—I would say they probably run one of the safest nuclear industries in the world, yet they have lost control of a complex of six plants—how much do senators in this place know about the Indian civil nuclear industry? Obviously, they know very little; otherwise, the proposal of the Prime Minister on the weekend would have sent up, at least from the opposition, some whimpers of opposition. We are used to Tony Abbott saying no and this would have been one opportunity when it would have been handy—but no, Senator Birmingham has rubber stamped that as well.

Learn a little bit about the history of civil nuclear energy in India before we race down this path of shovelling this material to plants all across the Indian subcontinent, because the long and honourable history of the anti-nuclear movement in India will tell you there are very good reasons why people are staging sit-ins and hunger strikes at the moment at the site of a plant that is under construction by, of all people, the Russian government. There is a reason that people are putting their bodies on the line and it is that they are sick of being showered in radioactive fallout from the normal operating practices of nuclear plants in India. The reason we do not have nuclear plants in Australia is that people do not want them in their backyard. I do not want them in other people's backyards either. It is long past the time that Australia took some responsibility for what happens to these concentrates when we put them on boats, wave them goodbye
and count the meagre export revenues that, for some reason, MPs in both the major parties seem to think are so much more than they actually are. Less than a third of one per cent of our export revenue comes from this toxic, destructive and obsolete trade. Yet somehow it has been painted as some sort of economic saviour, even as the mining boom is warping and damaging other parts of our economy. Why do we not take a proper look at the lessons that could be learnt from the horrific suffering in Japan, right across eastern and western Europe in the wake of the Chernobyl disaster and in the various and numerous other parts of the world where near misses have almost depopulated huge areas and huge population centres?

So this report on trade to Europe is a mistake. It is a brazen illustration that the government and the opposition are determined not to learn the lessons of the industry. I have to ask: how bad does it have to get? How many areas need to become radiation sacrifice zones? How many Aboriginal elders do you need to hear from about the destructive impact on country, on culture and on water here in Australia? How bad does it need to get? All I am asking before we rubber-stamp this thing and push this treaty through the parliament is that people simply learn the lessons not just of history but of what is going on right around us right now in the countries to which we export this material.

Senator Birmingham was teasing Senator Feeney across the chamber before about Labor’s inconsistent position. I say to the coalition: the ALP may be in the process of selling their principles out, but at least they had them to begin with. I wish Labor well for its conference in December because I think there is still a chance to rescue some sanity from the dangerous turn that this debate has taken.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (17:38): It is important to have a look at the steps that Australia has taken to deal with the uranium that we trade with other nations. Yes, it has been pointed out we do not have a nuclear industry as such. In fact, there is only one place where we have anything to do with nuclear products in the context we are talking about today and we have to purchase those materials from other parts of the world as part of the non-proliferation treaty and return those rods. They leave the country. Of course, that place is our research facility at Lucas Heights.

As I have said often in this place, we need to remind ourselves what the consequences would be of not having such a place. We enjoy a wonderful health system in this country, and a fundamental part of that health system is access to radiopharmaceuticals for detecting and ameliorating as much as we can within our technology the effects of cancer. Many lives are saved by its detection and removal. I do not believe that many Australians understand the full context of what we are asked to do by those people who say that we should not mine uranium, we should not use it, we should not store it and we should not be responsible for the material that we send away and return. But that has been the consistent approach of the Greens—very consistent, and at least for that I will commend them.

I will turn to the ex-Premier of South Australia, Mike Rann, and his sudden embrace of the sale of uranium to India. I can recall very well what happened at the last minute, after Australia had spent so much time ensuring we had the very best possible science, after we had looked around our nation together as Australians in a project that invested millions of dollars in finding out the very best place to meet our international obligations relating to waste
from the materials used in our health system. That was a very responsible approach, an approach that was not only agreed to by the Commonwealth at the time, under Labor, but also agreed to by all the states and territories. The place chosen was section 52a in South Australia. But Mike Rann at the time, with great hypocrisy, decided that he would then say, 'I agreed to all that, but now I'm changing my mind.'

Sadly, we have now wasted taxpayers' dollars. We could have invested them in other things like hospitals and schools, but instead we had to spend millions of dollars finding another place. That place is now Muckaty, in the Northern Territory. It appears that the waste will be going there. I agree that is a good place to put it—I have no problems with that—but as a Territorian I think we would all have preferred that it had gone to the best place available according to the science. We are always talking in this place about the best scientific evidence. Those are the sorts of things that we could look to.

I commend the committee on their comments on the Agreement between the Government of Australia and the European Atomic Energy Community (Euratom) for Co-Operation in the Peaceful Uses of Nuclear Energy. There are a lot of safety issues in Europe and I commend the sort of work that we are doing as a nation in that area. We have got to be in this game. If we want to ensure safety, we have to be a part of those negotiations. I think there has been reasonable bipartisanship in that aspect. As a Territorian I certainly think it is terrific to see that we are now going to be selling uranium to India—no doubt just for stark political reasons, but I am not necessarily here today to question motives. It is a terrific thing.

Senator IAN MACDONALD (Queensland) (17:42): I support the recommendations of the Joint Standing Committee on Treaties and also congratulate the acting chair, Senator Birmingham, on the role that he played in the committee. I agree that the treaties considered by the committee should be adopted, as recommended by the committee. I also want to make some comments on the treaty relating to uranium and the peaceful use and sale of uranium. It is important that Australia joins the international arrangements in relation to nuclear fuel.

I am delighted to see that the Prime Minister has adopted this position—although I am not sure whether this means the government or the Labor Party have adopted it. I read in the paper that many in the Labor Party are totally opposed, so who knows whether this is government policy or just the Prime Minister's policy or whose policy it is. I see Senator Feeney there, smiling away. Perhaps he knows the Labor Party are going to change their longstanding opposition to uranium sales to India when it comes up at the national conference. But good luck to Senator Cameron and his at least committed colleagues, who will try and maintain the Labor Party on their former path—not a path I agree with, I might say. I am delighted that Ms Gillard has now adopted the coalition's policy in relation to the sale of uranium to India.

What I really want to comment on, as a Queensland senator, naturally enough, is how this treaty might affect my state of Queensland, which, I would say with some parochial enthusiasm, has vast deposits of good quality uranium. But the Queensland Labor Party is all over the shop in relation to uranium. Premier Bligh has just made yet another commitment that she will not be mining or exporting uranium from Queensland no matter what Ms Gillard or the Labor
Party national conference says. So, clearly, the Queensland branch of the Australian Labor Party are at odds with our current Prime Minister, notwithstanding that Ms Bligh has just recently retired as the national chair of the ALP. So it is very difficult for us Queenslanders to understand just what is Australian Labor Party policy when it comes to uranium.

I am more concerned up my way in the north of Queensland with the electorate of Kennedy, where there are a lot of uranium deposits. In the state seat of Mt Isa, Ms Betty Kiernan is the Labor member for that seat. It is an area which contains a lot of the reserves of uranium in our state. Ms Kiernan is very much in favour of uranium mining and uranium exporting, yet she is in a government led by a Premier and by a party that opposes uranium. This is made more interesting because the former minister for mines and energy in Queensland, Mr Tony McGrady, was the former member for the state seat of Mt Isa in the Queensland parliament. As minister for mines and energy, he opposed uranium and went along with Labor Party policy in Queensland. But, now, Mr McGrady is a lobbyist for the uranium industry. So he is actively supporting the mining and export of uranium in Queensland. I welcome Mr McGrady's conversion to the understanding of the clean and peaceful use of uranium. It is a clean fuel. If we are worried about carbon emissions, why wouldn't we be looking at clean uranium energy around the world? I am delighted that the Labor Party seem to be moving towards the selling of uranium to the biggest democracy in the world.

Getting back to the uranium debate in my state of Queensland, which is relevant to this treaty, which the committee has reported upon, it is fascinating that I hear that Mr McGrady, the former state Labor member for Mt Isa and a former mines minister, is now an advocate for uranium and is on the same wavelength, one would think, as Ms Kiernan, the current state Labor member for Mt Isa. But I understand from my friends in the Labor Party that Mr McGrady and Ms Kiernan are sworn enemies, that Mr McGrady is doing everything possible to ensure that Ms Kiernan is not the member for Mt Isa after the next state election. I am not sure whether his enthusiasm to see the sitting Labor member defeated is due to his support for uranium these days or whether it is due to something else. But it does make it rather confusing for those of us in Queensland when trying to understand what the Australian Labor Party's view is on uranium in Queensland. I must ensure there is some time in case any Queensland Labor Party senator might want to participate in the debate and tell the rest of us exactly what Queenslanders can expect from a state government in future should it be that the Labor state government is returned at the next state election. According to all the polls, the chances of that happening are very, very slight—but you never know.

As a voter in the state election, as a Queenslander and as one who is interested in the north of Australia and the wealth that mining has brought to Northern Australia and to North Queensland, I would be interested to know just what the Labor Party policy is in relation to uranium in Queensland. I will watch with great interest and some fascination as to how the party that is the government of Australia, which has a firm and written policy against the sale of uranium to India, treat their Prime Minister and their leader at the national conference, after Ms Gillard, unilaterally I assume, announced that she was going to change sides on the export of uranium to India. So that is interesting and it will be a fascination for all of us in Australia. But as a Queenslander, I am particularly interested in
what the Queensland Labor Party policy is in relation to this, what Ms Kiernan's view is and what Mr McGrady's view is. I again congratulate the committee on their work on these treaties. As the acting chairman has recommended, I will certainly be supporting the adoption of this report.

Question agreed to.

Intelligence and Security Committee Report

Senator FAULKNER (New South Wales) (17:50): On behalf of the Chair of the Parliamentary Joint Committee on Intelligence and Security, I present the annual report of committee activities for 2010-11. I seek leave of the Senate to move a motion in relation to the report.

Leave granted.

Senator FAULKNER: I move:

That the Senate take note of the report.

Due to the federal election held in 2010, this committee was not constituted until late 2010. The committee first met on 25 November 2010 and since that meeting has met for a further six times on the following occasions: meeting 2, 10 February 2011; meeting 3, 3 March 2011; meeting 4, 24 March 2011; meeting 5, a private hearing, 25 March 2011; meeting 6, a public hearing, 16 June 2011; and, meeting 7, 23 June 2011.

Schedule 8 of the Telecommunications Interception and Intelligence Services Legislation Amendment Act 2011 amended subsection 28(2) of the Intelligence Services Act 2001 so that the committee is to consist of 11 members, five of whom must be senators and six of whom must be members of the House of Representatives. In addition, the quorum for the committee was changed from five to six members. Since the last annual report of the committee's activities tabled in June 2011 the committee has not tabled any further reports. The following reports are expected to be tabled in late 2011 or early 2012, the first of which is the Review of administration and expenditure No. 9 2009-2010. On 25 March 2011 the committee held a private hearing at which ASIO, ASIS, DSD, DIGO, ONA and DIO appeared before the committee; and on 16 June 2011 the committee held a public hearing, its first since July 2006, and heard from representatives of the Refugee Council of Australia, RISE—which is the Refugees, Survivors and Ex-detainees—the Asylum Seeker Resource Centre and ASIO in relation to visa security assessments. The committee's report Review of the listing of Al-Qaeda in the Arabian Peninsula (AQAP) and the re-listing of six terrorist organisations was tabled on 22 August 2011 and will be reported on in the committee's annual report of committee activities for 2011-12.

On 17 June this year the committee visited ASIO, ASIS and ONA. The committee received highly classified briefings on aspects of these agencies' performance. On 24 March the Inspector-General of Intelligence and Security, Dr Thom, briefed the committee on the role of IGIS and on the IGIS submission to the committee's administration and expenditure review No. 9. On 23 June this year members of the committee met with Mr Robert Cornall AO in relation to the 2011 independent review of the intelligence community. That review will examine the Australian intelligence community in accordance with a recommendation of the inquiry into Australian intelligence agencies, better known as the Flood inquiry of 2004. The primary focus of this review will be the work of the six AIC agencies—ASIO, ASIS, DIGO, DIO, DSD and ONA. The aim of the review is to address six key issues: how well the intelligence community is positioned to support Australia's national interests now and
into the future; development of the intelligence community over the last decade, including the implementation of intelligence-related reforms; working arrangements and relationships between intelligence agencies and their international partners; working arrangements and relationships between the intelligence agencies and policy and operational areas of government; arrangements and practices within the intelligence community for collaborative work, including legislative arrangements; and the level of resourcing dedicated to the intelligence community and apportionment of resources across the community, noting that any future proposals would need to be offset consistent with the government's overall fiscal strategy. This review will prepare findings and recommendations on those issues and seek to provide a classified report to the government around midyear for its consideration as well as providing an accompanying, unclassified version of that report.

Madam Acting Deputy President Stephens, I hope you found this a most interesting exposition of the committee's work over the year. I commend the report to you and all senators for a close read and examination. If it would suit the Senate I am happy to seek leave to continue my remarks.

Leave granted.

Foreign Affairs, Defence and Trade Joint Committee

Report

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (17:57): On behalf of the Chair of the Defence Subcommittee, Senator Furner, I present a statement of the Joint Standing Committee on Foreign Affairs, Defence and Trade discharging the committee's requirement to present a report.

BILLS

Defence Trade Controls Bill 2011

Customs Amendment (Military End-Use) Bill 2011

First Reading

Bills received from the House of Representatives.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:58): 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 FEENEY (Victoria—Parliamentary Secretary for Defence) (17:59): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

DEFENCE TRADE CONTROLS BILL 2011

The purpose of this Bill is to:

- implement the Treaty Between the Government of Australia and the Government of the United States of America Concerning Defense Trade Cooperation, and
- strengthen Australia’s controls over activities involving defence and dual-use goods, and related technology and services.

Treaty implementation

This year marks the 60th anniversary of the ANZUS alliance.

Australia’s alliance with the United States is our most important defence relationship and the
foundation stone of our foreign policy and national security arrangements.

Four years ago, Australia signed a treaty with the United States to create a framework for two-way trade in defence articles between ‘trusted communities’ without the need for export licences.

On 14 March 2008, the Implementing Arrangement for the treaty was signed and the treaty was tabled in parliament for consideration by the Joint Standing Committee on Treaties.

On 18 September 2008, the committee recommended that the Australian government implement the treaty in domestic law.

On 29 September last year, the US Senate recommended ratification of the treaty. This followed the passage of the treaty’s implementing legislation through the US Congress on 28 September 2010.

This important step was the catalyst for the Australian Department of Defence to develop the necessary legislation.

This bill is the result of that work, and is required before the treaty can enter into force.

Treaty Benefits

Companies in Australia and the United States do a lot of work together to provide the equipment our Defence Forces need to do their job.

Cooperation in defence capability and technology is one of the most important elements of the alliance.

About 50 per cent of Australia’s war-fighting assets are sourced from the United States, and we will replace or upgrade up to 85 per cent of our military equipment over the next 10 to 15 years.

Strengthening this area of our alliance cooperation is therefore clearly in our national interest.

Currently, Australian companies that need access to defence items or technology from the United States must seek an export licence from the US Department of State in accordance with their International Traffic in Arms Regulations, or ITAR system.

Under the ITAR system, individual licences are required for each export application and can often be the subject of delays.

The treaty removes the requirement for individual licences to be obtained for each export, and allows for the licence-free movement of eligible defence articles within the approved Australian and US communities.

For companies that are part of the Approved Community, this will save time and money.

For the Australian Defence Force the treaty will also improve interoperability with US Armed Forces, by making it easier for both militaries to share common equipment and spares during exercises and operations.

Treaty Operation

The Australian Approved Community will consist of government agencies, companies that are approved as community members and their eligible employees.

Approval of an applicant for membership of the Australian Community will include consideration of a range of factors including:

- any convictions for export control offences;
- the level of foreign ownership or control; and
- prejudice to the security, defence or international relations of Australia.

The bill sets out the framework in which the Australian Community will trade in Defence Articles with US Community members.

Membership of the Approved Community is voluntary and brings with it obligations.

Members of the Approved Community will have to comply with certain security and administrative requirements to protect the US technology they will have access to.

There are offences for Australian Community members who do not comply with the terms of their approval or operate outside the framework of the Approved Communities.

To ensure that Australian Community members comply with the treaty obligations, the bill will provide the government with monitoring powers that will be exercised by Authorised Officers who have appropriate qualifications and relevant experience.
These measures will enhance the cooperation and interoperability of the Australian and the United States Defence Forces and defence industries.

It is expected that Australian Community members will also be better positioned to bid for US government defence projects that will require access to US defence articles regulated by the ITAR system.

Industry Consultation

This bill is the result of extensive consultation with the Australian defence industry.

This has been led by Mr Ken Peacock AM, an experienced former CEO of a major defence company.

The treaty process must be easier to use and more commercially attractive than using the current ITAR system, otherwise it will not be a success.

That’s why the government has consulted with Australian industry—large and small.

This consultation has been conducted over three major stages:

Stage 1 was meetings with industry in eight capital cities and regional centres in December last year.

Stage 2 was the establishment of the Defence Trade Cooperation Treaty Industry Advisory Panel in May this year.

The panel includes experts from major Australian defence companies, small-to-medium businesses and the Department of Defence and has provided important advice on the development of this bill.

Stage 3 was the release of the exposure draft of the bill for broader industry and community feedback in July this year.

This consultation process has been extremely valuable, and can I take this opportunity to thank Mr Peacock for his work and leadership of this process.

Industry raised a number of important issues during the consultation process. These included:

- implementation details;
- transition arrangements for moving from the current system to the new arrangements;
- the costs and complexity involved in operating as part of the Approved Community;
- the monitoring powers of Authorised Officers;
- interpretation of brokering as an activity; and
- the level of support to be provided to small to medium enterprises that want to become Approved Community Members.

This feedback has led to a number of important changes to the bill and explanatory memorandum.

These include:

- The definition of Australian person in section 4—which has been amended to clarify that it includes an individual who is a holder of a permanent visa under the Migration Act to provide further certainty for industry.

- The Defense Trade Cooperation Munitions List in section 36—which has been amended to allow the minister to list in one place those goods that are within the scope of the treaty and those that are exempt from the scope of the treaty. This will provide certainty and make it easier for industry to comply with the provisions of the bill and treaty obligations.

- The powers of an Authorised Officer at section 41 have also been amended to require an Authorised Officer to provide at least 24 hours notice of the intention to enter the premises of a member of the Australian Community. This change was made in response to concerns expressed by industry, to reflect the fact that the purpose of the Authorised Officers is to monitor and encourage industry compliance with treaty obligations rather than simply to enforce those obligations.

- The explanatory memorandum has also been amended to provide further guidance on the concept of “arranging” for the purposes of brokering trade in defence and strategic goods, technology and services.

All of these decisions were made based on feedback from the consultation process.

The Department of Defence will allocate resources including training, to assist individuals and companies to comply with the new legislation.
The government has also made the decision not to charge industry for approvals, registrations or security clearances associated with the bill.

Next Steps
Before the treaty can become operational, there is a lot of work to do:

- the draft regulations for this bill will be released for industry consultation;
- the United States will move forward with its implementing arrangements;
- the Australian and US governments will work together on a Pathfinder Program to test the treaty framework; and
- the Department of Defence will complete its transition planning, including introducing a new IT system to support the Treaty and new strengthened export controls.

Within two years of the treaty coming into force the Department of Defence will also conduct a Post Implementation Review of the treaty provisions of this bill.

This review will be presented to the Joint Standing Committee on Treaties.

Regulations
The draft regulations will be released before the end of the year. They will be subject to further significant consultation with industry.

That will include consultation with the Defence Trade Cooperation Treaty Industry Advisory Panel chaired by Mr Ken Peacock.

The regulations will include:
- requirements to be satisfied by an employee or contractor for Australian Community membership;
- key conditions of approval for Australian Community membership;
- exceptions to treaty offences;
- record keeping requirements for Australian Community members;
- compliance reporting requirements for Australian Community members;
- process for being approved as an intermediate consignee;
- exceptions to the offences for supply of technology or the provisions of defence services;
- record keeping requirements for permit holders and brokers;
- identification cards for Authorised Officers; and
- other administrative matters.

United States Implementation
On 29 September 2010, after lengthy and complex negotiations, the US Senate recommended ratification of the treaty, following the passage of the treaty’s implementing legislation through the US Congress on 28 September 2010.

Since that time, the US Administration has been working to meet the requirements of the Congressional Resolution of Ratification. As part of this, the necessary changes to the ITAR system are being proposed.

The United States will soon release for public comment a draft amendment to the ITAR system which will enable trade under the treaty.

Once the US and Australian governments have completed the necessary preparations and transition planning, the Defence Trade Cooperation Treaty will be brought into force.

Pathfinder Program
To ensure the treaty is a success, the Australian and US governments are also developing a Pathfinder Program to test the effectiveness of the Australian and United States systems being developed. This bilateral process will be administered by the Treaty Management Board.

The board will select and evaluate test projects to identify what works well and what requires refinement before the treaty enters into force.

These projects will be real examples that will be selected for their ability to cover the full range of treaty scenarios, including support to current operations and cooperation on new major defence systems in Australia’s Defence Capability Plan.
Transition Planning

Work is also required to transition approved Australian Community members from the current export control system to the new system.

This includes the introduction of a new IT system to support the treaty and strengthen export controls.

The current export control IT system has been in operation for almost 20 years.

A procurement process to select a partner to develop and implement a new system is underway, and a contract is expected to be signed early next year.

The new system will be set up and tested before the treaty enters into force.

Strengthening Export Controls

The second purpose of the bill is to enhance the existing legislative export controls measures.


In order to strengthen Australia’s export controls, the bill includes provisions covering:
- intangible transfer of technology relating to defence and strategic goods, such as transfer by electronic means;
- provision of services related to defence and strategic goods and technology, such as training and maintenance services; and
- brokering the supply of defence and strategic goods, technology and services.

Associated amendments to the Customs Act 1901 will cover the export of non-regulated goods that may contribute to a military end-use that may prejudice Australia’s security, defence or international relations.

Australia has played a prominent international role in developing, implementing and enforcing effective export controls on major arms and dual-use goods. These changes are in line with commitments Australia has made within the multilateral export control regimes; including, the Wassenaar Arrangement and the Australia Group.

These strengthened measures will bring Australia’s defence export controls in line with international best practice and are useful preparatory steps for Australian participation in negotiations on the United Nations Arms Trade Treaty.

Under this bill, a permit will be required for any supply of technology relating to controlled defence and strategic goods, any provision of services related to those goods and technologies and any brokering of defence and strategic goods, technologies and related services. This builds upon the current licence and permit arrangements in existing export control legislation.

The bill also establishes who will need to apply for a permit, when and how to apply for a permit as well as offences for situations when a permit is not obtained or when conditions under a permit are breached.

All these measures aim to ensure the responsible export of defence and strategic goods, technology and related services and prevent them from being transferred to destinations that may prejudice Australia’s security, defence or international relations. The measures will be implemented to minimise the impact on industry so that trade can be maintained while complying with the new requirements.

Conclusion

This is important legislation that will:
- strengthen our alliance with the United States and the relationship between our defence industries;
- improve interoperability of the Australian and United States armed forces;
- help to deliver equipment to our troops faster and cheaper;
- provide opportunities for the Australian defence industry to win work in the US defence market; and
- enhance Australia’s defence export controls to bring them in line with international best practice.

Debate adjourned.
CUSTOMS AMENDMENT (MILITARY END-USE) BILL 2011

This bill complements the new powers included in the Defence Trade Control Bill, for strengthening Australia’s Defence Export controls, by providing measures to prohibit the export of goods where they may have a military end-use contrary to Australia’s interests.

The power is a ‘catch all’ provision that will operate by giving the Minister for Defence an authority to issue a notice to prohibit goods from being exported, where the minister is of the view that they may be for a military end-use that could prejudice Australia’s security, defence or international relations; and the goods are not otherwise regulated.

It is not expected that this power will be used very often. However, an example of when it could be used would be to prevent an Australian export from proceeding if it was potentially going to be used by an armed group such as a terrorist organisation.

Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

COMMITTEES

Rural Affairs and Transport References Committee

Government Response to Report

Senator HEFFERNAN (New South Wales) (17:59): by leave—I move:

That the Senate take note of the document tabled earlier today.

Leave granted.

Senator HEFFERNAN: I seek leave to continue my remarks later.

Leave granted.

BILLS

Tax Laws Amendment (2011 Measures No. 8) Bill 2011

First Reading

Bill received from the House of Representatives.

Senator FEENEY: 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 FEENEY (Victoria—Parliamentary Secretary for Defence) (18:01): I table a revised explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 amends the income tax law to provide the Commissioner of Taxation with discretion to disregard certain events that would otherwise trigger the assessment of certain income for a primary production trust in the year of the event.

Currently, the income tax law allows primary producers to defer or spread profits made on certain forced disposals or death of livestock arising from natural disasters.

However, the concession immediately ends upon the happening of a disentitling event, for example, when a beneficiary leaves Australia permanently. This can produce some inappropriate outcomes. For this reason the government is broadly restoring the discretion which existed prior to the Tax Laws Improvement Project in 1997.
This schedule also removes the death of a beneficiary as a disentitling event.

These amendments apply retrospectively from the 2005-06 income year and ensure a favourable position for affected taxpayers.

Schedule 2 relates to the Petroleum Resource Rent Tax (PRRT). Since its introduction by the Hawke Government in 1986, the PRRT has played an important role in ensuring that a share of the economic rent generated from offshore petroleum projects is retained by the community. From 1 July 2012, as part of the Government’s resource tax reforms, the PRRT will be extended to cover all Australian oil and gas projects, including for the first time those located onshore, as well as the North West Shelf project.

In this context, it is vital that current and prospective PRRT taxpayers can be certain as to how the PRRT applies to their specific projects.

Schedule 2 provides this certainty by amending the Petroleum Resource Rent Tax Assessment Act 1987 to reinforce the long-established interpretation, recently affirmed by the Federal Court, of how the ‘taxing point’ is determined for the purposes of the PRRT.

The taxing point is central to the determination of PRRT liabilities, in that it is the point at which assessable revenue for a petroleum project is determined, and up to which project expenditures are deductible.

Specifically, this bill clarifies the definition of a ‘marketable petroleum commodity’ in the PRRT law. Under the PRRT law, the taxing point occurs where marketable petroleum commodities produced by a petroleum operation become ‘excluded’—normally by being sold or by being moved from the place of production.

The new definition explicitly requires that the intended final use of a substance be taken into account in determining where in the production chain a marketable petroleum commodity is produced. This requirement has always existed, albeit implicitly, and is clear given the structure and operation of the PRRT law as a whole. The PRRT has operated on this basis for over twenty years.

By making this existing requirement explicit, the amendments will put the matter beyond doubt, removing any lingering uncertainty around a central element of the PRRT.

This measure was first announced in the 2011-12 budget. Consistent with that announcement, the amendments are effective from 1 July 1990.

Because the measure serves only to clarify and affirm the current application of the PRRT, it does not impose any additional tax burden. Accordingly, these amendments have no revenue impact.

Schedule 3 contains minor consequential amendments to the taxation arrangements that bring the gaseous fuels (liquefied petroleum gas (LPG), liquefied natural gas (LNG) and compressed natural gas (CNG)) into the fuel tax regime. The changes ensure that legislation applies as intended and does not impose excessive compliance costs on the gaseous fuels industry.

The amendments in this schedule confirm that excise duty does not apply when CNG fuel is manufactured in home refuelling units that do not have commercial scale capacity.

The amendments also confirm that entitlements to fuel tax credits are available to unlicensed distributors of LPG for non-transport applications; and that the content of notices to accompany the supply of LPG for non-transport use, which will be developed in consultation with the gaseous fuels industry, will be set out entirely in regulations.

The measures contained in this Schedule apply from 1 December 2011.

The Gillard government will also introduce new legislative arrangements, that will allow up to six business days after the end of the weekly duty accounting period before duty payments must be made by entities with gaseous fuel tax obligations.

The changes will apply to duty obligations for LPG, LNG and CNG. They will not impact on payment of duty for other types of fuel.

The revised arrangements are in response to the concerns of marketers who, in many cases, are unable to identify whether deliveries of gaseous fuels are for transport use or for non-transport use until deliveries are made and invoices are
Processed. This may be some days after the fuel has left excise or customs-licensed premises.

The revised arrangements provide flexibility for existing parties in the fuel tax system to maintain their existing payment arrangements. This reflects the Gillard government’s willingness to respond to industry concerns and develop workable and practical solutions.

In the short term, in the absence of legislation, I am advised by the Commissioner of Taxation that he will administer the periodic settlement permissions under the existing excise law to allow duty to be paid for gaseous fuels up to six business days after the end of the weekly duty accounting period from 1 December 2011.

These arrangements by the Commissioner will continue once legislation is enacted to give effect to the government’s decision on the six business day payment arrangement for gaseous fuels.

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

Debate adjourned.

Clean Energy Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Steel Transformation Plan Bill 2011
Assent

Message from the Governor-General reported informing the Senate of assent to the bills.

COMMITTEES
Community Affairs References Committee
Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:02): As Chair of the Community Affairs References Committee, I present the report on regulatory standards for the approval of medical devices, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator SIEWERT: by leave—I move:

That the Senate take note of the report.

On 16 June 2011, the Senate referred the regulatory standards for the approval of medical devices in Australia to the Senate Community Affairs References Committee for inquiry. The committee received 34 submissions: 18 from industry and industry associations and peak bodies, three from government, two from consumer groups and 11 from affected patients and consumers. We held a public hearing on 27 September 2011.

The committee examined the regulation of medical devices in Australia. This is a complex and evolving area. The committee considered whether the current mechanisms for premarket assessment and postmarket surveillance of medical devices are appropriate for ensuring patient safety. The inquiry was conducted in a dynamic policy and legal environment. It was occurring in parallel with the ongoing implementation of the recommendations of the health technology assessment review and the consideration of the Therapeutic Goods Administration transparency review.

The inquiry also focused on the consumer experience of those approximately 5,500 Australians who have received the DePuy ASR metal-on-metal hip replacement, including total hip replacements and hip resurfacing systems. This was a matter brought to the public attention on 16 May 2011 by the Four Corners program Joint Reaction. That followed other stories around this issue.

The committee heard shocking evidence of patients experiencing devastating health problems as a result of being implanted with either the DePuy ASR hip or the hip resurfacing system. Many witnesses spoke of their repeated surgeries, repeated and extended hospital stays, significant financial loss and major personal and family impacts.
Health problems cited included severe pain, loss of mobility and a complex process of both physical and psychological effects due to the shedding of cobalt and chromium irons from the implanted devices. The excessive levels of chromium and cobalt in these patients' bodies have produced symptoms such as bone loss, extensive damage to bone and soft tissues, and hip dislocations. The Department of Health and Ageing notes that excessive levels of these metals can also produce other significant medical complications. One submitter's condition is in fact now terminal.

I will cite only a few quotes from the report, because other members of the committee also want to contribute:

The committee was shocked by the intolerable, and unacceptable, experiences of patients who received the DePuy hip and hip resurfacing system. These very personal experiences—which we heard—serve to underline the need for improved pre-market clinical testing and post-market surveillance systems for medical devices, as well as improved timeliness and decisiveness when acting upon the information that is available.

These experiences brought home to the committee that the TGA could have done more in response to the concerns with the device and that Johnson & Johnson Medical did not serve patients well.

The report further states:

It appears to the committee that ASR hip devices were in use after a higher than expected revision rate had been identified. The committee believes that insufficient information was provided to consumers regarding the concerns with the device. This is regrettable.

The committee has made 18 recommendations in the report and these go to improving the regulation of medical devices by the TGA and increasing the rigour of the regulatory assessment of the higher risk medical devices, both before the devices come to market as well as through monitoring and surveillance of these devices post market. The committee has recommended that the HTA review recommendations 8c, 13, 14 and 15 are fully implemented in a timely manner—in other words, the recommendations that have been made from ongoing processes need to be implemented. We recommend investigating whether the increasing number of medical devices on the Australian market is actually improving clinical outcomes and we make a range of other recommendations.

An issue I have not touched on in my comments relates to inducements, which came up during the inquiry. We recommend the need for further work to address the issue of inducements paid by pharmaceutical companies and medical device manufacturers to doctors and teaching hospitals. This issue has been addressed in the United States through the physician payment sunshine provisions of the Patient Protection and Affordable Cure Act of 2009. The definition of inducements should include a commercial interest in a company or device, any cash payments or discounts offered to medical practitioners and any other gifts provided to medical practitioners. As I said, these are just some of the recommendations we made. I believe there was a lot of compelling evidence provided to this inquiry of the trauma and physical impacts that consumers have suffered as a result of receiving some of these hip devices.

I commend the recommendations to the government. I thank committee members and particularly thank, once again, the staff of the Community Affairs References Committee staff and the staff that we borrowed from the Standing Committee on Finance and Public Administration, Christine McDonald and Bu Wilson, who served us extremely well in a both timely and professional manner.
**Senator XENOPHON** (South Australia) (18:09): At the outset I join with the chair of the committee, Senator Siewert, in the remarks she made about the assistance of the secretariat and other support that the committee received. I heartily endorse those remarks on the professionalism of the secretariat in preparing this important report.

This report came to the committee as a result of a referral, a motion I put up in the Senate as a result of being contacted by a number of constituents who have suffered severe, some would say life-threatening, health problems as a result of DePuy hip replacements and joint resurfacing. These are issues that ought not to have occurred in the first place. That is why this report is important. I have added additional comments to this report where I agree with the committee's recommendations but say I believe there ought to be some further rigour in the recommendations in terms of time lines in dealing with these important issues.

Let us put into perspective what is at stake here. We have a watchdog, the Therapeutic Goods Administration, that is supposed to have appropriate processes to deal with medical devices such as this. I believe the watchdog has failed Australian consumers. I believe that the watchdog, the Therapeutic Goods Administration, could have and should have done much better. There was significant evidence given to the committee that points out a failure of process, a failure in dealing with these matters.

Let us put this into perspective in the context of what has occurred here. In the case of the DePuy hip replacements and the joint resurfacing devices, approximately 5,500 Australians have received such devices. Many people who have received these devices have had to undergo multiple revision surgeries. We know that the average surgical revision rate is in the order of 3.5 per cent but the current revision rate for these devices in Australia is 10.2 per cent after five years. We know that independent UK research indicates a failure rate for some of these DePuy devices to be in the order of 49 per cent.

This is made even more tragic by the fact that many of the people who are undergoing these revisions are having severe health effects relatively young. Many of them are in their 40s. The problems caused by these devices relate to the trauma of surgery, the risks inherent with surgery—particularly for older patients—and also cobalt and chromium leeching into patients' systems, into their bodies, from the devices. This has caused a wide range of problems—and the committee heard evidence in relation to this—from depression, memory loss, fatigue and tinnitus to bone necrosis in the affected joint. Many of the patients who gave evidence to the committee stated they were not aware that their health problems stemmed from their devices until they saw the issue raised in the media or they conducted their own research. That shows there is a failure of transparency, and the committee has made some good recommendations in respect of that.

Some also stated that they had problems getting their health practitioner to take them seriously, and I have also been contacted by people who have been faced with similar problems from metal-on-metal devices, indicating that the whole category of device may be problematic.

What is particularly significant is the evidence that the committee heard from the National Joint Replacement Registry. I am very grateful for the work of that registry and for the work of the head of the registry, Professor Stephen Graves, whom I think is eminently qualified and well respected nationally; indeed internationally, given his
role internationally in setting up a register for these devices.

I have been questioning the TGA on these issues at estimates hearings for several years and it has been a valuable opportunity to explore this through this committee process. I must say, for those who are listening on NewsRadio and those who are following this, that I think one of the things the Senate does best is the way the committee process works—without political rancour, without any party political bias to it and where the committee as a whole is looking to get to the truth of matters.

While the committee focused on these devices, it is important to remember that they are not the only problem devices and there are systemic issues in the way we deal with these devices. And then there is whether we ought to go to the French system, where you need to show the efficacy, the benefit, of new devices before they are put onto the market and before they get, if you like, government assistance. I believe the TGA has failed in its role as regulator and it is vital that new systems and processes are put in place to adequately protect Australia’s health consumers. I believe the TGA’s response to the DePuy situation was very poor, as evidenced in the report. In one case, information on the failure of the devices provided by the National Joint Replacement Registry was not examined by the TGA adequately until over a year after it was provided. That is clearly unsatisfactory.

One of the recommendations is to introduce legislation to require medical practitioners to disclose any financial, commercial or other interests they have which are relevant to the treatment of the patient. I will be providing instructions for legislation to be drafted along these lines in the near future if the government declines to do so. We need to have that transparency legislation.

In relation to DePuy devices, it should be pointed out that Dr Roger Oakeshott, one of the orthopaedic surgeons who implanted a number of these devices, did not, according to patients I have spoken to, disclose his commercial interest as one of the co-designers of the device. I think that is clearly unsatisfactory.

It is important that patients are able to give informed consent with regard to these devices. It is important that we have a better system in place. It is important that we have increased regulation of devices, including postmarket monitoring, and overall increased transparency in the operation of the TGA from the health technology assessment review and the Therapeutic Goods Administration transparency review. The fact is that many Australians who have had these DePuy devices implanted are looking at a ticking time bomb in terms of the impacts it can have on their health. At the moment the revision rate is some 10 per cent. If we go anywhere near the UK revision rates, that will be a very significant issue. I commend this report and I look forward to the government acting seriously to deal with a number of fundamental issues of reform.

Senator MOORE (Queensland) (18:16):
The TGA is a very important part of the health system in this country. It was developed as part of the Department of Health and Ageing:

… to protect public health and safety by regulating therapeutic goods that are manufactured or supplied in, or exported from, Australia—
as well as aiming—

… to ensure the Australian community has access, within reasonable timeframes, to therapeutic advances.
This is an important responsibility for the organisation and it is absolutely critical that we have in place effective processes to ensure there is genuine trust in the role the TGA plays. Through the process of this inquiry by the Senate Community Affairs References Committee, we have heard that things should be done better. There is no doubt about that. The committee has come up with 18 recommendations and they have a similar theme. As Senator Xenophon and Senator Siewert have said—and as I know Senator Boyce will say, because we were very much in agreement about the process, about the concerns that need to be addressed and about the reasons it is important that we address those concerns—during the evidence we heard that the TGA, by and large, does a very sound job. In fact the AMA said that it served Australia well. Dr Hammett, the head of the TGA, whom we know well through Senate estimates, said:

It is a constant matter of balancing the challenges of regulating the large number of products we regulate. One of the important foundations of how we approach this is that we have an understanding that it does not matter what amount of resources we have; it is not possible to create a completely safe medical device, medicine or medical procedure.

It is important to know that. There can never be absolute guarantees, but we must have a process where we know that the best possible communication, the best possible science and the best possible cooperation has taken place so that we can come up with a sound medical system.

Our committee was shocked and saddened by the information provided to us by people who, in good faith, had received advice from practitioners in this country about a new process for hip implants which, they were told, was going to serve them better. In fact one of the biggest ironies in all of this was that many people had this particular process—the DePuy implant, DePuy being a subsidiary of Johnson and Johnson—because it was going to be the new best process in the medical arena. This was going to be the best way they could be helped. That was based on practice—this particular process had been used and had worked overseas. However, what we have seen—and we have heard some of the figures—is that there are problems with this device. This has come out through information that is fed back through the system, information which tells us there has been too much revision—people having to go back and have more surgery. There have also been way too many other kinds of medical problems caused by this process.

We heard some very sad things and I think the whole committee sends its best wishes to the people and the families who came forward with stories about what was happening in their lives. As Senator Siewert said, one of those patients, whom Senator Xenophon had been working with in South Australia, has a terminal diagnosis. We can never stop that happening, but, when we can see that things can be done better, we as a government, we as a parliament and we as the Australian community must do better.

The 18 recommendations are aimed at trying to ensure that there is much better communication and much better understanding in the process. The community affairs committee had previously inquired into the National Joint Replacement Registry, so we had already heard about some of the issues in terms of the volume of transplantation and the volume of devices available in this country. What we need to have is an assurance that the process works as well it can—that knowledge is being shared and that people are getting the necessary information as quickly as possible so they can then take action quickly.
It must be remembered through all of this that the device in question was actually removed from the Australian market several months earlier than anywhere else in the world, simply because of the pressure that the TGA process had placed on the company. I think, within the overall discussion, that we need to see that. It was not good enough, but nonetheless this process was stopped in Australia a good nine months before it was stopped overseas and I think the Australian move led to the international decision to have this device, which is proven to be dangerous—I think I can go that far—removed from the market.

One of the things that I just wanted to mention briefly—I know Senator Boyce wishes to make a contribution as well—is an issue which came up in this committee's hearings as well as in previous ones: the importance of the relationship between the consumer and the practitioner in any kind of medical process. We found that consumers were not fully informed about the surgical process or about the type of implant they were going to have. We value the concept of informed choice in our medical system, but it did not occur. I think that we as a community need to keep that concept on the agenda—to make sure that every person in this country working with our health system understands as well as they can what is going to happen to them, the options they have and the probable consequences of their decisions. They should not be reliant on a doctor—of any kind, in any place—just telling them what is going to happen and no more. This had happened consistently to the patients who came before us in the committee.

It is important to know that the TGA has been subject to two reviews. The government is working through those. There is a confidence that things can be done better. The government acknowledges that. I again thank all the people who contributed to our committee and shared their lives and their expertise with us to allow the committee system and this process, of which I am very proud, to operate again in this day.

Senator BOYCE (Queensland) (18:22): I would like to add my thanks to the secretariat of the Senate Community Affairs References Committee, particularly the co-opted members of the secretariat, who were in the main responsible for the production of this report, The regulatory standards for the approval of medical devices in Australia. My thanks go also to the committee members for the amount of effort that went into coming up with a consensus report. I think it is a great feature of the community affairs committee that we very often produce reports that are consensual, because we are looking at issues that we believe affect everyone.

The biggest issue that came out of this report was the complete disconnect between the idea of a hip implant, a hip replacement device, and the needs of health consumers in Australia. The TGA, as Senator Moore has said, dealt perhaps not so promptly but certainly reasonably when they discovered the problems with the DePuy ASR hip replacement devices, but I do not think there was any consideration in that of the effect on patients. It is quite easy to talk about the 'revision' of a hip replacement as though it is something like a piece of paper where you might revise the words that have been written before, but we know in this case that the revision of a hip involves surgery, hospital stays and very large problems for patients.

I would just like to talk about some of the evidence that came out of the submissions of people who have been affected by these hip replacements. Amongst the problems that developed were the need for revision and for other surgery, the need for repeated and extended hospital stays, multiple and exten-
ded courses of antibiotics, major personal and family impacts and—in many, many cases—significant financial loss caused by their health problems and the need for other members of the family to care for them. Health problems that were cited by submitters include severe pain, loss of mobility and a complex mix of physical and psychological effects that were due to the shedding of cobalt and chromium ions from the DePuy implanted device. We had evidence from submitters saying that the excessive amounts of cobalt and chromium in their bodies had produced symptoms such as bone loss, extensive damage to bone and soft tissues, hip dislocation, pus coloured fluid and pseudotumours, and depression. And, as has been mentioned by a number of speakers, one person who received a DePuy hip replacement in fact is now in a terminal condition as a result of complications that have developed from that hip replacement. But let us just talk about the straight revision surgery. The symptoms for patients who get to the stage of needing a replacement of the replacement are pain, swelling and problems with walking, which can be on a recurrent or a continuing basis. That is enough of an issue, enough of a productivity problem, surely, and enough of a human problem for us to do better than we do here.

Wearing another hat, I happen to know that for at least 15 years the place and time of manufacture and the path to its final resting place of a septic tank in Australia has been very, very carefully monitored. You can look at any septic tank installed in Australia in the last 15 years and know exactly who made it and when. If we can do that well with a product like that—which I admit could be very unpleasant if it fails as a product and may cause some local environmental damage—surely we can do much better with products that are being put inside patients, not just in terms of the fact that having the revision done causes pain but also in terms of the fact that it is leading to a poisoning of their system.

The other topic I want to very briefly cover whilst I am here is recommendation 18 of our report, which looks at the conflict-of-interest issues regarding surgeons and others involved in perhaps recommending these products without suggesting that there are alternatives and certainly without giving patients the ability to make an informed decision about which implant to have. I think we also need to notice that Johnson and Johnson Medical have agreed to pay $21.4 million as a criminal penalty as part of a deferred prosecution agreement for improper payments by Johnson and Johnson subsidiaries to public healthcare providers in Greece, Poland and Romania, in violation of the Foreign Corrupt Practices Act. This is a US decision. Similarly, the UK Serious Fraud Office obtained a civil recovery order against DePuy International Ltd in recognition of unlawful conduct relating to marketing and the sale of orthopaedic products in Greece between 1998 and 2006.

I find it difficult to believe that, if that sort of behaviour had been going on in Europe, there is not at least the potential that that had also been happening in Australia. We have no direct evidence of that, but there are suggestions by people who have been affected by these hip replacement devices that they certainly were not aware of options and they were not aware that the recommendations to them about having these hip replacements were being made by people who had a direct or indirect financial interest in their accepting that hip replacement. So I think it is important that particularly recommendation 18 be taken up quickly by the government. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Sitting suspended from 18:30 to 19:30

BILLS
Family Law Legislation Amendment
(Family Violence and Other Measures)
Bill 2011
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) (19:30): Family law is the one jurisdiction of the federal judicial system to which almost all Australians have some level of exposure at some time in their lives. It is a sad fact of life that virtually every one of us will either have a first-hand experience or have someone—or most likely more than one person—within our family or close circle who will have contact with the Family Court or the Federal Magistrates Court in its family law jurisdiction. It is also a sad fact of life that family law disputes are among the most intractable matters that come before a court, often in a context of extreme personal bitterness and too often occasioned by violence and abuse of the most horrible kind, conduct which, it should be unnecessary to say, is abhorrent to all members of the community.

It is also a fact of life that any attempt to resolve these disputes will often leave both parties feeling aggrieved and, much worse, their children exposed to the fallout and remaining at risk of violence and abuse. Many of the failed relationships that come before the courts have been blighted by mental illness and substance abuse problems, sometimes on both sides, and because judges are human the courts do not always get it right, much as they strive to do so. In disputes involving children, the principal guidance provided by the Family Law Act is that the best interests of the child are the paramount consideration. Just how the best interests of children can be determined, however, is and will always be a vexed question and a matter on which decent people will arrive at different views.

In December 2003 the House of Representatives Standing Committee on Family and Community Affairs tabled a unanimous report entitled Every picture tells a story. The committee was asked to consider, given that the best interests of the child are the paramount consideration, what other factors should be taken into account in deciding the respective time each parent should spend with their children post-separation. The committee, headed by Kay Hull MP, heard evidence from more than 2,000 witnesses over the course of six months. One of its findings, which informed many of its recommendations, was:

We—

that is, the entire committee across party lines—

are convinced that sharing responsibility is the best way to ensure as many children as possible grow up in a caring environment. To share all the important events in a child’s life with both mum and dad, even when families are separated, would be an ideal outcome.

The committee heard heartbreaking evidence of children separated from one of their parents by inflexible Family Court orders which caused anguish to parents and children alike and which had long-term detrimental effects on children. The so-called 'shared parenting laws' which were introduced by Mr Ruddock, the Attorney-General in the Howard government in 2006, were a response to the report. In my view, they were some of the best and most important law reforms for which that great Attorney-General was responsible.

The changes to the family law system included changes to both the legislation and
the family relationship service system. The main elements of the legislative changes were: to require parents to attend family dispute resolution before filing a court application, except where there are serious concerns about family violence and child abuse; to place an increased emphasis on the need for both parents to be involved in their children's lives after separation, including the introduction of a presumption of shared parental responsibility; to place greater emphasis on the need to protect children from exposure to family violence and child abuse; and to introduce legislative support for less adversarial court processes in children's matters. This legislative suite included a requirement for the Australian Institute of Family Studies to undertake a large-scale longitudinal evaluation of the effect of the reforms. That evaluation was completed in December 2009, and I will return to its findings in a moment.

The coalition is proud of the Ruddock reforms. The Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 seeks to amend the Family Law Act by including an additional object to give effect to the UN Convention on the Rights of the Child, to which decision-makers may have regard when dealing with children's matters. This legislative suite included a requirement for the Australian Institute of Family Studies to undertake a large-scale longitudinal evaluation of the effect of the reforms. That evaluation was completed in December 2009, and I will return to its findings in a moment.

The bill proposes to insert a new section 60CC, which requires the court when determining what is in the child's best interests to give greater weight to the primary consideration that protects the child from harm where there is inconsistency in applying the two primary considerations, the other being the benefit to the child of having a meaningful relationship with both parents. This amendment is unnecessary and gratuitous. The existing section 60CA makes the best interests of the child the paramount consideration. The existing section 60B clearly articulates that a meaningful relationship with a parent is subordinate to the paramount consideration. In purported aid of the objective of this amendment, the bill seeks to add as a further object of part VII of the act that it is to give effect to the UN convention. The explanatory memorandum states that the intention is to confirm in cases of ambiguity that part VII should be interpreted consistently with the convention. However, to the extent to which the act departs from the convention, the act will prevail. The proposed amendment does not incorporate the convention into domestic law. Given that the act already gives effect to the principle of the paramountcy of the best interests of the child, the need for that amendment is not clear.

The exposure draft of the bill proposed a definition of family violence that included any behaviour that was subjectively emotionally, psychologically or economically abusive or threatening. Many stakeholders voiced their concern that any instance of marital discord could be tailored to fit the definition. The definition now proposed defines family violence as 'violent, threatening or other behaviour that coerces
or controls a member of the person's family or causes the family member to be fearful.' It differs from the existing definition in that it imposes a subjective test. The definition in the existing act requires a reasonable fear for the family member's wellbeing or safety.

The new definition attempts to qualify its subjectivity by incorporating a list of examples of behaviour, which includes assault, repeated derogatory taunts, damage to property and other unreasonable or criminal behaviour. However, it is an open question whether the list of examples is sufficient to frame and limit the subjectivity of the definition. There is no doubt that any of the behaviours listed would cause a person to be fearful; however, they would also give rise to a reasonable fear for a person's wellbeing or safety under the existing test. The problem with a subjective test is that a person seeking to demonstrate that another person is violent need only state that he or she feared controlling or coercive conduct. The state of mind need not be reasonable. The consequences of a finding of violence can be drastic and permanent. It is not appropriate to divert a court from inquiry as to whether a fear alleged to exist is well founded. Accordingly, the coalition will press for the retention of the objective test in the act.

The AIFS evaluation—that is, the longitudinal study to which I referred a few moments ago—found that the legislative changes introduced as part of the 2006 reforms placed greater emphasis on the need to protect children from harm and from exposure to family violence and child abuse. This meant that the identification of and response to family violence became more systematic under the reforms. However, it found that improvements still needed to be made in identifying and responding to pertinent safety concerns. The proposed amendments broaden the reporting requirements in this regard to interested persons, rather than just parties in child related proceedings. This will include independent children's lawyers, dispute resolution practitioners, family consultants and family counsellors. There is a continuing need to improve responses to child safety concerns and these amendments will therefore be supported by the coalition.

Similarly, the record of child welfare agencies in family law proceedings has in many cases been unsatisfactory. Amendments to improve their participation and accountability are welcomed by the coalition and will be supported.

Section 60CC(3)(c) of the act currently requires family courts to consider the willingness of one parent towards facilitating the other to have a meaningful relationship with the child. The provision has been criticised as discouraging parents' disclosures of family violence and child abuse for fear of being found to be unfriendly. The bill seeks to repeal this provision and replace it with considerations of the extent to which each of the child's parents has taken or failed to take the opportunity to participate in major long-term decisions in relation to the child and spend time with and communicate with the child, and the extent to which each of the parents has fulfilled or failed to fulfil the parent's obligation to maintain the child. However, these criteria already exist in section 60CC(4).

The explanatory memorandum cites the AIFS evaluation and the Family Law Council report as the basis for the repeal of the friendly parent provision. This, however, is misleading. The AIFS found that some concerns were expressed that the provision discouraged the reporting of violence but that there was no statistical information to suggest that this was the case. The criticism was in fact voiced in the Chisholm report, uncited in the explanatory memorandum, and
was described as gossip by the Family Law Council.

The failure to facilitate a relationship between a child and a separated parent remains a salient issue for the attention of a court and has been found to be an incident of emotional abuse in several reported cases. If the enhanced violence and abuse reporting obligations are supported, there can be no reason for a parent's obstructive behaviour to be excluded from consideration. It should also be noted that this consideration should not arise in the usual course if there are well-founded fears that contact with the other parent exposes the child to violence or abuse. The existing section 60CG makes that clear. Unwillingness on the part of a parent to facilitate a close and continuing relationship with the other parent is undoubtedly a relevant consideration in making parenting orders, which is why the coalition supports the retention of the friendly parent provision.

In the 2009 case of Villey and Prabsik, Mr Justice Watts ordered that a seven-year-old child be removed from his father's primary care to that of his mother. The relevant factual findings were that the mother had suffered a significant mental illness following the parties' separation as a result of the treatment she had suffered at the hands of the father during the relationship. Psychiatric examination of the parties revealed the mother to be fully recovered with an excellent prognosis. She demonstrated insight into her illness as well as its impact on the child. She had rebuilt her relationship with the child in an appropriate manner assisted by professionals. The father, however, was assessed as having a narcissistic personality with overvalued ideas or a delusion that the mother remained ill, unsafe and should have minimal involvement in the child's life. Mr Justice Watts accepted the mother's argument that it would be more likely for the child to have a meaningful relationship with both parents if he lived with his mother rather than his father and that the child would be likely to suffer psychological harm by damage to his relationship with his mother if he continued to reside with his father. This finding would have been more difficult to arrive at had the friendly parent provisions not been in the present act. That case illustrates why the coalition views it as an unwise decision to amend the act by repealing that provision.

The bill proposes to repeal section 117AB, which provides for mandatory cost orders—albeit some such orders might cover only a portion of the costs—where a party knowingly makes a false allegation or statement in the proceedings. The explanatory memorandum cites the AIFS evaluation and the Family Law Council report's finding that the section operates as a disincentive for disclosing family violence. Again, this is misleading. The Chisholm report alludes to practitioner concern as the basis of its recommendation for repeal, but neither of the major studies cited makes any substantive finding. The Family Law Council report in fact recommends that the provision be clarified with an explanatory note or public education, not that it be repealed.

It should be noted that the test propounded in section 117AB is a stringent one. A mandatory cost order could not arise from evidence which was not proffered in the circumstances or even was given recklessly or without belief. It applies only to knowingly false evidence. If a court was prepared to make such a finding there is no reason why a cost order should not follow, as it would in any other court. Individual members of the judiciary have confirmed that such false accusations are by no means unknown and that sanctions must apply in such cases, yet this bill would remove that sanction.
The courts have provided guidance on the application of the existing provision. In Charles and Charles in 2007, Justice Cronin said:

There can be no room for misunderstanding or doubt; objectively, the person making the statement cannot believe the statement to be true. So constrained, there is no reason to believe that the existing provision acts as a disincentive to properly made allegations or even erroneous allegations made in good faith of abuse. Cost orders are made much less routinely in the family jurisdiction than in any other. Sadly, it is clear that some parties can and will make false statements if they perceive an advantage in doing so. Because cost orders are not routine, there must be an express disincentive within the act.

The policy objectives of the 2006 reforms were: firstly, to help build strong and healthy relationships and prevent separation; secondly, to encourage greater involvement by both parents in their children's lives after separation and to protect children from violence and abuse; thirdly, to help separated parents agree on what was best for their children, rather than litigating, through the provision of useful information, advice and effective dispute resolution services; and, fourthly, to establish a highly visible entry point that operated as a doorway to other services and helped families to access those other services. As the AIFS evaluation confirmed, the legislative changes introduced as part of the reforms placed greater emphasis on the need to protect children from harm, exposure to family violence and child abuse. This meant the identification of and response to family violence became more systematic under the reforms.

Although the Ruddock reforms have been subject to some criticism, all the indications are that overall they have been hugely successful. Some of those criticisms have arisen from misrepresentation or misinterpretation, whether wilful or otherwise. Sensibly, the government has withdrawn its more radical proposals and at this stage will leave the core shared parenting provisions largely intact. However, it is disturbing that it accepted criticisms of the friendly parent and cost orders provisions at face value and has misleadingly cited positive or neutral findings on those provisions in support of its proposed amendments.

The coalition will support any sensible proposals to reduce the exposure of children to abuse and family violence. Our record indicates that we take these issues very seriously indeed. Some of the amendments proposed by this bill are worthy of support; however, as I have said, it must be recognised that proceedings in the family jurisdiction are some of the most bitterly contested and intractable found in any court process. Judges and practitioners are well aware that child related proceedings may be brought with any number of collateral purposes, themselves a form of child abuse, and mechanisms must exist to deal with them. To the extent to which this bill facilitates that objective it will have the coalition's support but to the extent to which in the areas I have indicated the bill overreaches or erroneously applies the conclusions of the studies of the operation of the Ruddock reforms and in doing so sets back those objectives the coalition will move amendments to delete those provisions from the bill.

Senator SIEWERT (Western Australia—Australian Greens Whip) (19:50): The Greens support the intent of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill. In 2006, when the Howard Government brought in their so called reforms to the Family Law Act, the Australian Greens expressed our strong
concern and opposition to many of the amendments. In fact, we moved many of our own to address those issues. We were particularly concerned about the reforms that affected the best interests of the child, the presumption of equal shared parental responsibility and also the definition of domestic violence.

Specifically, we were concerned with the aspects of the bill that sought to privilege parents' rights over parental responsibilities and children's rights. The notion of equal shared parenting presented in this bill, we believe, reflected a commodification of children that failed to address the best interests of the child based on individual need and circumstances. We were also concerned that the definition of family violence adopted in the bill and then, of course, in the act failed to address the complexity and multidimensionality of this issue and, in so doing, did not provide adequately for family members at risk of family violence, particularly women and children. We were also concerned about the implications of some of the other amendments, specifically the cost orders for false allegations. I outlined these concerns at the time quite extensively, but I would particularly like to remind the chamber of a specific comment I made expressing concern that:

Provisions which require consideration of specific types of parenting arrangements, whether they call for equal or substantially shared time, necessarily direct attention away from a free and open consideration of what arrangements may be in the best interests of the child in any specific case. That is why the Greens believe that a presumption of equal shared responsibility should not be introduced and that each case should be considered on its own merits.

We were concerned at the time that:

... the two-tiered approach of having primary and additional considerations when determining the best interests of the child does not consider the best interests of the child. The Greens support the retention of the current structure of the act. We are concerned that the child's views will be relegated to the list of additional considerations, effectively putting the parent's desire for access ahead of the child's need for security.

I canvassed those issues extensively at the time. We are not surprised that, since then, these so-called reforms have come under harsh criticism from lawyers, advocates and parents for placing the rights of the parents over the best interests of the child. We believe that the reforms have put many children and their families in dangerous situations. That is why we welcome the government's efforts to address these problems and undo some—unfortunately, only some—of the mistakes made by the Howard government. Later, I will go into our concerns that this bill does not go far enough.

We support the prioritisation of the safety of children in family law proceedings and the changes to the definitions of family violence and abuse. Importantly, as we have advocated for over five years, the bill places the best interests of the child as the primary consideration in parenting matters. The definition of abuse has been expanded to include psychological harm, neglect and, notably, exposure to family violence, and a definition of family violence has been placed in the act. The friendly parent and mandatory costs orders provisions, both of which have raised great concern as a major disincentive for reporting family violence, are also being repealed. These changes, and many others contained within the bill, represent very important steps forward in protecting the best interests of children and victims of family violence. The Greens support these changes; however, we believe they do not go far enough.
In our dissenting report of the inquiry by the Legal and Constitutional Affairs Legislation Committee into the 2006 amendments, the Greens recommended that the definition of family violence not be amended and considered that the proposed tests were not adequate. We further recommended:

Upon completion of the Australian Institute of Family Studies review; the Government should work closely with State and Territory Governments to formulate a comprehensive, effective and uniform definition of family violence.

I am therefore very pleased that the government has revised the flawed approach of the 2006 changes. I commend this bill for recognising that exposure to family violence is a form of abuse. It is an important step in improving the protection of children and prioritising their safety. However, the Australian Greens believe that exposure should be included in the definitions of family violence and of abuse and that the definition of family violence should be clarified to ensure that the parent victim is not held responsible for the exposure. The Australian Law Reform Commission notes:

There has been a considerable amount of research documenting the fact that exposure of children to family violence causes long term emotional, psychological, physical and behavioural issues.

It urged the Legal and Constitutional Affairs Legislation Committee inquiry into this bill to include exposure in the definition of family violence and abuse, as certain behaviour can constitute both. It must also be made clear that victims of violence must not be held responsible for not being able to remove children from the violence. This recommendation is supported by the Australian Law Reform Commission and Women's Legal Services Australia. We seek assurances from the government that it considers this to be implicit in the changes it is making.

While we are pleased that the government is addressing the best interests of the child, we were concerned that, because some of the bill’s other provisions were not being amended, the way in which the changes had been drafted presented inconsistencies about whether the best interests of the child or maintaining a meaningful relationship with parents prevails. This issue was raised in the committee inquiry by a number of witnesses and in a number of submissions. So we are pleased that the government is seeking to amend the bill to ensure that this is clear. The Australian Greens were concerned that the changes do not go far enough and that the changes do not go to the issues of perceived equal shared parenting and equal shared parenting responsibility. A large number of submissions, including those of professors Rhoades and Dewar and of the WLSA, recommended removing the two tiers of factors present in section 60CC and creating a single list, of which child safety would be the first consideration and be given priority. The government amendments address that. We would have liked to see them go a little bit further.

The Australian Greens support the fact the government has recognised that it is absolutely essential that the best interests of the child are given primary consideration. That is why we find it very concerning that the government took a step back from the amendments that, as I understand it, they were originally considering around addressing equal shared parental responsibility, which the 2006 changes introduced into the act. We believe that the government has not gone far enough in addressing this issue and that having that in place still puts at risk the best interests of the child.

We have consistently opposed the equal shared parental responsibility requirement since its introduction in 2006. As we argued
at the time, it creates a de facto presumption of equal time. As I said at the time:

While 'equal shared parental responsibility' and 'equal time' are not one and the same, they are inter-related in a way that creates an unacceptable formula in the bill—

I said 'bill', but it is now obviously in the act.

The concept has moved from a 'presumption of equal time' to a presumption of 'equal shared parental responsibility'.

I acknowledge that. I went on:

However, we are concerned that with a starting point of a child spending 'equal time' or 'substantial and significant time' with each parent this will be a de facto presumption of equal time.

The operation of a presumption such as this, de facto or otherwise, is likely to lead to an inappropriate and harmful focus in determining what is best for children.

Evidence to the committee inquiry clearly pointed out that that is in fact what happens. Starting from a presumption of equal time, regardless of what is said about it not being that, that is in fact what happens.

Subsections 61DA(1) and (2) of the act required the court to presume that it is in the best interests of the child for the child's parents to have equal shared parental responsibility for the child unless there are reasonable grounds to believe that a parent has engaged in abuse or family violence.

There are numerous problems with this provision. Professor Chisholm, an expert in this area of law, who presented a submission in person at the inquiry, has explained that aspects of the legislation, including ESPR, are 'unnecessarily complex and confusing, making it hard for people to focus on the best interest of children'. While the act does not create a presumption of favouring equal time, it can easily be interpreted that way, as it is the only outcome the act specifically mentions. Professor Chisholm notes:

On this, as on other matters, I believe that the Act is subtly incoherent, sending out inconsistent messages. Not surprisingly, the AIFS Evaluation and other reports reveal that it has caused considerable misunderstanding.

As I pointed out, that was raised a number of times.

According to evidence given at the inquiry, the presumption of equal shared care is meant to be rebutted by family violence, but it is not given due weight, especially at an interim stage where the family violence allegations are unlikely to be considered or tested. These concerns are supported by the AIFS evaluation which found that, of parents who had set up arrangements after the 2006 reforms, those with safety concerns were no less likely than other parents to have shared care-time arrangements.

It is self-evident that failure to adequately consider family violence can lead to negative outcomes. Data provided as part of the inquiry indicates that the reforms have been successful in producing an increase in shared care arrangements since the legislation came into force. At the same time, however, the research indicates that a significant number of these arrangements are characterised by intense parental conflict and that shared care of children is a key variable affecting poor emotional outcomes for children. Further evidence from the Family Law Council stated that there is no clear evidence on the benefit of shared parenting arrangements.

They said:

The recent research that has been released, including reports by the Australian Institute of Family Studies, Cashmore and others and McIntosh and others, indicates that shared parenting arrangements of themselves offer no independent benefit to children compared with other types of arrangements where children see their non-resident parent regularly and there are no concerns about safety, violence and conflict.

It became increasingly evident throughout the hearing process that a flexible approach is needed, tailored to the circumstances of
each family, not a one-size-fits-all requirement of shared responsibility. Parenting arrangements should always be governed by the best interests of the child and should be determined on a case-by-case basis. Evidence indicates that the presumption of ESPR does not necessarily equal the best interests of the child. We believe that these provisions should be repealed. In fact, I have got amendments to do that, because that would complement the other amendments that the government has made. This is not to say that we do not think shared parenting arrangements work. We are not saying that. We are saying you need to work those out in the best interests of the child, and there is still a part of this act that is inconsistent with the changes that the government wishes to make.

Finally, the Australian Greens draw attention to a recommendation made by the Women's Legal Service Australia when we were holding this inquiry into this bill. Over 50 per cent of parenting matters in the family law courts involve allegations of child abuse and/or family violence. As such, the WLSA recommends implementing a risk management framework to identify and explore issues of family violence and child abuse at the initial stages of application. Such early risk assessment 'would contribute to ensuring that the matter proceeds through the most appropriate court division and ensuring less adversarial and earlier resolution of issues' as well as assisting 'agencies to ensure that appropriate referrals can be made and safety planning undertaken for women and their children when necessary'.

The Australian Greens recognise that implementing a risk assessment framework would present a significant and broad reform of the family law system and related government policy. However, we believe that this suggestion is worthy of support and we recommend that it be explored further in any other amendments that are made to the Family Law Act. We will be supporting this law reform. We believe they are significant reforms. As I articulated earlier, we believe that they address significant flaws in the Family Law Act. They do not go far enough. I was concerned, and am still concerned, that the government did not proceed with as full and extensive a set of amendments as we had at first anticipated they would. Having said that, these amendments will make a real difference to the safety of families, and the safety of children in particular, and put the best interests of the child at the centre of things rather than sublimating the interests of the child to the de facto presumption of equal shared care, which actually then prioritises a parent's rights above the best interest of the child. This redresses those flawed amendments. Having said that, we will be supporting this legislation. However, we will be moving amendments specifically to improve the definition of family violence and also, as I said, to remove the shared parental responsibility provisions that are currently in the Family Law Act.

Senator CROSSIN (Northern Territory) (20:07): I rise this evening to speak on the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, a bill which I believe is long overdue. This bill is important, as it seeks to address serious issues with our family law system. The system as it currently stands does not adequately protect children from family violence.

The evaluation of the 2006 family law reforms by the Australian Institute of Family Studies found that two-thirds of separated mothers and over half of separated fathers reported experiencing abuse, either emotional or physical, by the other parent—I want to emphasise that. The institute also found that one in five of the separated parents who were surveyed reported safety...
concerns associated with ongoing contact with their child's other parent. Disturbingly, the evaluation also found that shared parenting responsibility was the outcome for 75 per cent of children where there were allegations of family violence and child abuse. A report by the Family Law Council highlights data that victims of family violence receive more psychiatric treatment and have an increased incidence of attempted suicide and alcohol abuse than the general population. Violence is also a significant cause of homelessness. So research and various reports by leading social scientists and academics have consistently shown that exposure to family violence and child abuse leads to poor developmental outcomes for children.

It is truly concerning that the family law system in this country is failing our children. Children have a fundamental right to live happy and healthy lives in a safe environment. The family law system must prioritise the safety of children to ensure that their best interests are met. The bill before the Senate this evening goes a long way to addressing the current failings in our family law system. The purpose of this bill is to amend the Family Law Act 1975 to better protect children and families at risk of violence and abuse, while also making technical amendments to provide efficiencies for the courts and litigants.

The exposure draft of this legislation was released for public comment by the Attorney-General's Department as far back as November 2010, so it has been out there for at least a year. In that consultation period 400 submissions were received, with 73 per cent supporting the amendments and 10 per cent bravely offering information about people's own experiences with family law.

As the explanatory memorandum states, the key provisions of the bill aim to prioritise the safety of children in parenting matters; to change the definitions of 'abuse' and 'family violence' to better capture harmful behaviour; to strengthen the obligations of advisers by requiring family consultants, family counsellors, family dispute resolution practitioners and legal practitioners to prioritise the safety of children; to ensure that courts have better access to evidence of abuse and family violence by improving reporting requirements; and to make it easier for state and territory child protection authorities to participate in family law proceedings where appropriate.

I want to make it clear this evening that the government continues to support shared care and a child's right to a meaningful relationship with both parents. What I do not support is for shared care to take precedence over the safety and wellbeing of a child. That is what this bill clarifies: that the safety of the child is of utmost, paramount importance. Importantly, the bill changes the definitions of family violence and abuse to better define harmful behaviour such as emotional, psychological and economic abuse and stalking. The definition clearly states examples of behaviour which may constitute family violence as including intentionally damaging or destroying property, intentionally causing death or injury to an animal, unreasonably denying a family member the financial autonomy that he or she would otherwise have had, and preventing a family member from making or keeping connections with his or her family, friends or culture. Another important change clarifies that exposing a child to family violence is abuse in relation to the child. As victims know all too well, family violence takes many forms, not only physical, and can affect any member of the family regardless of gender.

The Senate Legal and Constitutional Affairs Legislation Committee, which I
chair, held a public inquiry into the bill that is before us today. The inquiry was referred to the committee on 25 March this year and we tabled our report on 22 August. We received 275 submissions, which I might say is quite a large number. They came from a range of organisations, government departments and individuals and the majority supported the bill's objectives. In its final report the committee made eight recommendations and I am pleased to say today that the government is adopting six of those eight, I think.

The government has accepted the following recommendations made by the committee. The first recommendation that our committee put forward, which has been adopted, is that we clarify the provision that requires the court to give greater weight to the protection of children from harm when determining what is in the child's best interests. Our third recommendation, which proposes a new paragraph to better define what a court can consider in relation to family violence orders as part of considering the child's best interests, will also be taken into consideration by this government in moving further amendments.

Recommendations 5 and 7 propose to have schedule 1 commence on the day after the end of the period of three months beginning on the day of royal assent. This will provide certainty around the commencement date of the provisions of the bill and the matters to which the amendments apply. This was a matter of some discussion amongst all members of the committee. As we all well know, when new legislation like this comes into place, there are always matters before the court that may or may not get caught up in the new provisions. That required some discussion and careful determination by the committee as to what we should do with regard to the recommendations in our report.

The sixth recommendation does not require amendments to the bill, but the committee proposed that the Attorney-General's Department, along with the family law courts and relevant organisations, institute an education campaign to ensure the public as well as those involved in the family law system are well aware of these new changes and how they may affect them.

We also recommended that the bill be amended to require that the Family Court give consideration to the reasons that one parent might not have facilitated a relationship with the other parent, and to remove reference to the word 'serious' in the new definition of abuse. With regard to the latter, organisations were concerned that only serious abuse is defined as child abuse, whereas it could be argued that any abuse is in fact serious. The Attorney-General's Department responded to those concerns by saying serious was included to avoid over-reporting, that authorities may be hindered from identifying and dealing with serious cases of harm due to excessive reporting. This government has also stated it does not accept those two recommendations as 'they would likely have unintended consequences and decrease protections for children from violence and abuse'.

As Chair of the Senate Legal and Constitutional Affairs Committee, I want to thank everyone who participated in the inquiry, brought forward submissions and appeared before us to give evidence, particularly those who attended the hearing.

There have been many reports into the family law system in Australia: the Australian Institute of Family Studies, the Australian Law Reform Commission, the New South Wales Law Reform Commission, the Family Law Council and of course the work that has been done by Hon. Professor Richard Chisholm AM, to name a few, who
have provided research and analysis into the failings of the current family law system. Their research has a similar conclusion: that more needs to be done to protect and support families within the system who have experienced or are at risk of abuse or violence, particularly children.

The bill before us today takes crucial steps towards ensuring that the safety of children is paramount, particularly during the difficult time of family separation. Also, the bill and the amendments that have been picked up by the government reinforces the valuable work that Senate committees do in this place in terms of looking at legislation and providing a means by which organisations and experts can have input into and propose sensible changes to legislation before us. Governments are willing to listen and pick up those amendments and adopt them.

The bill retains the substance of the shared parenting laws that were introduced in 2006—and I cannot emphasise that enough. The bill continues to promote a child's right to a meaningful relationship with both parents, but with one very important condition: that the best interests of the child must and should always come first. The government has now picked up my committee's recommendations and will seek to amend those during the course of the debate on this legislation. I support the bill and commend my report and this bill to the Senate.

**Senator MASON** (Queensland) (20:19): No matter what position and what perspective one brings to discussion of family law, one thing we all agree on is that this is an incredibly difficult area of law and of public policy. Family law matters tend to be emotionally charged and too often of course involve intractable disputes, often dysfunctional parental or family dynamics, and tragically, as Senator Crossin and other senators have noted, sometimes even issues of abuse and domestic violence as well. It is often remarked, unfortunately, that lawyers practising in this area experience the highest rate of mental health problems: addiction, depression, marital problems and even suicide. Quite clearly, this is an area of law that takes its toll not only on the people subject to the law but on the very profession itself.

The legislators, the members of parliament and the senators concerned with family law in many ways have both the best and the worst of involvement. It is the best because our professional involvement often amounts to no more than a 20-minute debate contribution followed perhaps by a committee and then by a vote. But the worst because the laws we thus enact can make the difference between the hell or the mere purgatory for tens of thousands, young and old, brought before the family law system. The role of family law should ideally be to facilitate the smoothest resolution of the matters in dispute in what is, I think all senators would agree, typically an emotionally charged atmosphere, balancing competing interests in a way that is fair, just and equitable. In the end, the coalition is forced to conclude that this bill will take us further away from achieving this primary objective.

It is impossible to understand this bill without first understanding the context of the 2006 family law reforms. These legislative reforms followed literally years and years and years of consultations, which culminated in the landmark report *Every picture tells a story* by the House of Representatives Standing Committee on Family and Community Affairs in December 2003. That inquiry into child custody arrangements in the event of family separation undertook, I think it is fair to say, exhaustive public hearings. Most notably, the resulting report
was—I should remind the Senate of this—bipartisan and the result was also unanimous. Over the next three years the report of the House of Representatives committee gave impetus to reforms that at their heart had the concept of shared parental responsibility. This involved recognition and protection of the right of the child to a mother and a father, as well as grandparents, in their lives. It also involved recognition that despite separation of parents shared care was an important ideal to strive for, particularly for children.

The 2006 reforms recognised that shared care was not always possible and, indeed, it was not always appropriate or responsible. As such it was not, and was never, the only consideration to be weighed in family law disputes. An extensive range of factors the courts must have regard to is set out in section 60CC of the act.

The bill before the Senate this evening at its core is a rollback of the 2006 shared care reforms. To the mind of the coalition, it reflects a lack of understanding as to how to truly put children and their best interests at the centre of family law proceedings. It shows no genuine understanding of how that system works in practice and of the many difficulties it produces. I believe that in the legislative struggle to make family law dispute resolution less like hell and more like purgatory, or perhaps hell with hope as it is often described, this bill tips the scales again back towards hell.

I worry that in time it will stand as yet another example of Labor’s inability to implement anything competently. I am no expert on family law and I do not claim to be. But I am more than aware of heartbreaking stories of many men and many women and how their lives have been impacted and sometimes devastated when they come into contact with family law matters or separation from their children. I know all my coalition colleagues would agree that while we support the ostensible aim of this bill we cannot support the bill as it is currently drafted.

The coalition—and I share this with Senator Crossin and remarks made by other senators—believes strongly in protecting both children and adults from violence and abuse. The government is right to point that out. There is absolutely no excuse for domestic violence or sexual abuse of any kind against women, or children, or in some instances, against men. Of course, it is absolutely crucial that children are kept safe from abuse of all kinds: physical, emotional, sexual and so on. That is true.

But also it is critical that children are kept safe from the effects of false allegations of sexual abuse by one parent against another in family law proceedings. Let the Senate not forget that. Children need to be protected against both of these evils. Both can have devastating effects on families but, most importantly, long-term detrimental and profound effects on the kids involved, both socially and emotionally. The coalition’s serious reservations and, indeed, our misgivings, about the key defects in this bill are reflected in the additional comments of coalition senators in the Senate committee’s report on this bill, and I note Senator Humphries being here this evening.

Overall, the fundamental problem with this bill lies in the unintended, the unfair and potentially even the perverse consequences that will arise from the bill’s application and from its interpretation. These consequences, to the mind of the coalition, threaten to undo any good otherwise achieved by the bill. Let me touch on a few of the failings of this bill as they are reflected in the opposition’s amendments, to be moved later this evening in committee.
Firstly, the absurdly broadened definition of family violence diminishes and trivialises the very serious issue of violence which a small minority of men and some women perpetrate. The coalition is not opposed to a sensible broadening of the legislative definition of family violence, but the proposed new definition embraces such a breadth of behaviour as to make the concept of violence as commonly understood in the community almost meaningless. Combined with the removal of any objective criteria, thereby imposing an entirely subjective test of what constitutes family violence, this amendment can only lead to much heartache and much litigation.

Secondly, the repeal of the so-called 'friendly parent' provision makes little sense. That is, the removal of the current positive obligation upon separating parents to facilitate a child's relationship with the other parent, to have a positive duty to support that ongoing relationship. It is claimed this current provision inhibits women from disclosing violence, but where is the evidence of this other than the purely anecdotal? It is a very serious claim that the government has not really substantiated to underpin this bill.

Thirdly, by repealing section 117AB, the bill also deletes the only penalty that applies to those who make—I want to emphasise this—deliberately false allegations of child abuse or family violence in proceedings. After the amended bill takes effect, what will be the sanction for someone who deliberately makes false allegations of child abuse? There will be none. Making an allegation that turns out to be unsubstantiated is one thing, as Senator Humphries knows. This is not simply an allegation that cannot be proven but one that is known to be false at the time it is made. What is the sanction?

**Senator Humphries:** Zero.

**Senator Mason:** Senator Humphries is right. There is not one. Again, for this reason, the coalition does not support the bill. The coalition argues that it will be a great tragedy if this bill starts a race to the bottom to see who can allege family violence first. Husband or wife: who alleges it first? Will it be it a race to the police to allege family violence first? That really worries the opposition. It beggars belief that the government simply closes its eyes to this likelihood. Let us see what happens in the future. I hope I am wrong, but I am not sure I am. If an allegation does not have to be substantiated, if it is purely subjective and there are no penalties for making knowingly false allegations, do we really believe that some family lawyers and litigants will not use this procedurally to gain leverage and exert pressure upon the other party? Do we really believe that they will not do that? I wish I was wrong about human nature.

If there is no longer a positive obligation to encourage and support a child to have a meaningful relationship with a former partner who is that child's parent, do we really believe that this will help children better cope at this most difficult time in their lives? Do we really believe that? If there is no longer a legal obligation, do we really believe that many people will not put their personal animosities, their conveniences and their comforts ahead of the objective best interests of their children? Just how much do we have to suspend our beliefs in order to pass this bill?

Just as the government does not believe that this bill will have negative consequences, it does not believe it will require any additional resourcing for the Family Court or that it will create any increased workload. In this bill the government demonstrates a lack of understanding of both human nature and the nature of the family law system. It is a
system already stretched to the absolute limit—delays are endemic and practitioners already describe the Family Court as the court of fairytale. That is without adding the burden of this bill's provision to the mix.

Regrettably, the likely consequences of this bill will be a massive surge in the number of apprehended violence orders and temporary protection orders across Australia. I hope I am wrong, but I am just not sure I am going to be. Already discredited and all too often misused as tactical devices, DVOs will come into further disrepute and indeed further disdain. This is neither in the best interests of family law courts nor the children affected, let alone the women and children who genuinely need the protection of these court orders for their very safety.

This bill will likely lead to more false allegations being made in family law proceedings. More children will be deprived of time and contact with one of their parents. Enormous pressure will be put on litigants to settle against the threat of unfounded allegations that do not have to be substantiated by the other party, and that is the key. Given that around 94 per cent of all family law cases are resolved before formally going to trial, only six per cent of family law cases go to final judgment. There is plenty of bargaining being done in the shadow of the law, as the old expression goes.

While ostensibly intending to further protect those affected by violence and abuse with the shield of the law, the government has instead produced a club that parties to a dispute can use to freely trash each other. It is a club that the opposition is very concerned will be much used and indeed abused. The winners may well be the unscrupulous. The losers will be the real victims—the kids who will be unfairly denied contact with both parents and indeed our justice system.

This is a difficult bill and I concede this is a very difficult area of law and public policy. I concede further that I am not an expert in this area, but I do know as a member of parliament that it is highly contentious, very emotional and very difficult. The coalition does not believe that this bill deserves the Senate's support. It does not believe the case for the amendments in schedule 1 of the bill has been made by the government.

Regrettably, I suspect the probably guillotining here tonight of this bill that is critical potentially for hundreds of thousands of people in this country. This is major legislation with a major impact. The bill will not receive the scrutiny it deserves, particularly in committee tonight, which is wrong, given that it will have such an enormous effect on the emotional and family structure in this country. This is a very important piece of legislation and will affect families throughout the nation. It will change the family dynamic. Indeed, it will change the prospects of custody for both men and women in our country. This is major legislation with major consequences.

In conclusion, I reiterate the coalition's deep concern about the drafting of this bill, the lack of evidence from the government to support these changes and the bill's dire implications for families already facing the heartache and difficulties of separation. It is such a pity we will not have further time, particularly in committee, to talk about the evidence that is available and ask the hard questions of the minister as to how the bill will operate. We are not going to have that time. It is a great pity and, given how important this bill is, it is ridiculous.

Senator XENOPHON (South Australia) (20:38): I will limit my remarks to no more than five or so minutes because I am grateful.
to my colleagues who have slotted me in tonight. I want to reflect on something that Senator Madigan told me privately, with his permission. I want to share his disgust at the lack of appropriate process in dealing with such an important piece of legislation.

What is more, there are four other bills tonight that there will be no opportunity to speak on because at 9.30 effectively the guillotine will be applied. We will not have an opportunity to discuss the Crimes Legislation Amendment Bill (No. 2) 2011, which deals with issues of systemic corruption; we will not have an opportunity to discuss the Aviation Transport Security Amendment (Air Cargo) Bill 2011, again an important piece of legislation; we will not have an opportunity to discuss the Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011; nor will we have an opportunity to discuss the Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011. That is clearly unsatisfactory. This is meant to be the house of review. This is the place where we are supposed to scrutinise legislation. What is happening in this place tonight, and indeed what occurred last night, is completely unsatisfactory.

In the remaining two or so minutes I will reflect on this particular piece of legislation, the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. There is no question that the safety of children is absolutely fundamental and paramount in our family law system and that we are dealing with vexed and difficult issues. We are dealing with deep sadness, instances of violence and abuse and the fundamental issue of protecting children. I have reservations about the bill in its current form—reservations as to whether there will be a number of unintended consequences and as to whether we will end up taking a step backward from having a fair and just family law system, a system that will put the protection of children first and foremost.

I am concerned that the bill does, as Senator Brandis indicated, overreach and, by doing so, is fundamentally flawed. I think there are issues in relation to the proposed new definition of family violence—that the existing definition is being taken away from us and that issues of reasonableness and a test at common law will be taken away from us with this bill; not to have a more measurable test is deeply flawed. I am concerned that removing issues of reasonableness is dangerous. I am concerned, in relation to the friendly parent provisions that this bill effectively seeks to remove, that there will be a number of adverse consequences. I am concerned that the report of the Legal and Constitutional Affairs Legislation Committee makes mention that some submitters argued that repealing the friendly parent provisions could reward those parents who actively prevent non-resident parents from having contact with their children. And I am concerned at remarks made by the Chief Justice of the Family Court, the Hon. Diana Bryant, who argued that many cases close to completion could be prolonged, putting children at extra risk by log jamming the courts and increasing family stress, unless there are significant extra resources for the Family Court.

But there is one clause that I find particularly objectionable, a clause that I think is almost Orwellian in its scope—that is, the clause that proposes to repeal section 117AB, which provides for mandatory costs orders in the event that false statements have been made. You need to prove that. Mandatory costs orders in such circumstances send a strong message to family law litigants that making false
allegations is not tolerated. Unfortunately, false allegations are made in this jurisdiction by all sides. There are a number of cases that have been brought to my attention. I will not mention the names of the parties but, for instance, there was a case where the mother was found to have fabricated allegations of abuse against the father, another where a father was found to have knowingly made false statements about the mother's parenting capacity, another where the mother was found to have knowingly made false statements that a child sustained an injury while in his father's care. Although mandatory costs orders are not often applied, removing the ability for the courts to impose such orders will remove the incentive for people not to make false accusations. That is a fundamental concern I have in relation to this bill.

I also have a concern about the process here. Australians deserve better. They deserve such an important piece of legislation to be debated properly, to be dealt with properly in the committee stages and to be subject to appropriate scrutiny—for questions to be asked and substantially answered by the government. We will not get that opportunity tonight.

I cannot support the bill in its current form. There will be a number of amendments moved by the coalition. I indicate that I will support those amendments because I think they will make the bill tenable. But in the absence of those amendments being passed, I cannot in good conscience support this bill.

Senator WRIGHT (South Australia) (20:44): I rise to speak in relation to the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. My Greens colleague Senator Rachel Siewert has already spoken on this bill, and I support her comments and the amendments she has proposed. My comments on the bill, and the amendments proposed by the Greens, are informed by my experience in this area, which I think is particularly relevant. In the 1980s, I worked as a solicitor and some of my clients were women experiencing what was called domestic violence in those days but is now called family violence. More recently, I worked as a family dispute resolution practitioner or mediator with Relationships Australia until 2010. I will come back to those experiences in a minute. The government's stated purpose of the bill is to:

… amend the Family Law Act 1975 … to provide better protection for children and families at risk of violence and abuse.

Schedule 1 of the bill primarily amends part VII, dealing with children, of the Family Law Act 1975 to enable the courts and the family law system to respond more effectively to parenting cases involving violence or allegations of violence. Schedule 2 contains more technical and procedural amendments to the Family Law Act and Bankruptcy Act 1966. This proposed legislation has been prompted by research findings from credible Australian institutions and academics, including the Australian Institute of Family Studies in their Evaluation of the 2006 family law reforms, Professor Richard Chisholm in his Family courts violence review and the Family Law Council in its Improving responses to family violence in the family law system: an advice on the intersection of family violence and family law issues. In addition, the October 2010 report from the Australian Law Reform Commission and the New South Wales Law Reform Commission, Family violence—a national legal response, has informed the discussion about the current state of the law.

Much of this research has been focused on assessing the consequences of the 2006 amendments to the Family Law Act, of
which we have heard something tonight, to promote the equal sharing of time by parents after separation by creating a presumption of equal shared parental responsibility. Over time, through anecdotal evidence and then as a result of research findings, it has become clear that there are serious concerns about the effects of the 2006 changes to the law.

During my time as a mediator, I worked with many separating couples. I was drawn to this work because it offers an alternative to the conflictual and adversarial process that sadly often accompanies family break-ups. By helping parents to focus on the most important aspect of their life together—their kids—they can be assisted to move beyond their hurt and discord to make strong and powerful decisions which benefit their children and, as a consequence, themselves. I have a strong belief in the value to children of having strong, loving relationships with both parents where those relationships are respectful, responsible and safe. My brother was the primary caregiver for his three daughters, nurturing them through their teenage years and into their secure, happy, adult years. I have the utmost admiration for the safe, loving environment in which he raised his daughters and the great job that most parents—fathers and mothers—do in raising their children. But the fundamental requirement for safety and protection of children from harm must not be sacrificed for some notion of a parent's unassailable right to have a relationship with a child if the risks associated with that relationship are unacceptably high.

Unfortunately, in the course of my mediation work, it became increasingly apparent to me that what may have been well-intentioned amendments to encourage parents to share the parenting of their children after separation have had some unintended and extremely harmful consequences. It is some of those consequences which this legislation is aimed at addressing. It became obvious that the presumption of equal shared parental responsibility for children had become a de facto presumption of equal time and was contributing to a rigid and demanding expectation on the part of parents which undermined the possibility of reaching a flexible agreement that responded to the unique needs of a particular child and family. Parents began to come to the mediation sessions with a fixed requirement based on the misconception that equal and shared parental responsibility meant equal parental time. Their rights to time with their child were uppermost in their mind—not the quality of the time or the needs of the child. They were fixated on their rights as against the rights of the other parent and the interests of the child were lost.

Although I would try to encourage parents to focus on their child as an individual with particular and unique needs which needed to be factored into the arrangements they were making, there was often nothing I could do to shake the attitude. Quite often my attempts to explain the difference between shared responsibility and shared time would elicit incredulity or accusations that I was biased against one parent or the other. In one particular case, I was abused by an angry parent who refused to accept that it may not be in the best interests of his four-month-old daughter, who was still breastfeeding, to spend overnights away from her mother at that stage. He accused me of discriminating against him because he was not a woman—absolutely unwilling to consider the nutritional or emotional needs of his young child at that time because he was so fixated on his right to shared responsibility as a parent.

Because some parents were demanding the right to 50 per cent of a child's time, it was difficult to get them to consider such
things as the age of the child, the child's needs and circumstances, the practicality of arrangements which might mean travelling long distances to effect the changeover or the overall best interests of the child. I witnessed this across the whole spectrum of ages, from very young children right through to teenagers of 15 or 16 who had social lives and commitments of their own and were not very keen to be divided down the middle in order to meet their parents' sense of entitlement.

Due to the pervasive view that equal shared parental responsibility means equal time, the default position for negotiating became a fifty-fifty shared care arrangement. Because of this, parents became less willing to negotiate any alternative that might take into account the child's needs based on their schooling, their interests or their particular personality. Where a child is quite robust, moving from one home to another on a regular basis—weekly, every three or four days or, in some notable cases, every two days—may not be difficult for them. But another child might have a personality which is not suited to constant change. A perceptive parent would see that their child would benefit from having a single identifiable home base while spending quality time with the other parent at that parent's home. But a parent fixated on strictly equal parenting time would be unable to recognise that need. I am strongly of the view—which is supported by evidence before the Senate inquiry—that the presumption of equal shared parental responsibility in section 61DA of the Family Law Act has detrimental outcomes for children. It skews the consideration of the court as to what the best interests of the child are and contributes to a prevailing misconception that parents are entitled to equal parenting time with their children irrespective of the child or the circumstances. The presumption of equal shared parental responsibility is not conducive to the best interests of a child and should be repealed in accordance with the Greens amendments to be introduced by Senator Siewert.

Let me turn now to the vexed issue of family violence, which is an aspect of life for many Australian children and adults—and this bill reflects that reality. Ensuring their safety, as much as possible, must be a priority. In its study, the Australian Institute of Family Studies concluded that, while the 2006 reforms had a positive impact in some areas, there was clear evidence that the family law system as a whole had a way to go in achieving an effective response to families presenting with family violence and child abuse. Alarmingly, it noted that, while children in shared care represent a minority overall, and while the majority of families with shared care appear to be doing well, there is evidence that these arrangements are sometimes made even in circumstances where parents have safety concerns, with adverse consequences for the wellbeing of children. Alarmingly, the evaluation found that families where violence had occurred were no less likely to have shared care-time arrangements than those where violence had not occurred. Similarly, families where safety concerns were reported were no less likely to have shared care-time arrangements than families without safety concerns.

Evidence before the inquiry, including studies from the Australian Institute of Family Studies, Professor Richard Chisholm and the Family Law Council, indicates that provisions in the Family Law Act are a disincentive to parents to raise safety concerns for fear of falling foul of the court. These include the so-called 'friendly parent' provisions and the ability of the court to order costs for false allegations against another parent.
It is not hard to understand why this would occur, as in each case the stakes are high for a parent who is not believed. In relation to the 'friendly parent' provisions, a court is required to take into account the willingness and extent to which one parent has facilitated the child having a relationship with the other parent when determining the best interests of the child and, ultimately, orders dealing with parenting arrangements and parental responsibility. A finding that a parent has not facilitated the relationship with the other parent may result—in a court deciding to grant more, or exclusive, time with the other parent even though there may be good reasons to explain the failure to facilitate, such as a fear of violence, abuse or risk to the child. Professor Chisholm's review concluded:

On the material available, it seems likely that the friendly parent provision, s 60CC(3)(c), while it might have had a beneficial effect in many situations, has had the undesirable consequence in some cases of discouraging some parents affected by violence from disclosing that violence to the family court.

In my mediation work I witnessed coercive, threatening and sometimes violent relationships where there was pressure by one parent on the other to agree to fifty-fifty shared care because it was seen as a default position, a normative arrangement, irrespective of the effect on the child. I also saw parents who were subject to violence or intimidation or were concerned about the treatment of their children by the other parent but who were reluctant to discuss these things or to withstand the pressures of the other parent to reach agreements about parenting that they felt were not in the best interests of their children. This was because they were fearful of being labelled an 'unfriendly' parent, due to the serious consequences such a label would attract. So they made a choice, understandable in the circumstances, to stay silent or risk losing contact with their child.

This bill will amend the 'friendly parent' provision by requiring a court to consider why a parent may not have been willing or able to facilitate the child's relationship with the other parent, and those reasons may well encompass violence or abuse. If the 'friendly parent' provision is to remain a factor to be taken into account by a court, and this bill does not repeal the provision altogether, it is imperative that the court be required to consider the context for a parent's failure to facilitate the child's relationship with the other parent. This will provide a fuller picture of the situation for the court and encourage a parent to disclose violence or abuse.

I also support the bill's removal of the mandatory penalty of $10,000 to be imposed by the court for false allegations of family violence or abuse. The evidence before the inquiry was that it had been little used but still caused fear among those who had experienced violence or abuse but were terrified that they would not be able to prove it, thus silencing them. Many of the submissions to the inquiry supported the repeal of the relevant section because it had the effect of discouraging the disclosure of violence and abuse. That is not good for the person who has been subject to the violence and it is not good for the children who are part of that relationship.

In conclusion, our family law system must make the safety of children a priority. This must be the predominant determinant of their best interests. There is a compelling case for reform of the existing situation. This bill has been the subject of a thorough inquiry by the Senate Legal and Constitutional Affairs Legislation Committee. Submissions were received from a diverse range of individuals and organisations. Of these, 73 per cent were...
in favour of the proposed amendments to the Family Law Act contained in the bill. More recent research from the Benevolent Society based on a survey of 1,071 respondents revealed that 93 per cent of people agreed that safety and security are the most important issues for a child when a relationship between parents breaks down, and between 86 and 93 per cent of the respondents agreed that a child's right to safety is more important than a parent's right to equal time.

I commend the government for the reforms that are included in this bill. It has heeded the calls of many for changes to a system that was clearly not adequately protecting some children and adults from family violence and abuse. However, as I have discussed, I believe that these measures have not gone far enough in responding to the evidence of what is needed to protect children and adults from family violence. For this reason, I urge the Senate to support the further amendments that will be moved by the Australian Greens.

Senator IAN MACDONALD (Queensland) (20:59): I also want to say a few words in support of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. The coalition, as has been indicated by Senator Brandis, supports the strengthening of the provisions relating to family violence and child abuse because the coalition believes that nothing is more important than the welfare of children in the event of marital breakdown. The fact that the Senate Legal and Constitutional Affairs Legislation Committee heard submissions from some 200 interest groups on this issue is testament to the broad community concern the matter has generated.

In 2006 the Howard government recognised some of the shortcomings of the Family Law Act following the handing down of the House of Representatives committee report entitled Every picture tells a story. Our government enacted appropriate amendments. The bill before the Senate takes those improvements a step further. I commend the bill because it provides greater protection for the most vulnerable members of our society—our children—during and after a relationship breakdown. We should all be disturbed at the statistics showing an alarming prevalence of abuse experienced by separated mothers and fathers. A detailed study by the Australian Institute of Family Studies revealed that two-thirds of separated mothers and over half of separated fathers reported experiencing physical or emotional abuse from the other parent. One in five parents expressed safety concerns associated with contact with the other parent.

Having said that, I want to raise a potentially disturbing matter relating to the valuable work of the Family Court based in Townsville. As senators will know, my office is based in Townsville and I live in that region, and I am interested in how the Family Court does its work in that area. There has been a Family Court judge based in Townsville since 1982, servicing not just Townsville but the whole of the vast North Queensland region. The incumbent Family Court judge, the Hon. Justice Monteith, is due to retire at the end of November, but there is no certainty that he will be replaced. This is despite assurances given prior to the 2007 federal election by the then shadow Attorney-General Senator Joe Ludwig that the position would be retained.

In addition to Senator Ludwig's 2007 commitment the Chief Justice of the Family Court, the Hon. Diana Bryant, publicly assured the Townsville legal profession in early 2008 that the Townsville based position of a Family Court judge would be maintained. Despite Senator Ludwig's
promise and Justice Bryant's assurance the Gillard government has so far declined to name a successor, prompting very great and very real concern in legal circles in the north and raising serious questions about the truthfulness of the assurances given by this government. Could this be another lie in the making? We all know that Prime Minister Gillard went to the last election promising not to introduce a carbon tax, but what did she do as soon as she was elected? She broke her solemn word to the Australian people and introduced her toxic carbon tax, under duress from Senator Brown and the Greens, in a desperate bid to cling to power.

There can be no question about the need to continue the work of the Family Court in North Queensland. Indeed, there is a case, I submit, for providing even more resources than the court currently has at its disposal. As most senators would know, Townsville and the North Queensland region have grown exponentially since 1982 when the first Family Court judge was appointed. This growth has been fuelled by major developments in the defence, mining, minerals processing and primary industry sectors. Over the next few months 750 soldiers of the 3rd Battalion of the Royal Australian Regiment and their families will complete their relocation to Townsville, boosting the regional economy by an estimated $60 million a year. New mines are being opened up and many existing mines are being expanded to keep pace with the international demand for our mineral resources. This is despite the minerals resource tax imposed by the Labor government—which will only last as long as the Labor government does, and hopefully that will be a very short time. International mining companies, understanding that this government is on a very limited tenure, are still looking at the north of Australia for further investment in minerals.

Over 40 per cent of Australia's export earnings, I am always proud to say, are now generated in Northern Australia, despite the fact that only five per cent of Australia's population lives in what we class as Northern Australia. But this incredible growth brings with it an increase in social problems and marital breakdown, and this is exacerbated in the north by issues such as defence related psychological factors, fly-in fly-out working arrangements and deprived living conditions in Indigenous communities which exist mainly in northern and remote Australia. These factors have combined to significantly increase the case load for the Townsville based Family Court, which covers the vast area from as far south as Rockhampton and Mackay, north to Cairns and west to Mount Isa and encompasses Cape York and the Torres Strait Islands. Even the Labor Party, which has shown little interest in rural areas such as North Queensland, should be able to recognise the importance of supporting the work of the Family Court in this region by announcing a replacement for the retiring Judge Monteith as a matter of urgent priority. I fear that with a Canberra based government consisting of the Labor Party, who have little interest in Northern Australia and little interest in regional Australia, this is another one of their out of sight, out of mind approaches.

The President of the Townsville District Law Association, Diane Ruhl, wrote to the Attorney-General, the Hon. Robert McClelland, on 8 November this year formally requesting that he honour Senator Ludwig's election promise to continue the practice of basing a Family Court judge in Townsville by naming Justice Monteith's successor. I understand that to date there has been no response to the law association's request. The Labor government and the Labor Party showed no hesitation when Senator Ludwig shut down the northern live
cattle export industry to appease the Greens earlier this year, with disastrous consequences for Northern Australia. I now call upon Senator Ludwig to urge the Attorney-General, Robert McClelland, to honour the election promise that Senator Ludwig made in 2007 and thereby put to rest any suggestion that Justice Monteith will not be replaced and that the valuable work of the Family Court in North Queensland can continue.

Unfortunately Senator Ludwig, who represents the Attorney-General in this chamber, is not here tonight to hear this debate. I call on Senator Conroy, who is the minister at the table, to seriously listen to the issues of the Family Court in Townsville. Senator Conroy, could you please pass this on to your colleague Senator Ludwig, who was the Attorney-General when he came to Townsville prior to the 2010 election and promised the Townsville people that there would be a new appointment of a Family Court judge in Townsville. Many of us in Australia have got to the stage where we assume promises by Prime Ministers from the Labor Party and ministers from the Labor Party will never be honoured. Who can blame Australians for being cautious of promises made by Labor Party ministers when their own leader, Ms Gillard, promised prior to the last election there would be no carbon tax. We are now in the throes of implementing a carbon tax for Australia in spite of the Prime Minister's assurance and solemn promise that it would not happen. I leave that to one side.

It is important that the north of Queensland have a resident Family Court judge. Justice Monteith, I repeat, is retiring at the end of this month. Why the government has not announced a successor to Justice Monteith is of great concern not just to the legal profession but to all people in North Queensland. I repeat again that it is a fast-growing area of Australia. It has more than sufficient work in the Family Court to be assured of a Family Court judge permanently based in Townsville. I ask the minister at the table, who I assume is dealing with this legislation in the Senate chamber: why has the Gillard government not yet announced a successor to Justice Monteith just a few days before his retirement? I would ask you, Senator Conroy, to speak to Senator Ludwig, who as Attorney-General made this solemn commitment to the Townsville legal community and indeed to the wider Townsville and North Queensland community that there would be a northern based Family Court judge. I simply repeat: if there is to be another northern based Townsville judge, why has it not been announced just 10 days before the retirement of the incumbent northern Family Court judge?

I fear that my pleas are falling on deaf ears. For those who might be interested in this debate and are listening to the broadcast, there are two Labor Party people in the chamber tonight for this very important debate. The minister is reading his laptop and seems to be taking no interest. Perhaps I malign him. I would ask you, Senator Conroy, to take this message to your colleague in this chamber Senator Ludwig, and to Mr McClelland, and to give us some assurance in the next few days of who the successor to retiring Judge Monteith might be. Whilst I never expect much from the Labor government at the present time, I would hope that your advisers, Minister, will take these pleas on notice and perhaps come back to me within 24 hours and indicate just who the successor to the northern Family Court judge might be. With that plea, which I fear has fallen on deaf ears in this chamber, I indicate my support for the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 and my
support for the submissions made by Senator Brandis on behalf of the coalition.

Senator FISHER (South Australia) (21:14): I rise to support the coalition's position on the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. I do want to focus in particular on the amendments proposed in item 17 of this bill to section 60CC(2)(a). Before I do that, however, I want to make it clear that I do not profess to be any sort of expert in family law. I have had some experiences in court, some more recent than others, but I have certainly not been near and hope to never go near the Family Court or the Federal Magistrates Court exercising the family law jurisdiction. That said, I can read legislation, statutes and bills. On that basis, I have some questions, some of which I was fortunate enough to be able to ask during a Senate inquiry into this bill but which I was unfortunate, I think, not to have had answered through questions on notice during that inquiry. I think this Senate is even more unfortunate in that I and my colleagues and the likes of Senator Xenophon and Senator Madigan have not been allowed the proper time and the proper process to ask about the very important issues that underlie not only this bill but family law writ large as implemented in this country.

Item 17, as I understand it—and I refer to the explanatory memorandum—says that the new subsection 60CC(2A) requires the court:

… when determining what is in a child’s best interests, to give greater weight to the primary consideration that protects the child from harm in cases if there is inconsistency in applying the considerations.

The explanatory memorandum goes on to say that the new provision will make it clear that:

… the two primary considerations are: (a) the benefit to the child of having a meaningful relationship with both of the child’s parents; and (b) the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence.

Obviously those are very important concerns. The explanatory memorandum then goes on to say:

Where child safety is a concern, this new provision will provide the courts with clear legislative guidance that protecting the child from harm is the priority consideration.

That is not the evidence that was given to the Senate committee. That was not the evidence that was reported in the Senate committee's report as a result of the inquiry—clear legislative guidance.

Professor Richard Chisholm told the committee that the intended provision was anything but clear. Whilst he did say that this provision would improve the law, he recommended an amendment to it. As of this moment, we do not know if the government have taken it up or not and we will not have the opportunity to debate it because of the time we do not have to speak on or deal with the bill. But Professor Chisholm, before saying, 'Well, okay, this provision will make it better than it is at the moment,' said that this provision was yet another technical complication. That is hardly clear, despite the government's explanatory memorandum.

He went on to say that, with the new subsection, the decision maker will have to decide if there is an inconsistency between the two provisions. He went on to say that, if there is, greater weight must be given to the second provision—the safety of the child. But how much greater? He argues that the new provision is certain to increase the amount of complication and technicality relating to determining what is best for children. That is hardly clear legislative guidance.

Nor, despite clear legislative guidance being claimed by the explanatory memorandum, is it guidance according to the
Family Law Practitioners Association of Queensland. It told the inquiry that, in its view, rather than providing guidance the proposed amendment contained in the bill mandates a court to give greater weight to the second of the primary considerations—that is, the safety of the child—in the event of there being a conflict between that and the benefit to the child of having a meaningful relationship with both parents. The Family Law Practitioners Association of Queensland told the inquiry in its submission:

Such a provision removes the Court’s licence to assess in each individual case the degree of risk, its probability or in the case of family violence its context in terms of frequency, intensity and recency in the determination of the weight to be given to such risk or harm.

It urges caution in terms of the legislation becoming:

... too specific, descriptive, prescriptive or presumptive with respect to the treatment of risk.

As far as we can tell, the government has done nothing about that concern expressed by the Family Law Practitioners Association of Queensland. In fact, it has flown in the face of it by maintaining the very provision that that association criticised and claiming in its recent supplementary explanatory memorandum that this provision provides clear legislative guidance. Well, poppycock!

As for the extent to which a child may be at risk of violence, there is nothing in the bill to make clear what is to be required by a court in terms of the second limb to which priority is now to be given—that is, the need to protect the child from physical or psychological harm or being subjected to or exposed to abuse, neglect or family violence. How is it not going to be as simple as one party to the earlier relationship alleging a concern about violence? As Family Voice Australia said to the committee:

The phrase 'any inconsistency' virtually invites the court to ignore completely the requirement to consider 'the benefit to the child of having a meaningful relationship with both of the child's parents' once it decides to entertain an allegation of any kind about abuse or exposure to family violence.

So there is nothing clear about this provision at all. It is a mandate, not guidance. It is an invitation for one party to a former relationship to make an allegation. Worse than that, when we pressed the government and officers of the Attorney-General's Department to provide the government's evidence of the need for this position and to demonstrate its case that this provision will fix whatever it says is the problem, all the department and the government could provide was the report by the Australian Institute of Family Studies, which was foreshadowed by the Howard government in implementing the earlier reforms in 2006—actually, the reforms in 2006, because this bill is no reform; reform in my book is usually good. The department, in answer to its question on notice, citing only the Institute of Family Studies report as evidence that the existing law needed change, cited findings that two-thirds of mothers and half of fathers separated since 2006 reported that their child's other parent had emotionally abused them. I thought it was the safety of the child that was paramount, not what happened to mum or dad.

The second so-called bit of evidence from the same report was that around one in four mothers and one in six fathers reported that the other parent had hurt them physically prior to separation. I make the same point: that is about the mums and dads; it is not the kids. The only one that gets close to the kids is this one: around one in five parents reported safety concerns associated with ongoing contact with a child's other parent. What does that mean? What is that by way of evidence? It is not hard to imagine in marriage breakups that one parent might
want to allege concerns about safety in proximity of children from the former partner whom they liked a lot and with whom they are now largely disaffected.

Turning to my final point, which consolidates my concerns. I asked the department during the hearing: What evidence do you have that item 17 of the bill will address that evidence and fix, for example, the concern that a fifth of parents have ongoing concerns about their child's safety?

Mrs Pirani from the department said: I guess we do not know until the changes are made.

That is it. I guess the government does not know until the changes are made. My colleague Senator Mason talked about this bill really taking family law from being hell, or maybe it was the 2006 reforms that took it to being hell with hope. I reckon mums and dads will just want to hope like hell, because that is about all they are going to have, in my humble opinion, if this bill becomes law.

**Senator HUMPHRIES** (Australian Capital Territory) (21:25): I am very pleased to contribute to this debate on the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, such as my opportunity will be, given that the debate is to be truncated by the guillotine. Like Senator Fisher, I was a participant in the inquiry by the Senate Legal and Constitutional Affairs Legislation Committee into this legislation. I think that the legislation represents a very significant piece of change to the law. Like Senator Fisher I hesitate to call it reform, although I have to acknowledge that some parts of the legislation are valuable, do improve the state of the law and do make it easy to use for those people who require access to the Family Court. I echo the concerns of colleagues on this side of the chamber in this debate: significant changes in the law will be enacted by the Senate tonight in a shortened debate. We will not have time to consider amendments put forward by the Greens and by the coalition. We will not have key opportunities to consider issues in the legislation which are critical and which have been extensively debated in the public arena and in specialist circles and which were subject to intense debate before the Legal and Constitutional Affairs Committee or to consider issues around which there is a rich vein that the Senate ought to be explore. We will not deal with them tonight except by a simple vote on the floor of the Senate.

In her contribution, Senator Wright advocated for her amendments. Maybe she has put forward, on behalf of the Greens, some wonderful amendments to this legislation. I am afraid we will not get the chance to find out, because Senator Wright and her colleagues in the Greens have joined with the Labor Party to ensure that there will not be a committee stage on this bill. We will not have a chance to debate the amendments that the Greens are putting forward, wonderful though they might be.

I ask senators to consider what we are dealing with tonight. These amendments, in effect, go to the framework of family law in this country. The Family Law Act 1975 was a seismic change in the landscape with respect to personal relationships in this country. It was undoubtedly an iconic piece of law reform. Tonight, we are dealing with that legacy. We are dealing with that great change in the law and the consequences and the developments that we have dealt with in the succeeding 35 or so years. But we are dealing with it tonight in an entirely unsatisfactory way. We are going to rush this through the Senate. We have important amendments to consider, but we are going to rush this through the Senate because of the
deal that has been done between the Australian Labor Party and the Australian Greens.

I wonder what the ghosts of people like Lionel Murphy, Lionel Bowen, Bob Ellicott and others who were involved with those great debates would think, as they look down on this debate, about the way the Senate is dealing with that legacy legislation and the changes we are making to it, supposedly to bring it into contemporary use and to address the needs of 21st-century Australia. What would they make of it if they saw this debate going on? I do not think they would think very much of it, but that is the way it is being handled tonight.

I will address some of the issues in this legislation and point out what I believe would be some of the advantages were the Senate to adopt the amendments put forward by the coalition. I want to affirm, though, that the coalition very much values the essential elements of the legislation as it now stands and believes that our amendments underpin those important values—values that were described in the 2006 amendments moved by the then Attorney-General Philip Ruddock as the shared parenting reforms. We stand by a central feature of that legislation, which was that the paramount consideration of the courts was the best interest of the child when it came to issues relating to the care and maintenance of that child. We stand by the presumption, displaced only on substantial and exceptional grounds—for example, on the basis of what is in the best interests of the child—that there should be equal shared parental responsibility in the raising of a child and in the direction made by parents in the course of a child's life. We stand by the recognition in the law—again, I emphasise, subject to a child not being exposed to harm or having its interests otherwise detracted from—of the benefit to a child of having a meaningful relationship with both of its parents. Those principles are in the legislation. They have been there for some time. The level of emphasis placed on those principles has varied from time to time, but those values are core to the way that our Family Law Act works today, and we believe on the coalition side that they ought to be retained and not detracted from.

It is fair to say that the 2006 reforms did require the court to take into account a parent's willingness to abide by those principles dealing with the behaviour of a parent and the parent's attitude towards another party to the marriage or relationship—again, subject to the child's best interests. I heard a suggestion in the course of the debate by Senator Crossin that, for example, in some way the reforms of 2006 weakened or watered down the central focus on the court making decisions that were subject to the child's best interests. That, of course, is completely untrue. The paramount consideration before the court remains what is in the child's best interests. The extent to which other considerations can apply subject to that overarching qualification is what, in a sense, the 2006 reforms and this legislation debate.

Much of the bill enacts appropriate, balanced refinements of the law, but it is the view of the coalition that some of the amendments do undermine the shared parenting principles. Accordingly, the coalition has moved amendments to protect those principles—principles which we were responsible for in the first place. I want to touch on a few of those in a few minutes given I do not have an opportunity to put these issues in the course of a committee stage debate. The issue of a friendly parent provision reflects the fact that coalition senators in the course of the inquiry believed that the bill, to some extent, undermined the principles of shared parenting by repealing
those provisions in existing paragraphs 60CC(3)(c) and 60CC(4)(b), which take account of a party's willingness to facilitate another party's involvement in the child's welfare. It is hard to represent those changes as anything other than an attack on that key principle of shared parenting. We were not persuaded that parties to proceedings are not disclosing concerns about family violence or child abuse for fear of being found to be an unfriendly parent. That was not the substantial weight of the evidence before the committee, in our opinion. We consider that the provisions should be preserved as they stand now, more or less, in order to ensure that that important principle is not detracted from.

On the question of a new definition of family violence, the coalition senators who took part in the inquiry certainly endorsed the objective of giving greater recognition to the breadth of behaviours comprising family violence in our community. However, we did not consider in this inquiry that the net should be cast so wide as to capture all human behaviours, which is what the proposed definition effectively would do. Professor Richard Chisholm, a former judge of the Family Court, gave very strong evidence that there were problems with proposed new subsection 4AB(1). I note that Senator Wright quoted approvingly of the evidence given by Professor Chisholm. I hope she listened, therefore, to the suggestion that we perhaps should consider a different approach towards this particular provision than the one the government is proposing to the Senate. Professor Chisholm said that the new subsection was overinclusive and captured any behaviour that caused a family member to be fearful. I think he gave the example of a family member who rushed into a room to say: 'Fire! Fire! Get out of the house now.' That kind of behaviour would be captured as being behaviour that would cause a member of the family to be fearful, even though it obviously is not appropriate to characterise that as something which could be called family violence. Coalition senators believe that such a provision undermines the objective of the bill as it makes no allowance for the intent of the party giving rise to this 'fear'. Professor Chisholm proposed an alternative provision, which I would commend to the Senate. We will not have a chance to debate those sorts of provisions because the debate has been truncated.

Other senators, including Senator Mason, have made reference to the absolutely preposterous proposal to remove section 117AB of the legislation that allows the Family Court to make an order for costs—a rare thing in the Family Court—where a party has deliberately come forward and knowingly made false allegations of abuse and family violence in the course of Family Court proceedings. We are not talking about allegations which are made which cannot be substantiated on the balance of probabilities. We are not talking about claims that are contested before the court which the court considers in all the circumstances to be made out or not to be made out. We are talking about a finding by the court that a party to the proceedings has deliberately set out to mislead the court by making false allegations of abuse or family violence. The court has the power under the present framework of the law to make an order for costs against the party making false allegations. It is preposterous that this bill proposes to take that power away from the Family Court on the basis that some people have misunderstood what that provision means or that some people have supposedly failed to make allegations that there had been violence in a relationship for fear that they might be ordered to pay costs.
Senator Wright said that there was evidence that this was a widespread problem. With great respect, that was not the evidence that was presented to the committee. The evidence was that it was rumoured to be an issue. Nobody could actually come forward to the committee and tell us that they actually had a case where it had occurred. No-one provided that evidence and the Family Court representatives themselves who came before the committee said that they did not have any evidence of such practices going on. On that basis, the government proposes to remove the capacity of the court to punish a party, in effect—not through an order to award a child to another party, not to take away from the best interests of the child, obviously—and to send the signal that deliberately false allegations should carry some consequence, should resonate through an order for costs. To suggest that that should be removed from the legislation is just outrageous. I think the government's approach to this issue is completely misconceived.

The coalition is also concerned about the timing of the commencement of the legislation. The Family Court itself expressed a preference for the substantive provisions of the bill to apply only to those applications filed after the commencement date of this legislation. Has the government done that? No, it has not. It is applying the provisions to earlier litigation, with the potential effect that parties will have to go back to the court and amend their pleadings before the court because the law changed after the proceedings had commenced. I would have thought that was quite an unsatisfactory state of affairs, but that is what the legislation the government is putting forward does. We do not have a chance to debate this issue properly, because again this amendment cannot be considered in the course of tonight's debate.

The DEPUTY PRESIDENT: Order! The time allotted for consideration of this bill and the four other bills listed on today's Order of business has now expired. The question is that this bill be now read a second time.

A quorum having been called and the bells being rung—

Senator Ian Macdonald: Joe, did you hear my question? What happens with the northern judge that you promised would be appointed to replace the retiring judge?

Senator Ludwig: That's a very interesting issue. Have you got the original documents?

Senator Ian Macdonald: I just need an answer. The retiring judge retires in five days time. Where's his replacement?

Senator Ludwig: Quite frankly, with all due respect, I don't quite trust what you say. Do you have them with you?

(Quorum formed)

Senator Ian Macdonald: On a point of order, Mr Deputy President. I raised some questions in the debate which related to Senator Ludwig. He is trying to answer them. I move:

That so much of standing orders be suspended as would prevent the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) responding to questions raised during the debate by Senator Macdonald.

Question put.

The Senate divided [21:46]

(The Deputy President—Senator Parry)

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

AYES
Abetz, E  Adams, J
Back, CJ  Birmingham, SJ
Boswell, RLD  Brandis, GH
Bushby, DC  Cash, MC
The DEPUTY PRESIDENT: The question now is that the bill be read a second time.

The Senate divided. [21:50]

(The Deputy President—Senator Parry)

Ayes..................37
Noes..................31
Majority.............6

Question negatived.

The DEPUTY PRESIDENT: The question now is that amendments (1) to (6)
Government's circulated amendments—

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1 The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.

[commencement of Schedule 1]

(2) Schedule 1, item 17, page 7 (line 2), omit "If there is any inconsistency in", substitute "In".

[primary considerations]

(3) Schedule 1, item 19, page 7 (lines 18 and 19), omit paragraph 60CC (3)(k), substitute:

(k) if a family violence order applies, or has applied, to the child or a member of the child's family—any relevant inferences that can be drawn from the order, taking into account the following:

(i) the nature of the order;
(ii) the circumstances in which the order was made;
(iii) any evidence admitted in proceedings for the order;
(iv) any findings made by the court in, or in proceedings for, the order;
(v) any other relevant matter;

(4) Schedule 1, item 22, page 9 (line 21), omit "if there is any inconsistency".

(5) Schedule 1, item 45, page 15 (line 9), omit "Subject to item 47, the", substitute "The".

(6) Schedule 1, item 45, page 15 (line 11), omit "whether instituted before,", substitute "instituted".

Question agreed to.

The DEPUTY PRESIDENT: The question now is that amendments (1) to (3) on sheet BT208 circulated by the government be agreed to.

Government's circulated amendments—

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1 The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.

[commencement of Schedule 1]

(2) Schedule 2, page 21 (before line 1), insert:

14A Subsection 61C(1) (note 2)
Repeal the note.

14B Section 61DA
Repeal the section.

14C Section 61DB (heading)
Repeal the heading, substitute:

61DB Allocation of parental responsibility after interim parenting order made

(3) Schedule 2, page 21 (after line 17), after item 17, insert:

17A Subsection 65D(1)
Omit "sections 61DA (presumption of equal shared parental responsibility when making parenting orders) and", substitute "section".

17B Subsection 65D(2)
Omit "61DA (presumption of equal shared parental responsibility when making parenting orders) and".

Senator Ian Macdonald: Mr Deputy President, I have a point of order. I ask how under the standing orders we can possibly vote on this when I have not heard the Greens move the amendment and explain what the amendment is. I may well want to vote for it but I have had no opportunity to hear the debate. I simply ask how could we possibly have—

The DEPUTY PRESIDENT: Order! Senator Macdonald, resume your seat.

Honourable senators interjecting—

The DEPUTY PRESIDENT: Order! Senator Conroy and those on my left. Senator Macdonald, you have the call and you are raising a point of order.

Senator Ian Macdonald: I was raising the point of order that we are being asked to
vote on some amendments moved by the Greens. I have not heard the Greens move the amendments. I do not know what the arguments are. I fancy that I may want to vote for them but I have not heard them debated. How can I possibly vote for an amendment that I have not heard debated.

The DEPUTY PRESIDENT: There is no point of order. A resolution of the Senate was passed yesterday to orchestrate the facility of the bills to be put as they are currently being put. The question now is that amendments (1) to (3) on sheet 7150 circulated by the Australian Greens be agreed to.

Question negatived.

The DEPUTY PRESIDENT: The question now is that items (2), (3), (6), (8), (18), (20), (26) and (27), (40) and (43) of schedule 1 stand as printed.

Question agreed to.

The DEPUTY PRESIDENT: The question now is that amendment (11) on sheet 7149 circulated by the opposition be agreed to.

Opposition's circulated amendment—

(11) Schedule 1, item 45, page 15 (lines 9 and 10), omit "items 1 to 8, 11, 13, 17 to 21, 30 to 34, 37, 38 and 40 to 43", substitute "items 1, 4, 5, 7, 11, 13, 17, 19, 21, 30 to 34, 37, 38, 41 and 42".

The DEPUTY PRESIDENT: The question is agreed to.

Honourable senators interjecting—

Senator Ludwig: A division is required.

The DEPUTY PRESIDENT: I will go back to the previous question. A division is required. Ring the bells for one minute.

An opposition senator: This is a farce.

Senator Brandis: I have a point of order, Mr Deputy President. You have called this vote for the ayes. You asked whether a division was required. There was no voice for the noes calling for a division.

Senator Conroy: Yes, there was.

Senator Brandis: No, there was not. You then moved on. If the government, who have obviously not been following the process tonight, have made a mistake and they wish the matter to be re-committed there is a manner of doing that. But the manner of doing that is not to shout down the Presiding Officer, as government senators have been attempting to do. If they want to recommit the division they should get up and explain themselves.

The DEPUTY PRESIDENT: Thank you, Senator Brandis. There was a lot of noise in the chamber. Government senators as well as opposition senators have been making a lot of noise during all of the divisions and the reading out of what the divisions are. I am happy to give the government the benefit of the doubt and allow them to call the division because of the noes that they have called. A division has been called for; the bells are going to be rung for one minute. Clerk, have the bells been rung for one minute? No? Ring the bells for one minute.

The DEPUTY PRESIDENT: The question is that amendment (11) on sheet 7149 moved by the opposition be agreed to.

The Senate divided. [21:59]

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

AYES

Abetz, E
Back, CJ
Boswell, RLD
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fisher, M

Adams, J (teller)
Birmingham, SJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fifield, MP
Humphries, G
AYES

Johnston, D
Kroger, H
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Scullion, NG
Williams, JR

Joyce, B
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A
Xenophon, N

NOES

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, CL
Brown, RJ
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludwig, JW
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

Bilyk, CL
Brown, CL
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Ludlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

PAIRS

Bernardi, C
Boyce, SK
Fierravanti-Wells, C
Heffernan, W

Wong, P
Evans, C
Hogg, JJ
McLucas, J

Question negatived.

In division—

Senator Ian Macdonald: Mr Deputy President, I raise a point of order on a very serious matter of etiquette in this chamber. There are two Labor senators sitting where I normally sit. They happen to be looking through my papers.

Government senators interjecting—

Senator Ian Macdonald: Mr Deputy President, this is a very, very serious matter. When we move sides in this chamber you expect that you can leave your papers on your desk and not have them looked at by members of the other party. I would ask that the matter of Senator Collins looking through my papers actually be—

Honourable senators interjecting—

Senator Jacinta Collins: Put it on the record!

The DEPUTY PRESIDENT: Order! Senator Macdonald has the call, in an unusual circumstance, being out of his seat. Senator Macdonald.

Senator Ian Macdonald: I only paused then because Senator Collins was shouting at one of my colleagues. But I do raise this as a very serious matter of privilege that someone who is sitting in my seat because we have changed sides is actually looking through my papers that I left on my desk about the speeches I am going to make on the next four bills that are scheduled to be dealt with by this chamber tonight. I am very serious about senators from other parties looking through the papers of senators from the other party when they sit in their seats because of changing sides in divisions. I think I should ask that this matter actually be referred to the Privileges Committee.

Senator Lundy: Mr Deputy President, on the point of order there is absolutely no basis to the complaint that Senator Macdonald has made. I am sitting next to Senator Collins, and it is utterly false.

Opposition senators interjecting—

The DEPUTY PRESIDENT: Senators on my right, order! Senator Macdonald, in relation to your point of order, I say two things. I remind all senators that the courtesy and the conduct of this Senate over numerous years is that you do observe that protocol of not reading material on desks when divisions are in progress. That is the first matter. The second matter, Senator
Macdonald, is I will discuss with the President your cause and if further action needs to be taken the President can make that decision and come back to the Senate.

Third Reading

The DEPUTY PRESIDENT: The question now is that the remaining stages of the bill be agreed to and the bill be now passed.

The Senate divided. [22:06]

(Ayes: 36, Noes: 32, Majority: 4)

AYES

Arbib, MV
Bilyk, CL

Bishop, TM
Brown, CL

Brown, RJ
Carr, KJ

Connroy, SM
Crossin, P

Di Natale, R
Farrell, D

Faulkner, J
Feeney, D

Furner, ML
Gallacher, AM

Hanson-Young, SC
Ludlam, S

Ludwig, JW
Lundy, KA

Marshall, GM
McEwen, A (teller)

Milne, C
Moore, CM

Polley, H
Pratt, LC

Rhiannon, L
Sherry, NJ

Siewert, R
Singh, LM

Stephens, U
Sterle, G

Thistlethwaite, M
Urquhart, AE

Waters, LJ
Wright, PL

NOES

Scullion, NG
Williams, JR

Scullion, NG
Williams, JR

NOES

Sinodinos, A
Xenophon, N

PAIRS

Evans, C
Hogg, JJ

McLucas, J
Wong, P

Boycie, SK
Fierravanti-Wells, C

Heffernan, W
Bernardi, C

Question agreed to.

Bill read a third time.

Crimes Legislation Amendment Bill (No. 2) 2011
Aviation Transport Security Amendment (Air Cargo) Bill 2011
Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011
Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011

The DEPUTY PRESIDENT: In respect of the Aviation Transport Security Amendment (Air Cargo) Bill 2011, the question is that the amendment circulated by Senator Xenophon be agreed to.

Senator Xenophon's circulated amendment—

At the end of the motion add:

(but the Senate calls on the Government to initiate a review of:

(a) current issues regarding airport security and policing, building on the report by the Rt Hon Sir John Wheeler, DL, An Independent Review of Airport Security and Policing for the Government of Australia in 2005; and

(b) progress on the implementation of the recommendations made in the 2005 report.

Senator Ian Macdonald: Mr Deputy President, I raise a point of order. I have no idea what Senator Xenophon's amendment is because I have not heard him argue it. Is
there a provision to allow the chamber to actually listen to and understand what the amendment might be before we are required to vote on it?

The DEPUTY PRESIDENT: There is no point of order. The Senate resolved yesterday that this would be the course of action today.

Question put:
That the amendment (Senator Xenophon's) be agreed to.

A division having been called and the bells being rung—

Senator Faulkner: Mr Deputy President, I rarely take points of order in divisions, but can I ask you to address the standing order on a senator who calls for a division and votes one way on the voices and now—and I have to name Senator Macdonald—is voting another way as the Senate divides. You might care to address that in the standing orders.

The DEPUTY PRESIDENT: Thank you, Senator Faulkner. You are correct about the standing order provision. Senator Macdonald, if that is in fact correct you will need to vote the way you called. Senator Joyce, are you raising a point of order?

Senator Joyce: Mr Deputy President, in light of the circumstance that this is all being guillotined and we are trying at this point in time to deal with truncated amendments, it is quite obvious that at this juncture there is not the capacity for us to be fully across the question. It is the Labor Party which truncated all this and it is that which is turning this into a complete and utter farce.

Senator Chris Evans: On the point of order, Mr Deputy President: to facilitate the smooth running of the Senate, I suggest that you call the vote again so that senators are clear what they are voting on.

Senator Brandis: On the point of order, Mr Deputy President: it should be said that the reason for this confusion is that nobody in this chamber knows what the amendment is. The guillotine procedure imposed on this chamber by the Labor Party and the Greens makes it impossible for senators—government, opposition or crossbench—to be aware of what the amendment is upon which we are voting.

Senator Williams: On the point of order, Mr Deputy President: Senator Xenophon and Senator Madigan were the two voices clearly heard back here.

Government senators interjecting—

Senator Williams: Yes, they were. Ask them yourself.

The DEPUTY PRESIDENT: I may be able to assist the chamber, if the chamber would allow me to. Prior to Senator Faulkner raising a point of order, I was actually going to put the question again because there was a lot of noise and confusion and the chamber was exceptionally disorderly. At the expiry of the one minute, there were over 14 senators standing in the centre of the chamber. On that basis, I am going to put the question again and call for the voices prior to calling for the division. Senator Macdonald, if you think you are going to assist the chamber, I will hear you.

Senator Ian Macdonald: Mr Deputy President, I am speaking on the point of order raised by Senator—

A government senator: You should be speaking from your seat.

Senator Ian Macdonald: I am sorry; I have been told by a Labor Party person I should be speaking from my seat. Mr Deputy President, I am speaking on the point of order raised by Senator Brandis. Senator Brandis is absolutely correct—how can we know what we are voting on in this chamber
when we do not have any discussion, any argument in favour or against the amendment or any argument in favour or against the bill? How can we possibly do this in a situation where the Labor Party and the Greens have gagged every piece of debate, every piece of argument on four or five bills we are required to vote on tonight?

Senator Bob Brown: On the point of order, Mr Deputy President: the standing orders are quite clear about this. There will be a series of votes, as we are seeing here, without debating the matter.

Senator Ian Macdonald: Why don't you guillotine it? You were paid for this, were you—$1.6 million?

Senator Bob Brown: That is the guillotine; you are right, Senator Macdonald. There were 116 such occurrences during the years in which the Howard government was in office and this contention was—

Opposition senators interjecting—

Senator Bob Brown: Just like this. And we understood the rules.

The DEPUTY PRESIDENT: What is your point of order, Senator Brown?

Senator Bob Brown: The point of order is that Senator Macdonald did call one way and is now trying to vote another. I agree with your ruling that the vote should be put again so that he can get himself out of the mess that he is in.

The DEPUTY PRESIDENT: I call Senator Joyce, but I will not take any further points of order after you, Senator Joyce. Then I will put the question again.

Senator Joyce: On the point of order, Mr Deputy President: I have passage of this from the other place and quite obviously it is completely and utterly impossible. To try and deal with this in this manner is the height of difficulty because we really have no idea. Senator Evans has graciously said, as I suggested, that we should have the vote again and I think that is what should be done.

The DEPUTY PRESIDENT: I am going to put the question again. Senator Fifield, will this really assist?

Senator Fifield: I think it may, Mr Deputy President. It is not a point of order, but just a suggestion.

Government senators interjecting—

Senator Fifield: Okay, I will call it a point of order, then, if that satisfies Labor members. It may—

The DEPUTY PRESIDENT: Senator Fifield, it would assist the chamber if I put the question again and I will do so unless you have new material that I have not been made aware of.

Senator Fifield: Senator Xenophon could perhaps seek leave to briefly explain what his amendment is.

The DEPUTY PRESIDENT: Senator Fifield, I gather you are going to seek leave to make a statement?

Senator Xenophon: Mr Deputy President, I seek leave to make a short explanation.

Leave not granted.

The DEPUTY PRESIDENT: I propose now to put an end to this matter. I am going to put the question again and I will call for the voices and see whether we need to divide. In respect of the Aviation Transport Security Amendment (Air Cargo) Bill 2011, the question is that the amendment circulated by Senator Xenophon on revised sheet 7155 be agreed to.

A division having been called and the bells being rung—

Senator Ian Macdonald: On a point of order, Mr Deputy President: am I allowed to move that so much of standing orders be set aside as would prevent Senator Xenophon...
from explaining for two minutes what his amendment is about?

The DEPUTY PRESIDENT: Not during a division. You cannot do that whilst we are waiting for a division to be determined.

The Senate divided. [22:22]

(The Deputy President—Senator Parry)

Ayes.................2
Noes..................68
Majority..............66

AYES

Madigan, JJ
Xenophon, N (teller)

NOES

Abetz, E
Arbib, MV
Bernardi, C
Birmingham, SJ
Boswell, RLD
Brown, CL
Bushby, DC
Carr, KJ
Colbeck, R
Conroy, SM
Crassin, P
Edwards, S
Evans, C
Faulkner, J
Feeney, D
Fisher, M
Gallacher, AM
Humphries, G
Joyce, B
Ludlam, S
Lundy, KA
Marshall, GM
McEwen, A (teller)
Milne, C
Nash, F
Payne, MA
Pratt, LC
Ronaldson, M
Scullion, NG
Siewert, R
Sinodinos, A
Sterle, G
Urquhart, AE
Williams, JR

The DEPUTY PRESIDENT: Could I just ask senators to listen carefully to the next few resolutions so that we have less confusion. Please listen to the resolutions.

Senator Bernardi: Mr Deputy President, I do not want to be obstructive to the Senate, given the lateness of the hour, but I was not alone in hearing Senator Feeney call in favour of the ayes, and that means there were three for the ayes and he refused to vote with the ayes—that is how he called it. When you questioned Senator Feeney with respect to this, he did not provide an answer. He grinned, he may have blushed and looked embarrassed, but he did not deny the fact. I ask you to call upon Senator Feeney to explain why he made a call for the ayes and then voted with the noes.

Senator Feeney: Can I just have it noted, Mr Deputy President, that I did not call for a division.

The DEPUTY PRESIDENT: Can we now proceed to the business before the chair.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (22:27): Thank you. I table a supplementary explanatory memorandum relating to the government amendment to be moved to the Aviation Transport Security Amendment (Air Cargo) Bill 2011 and I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill, which is the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: Senator Macdonald—Senator Bob Brown, on a point of order.
Senator Bob Brown: Mr Deputy President, the point of order I think Senator Macdonald might be taking is that it was not possible to hear what Senator Ludwig was saying.

The DEPUTY PRESIDENT: Senator Macdonald, on the same issue—Senator Ludwig, would you read that again please, and I ask senators to be quiet. Senator Macdonald, on a point of order?

Senator Ian Macdonald: On a point of order: that was not my point of order, Mr Deputy President. Under the motion moved yesterday, how can this possibly be done at this stage, when, as I understand it, the Labor Party and the Greens have clearly set out a process to proceed—

The DEPUTY PRESIDENT: There is no point of order, Senator Macdonald. This was a resolution of the Senate yesterday, and we are following the resolution of the Senate.

Senator Ian Macdonald: Mr Deputy President, he is now introducing some new material that nobody has seen.

The DEPUTY PRESIDENT: No, it is within the ambit of the resolution passed by the Senate yesterday. Senator Ludwig, would you read your tabling—

Senator Ludwig: I table a supplementary explanatory memorandum relating to the government amendment to be moved to the Aviation Transport Security Amendment (Air Cargo) Bill 2011 and, in relation to the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill.

The DEPUTY PRESIDENT: A point of order by Senator Macdonald?

Senator Ian Macdonald: Mr Deputy President, we have already voted on and passed the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, and Senator Ludwig, the former Attorney-General, is now trying to introduce an explanatory memorandum to a bill that we have already voted upon. How can that possibly be relevant?

The DEPUTY PRESIDENT: Senator Macdonald, there is no point of order. It is within the ambit of the resolution that the Senate passed yesterday.

Senator Brandis: Mr Deputy President, I am rising to speak in support of Senator Macdonald's point of order. It is not, with respect, within the ambit of the order passed yesterday because that particular bill is now through the Senate. The debate has come to a completion. We have moved on to and have in fact voted on a subsequent bill on the Notice Paper. So, regardless of the terms of the limitation of debate, once that bill is disposed of, as it was when you declared that it had been passed for a third time, it was no longer a question before the chair, and Senator Ludwig is now not at liberty to introduce or to revert to that debate without the leave of the Senate.

The DEPUTY PRESIDENT: Senator Brandis, there is no point of order. Senator Ludwig is entitled to table an explanatory memorandum at any stage after a bill has been passed. It has happened in the past and he is entitled to do so. Senator Macdonald, do you have a point of order?

Senator Ian Macdonald: Yes, Mr Deputy President. If you are going to call a vote on any bills you might have a look at the clock and understand that the motion you moved yesterday provided that votes be taken between 9 pm and 9.30 pm. It is now after 9.30 pm and therefore I submit that, in relation to the order moved by the Senate yesterday, we should not be voting on this or anything else.
The DEPUTY PRESIDENT: Thank you, Senator Macdonald, but under that order yesterday and the resolution of the Senate, once voting is commenced we complete a process. We are now going through that process until we complete it. There is no point of order. I ask senators to concentrate on the questions.

The question now is, in respect of the Aviation Transport Security Amendment (Air Cargo) Bill 2011, that the amendment on sheet BR287, as circulated by the government, be agreed to.

Government's circulated amendment—
(1) Clause 2, page 1 (lines 7 to 9), omit the clause, substitute:

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<table>
<thead>
<tr>
<th>Commencement information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision(s)</td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
</tr>
<tr>
<td>2. Schedule 1, Part 1</td>
</tr>
<tr>
<td>3. Schedule 1, Part 2</td>
</tr>
<tr>
<td>4. Schedule 1, Parts 3 to 5</td>
</tr>
</tbody>
</table>

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

Senator Ian Macdonald: Under standing order 195 I ask that the question be read by the Clerk.

The DEPUTY PRESIDENT: Clerk, could you read the question please.

The question having been read by the Clerk—

Question agreed to.

Senator Abetz: Mr Deputy President, in the confusion in the chamber because of the guillotine it appears that we have just voted on a government amendment that the Clerk read out, and that was carried. Are we now putting the bill as amended? I am not sure that has occurred.

The DEPUTY PRESIDENT: No, we have now disposed of the amendment and the bill. We are now moving on to the Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011.

Senator Abetz: If it is all good, it is all good.

The DEPUTY PRESIDENT: It is all within the remit of the resolution the Senate passed yesterday. In respect of the Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011, the question is that the amendment on sheet 7183, as circulated by Senators Xenophon and Ludlam, be agreed to.

Senator Xenophon and Senator Ludlam's circulated amendment—

At the end of the motion, add "but the Senate calls on the Government to undertake an examination of the cost of expanding the class of persons eligible for the Repatriation Health Card - For All Conditions (Gold Card) to include a person who is a nuclear test participant (within the meaning of the Australian Participants in
British Nuclear Tests (Treatment) Act 2000, and that such examination be completed within 3 months.

Senator Ian Macdonald: Mr Deputy President, I ask that the question be read by the Clerk under standing order 195—

The question having been read by the Clerk—

The DEPUTY PRESIDENT: The question is that the amendment be agreed to. Those of that opinion say aye, against say no. A division is required; ring the bells for one minute.

Senator Abetz interjecting—

The DEPUTY PRESIDENT: Under the provisions of the standing orders the bells can be rung for one minute if warning has been given prior, which I had done earlier. It is irrespective of senators who have left the chamber. The bells will be rung for one minute.

A division having been called and the bells being rung.

Senator Fifield: Mr Deputy President, a question: in the confusion and some might say the farce that is the current situation, I do not recall the Crimes Legislation Amendment Bill (No.2) 2011 having been dealt with.

The DEPUTY PRESIDENT: To assist you, Senator Fifield, and all senators, the amendments will be put as we are now putting them. We will deal with all the bills together as a final question at the end after the amendments have been put. I trust that clarifies the matter.

Question put.

The Senate divided. [22:37]

(The Deputy President—Senator Parry)

AYES

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

NOES

Abetz, E
Arbib, MV
Bernardi, C
Bishop, TM
Brown, CL
Carr, KJ
Colbeck, R
Conroy, SM
Crossin, P
Eggleston, A
Farrell, D
Fawcett, DJ
Fifield, MP
Furner, ML
Kroger, H
Lundy, KA
Marshall, GM
McEwen, A (teller)
Moore, CM
Parry, S
Pratt, LC
Ryan, SM
Sherry, NJ
Sinodinos, A
Sterle, G
Urquhart, AE

Question negatived.

The DEPUTY PRESIDENT: Is it the wish of the Senate that the statement of reasons accompanying the request for amendment circulated by Senator Xenophon be incorporated in Hansard immediately after the request to which it relates?

Senator Ian Macdonald: No.

The DEPUTY PRESIDENT: Senator Macdonald, by convention this has happened over many years. It has always been ordered
by the chair and the senators never object. It is so ordered.

In respect of the Veteran's Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011, the question is that the request for an amendment circulated by Senator Xenophon on sheet 7184 be agreed to.

Senator Xenophon's circulated requested amendment—

(1) Page 5 (after line 22), at the end of the bill, add:

Schedule 2—Nuclear test participants eligible for Gold Card
Veterans' Entitlements Act 1986
1 After subsection 85(10)
Insert:

(10A) A person is eligible to be provided with treatment under this Part for any injury suffered, or disease contracted, by the person, whether before or after the commencement of this Act, if:

(a) the person is a nuclear test participant (within the meaning of the Australian Participants in British Nuclear Tests (Treatment) Act 2006); and

(b) either:

(i) the Department has notified the person in writing that he or she is or will be eligible for such treatment; or

(ii) the person has, by written document lodged at an office of the Department in Australia in accordance with section 5T, notified the Department that he or she seeks eligibility for such treatment.

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

This amendment is framed as a request because it increases expenditure under a standing appropriation. The effect of amendment (1) would result in increased expenditure under the Veterans' Entitlements Act 1986, it is in accordance with the precedents of the Senate that this amendment be moved as a request.

Senator Ian Macdonald: Mr Deputy President, I know I am not the brightest in this chamber but I have no idea what the amendment is because this has been guillotined through by the Labor Party and the Greens. I would again ask the Clerk to read the amendment that we are voting upon.

The DEPUTY PRESIDENT: Senator Macdonald, the last two requests you have made in that regard I have agreed to. There have been rulings in the past by Presidents that it is not required when the amendments have been circulated in the chamber. In this case the amendments were circulated at least two hours prior to us reaching the conclusion of the bills. So I will not ask the Clerk to read that question again.

Question put.

Senate divided. [22:43]

(The Deputy President—Senator Parry)

Ayes ......................2
Noes ......................62
Majority .................60

AYES

Madigan, JJ
Xenophon, N (teller)

NOES

Abetz, E
Adams, J (teller)
Arbib, MV
Back, CJ
Bernardi, C
Bilyk, CL
Bishop, TM  
Brown, CL  
Bushby, DC  
Carr, KJ  
Colbeck, R  
Conroy, SM  
Crossin, P  
Edwards, S  
Evans, C  
Faulkner, J  
Fecney, D  
Fisher, M  
Gallacher, AM  
Kroger, H  
Ludwig, JW  
Macdonald, ID  
Mason, B  
McKenzie, B  
Moore, CM  
Parry, S  
Pratt, LC  
Ronaldson, M  
Scullion, NG  
Siewert, R  
Singh, LM  
Sterle, G  
Urquhart, AE  
Williams, JR  

NOES  

Boswell, RLD  
Brown, RJ  
Cameron, DN  
Cash, MC  
Collins, JMA  
Cormann, M  
Di Natale, R  
Eggleston, A  
Farrell, D  
Fawcett, DJ  
Fifield, MP  
Furner, ML  
Hanson-Young, SC  
Ludlam, S  
Lundy, KA  
Marshall, GM  
McEwen, A  
Milne, C  
Nash, F  
Polley, H  
Rhiannon, L  
Ryan, SM  
Sherry, NJ  
Singh, LM  
Stephens, U  
Thistlethwaite, M  
Waters, LJ  
Wright, PL

Question negatived.

Third Reading

The DEPUTY PRESIDENT: The question now is that the remaining stages of the Crimes Legislation Amendment Bill (No. 2) 2011, the Aviation Transport Security Amendment (Air Cargo) Bill 2011, the Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011 and the Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011 be agreed to and the bills be now passed.

Senator Ian Macdonald: Mr Deputy President, pursuant to standing order 195, can I require that the question be read by the Clerk?

The DEPUTY PRESIDENT: Senator Macdonald, I think I clearly articulated the bills that we are about to vote on. The question has been read to the Senate.

Senator Ian Macdonald: Mr Deputy President, I do not want to be pedantic, but I am going to be. The standing order says: A senator may require the question to be read by the Clerk at any time during a debate, but not so as to interrupt a senator speaking.

The DEPUTY PRESIDENT: Clerk, I will ask you to read the question that I have just put to the Senate.

The Clerk: The question is that the remaining stages of the Crimes Legislation Amendment Bill (No. 2) 2011, the Aviation Transport Security Amendment (Air Cargo) Bill 2011, the Veterans' Affairs Legislation Amendment (Participants in British Nuclear Tests) Bill 2011 and the Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011 be agreed to and the bills be now passed.

Senator Ian Macdonald: And we are voting on all of these without one person speaking on them.

The DEPUTY PRESIDENT: Senator Macdonald, that is disorderly. The question is that the question read by the Clerk be agreed to.

Question agreed to.

Bills read a third time.

Adjournment

The DEPUTY PRESIDENT: Order! I propose the question:

That the Senate do now adjourn.

Cybersmart Networking

Senator BILYK (Tasmania) (22:51): Recently I had the pleasure of launching the ACMA's new Cybersmart Networking tool at St Aloysius Catholic College in Kingston, Tasmania. Cybersmart Networking is a new, innovative tool to provide students with
insights into the consequences of posting inappropriate information or images online.

I would like to thank the school, in particular its principal, Mrs Elaine Doran, for allowing the Huntingfield campus of St Aloysius to be used for the launch, and for the participation of staff and students in the activities. This modern, open-plan campus with its friendly staff and students was the perfect location to hold the launch.

I would also like to thank Maria Vassiliadis, Acting Executive Manager of the Safety and e-Education Branch of the ACMA, Sharon Trotter, Manager of Cybersafety Programs of the ACMA, and Graham Rodrick, Senior Adviser for Online Education and Strategy at the ACMA, as well as other staff from the ACMA, for their hard work in developing the Cybersmart Networking program, as well as their marvellous efforts in putting together the launch.

As the Chair of the Joint Select Committee on Cyber-Safety, I am a passionate advocate for cybersafety and for child safety more broadly. The digital world is an integral part of our lives and the lives of our children and teenagers. For the young, it provides a social lifeline and a world of knowledge and entertainment. Social networking in particular is the cornerstone of the social lives of many older children and teens as they make the transition from passive content consumers to active participants in the online world. As adults, we are aware of the potential risks and the need to help equip our children to manage those risks should they arise.

The ACMA’s 2009 ‘click and connect’ research indicated that children and teens think they know what these online risks are. However, it also indicated that many are not consistently adopting behaviours that will help them avoid these risks and keep them safe in the digital world. The Australian government, through the $128 million cybersafety plan, is committed to educating children and teens about the risks associated with the online environment. The new Cybersmart Networking program is targeted at 12- to 14-year-old students, educating them about safe social networking. It empowers students so that they can make informed decisions and deal appropriately with issues when using social networking platforms. This adds to the suite of interactive shared learning activities produced by the ACMA, including Cybersmart Detectives and Cybersmart Hero, as well as other educational resources including the Tagged DVD, Wise Up to IT, Let's Fight it Together, and Hector's World.

Cybersmart Networking uses interactive role play to identify issues in a simulated social-networking environment. Children work in teams, online and in real time. Each child plays a central role in the activity, uncovering clues and making suggestions about how a student might deal with the issues identified. Cybersmart guides respond to questions the students ask and help them through the activity. Guides include police, education, government and child welfare advocates who are experts in child safety. As the scenario unfolds, the children discuss the issues they encounter and ways of managing them. Supporting lesson plans provide follow-up activities with teachers, reinforcing what the students have learned. The activity is conducted in schools, and students participate with Cybersmart guides located remotely.

A total of 140 students from four schools participated in the launch of Cybersmart Networking. The schools were from Tasmania, the Northern Territory, Queensland and South Australia. These students from across the country were guided from a temporary headquarters set up at St Aloysius.
Senior Constable Russell Barratt and Sergeant Brett Saarinen of the Tasmania Police were two of the guides during the launch, responding to the students' questions and messages in real time. The students involved sent a total of 1,085 messages during the activity, with almost all messages answered by the Cybersmart guides. The students involved were genuinely engaged with the program, working in pairs to work through the problems.

I had the opportunity to talk to several pairs of students who were talking through the problems presented to them and were genuinely thinking about cybersafety issues. They loved the fact that they were learning in an interactive environment and were given the opportunity to think through the issues for themselves. They thought it was a much more effective way to learn about these issues than just being told what not to do when online. Teachers were impressed with how engaged the students were with the Cybersmart Networking activity.

The online world is an interactive one, and education about online dangers must also be interactive, mimicking the form of the online environment. The Cybersmart Networking program has been tailored so that students are provided with age-appropriate messages on how students can protect themselves online. Schools wishing to participate in the Cybersmart Networking program in 2012 can do so by filling in an online form at the Cybersmart website.

Cybersmart Networking builds upon the two previous interactive shared learning activities, Cybersmart Detectives and Cybersmart Hero, which have already had over 30,000 participants. Targeted to students aged 10 to 12 years old, Cybersmart Detectives addresses issues of online safety and grooming. It encourages young people to think before posting personal information online and to be wary about people they have only met online. The Cybersmart Detectives activity has recently been independently assessed by Edith Cowan University. Results show that there is clear evidence that this program is a very effective education tool. Feedback from education experts, psychologists and teachers shows this interactive format is highly effective in engaging students to process key learnings during the activity. Targeted to students aged 11 to 13 years old, Cybersmart Hero addresses the issue of cyberbullying and the responsibilities of those in the best position to influence cyberbullying—the bystanders. Over 30,000 students have now taken part in these interactive shared learning activities.

In September, I joined the Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy, ACMA Deputy Chair, Richard Bean, and more than 280 students, teachers and industry experts at the launch of the ACMA's new cybersafety film, Tagged. Tagged has been developed by the ACMA under the government's cybersafety plan. It tells the story of Kate, Jack, Raz and Em and dramatically illustrates how online actions can have real-world consequences. The story-line was developed in consultation with young people, ensuring that it is credible and resonates with the target audience of teens 14 years and older. It addresses contemporary online issues, including sexting, cyberbullying and protecting your digital reputation, in a format that students can relate to. Tagged is recommended for use with students aged 14 years and over and is available free of charge to all schools. Tagged is supported by lesson plans, incorporating realistic scenarios and activities, as well as character reflection interviews which further explore the themes presented in the film.

I have had the opportunity to talk to high-school students about the Tagged film. The
students who have viewed the film find it engaging, entertaining, relevant and relatable to issues they are currently facing. They are able to see themselves and their friends in the characters in the film. As one student told me, 'Tagged is cool.' Tagged complements a diverse range of resources aimed at informing, educating and empowering students. It can be ordered for free from the Cybersmart website. The film is accompanied by lesson plans, activities and character interviews for use in schools which promote positive online behaviour. The government's online resources to improve knowledge of online risks are being taken up by schools, students, parents and online professionals. In just over two years, over 360,000 participants have attended one of the ACMA's professional development and internet safety presentations, and the Cybersmart website which the minister launched two years ago has received well over one million visits. The Cybersmart site provides access to Kids Helpline for confidential online counselling and access to the government's Cybersafety Help Button. The help button provides practical information and tips on how to deal with cyberbullying, unwanted contact and offences or illegal content. A Cybersafety Help Button for Android smart phones is currently available free of charge from the Android market and will be available soon for the Windows Phone 7 and iPhone.

Cybersafety issues are becoming increasingly important for the children and teenagers of today. The tools provided by the ACMA are helping these children and teenagers to learn the risks that are inherent in online activity and teaching them how to stay safe online. The launch of the Cybersmart Networking program and the Tagged film are just two more tools in the arsenal of parents, teachers and schools to improve the safety of the online environment. I am proud that I can be involved with these programs.

Heath, Sister Eileen

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (23:01): Every now and then we meet a remarkable person that leaves a lasting impression, some for good. The person I want to speak of this evening is a person I met only once, and the impression left was good writ large. She was the exception to the proverb that says that only the good die young. Her maker gave her 105 years and 11 months on this earth. She devoted and dedicated her life to the service of others. This wonderful lady passed away one month ago today.

I met her on 9 August 2000, at a Senate committee hearing. She was 94 at the time, lucid, gentle yet firm; the only hint of ageing was the slight deficit in hearing. She was giving evidence to the Legal and Constitutional References Committee on the stolen generation report. She was given a scant five minutes to tell us about her 60 years of service to the Aboriginal people, which, might I add, was five minutes more than the royal commission into the so-called stolen generations afforded her. I speak of Sister Eileen Heath. Her evidence was important and full of insight in relation to the issue of the so-called stolen generation. On the removal of children, she said in part, and I quote from page 399 of the Hansard of that day:

It was never an arbitrary intention to cause hardship, but was considered to be in the interests and welfare of the child or children involved. There were other considerations not mentioned in the inquiry which should not have been ignored, quite apart from colour distinctions. These were not investigated so that the claim of stolen children might be given credence. The report given to the inquiry was one-sided … She later on said:

---

CHAMBER
… Bringing them home was inconclusive and ineffectual because it contained one-sided evidence only …

She also said about the removal:
It was not unjust. It would have been, in many cases, unjust to leave them in such situations as many of them were in.

The chair then asked about their removal because they were of mixed race. Sister Heath responded:
They were removed because they were in what was considered a very unsatisfactory environment. They were in an Aboriginal environment, not accepted by Aboriginal people. Their mothers were not accepted in many cases because their mothers had broken a tribal law. … so the mother was rejected and the child rejected.

As the Federal Court case of Gunner and Cubillo proved after the Bringing them home report, family oral history does not necessarily mesh in with the objective documentary evidence—evidence simply ignored by the royal commission.

Sister Eileen's story is told by Annette Roberts in an exceptionally well-written book called Sister Eileen—a Life with the Lid Off. Its 300 pages are full of stories of a woman who took a vow of poverty to live in very difficult physical circumstances to be of service to the most underprivileged. The many testaments to her Christian witness and character cover the pages. The stories of thankfulness for her efforts overflow in every chapter.

Just one example of her wisdom and influence is on page 61, where two children were fighting about whether one was black or not. This is Sister Eileen's response: 'You are black, and she's half black, and I'm white. None of us can help our colour. Fighting over it won't change us a bit. We've just got to accept the colour we are. All those flowers out there in my garden, they're all different colours, but if they were all just the one colour it wouldn't be half as nice.' On page 176 in the book, we see this said about the lady by Sonny Mori: 'I didn't know what an angel was, but this lady had a calming effect.'

As to the removal of children, Sister Eileen not only observed that which I have read out from the Hansard but also observed, in the book: 'That would never happen now. People these days are far more likely to say, "You won't take our children. We'll look after our children ourselves." Back then, however, things were different.' Reflecting on those times and the complexities of today's stolen generation debate, she maintains that some children simply had to be taken. If they had not been taken away, they would never have survived. Further on, in the epilogue of the book, at page 282, this is said: 'After the Bringing them home report she—Sister Eileen—'found herself a target for journalists, oral historians, academics and documentary makers, all keen to winkle out her experiences and thoughts on what had become an explosive issue—all, that is, except Sir Ronald Wilson, the author of the Bringing them home report.'

Although Eileen wrote a detailed submission to the inquiry, she was never called as a witness. That was a disgrace, a disgrace that the mainstream media refused to expose. Yet there is no doubt that, as historians reflect on this recent period of our history, the question will be asked: why was a life of 60 years dedicated to the Indigenous community not considered as providing at least a perspective, even if not a fundamentally important perspective?

The Bringing them home report falsely asserted genocide, a ludicrous and laughable proposition if only for the fact that Sister Eileen Heath must, by implication, be guilty of that alleged genocide. I know of no person in history guilty of genocide who took a vow to serve the alleged victims and of whom the
victims said she was an angel. As the dust cover of the book shows, Rosalie Kunoth-Monks, known as Jemada, said, 'Sister Eileen gave to people of mixed heritage and she did it in the most positive way, instilled into us that we were worth while and that we could do exactly what we wanted to do with our lives.' And there is the testament of Freda Glynn, who said, 'St Mary's was my saviour, and I want that to be in the book.' It is a disgrace and regrettable that the Bringing Them Home report deliberately refused to take these testimonies into account—sadly, I fear, in the name of political correctness.

My contribution tonight has been designed to honour a wonderful lady and her service and to try to straighten the record. Let me finish with the words of Sister Eileen spoken on 12 February 2002, which are also recorded in the book: 'White society has learned to acknowledge Aboriginal rights, worth and entitlement, but perhaps the greatest lesson all alike must learn when dealing with deep hurts is not to curse or nurse them or rehearse them but to reverse them. That is what forgiveness is all about, isn't it?' Those few healing words are so authentic, so authoritative, so calming, so dripping in values and common sense, and we got them all for free from Sister Eileen without the need for an expensive royal commission. Her legacy of good works and life of service speak so much louder than an expensive set of words through a royal commission. May Sister Eileen rest in peace. I for one salute her service.

Marine Conservation

Senator SIEWERT (Western Australia—Australian Greens Whip) (23:10): I rise tonight to speak about the marine bioregional planning process that is being undertaken around our great country. We are now at the final stages of one of the most comprehensive environmental assessment projects Australia has ever attempted: the development of five bioregional plans, to cover the south-west, the north-west, the north, the Coral Sea and the temperate east. This process has the potential to establish a national network of marine protected areas based on rigorous scientific analysis. Marine sanctuaries are the best tool we have to protect our marine environment. They protect fish stocks by increasing the size and number of fish, support fisheries management, build the resilience of marine ecosystems to impacts like climate change, and boost tourism and recreation as well as providing employment in tourism, research and sea country management.

This project is crucial because Australia is home to an amazing diversity of marine environments, yet less than one per cent of the five major bioregions is protected from threats such as oil and gas spills, seabed mining and trawling. Comprehensive surveys of the ecological values of the bioregions have been completed and draft maps of the proposed reserves have now been released for public comment. The objective of the bioregional planning process is to recognise that our oceans contain many iconic, ecologically important and fragile places that deserve protection, in exactly the same way as other precious environments, such as the Kakadu and Uluru, are protected by national parks. Yet, in each bioregion, the level of marine protection provided for in these draft plans does not even meet the minimum scientific standards. The size and connectivity of the marine parks in the drafts are woefully inadequate to address the challenges of overfishing, pollution and climate change or to provide a basic level of protection from the dual threats of mining and trawling.

I challenge the government to show greater courage and ambition by developing final marine reserve maps that provide a
substantially higher level of marine protection. It is a depressing state of affairs when mining and trawling—economic interests with easily quantifiable dollar figures—are registered by the government, while conservation values have to be repeatedly shown to be politically palatable and in the best interests of the country and its population. Nowhere demonstrates this better than the north-west, where oil and gas development has taken the highest priority, yet the impact of an oil spill could be ecologically and environmentally devastating. This is not worst-case scenario scaremongering either; Australians experienced the devastation of a spill just on two years ago when the Montara project spilled millions of litres of oil into the ocean off the Kimberley coast. Similarly, the whole world was fixated on the Deepwater Horizon spill in the Gulf of Mexico. In both cases, the responsible companies have been granted new licences and new opportunities to explore and mine and drill in our oceans. Indeed, the recent expansion in the number and size of the exploration licences in the north-west substantially reduces the opportunity to establish marine reserves, and it is disappointing that so many new exploration leases have been granted while the bioregional assessments are still taking place, including nine new licences announced just last Friday, in the middle of the public consultation period. This is a blatant effort to lock in oil and gas access around iconic places such as the precious Ningaloo marine area, Shark Bay and the Rowley Shoals—all areas that I am passionately committed to making sure that we have into the future—and it permanently excludes much of this region from even the possibility of a marine reserve. But I am glad to see that there is a growing awareness that conserving our marine environment also has tangible economic worth. Research by the Centre for Policy Development has helped establish the financial worth of our marine economy and the value of conserving it into the future. The CPD estimated that the value that is currently unrecognised in economic accounts was equivalent to $25 billion a year. In comparison, offshore gas and oil exploration and production are estimated to be worth $24 billion annually. The research has also highlighted that tourism accounts for one-quarter of the recognised value, at $11 billion a year, while commercial fishing accounts for only $2 billion. When set out this way, the economic imperatives of trawling and mining should no longer dominate the debate.

Because the EPBC Act requires the minister to consult the public on any draft plan, the public has the opportunity to demonstrate their support for and put in some comment on the levels of protection that have been proposed. So far, consultation has shown that Australians have a high level of interest in protecting their marine environment, with 39,000 submission being made on the south-west proposed reserves, overwhelmingly in favour of increased protection. I can only hope that this will be matched by a willingness from the minister and the government to be more ambitious when releasing the final maps for the south-west. I have fought long and hard for the marine environment in this area to get a level of protection. Similarly, I hope that the Australian people will continue to voice their desire for marine protection in the other bioregions and make submissions on the draft marine reserve plans.

Before I conclude, I would like to point out and acknowledge that there are a number of committed and passionate marine conservationists here in Parliament House this week. Together, they have prepared reports that assess the most important parts of Australia's oceans, including iconic
reports on the south-west, the north-west and the north bioregions. I encourage you all to look at those so as to better understand the amazing marine treasures that these bioregions have to offer.

Australia's ocean territory is the third largest on the planet and the richest in biodiversity, from the Perth Canyon in the south-west, where blue whales come to feed; to the humpback haven off the Kimberley coast; to the tropical waters of north-east Arnhem Land, which are dotted with sacred sites, endemic corals and colourful fish; to the Coral Sea, one of the last places on our blue planet where ocean giants such as whales, sharks, tuna, marlin and swordfish can still be found in big numbers; and to the Lord Howe seamount chain and rise, which supports important habits for sharks and sea birds in the temperate east. These icons show us what we stand to lose.

I hope that we can be more ambitious in our expectations and avoid the charges levelled by Dr Callum Roberts in his book *Unnatural History of the Sea* that 'those charged with looking after the sea set themselves unambitious management targets that simply attempt to arrest declines rather than rebuild to the richer and more productive states that existed in the past.' If we want to rebuild our marine life and ensure that it is retained into the future, only a full network of scientifically derived protected marine areas can deliver us this outcome. We have some of the most beautiful marine life on this planet. Australia has some of the most important biodiversity in marine environments in the world. We have a duty to protect them. It should be our honour to protect this most wonderful marine environment.

**Defence Industry**

*Senator GALLACHER (South Australia) (23:18):* Tonight, I take great pleasure in rising to speak about the defence sector in South Australia. Over the last couple of decades, South Australia has positioned itself as the defence procurement capital of Australia. The defence footprint in South Australia is substantial. There are over 25,000 direct and indirect employees and the industry turns over about $1.4 billion annually. This has had much to do with the South Australian government working with defence companies to set up facilities to provide the nation with exceptional defence procurements. Major companies have utilised South Australia's positioning by setting up their national headquarters in Adelaide. It is important to note that these companies are in close proximity to important defence facilities such as the Air Warfare Destroyer Systems Centre and RAAF Base Edinburgh, home of the 7RAR Battalion and significant numbers of Air Force personnel. More than 1,300 Defence Science and Technology Organisation scientists are based in South Australia. Then there is the Port Wakefield Proof and Experimental Test Range, the Woomera prohibited area and the Cultana training area.

On behalf of the great state of South Australia—and with a bit of indulgence—I say to many defence companies out there that South Australia is the right place for your business. I firmly believe that defence companies not investing in South Australia should consider doing so because of the high level of committed support that they are likely to receive from the state government. This was highlighted recently by Defence SA CEO Andrew Fletcher making clear that the state is working professionally in looking at facilities viable for the long term. This will be of benefit not only to the state but also to the nation by maximising the skilled workforce operating in state-of-the-art facilities while tapping into existing extensive supply chains.
The forward planning by the South Australian Labor government has enabled progress on a positive trajectory. Projections suggest that South Australia’s defence sector will directly and indirectly employ 30,000 workers by 2013-14, well above the strategic plan objectives of 28,000. The South Australian government has said that we must not stop there; that we must go further. In the strategic plan released in September of this year, one of the objectives highlighted is the employment of 37,000 people by 2020 by the defence sector directly and indirectly. The future growth will come from our strong foundation in delivering world class defence projects complemented by outstanding scientific research and education institutions which allow South Australia to be focused on the future.

The state government, Defence SA and the Defence SA advisory board, led by General Peter Cosgrove, are focused on manufacturing and the support of naval ship and submarine building, systems engineering, aerospace components and military vehicle support and manufacturing. Our future will be determined by greater efficiencies. The state government has put weight into these developments by investing in strategic infrastructure. I am sure that the Senate is well aware of Techport Australia, the nation’s leading ship-building precinct, which incorporates a common-user facility, a supplier precinct, a commercial precinct and an on-site maritime skills sector. I cannot forget to mention Technology Park Adelaide and the Edinburgh Defence Precinct, both of which are also vital facilities for our defence sector.

A recent article in the Adelaide Advertiser about Defence SA stated that it was considering creating a hub for manufacturing, integration and maintenance of military vehicles. This shows that Defence SA, the state Labor government and the defence companies are constantly looking at options that can provide long-term solutions for the defence of our nation.

Proudly speaking about the strong position that South Australia has attained, I cannot fail to mention the contracts that have been the very reason for our success. As they say, the past is the best judge of the future. Firstly, I would like to mention the assembling of the Collins class submarines. Multibillion-dollar support over the lifetime of the fleet is provided by ASC in South Australia. The current fleet of Collins class submarines will be replaced by 12 superior submarines, according to the 2009 defence white paper. Chapter 9 of that white paper says:

The Government has decided to acquire 12 new Future Submarines, to be assembled in South Australia. This will be a major design and construction program spanning three decades, and will be Australia's largest ever single defence project.

Indeed, there is no better place to build the future fleet than in South Australia. South Australia has the capability to assemble a new fleet and give lifetime support to the current and future fleet. Importantly, assembling the new submarines here will be more beneficial than buying the standard off-the-shelf submarines.

The Minister for Defence Materiel, Minister Clare, has also signed a memorandum of understanding with the former Premier of South Australia Mike Rann, setting land at Techport Australia’s common-user facility aside for the future submarine project. Minister Clare stated that Australia has a well-deserved reputation as a defence state. It is the home of the submarine maintenance and air warfare destroyer projects. It is also where the next generation of submarines will be assembled. This shows that we can utilise new facilities that will provide a competitive advantage for the
contractors assembling and maintaining our defence facilities. This agreement is another example of ex-Premier Rann thinking ahead. It is because of decisions like this that South Australia now punches above its weight when it comes to defence.

The air warfare destroyer is a prime example of the benefits South Australia has by having a central facility such as Techport Australia. The $8 billion project will result in direct spending in South Australia of about $2.3 billion, with much of the work taking place at Techport Australia at the ASC shipyard, AWD Systems Centre, Raytheon Australia's SA engineering centre, and through local suppliers for the steel fabrication of items like pipe work, ventilation trunking, combat systems equipment and a whole range of services to the project, according to Defence SA.

It is well understood that automotive manufacturing has been led by South Australia for many decades. But we often forget about our well-established military vehicle engineering and manufacturing expertise. This is also significantly boosted with our small to medium enterprises contributing with fabrication, production and maintenance capabilities. Over the last decade, South Australian companies have produced more military vehicles than any other state, which is a fantastic achievement for one of the smaller states of Australia.

There is good reason that South Australia continues to be a hub for military vehicle development. The M113AS4 armoured personnel carriers are being produced in South Australia, as is the Australian Light Armoured Vehicle, the ASLAV, and the through-life support of the ASLAV is ongoing. These two vehicles, produced by BAE Systems Australia and General Dynamics Land Systems Australia, are the nation's only two fighting-vehicle programs.

These two operations account for the employment of hundreds of South Australians, but this does not account for the many hundreds of jobs in key small and medium enterprises in the supply chains.

So South Australia's success is quite evident. I am confident that the current cooperation between the state government and the defence corporations will continue, as these initiatives are in the nation's best interests as well as South Australia's. Finally, I would like to congratulate all those who have been involved and have made South Australia the defence procurement capital of Australia.

Defence

Senator HUMPHRIES (Australian Capital Territory) (23:27): We live in a world of growing geopolitical complexity and we see changes around us everywhere, but we particularly see changes of great complexity taking place in our region: the rise of China and India as commercial and military powers; conflicts in Afghanistan, Iraq and Sri Lanka; fragile democracies emerging in East Timor and the Solomon Islands. All of this suggests that Australia needs to have a vigorous, robust and dynamic Australian Defence Force. At the heart of such a beast is the need for a well-planned, well-implemented defence procurement program, a program aligned with the strategic objectives of the nation, where those objectives have been identified through a robust and vigorous process.

In 2009 Labor claimed to have made an important step along the path towards this objective when it released its long-awaited defence white paper, to which Senator Gallacher has just referred. This was Labor's vision for the defence of Australia in the newly described 'Asia-Pacific century'—a grand plan for the future of Australia's defence capability. A feature of the 2009
white paper was the government's plan to create what it called Force 2030, the Australian Defence Force of the future: versatile, responsive and hard-hitting, truly a force for the future. The price tag that came with that new Force 2030 at the initial stage of this plan was somewhat unclear. Originally, in the white paper there were just two pages out of 130 indicating what the costs might be. The estimates initially appearing in reports in the media of $130 billion were, after some pressure from the opposition, supplanted by a much larger figure of something in the order of $275 billion. With such a monumental plan of strategic importance and with a time line of over 20 years, one would expect the government to be able to follow through very quickly and diligently on the parameters of this sort of plan. Indeed, even today I hear Senator Gallacher wax lyrical about what this plan means for Australian defence.

But in looking at the experience of this government with respect to implementation of other major grand plans—things like the pink batts program, laptops in schools, the school halls and so forth—one has to wonder just how well it is able to roll out the most grand of its grand plans, and there are few grander than Force 2030, the 2009 white paper. Labor is certainly going through the motions of visiting SAS troops, going to ships setting sail from docks in Australia to the Middle East, accepting new fighter jets that were ordered by the Howard government and disposing of old equipment prominently to the RSL and community organisations, but, when you look more closely at what this government is doing with respect to defence acquisition, cracks appear and the situation is somewhat less reassuring.

The problems of recent months with our amphibious fleet have been well documented. It is a gap that has now been partly plugged with the acquisition of HMAS Choules. The government has been forced to lease ships on a short-term basis to fill the capability gap that has opened up. Many of our submarines, in fact our submarines generally, are barely fit to go to sea, and the minister seems capable only of commissioning more reviews, which itself leads to further debates.

Senator Farrell: That is not true.

Senator HUMPHRIES: It is, Senator.

Senator Farrell: They are good ships; they are well made.

Senator HUMPHRIES: They might be well made but they are not going anywhere most of the time. They are sitting in the dry dock in Adelaide.

Our combat troops in Afghanistan have been coming apart at the seams, or at least their uniforms have, quite literally. Outcomes like this are not, with respect, 'getting it right' for defence procurement, which means ultimately a loss of defence capability.

Just two years into the 2009 white paper, the white paper itself is now hopelessly behind schedule, and some would argue it is unachievable and effectively redundant. Two key themes stand out to demonstrate Labor's incompetence in managing the defence portfolio: its failure to make the decisions necessary to keep Australia's procurement moving forward and its failure to properly support defence industry, a vital strategic partner for the defence acquisition program.

Since the 2009 white paper was released the Labor government has deferred up to $14 billion in procurements planned in the Defence Capability Plan. The rate of first and second pass project approvals has slowed dramatically, with only about $8 billion worth of projects being approved in the first three years of the Labor government, which is well behind what the white paper
requires. This contrasts with $25 billion worth of approvals in the last three years of the Howard government, including the Super Hornet fighters, which Labor only recently accepted the last of. In the two years leading up to June 2011, Labor made just 10 out of 29 major procurement approval decisions—29 planned and only 10 achieved. Paralysis such as this has consequences, and the government continues to fall further and further behind.

As if this is not bad enough in terms of meeting the expectations that have been created for a more effective Defence Force, we also have serious implications for defence industry. The defence acquisition budget for 2011-12 was $5.3 billion, but in 2012-13 this is reduced, in spite of this grand ambitious plan, to $4.5 billion—a 15 per cent reduction. Why? Because Labor is obsessively chasing savings in order to deliver its somewhat illusionary budget surplus of 2012-2013. We are yet to find out what the MYEFO of next week holds for the defence budget. It has already been signalled by the Minister for Defence that the department will experience further cuts at that time. As I said, there are implications for other parts of the economy. The defence industry in particular is a casualty of this sort of stop-start approach. Labor's failure to follow through on the plans outlined in the Defence Capability Plan is undermining trust, which affects investment, industry planning and jobs. In the last 12 months alone, as many as 1,500 jobs have been lost from the defence sector, and more people and resources are being redirected as we speak. Companies are being forced to carry significant cost while the government inexplicably delays making decisions.

This is not a problem with procurement systems or policies. It is simply a failure of government to make the hard decisions necessary to keep this system moving forward and to give people certainty. Small to medium enterprises suffer particularly in this regime. They do not have the capacity of the larger companies, some of which were mentioned by Senator Gallacher, to sustain long periods of paralysis on the part of government when it comes to defence decision making. We have already seen a number of small defence companies go bust in the last few years. That is extremely concerning when the government is trying to grow the sector. Other companies are simply leaving the industry or shutting down their Australian operations. I have spoken with representatives of a number of companies extremely concerned about the inability of the government to make key decisions. Without in-country capability and innovation, Australia will lose leverage and with it our industry and defence self-reliance. We need our domestic defence industry to maintain our capability edge—vital to a relatively small force such as Australia's.

We in the coalition are committed to reversing some of these dangerous trends of recent years. For example, we saw in 2009 then Prime Minister Rudd—perhaps in the future Prime Minister Rudd—inexplicably cancelling Australia's participation in the Broad Area Maritime Surveillance, BAMS, program, costing Australia $100 million. But now the government has bought back into this program, having realised that this is indeed an important tool to ensure a more effective Defence Force. The litany of failure to make decisions is particularly of great concern. We can do better and, in particular, we need to do better if we expect the Australian defence industry to step up to the mark and produce good-quality products which are competitive and produce value for money for the Australian taxpayer.
Tonight I wish to speak about Rob Chalmers, who died on 27 July this year, aged 82. At the time of his death, Rob was, by many years, the longest-serving member of the Canberra press gallery. When Rob walked for the first time into the press gallery at Old Parliament House, Ben Chifley and Robert Menzies faced each other across the chamber. Behind Chifley, on the opposition benches, sat Doc Evatt, Eddie Ward and Arthur Calwell. Behind Menzies, on the government side, were Jack McEwen, Earle Page and Harold Holt. Up on the back benches was 89-year-old Billy Hughes, first elected to the House of Representatives before federal parliament had ever sat. They are names from a bygone era. But, for 60 years of continuous membership of the gallery, Rob was a living link from that generation to this.

If the Canberra press gallery is an institution, Rob Chalmers was an institution of that institution. He saw both the longest continual period of Liberal government and the longest continual period of Labor government. He interviewed Billy Hughes on Hughes's 90th birthday, only to have the ageing Little Digger demand to edit Rob's copy and then furiously—and mystifyingly—complain, 'You wouldn't have done this to that bastard Menzies.' Rob was there when Fitzpatrick and Browne were brought before the bar of the House of Representatives and sentenced to three months jail by the parliament, without any charge against them, without a right of appeal and without a lawyer. Rob was in the throng of journalists waiting outside the coalition party room to see who would become Prime Minister after Harold Holt's disappearance in rough seas off Cheviot Beach, near Portsea. Rob was in the non-members' dining room on 11 November 1975, when an ashen-faced ministerial press secretary rushed in with the news that the Whitlam government had been dismissed by Kerr—news immediately rejected as 'bullshit' by the experienced journalists at the table. When finally convinced, Rob rushed outside to see Gough Whitlam exhort the crowd to maintain their rage and enthusiasm.

Yesterday, I had the honour of launching Rob's book, Inside the Canberra Press Gallery: Life in the Wedding Cake of Old Parliament House, which he finished writing just weeks before his death. He writes not only about past leaders and politicians but about journalists and commentators, press secretaries and staff who most Australians would know only as names on a by-line, if at all. Max Newton, from the Sydney Morning Herald, was not just 'a first-class economist' but also 'raucous, witty, gap-toothed and a heavy drinker'. Hugh Dash, press secretary to Robert Menzies, was 'much liked as a companion' but was 'of no help and seemed without any knowledge of what the government was doing'. Rob reports that 'The Dasher', although a very heavy drinker, was never under the weather. A bottle of beer for breakfast, a double gin for morning tea and four middies for lunch. We are left to ponder his consumption in the afternoon, evening, and night.

One veteran, Jack Comans, the ABC bureau chief, was able to give a tyro in the gallery an 'invaluable tip': 'There are a lot of pisspots around here. Stick to beer and you'll be all right.' Rob also names the Labor senator of the 1960s who, in a 'spectacular drunken performance', chundered in the desk drawer of a government senator during a division. But, in the interests of balance, he also names the highly intoxicated Liberal cabinet minister whose behaviour in the chamber one evening led his colleagues to claim that he was only suffering from a bad back but who Gough Whitlam nailed with
the immortal words, 'It's what he's put in his guts that's rooted him.'

Rob's career spanned the introduction of faxes, mobile phones, personal computers, videotape, digital recording, hand-held recording devices, hand-held video cameras, email, the World Wide Web, Twitter, Facebook, Google and, that favourite source of a few time-pressed journalists, Wikipedia. Rob's own bravery in facing his last months is beyond question. But beyond question too was his lifelong commitment to holding the government of the day accountable and the humanity and generosity of spirit with which he did so.

For well over 30 years he did this through his newsletter, Inside Canberra, which was as much an institution of Parliament House as Rob himself and a must-read for all of us: never afraid to tell it straight, often very sharp and never cruel. The Prime Minister described Rob correctly as 'a journo's journo: shrewd, independent and authoritative'. As the Leader of the Opposition said, he was 'the father of the Press Gallery and an absolute phenomenon of political journalism'. I can assure the Senate that Rob's book Inside the Canberra Press Gallery is also true to his independent character and shrewd, assessing mind, and it is a fitting tribute to his remarkable career.

We are lucky that at the end of his life, through his book, he has shared with us so many of his experiences. It will be a lasting record of a time past and an extraordinary life.

The order of service for the celebration of Rob's life said this:

Rob was a gentle man with old-fashioned manners and a ready grasp of history without ever being nostalgic. He believed the pen, typewriter and keyboard to be mighty - wielding them prolifically and unrelentingly for his record 60 years in the centre of Australia's fourth estate.

He was supported in his achievements by Lesley, Jenny and Gloria. Gloria was his first and last love.

His family and friends gather today to commemorate his long, full life, and lay him to rest after his many years of service to the demanding discipline of political journalism. Like so many in this building, I miss him.

**Carbon Pricing**

**Senator McKENZIE** (Victoria) (23:46):
Tonight I stand here to make some additions to my remarks made a fortnight ago on the Clean Energy Bill. The passing of this insidious carbon tax was a very sad day for our nation, as we go it alone with a policy which is all economic pain for no environmental gain. Next week, environmental leaders from across the world are preparing to meet in the South African city of Durban for the next round of UN climate change negotiations. It is an obvious fact that Australia is way out in front of international opinion on the issue, so nothing we do will make any discernible difference to the world's climate. Last week, President Obama confirmed beyond any shadow of a doubt that the United States will not have a carbon price in place anytime soon—nor will India, nor will China. We rush to Durban to convince everybody to get on board with what we imposed on our economy and on our nation two weeks ago. President Obama also confirmed that the United States will not be a part of a global carbon trading scheme anywhere near 2016.

The government owes it to the Australian people to redo the carbon tax modelling. We have heard time and time again, in question time in this place, people—in particular, my colleague Senator Boswell—passionately advocating and seeking not just the modelling but also the assumptions that the modelling is based on. The rest of the world are walking away from imposing a carbon tax on their economies in these uncertain
times. We saw what happened in Copenhagen. We are seeing the Kyoto protocol being abandoned by powers and big emitters. We have read in Europe's leading news magazine, Der Spiegel, about the death throes of the Kyoto protocol. 'There is little prospect that next week's climate summit in Durban will produce an emissions reduction agreement,' according to that magazine. If this is the case—and all evidence points to this outcome—then the only reason can be that this was the price of government.

The passage of the carbon tax through the Senate is a betrayal of the Australian people by the federal Labor government and the Greens. While the Labor government and the Greens continue their partying, I doubt that Victorian families, particularly small business families in the regions, will be joining in the celebrations. Small business and regional Australians will be the hardest hit by this tax, and I doubt that they were rejoicing last week or will be rejoicing going forward into Durban.

As the daughter of a small business owner and operator, I am particularly interested in how small businesses will be impacted by the tax. I went to the government's own document, Securing a Clean Energy Future, and on page 58 I was very, very buoyed to find an entire section on the support for small business. Fantastic. It is going to be okay. I was heartened. I directly quote from that section:

When it comes to indirect impacts, most small businesses will not be materially affected—and here is the clincher—

Nevertheless, many small businesses may wish to make a contribution towards the move to a clean energy future.

Fantastic. There is very little impact by the sound of it. But you can make a contribution—it is sort of like a tithe, not a tax—to a clean energy future. The Victorian government did some modelling on carbon tax, and I am not sure that small businesses in the regions will be celebrating. I am not sure that small businesses in the regions will be keen on making the type of contribution towards a clean energy future that the government has in mind for them, with increased electricity costs and transport issues after 2014.

I would like to quote a couple of examples from that modelling by the Victorian government, which I have spoken about before. The contribution that dairy farmers will make will be upwards of $6,000 per year on their electricity bills; a pizza shop will be close to $1,000; a hairdresser will be the same; a country pub will be a little less than $1,000. This will be their contribution to a clean energy future. Fantastic. I would also like to pick up on something that Senator Williams mentioned today in question time, which is that the abattoirs out in the regions will have high electricity costs with, let us face it, very little opportunity to find a less carbon intensive way to go about their core business every day. So, essentially, I think what we find is that this government does not understand small business. We know that.

Page 58 of the government's document further confirms the fact that, whilst they are making the assurances that I mentioned earlier regarding the nonimpact of the carbon tax on small businesses, they go on to confirm the actual release of $40 million in a grant program that will assist small business to manage the impacts. So there are not going to be any impacts, but here is some money just in case there are. Again, there will be extra costs to small businesses: time wasting with filling the forms out; increased electricity prices; and, for those of us in the regions, the increased burden of transport after 2014.
After only 26 hours of debate in the Senate the government put an end to it and rammed this unpopular legislation through the parliament. There were only 26 hours to debate the sum total of 17 bills—17 pieces of legislation that stood half a metre high on my desk; 17 bills that would have taken me a month of Sundays to read, absorb and understand, let alone for the Senate to debate, analyse and give full scrutiny; 17 bills that will severely impact our economy and communities.

In last week’s Bendigo Advertiser, the ALP member for Bendigo, Steve Gibbons, agreed that the legislation was a modest start to deal with climate change, a lot of economic pain for not a lot of environmental gain—and the member for Bendigo agrees. Mr Martin Feil is an economist with national and international credentials and is an expert on Productivity Commission reports. He has published extensively and writes regularly for national newspapers and is on the ABC website. Writing in the Australian earlier this month—and I am glad Senator Conroy is not here to interject on anything that is quoted from the Australian—Mr Feil told us that not one country is moving to implement an economy-wide carbon tax as Australia is doing. This tax will impact on every aspect of our economy. We are going it alone. The carbon tax was a debt paid by the Labor Party to Bob Brown, and he will be the town crier in Durban, the lone wolf, seeking a pack. Current CO2 reduction agreements under Kyoto expire at the end of 2012 and there is enormous resistance to new targets.

The Prime Minister is fond of saying that the coalition is on the 'wrong side of history' on the question of this carbon tax. But we are now isolated in the world. Our economy will be enfeebled. Manufacturing exports will be unable to compete, and the only historical question senators will ask in the years to come is: 'Why did we let a Greens minority make her do it?'

National Museum of Australia: Forgotten Australians

Senator MOORE (Queensland) (23:54):

Two years ago in this place the then Prime Minister, Kevin Rudd, made an incredibly important statement to the people of Australia. He made an apology to the people that we knew up until that day as the forgotten Australians. In that statement he said:

I offer you this profound apology. To apologise for the pain that has been caused. To apologise for the failure to offer proper care. To apologise for those who have gone before us and ignored your cries for help. Because children, it seems, were not to be believed. Only those in authority, it seems, were the ones to be believed. To apologise for denying you basic life opportunities, including so often a decent education. To apologise also, for just how long it has taken for the Australian government to say sorry—so many Senate reports, nearly a decade of deliberation, and a unanimous recommendation that the Commonwealth apologise. And finally we do so today.

For the hundreds of people who came to share in that apology, for all the people who were watching it, listening, waiting, many of us crying, that was a very important moment. Mr Rudd then went on to say:

It is important that this not be regarded as a single point in history. Our view is that it would be helpful for the nation, however painful, to properly record your experiences, where you deem that to be appropriate. This can assist the nation to learn from your experiences. As a result, the Australian government is supporting projects with both the National Library and the National Museum which will provide future generations with a solemn reminder of the past. To ensure not only that your experiences are heard, but also that they will never ever be forgotten.

Last week, two years after the initial apology, at the National Museum the exhibit
was opened which fulfils that promise. I particularly want to thank Dr Mike Pickering, Dr Jay Arthur and Dr Adele Chynoweth, who created an exhibition which now is in our museum called *Inside: Life in Children's Homes and Institutions*. This is not an easy place to go. This is not a calm, light afternoon's entertainment. When you go into this exhibition—and I urge people to go and see this exhibition—you are drawn into a world which many of us in this Senate heard about during the Senate inquiries. But the way they present it at the National Museum is that you go into quite a darkened place and you wander through and see stories of people who actually lived the life in institutions. They share with us their pain and their sudden laughter, too, because what we heard was that people also could make their own fun. But it is a reminder to all of us of this shameful period in our history which we need to acknowledge. We need to continually respond and to assure people that now, as the Prime Minister said, they are believed.

A number of things came to mind as I wandered through. I spent several hours there and I hope to go back. I will mention some of the exhibits which remind us so much. There is one there that says, 'I am 82 years old and these memories remain clear. What happened to our childhood?' There is a clear statement as you go in that restates the words on the gates of one of the children's homes. As you walk through you go past the beautiful memories quilt that was created a couple of years ago, made out of handkerchiefs with people's stories and names embroidered. A film replays the apology and filmed versions of the impact the apology had. My friend Leonie Sheedy, who works with CLAN, and many of the other members of CLAN are there on film talking about their stories.

As you walk through there are wonderful photographs that have been given by the people to share their experiences and to help show such a poignant part of our history. One of my particular favourites is from Colleen from Queensland, who was actually at the infamous orphanage at Neerkol outside Rockhampton. Colleen told me she had got a special frock for the opening because she was so proud and excited to be there. She told me about how she gathered together her memories. Hanging in the exhibit is a scarf which Colleen had, and it was clear that when she was at that orphanage she had her scarf. She was No. 11.

We hear about individuals losing their individual nature as they were caught up in the institutions. Kerry, who was in one of the homes, said, 'In institutions the person is lost. The child is lost.' Who was Kerry? What colours did she like? Who was that person? You move forward and see the loss of childhood, the loss of opportunity.

There is a small teddy bear which is being featured on the promotional material for this exhibit. The story of the teddy bear is that young children did not have individual toys. They were not given those things. In fact, if toys were provided they were kept away and only brought out when there were visitors present, to give the image of a happy, peaceful society in the homes. It is an irony that the teddy bear that is featured and had been provided to the children's home had been made by Pentridge prisoners. In one form of institution goods were being made that were given to people who were living out their young lives in another form of institution.

Pamella's story, and Pamella gave evidence at all the inquiries and now remains active in support groups, is in the exhibition. It talks about when she was taken to the home her personal belongings were taken.
from her—a doll and some other personal belongings. Many years later, her sister recreated those gifts and gave them back to her as a middle-aged woman. She was telling us that the impact of seeing these clear mementos of what she had had and then had lost was so important to her.

My friend Juanita Barr, from Queensland, gives us such pleasure at all our commemorative days. Her beautiful, poignant voice sings the signature song *Nobody Knows the Trouble I've Seen*. As you wander through the beautifully curated museum, the way it has been presented makes you feel as though you can hear the voices around you. You are wandering around reading the stories and seeing the exhibits and you feel as though you can hear children's voices. It is very effectively done. What must be remembered is that at the time those children did not have a voice. Now, with history, we are able to ensure that we will not forget that they had those experiences.

As I said before, one of the most frustrating elements is that we did not know. The wider community was unaware of what was happening. One of the exhibits is a collection box. Many of the homes had charity drives to raise money to keep them going. As I said when I spoke about one of the stolen generation-forgotten Australians reports, what stayed with me was that at the same time as I was going to schools in the Queensland system my mother was involved, as many people were, in active fundraising activities to give money to the homes that were there. None of us knew what was going on behind those large gates, and I sometimes wonder. If my mother had ever known, I think there would have been some changes in the history at the time.

At the time when we brought forward the reports, there were many calls for what was going to happen next. In opening the exhibition last week, Minister Macklin was able to talk about further action that the government has taken with the Find and Connect Service, with support and through engaging people in where we go next. This is an ongoing process. The fact that we had the apology, the fact that now we have the National Museum exhibits—and the National Library work—are important steps along the way. But we have an ongoing responsibility to these people to ensure that they have the services that they need as they continue to struggle with the impact of the time they had under state care, under charity care and in institutions. Minister Macklin also said that this exhibit was actually called for by the CLAN group during the process we had. I clearly remember this evidence and I want to end with this. CLAN said that they wanted to have the National Library and the national history processes, and they went on to say:

Let our histories be visible.
Get the dinosaurs out of the Australian museum ... and dedicate it to orphanages and children.
As I have said, the forgotten Australians will not be forgotten anymore.

**Wednesday, 23 November 2011**

**Address by the President of the United States of America**

The DEPUTY PRESIDENT (00:04): Senator Crossin, are you seeking leave to make a 20-minute contribution?

Senator CROSSIN (Northern Territory) (00:04): Yes, that is correct. Thank you very much for that reminder.

The DEPUTY PRESIDENT: There being no objection, leave is granted.

Senator CROSSIN: Last week, President Barack Obama said of his visit to the Northern Territory:
I thank the people of Darwin for the incredibly warm welcome. And I’m proud to be the first US President ever to visit the Northern Territory.

Last week was indeed a historical week not only for Australia but most definitely for the Northern Territory and Darwin.

Starting in Canberra, the visit of the President of the United States on 16 and 17 November has produced great gains for Australia. Prime Minister Julia Gillard and President Barack Obama met on 16 November here in Canberra and announced a series of initiatives to expand and deepen cooperation between Australia and the United States. These partnerships include new initiatives in education, teacher quality and school improvement; a partnership between the two countries to address global development challenges and to improve reading outcomes for 100 million children in primary schools by 2015; new cooperation and enhanced collaboration on best practices for promoting energy efficiency and more; and a memorandum of understanding on enhancing cooperation on, and preventing and combating, crime.

Of course, Territorians were incredibly proud to host the President of the United States in Darwin last Thursday, especially since he personally bothered to come and make two specific announcements that related to Northern Australia. He announced, along with the Prime Minister, that Australia will welcome the deployment of US marines to Darwin and Northern Australia, for around six months at a time, where they will conduct exercises and training on a rotational basis with the Australian Defence Force in the Northern Territory. The initial deployment will consist of a small liaison element and a company of 250 US marines. The intent in the coming years is to establish a rotational presence of up to 2½ thousand persons in a marine air ground task force. The second component consists of greater access by US military aircraft to the Royal Australian Air Force facilities in the north.

So what we see are two initiatives that in fact make the alliance between the US and Australia stronger. This reflects the fact that we now live in a region that is changing. It is changing through growth in its economy, but it also needs to have stability as a permanent presence. Along with the US, we will posture to better respond together to any regional contingency, dealing with humanitarian assistance or any natural disasters in the region.

The President’s visit to Darwin last week began with a service at the USS Peary memorial on the Esplanade to pay respects to the victims and survivors of the ships that were sunk by Japanese dive-bombers on 19 February 1942 and to acknowledge the day that the Second World War came to our soil. People need to appreciate that every year in Darwin the Australian American Association of the Northern Territory hold a memorial service on that day. I particularly want to pay tribute to Rick Setter, the former Speaker of the Legislative Assembly of the Northern Territory, who chairs that group and so ably coordinates and conducts that memorial service each year.

As we know, and as the Australian War Memorial notes, 19 February 1942 was the day Darwin was bombed. Japanese fighters and bombers attacked the port and shipping in the harbour twice during the day. They killed 252 allied service personnel and civilians. On 3 March, Broome in Western Australia was strafed. In succeeding months, air attacks were made on many towns in Northern Australia, including Wyndham, Port Hedland and Derby in Western Australia; Darwin and Katherine in the Northern Territory; Townsville and Mossman in Queensland; and even Horn Island in the Torres Strait. Despite popular
fears, these raids were not the precursor to an invasion. In fact, they were conducted whilst the Japanese invasion of East and West Timor was underway on the same day. However, the raids did serve to interrupt the use of Darwin's port facilities and also tied up antiaircraft defences and Air Force units that would have otherwise been sent to more forward areas.

The Japanese air raids on Darwin on 19 February collectively involved over 260 enemy aircraft. Subsequent raids in April, June, July and November of that year and the following March, in 1943, were carried out with forces of 30 to 40 fighters and bombers. The 64th and last air raid on Darwin occurred on 12 November 1943. In total there were 97 air attacks on Northern Australia, and enemy air reconnaissance over the region continued through much of 1944. Recognition of all these attacks has previously been included in the national recognition of the Battle for Australia Day, which is commemorated in September. On 9 February this year, in the lead-up to the 69th anniversary of the bombing of Darwin, I spoke in this chamber about the need for us to nationally commemorate the bombing of Northern Australia, including the first and largest devastating attack on Darwin that occurred on 19 February 1942. On that day in February this year I said that the commemoration of the Darwin bombings is:

... not intended to rival Anzac Day, is not intended to complement and augment these services, because they each tell a particular and special story about Australia's military history—about our survival and the efforts of our defence forces and civilians to maintain and protect the democracy that we so value. But this time it was on our own soil, our very own turf. It is time that this nation recognised that in a national day of commemoration.

So I am now proud to say that, as a result of the announcement last week, we have actually achieved this national recognition. The Prime Minister announced on 18 November that the government intends to recommend to the Governor-General that 19 February be proclaimed as the Bombing of Darwin Day to ensure that the attacks across Australia's north are appropriately remembered and commemorated each and every year into the future and that a day of remembrance on 19 February will ensure that the hundreds of lives lost in those dark months of the Second World War are never forgotten, whether in Darwin or in any of the other communities that were hit across Australia's north. I want to thank the Prime Minister for her support on this important day for the Northern Territory and the nation.

I also want to acknowledge the contribution of my colleague the Minister for Veterans' Affairs and federal member for Lingiari, the Hon. Warren Snowdon, who was instrumental in ensuring that the importance of the bombings in Northern Australia is appropriately commemorated. In fact, just today, Mr Snowdon congratulated Canberra student Alexandra McKinnon for her entry in the In War and Peace category in the 2011 National History Challenge, which requires students to demonstrate an understanding and appreciation of Australia's wartime heritage. Minister Snowdon said that Ms McKinnon's essay examined how the bombing of Darwin was a defining moment in Australia's history and the resonating effects it had on our country during and following the Second World War. It is pleasing to see young Australians show an interest in our wartime history and, in particular, the bombing of Darwin, when the Second World War arrived on Australian shores.

At the USS Peary Memorial in Darwin last week, the American President met with local Darwin residents, some of whom lost
family members on that day. The date 19 February 1942 also marks the day that Portuguese East Timor and Dutch West Timor were invaded by the Japanese military forces. Almost 70 years later, we have a very close relationship with the now independent Timor Leste, the Republic of Indonesia and, of course, the Japanese. Darwin and the Northern Territory stand at the crossroads with Asia. While we maintain the recognition of our history, we are also eager and willing to embrace and cherish our regional relationships as we continue to do our part to build a peaceful and prosperous region for all our neighbours. From the USS Peary Memorial last week, on our grand esplanade, the President and the Prime Minister and some of us following, I might say quite proudly, moved to the Darwin RAAF Base, where, with the troops and guests, they experienced an afternoon which I am sure nobody who was there will ever forget. The successful delivery of such a significant visit, watched by the entire country and the world at large through an army of media, does not happen without the hard work and support of those on the ground. This evening I want to unfold for people who are perhaps listening just how many people are involved in an event like that which took place last week. I extend my personal thanks and admiration to the individuals of the ADF and the Northern Territory government, and in particular I want to praise the efforts of the Northern Territory Police and emergency services and other individuals and organisations that made the visit such an outstanding success.

There was a welcome to country by Bill Risk, from the Larakia nation, and people experienced wonderful entertainment from Jessica Mauboy, Gurrumul Yunupingu and the Army bands that played through the afternoon. Our Navy, Army and Air Force committed everyone available to work on the event, which ensured that not only was everything exceptionally well organised but there was also a rousing event at the RAAF Base Darwin hangar, with approximately 2,000 troops, including some US Marines.

The senior Defence officer in the Northern Territory, commander of Northern Command, Air Commodore Ken Watson, is to be commended for his exceptional leadership of what was a complex and detailed operation. He was ably assisted by his staff at Larrakeyah, including Lieutenant Commander Phillipa Hay, Major Hywel Evans and Lieutenant Commander Tom Lewis—all of whom worked with Miss Kelly Cooper, the regional manager of the Communications and Media Branch, to jointly coordinate the multitude of protocol and media demands.

Of course, the three armed services provided the people and equipment. In order of seniority I want to acknowledge them. The Navy provided about 100 Navy personnel to the RAAF base reception event. To the Army, my thanks to Brigadier Fergus McFarlane AM ADC, the Commander of the 1st Brigade, for their mounting of a security task group commanded by Lieutenant Colonel Andrew Forbes, with approximately 200 soldiers from the 5th Battalion, Royal Australian Regiment and the 1st Combat Engineer Regiment. The task group worked in conjunction with the Northern Territory Police Force to provide route clearance and security tasks throughout the President's visit to Darwin.

All the units of the 1st Brigade provided assistance in the set-up and coordination of the RAAF Darwin event. Private Dominic Mead, from the 5th Battalion, Royal Australian Regiment, had the opportunity to meet the President privately as part of a select person 'clutch' group who met the President prior to his announcement to the main group. Private Mead was particularly
selected for this opportunity, as he was wounded in Afghanistan during the recent 1st Brigade deployment and he continues to be a model soldier in 1st Brigade. Approximately 1,350 members of the 1st Brigade attended the event at RAAF Darwin. The 1st Brigade provided the bulk of the troops for the hangar events and also essential security posts to ensure the security of the cavalcade route. As always we had outstanding service from our soldiers, many of whom have been on much more dangerous security missions overseas.

Finally, I turn to the RAAF. The President's event at the RAAF hangar was truly great. As well as hosting the event, the RAAF had 180 personnel in the hangar and an additional 110 on duty at various locations around the base. I want to acknowledge the commanding officer of 13 Squadron, Wing Commander Robert Graham, and his team, as they did an outstanding job in dealing with the requirements of the federal team and bringing local agencies together; Flight Lieutenant Jodie Dell, as base security officer at 13 Squadron; the Mechanical Equipment Operational Maintenance Squadron; the drivers and the media ushers from the Defence Support Group; the Air Movements staff; all the staff involved in the arrival and departure of the VIP aircraft and those making arrangements for refuelling and re-victualling of the aircraft. The MC for the event was the charming Wing Commander Desiree Watson, a logistics officer at the Northern Joint Logistics Unit, and I congratulate her for a job done extremely well.

Thank you also for the support from Canberra, including Squadron Leader John McCourt, Lieutenant Peter Croce, and for the support from our colleagues in the Department of Prime Minister and Cabinet. In particular I want to thank John Preston from that department and the people and personnel from the US embassy. Finally, I want to pay a very sincere tribute to Northern Territory Police, Fire and Emergency Services. There is no doubt that when people in Darwin are put under pressure they rise well above the challenge. The security operation in Darwin was the largest event ever conducted by the Northern Territory Police and it took several weeks to plan and execute. My since thanks go to the NT Police Commissioner, Mr John McRoberts, and his outstanding officers. The security operation involved more than 400 officers, including approximately 200 from interstate, and was well supported by other government departments and by, as mentioned, the troops from 1st Brigade. Thanks must go to the Northern Territory community, who tolerated the inconvenience that the visit caused. The road closures were the only way we could effectively conduct such a high-security operation. I want people to know that there were actually hundreds and hundreds of people who lined the streets of Darwin just to get a glimpse of the President and the motorcade. They were so excited that he was in town. Everyone's patience was appreciated. There have been some that have argued that there was little or no threat to the US President whilst in Darwin. While this might be true, the security operation for the President has to be replicated wherever he goes. You cannot ramp it up or wind it down depending on a locality, as experience tells us that this is when mistakes can be made. So well done and thank you to all of our security officers—federal, territory and those from other states that gave us a hand—and to our local authorities and security companies that combined, in a wonderful team effort, to provide the level of professionalism that was expected of our great institutions and businesses. I know it was a massive team effort in the two weeks leading up to the day
and particularly during that amazing 24 hours. Again, well done to those involved.

In conclusion, I think it is appropriate to leave the last words to the latest Northern Territory convert: the President of the United States. He said:

God bless the great alliance between our two peoples. We are two Pacific nations and with my visit to the region I am making it clear that the United States is stepping up its commitment to the entire Asia Pacific.

In this work we're deeply grateful for our alliance with Australia and the leadership role that it plays, as it has been for six decades. Our alliance is going to be indispensable to our shared future.

About Darwin and the Northern Territory he said:

So, we're deepening our alliance— and this is the perfect place to do it. I know the training conditions around here are tough— at least that’s what I’ve heard. Big, open spaces … harsh weather … mozzies … snakes … crocs.

On behalf of the Northern Territory—and I am sure the Northern Territory's Chief Minister, Paul Henderson would also agree—I say we look forward to the President's return to the territory, as he promised when he said, 'Darwin, I'll be back with my wife and kids.' So we look forward to that day and I promise that we will show him and his family a great territory experience—and that will be without any need for the crocodile insurance that was gifted to him.

**Member for Dobell**

**The DEPUTY PRESIDENT:** Senator Fierravanti-Wells, are you seeking leave to make a 20-minute contribution?

**Senator FIERRAVANTI-WELLS** (New South Wales) (00:23): I am, Mr Deputy President.

**The DEPUTY PRESIDENT:** There being no objection, leave is granted.

---

**Senator FIERRAVANTI-WELLS:** Thank you, Mr Deputy President. On the last occasion I spoke about the member for Dobell, I was referring to his latest transgressions. On 8 November I focused on his activities regarding Coastal Voice. I placed on the record some important evidence given to the New South Wales Legislative Council General Purpose Standing Committee No. 5 on 27 October by New South Wales Fair Trading officers regarding Coastal Voice. I concluded my remarks by posing two important questions. Firstly, how did an organisation like Coastal Voice, which had no bank account, no records and produced no financial returns, manage to print and distribute widely a number of glossy brochures promoting Craig Thomson and criticising the then incumbent Liberal MPs? It is hoped that the current inquiries by New South Wales and Victorian police will shed light on what appears to be further misappropriation of HSU funds in relation to Coastal Voice. And, secondly, Mr Thomson has recently provided a statutory declaration to New South Wales Fair Trading. Why did it take so long for him to provide information on Coastal Voice? Given Mr Thomson's track record with the truth, one must question whether all assertions in his statutory declaration are true. Part 4, section 25, of the Oaths Act New South Wales provides, for false declarations, that:

... any person who wilfully and corruptly makes and subscribes any such declaration, knowing the same to be untrue in any material particular, shall be guilty of an indictable offence and liable to imprisonment for 5 years.

I advise the Senate that I am formally pursuing these matters.

I now turn to the mounting evidence against both the member for Dobell and Mr Michael Williamson. In an article in the *Weekend Australian* on 12 November
entitled 'Police tighten net in union graft probe', it states:

NSW police are homing in on alleged corruption in the Health Services Union, demanding it provide documents including those related to the activities of union boss Michael Williamson and former HSU official and now Labor MP Craig Thomson.

The article refers to the request made by New South Wales police to the HSU for 'a wish list seeking everything but the kitchen sink'.

One hopes that the acting general secretary, Mr Peter Mylan, will be forthcoming in his assistance to Strike Force Carnarvon. Given the matters I raised on 20 September in this place and the dubious connection with United Edge, of which Mr Williamson is a director, I have my doubts about Mr Mylan's cooperation. United Edge operates out of the HSU East offices in Pitt Street but pays no rent. Mr Mylan, a fellow director with Mr Williamson on the First State Super board, approved a major IT contract that went to United Edge without going to tender and for which HSU members forked out twice for software systems. I hope that Mr Mylan's protestations of assistance to the police are sincere and not part of a cover-up for his union mates Messrs Williamson and Thomson.

The article concludes with the following revelation to the Australian:

... NSW police have received information from the US office of American Express, which keeps duplicate records of card transactions for 30 years, compared with only seven years in Australia.

It is understood NSW police believe this information would place them in a strong position to bring charges against individuals.

In another article on 14 November, the Sydney Morning Herald states:

Meanwhile, the Herald has recently received documents showing further unusual credit card expenditure such as a union-issued Diners Card paying for $77,293 in airfares in June 2010.

That same month a cheque for $51,282 was made out to Access Focus, a company not listed in the phone book nor registered with the Australian Securities & Investments Commission, and United Edge, a company of which Mr Williamson is a director, received more than $200,000 from the HSU over a three-month period from July last year.

In an article in the Sydney Morning Herald on 17 September, certain events which took place at a routine HSU meeting chaired by Mr Williamson at the end of November 2009 are described. The article states:

Expenditure was first on the list. Approval was requested to rubber-stamp cheque No. 16319 for the amount of $100,000 which had been paid to Access Focus in July 2009. The Herald has learnt that both before and after this date Access Focus received large payments. The mystery for many at the meeting was what Access Focus actually did.

Union insiders told the Herald that ongoing requests as to why this entity was receiving such large sums have been met with obfuscation by the boss. Attempts by underlings to view the financial records of the union were stymied by Williamson, who controlled the finance department, union sources said.

The Herald has been unable to find any such company and there is no business by that name recorded in the telephone directory. A computer company called Access Focus ceased trading 15 years ago.

The Daily Telegraph of 17 November indicates:

Police now have crucial American Express records of Craig Thomson and Michael Williamson and will interview the architect of Mr Williamson's home renovations to establish whether union funds paid for them.

In previous speeches I have traversed the relationship between Mr Williamson and Mah-Chut Architects, but let me return to the meeting at the end of November 2009, where the nature of this relationship was very clear.
The *Sydney Morning Herald* article of 17 September states:

After discussing the $223,000 payment to the Tax Office for the month of July 2009, Williamson moved on to the next cheque. Dated August '09, cheque No. 16437 was a $100,000 payment to Mah-Chut Architects.

This was the same firm of architects that was presiding over Williamson and his wife Julie's holiday home on the shore of Lake Macquarie. In August 2006, the pair had spent $470,000 buying a block of land at Brightwaters, on the shore of the lake.

Two years later, they submitted plans to the local council for a $500,000 beach house. The plans were submitted by Mah-Chut Architects, despite the firm having been deregistered earlier that year after creditors voted to wind it up.

The house ended up costing around $700,000 to build. On top of that, in March last year the Williamsons bought the block next door for $522,000 and then spent a further $80,000 installing a pool and spa.

Mah-Chut Architects, which several years ago transformed the union's headquarters in Pitt Street into the gleaming, cutting-edge workplace it now is, was also employed by the Williamsons to renovate their Maroubra home in 2001.

Much to the anger of their Maroubra neighbours, who objected to the size of the second-storey addition, the development was approved by the mayoral minute, despite Randwick Council's development officers having previously rejected it.

In January 2010 another cheque for $154,000 was made out to Mah-Chut Architects and the following month another cheque for $114,212 was paid by the union.

Earlier this year Mah-Chut billed the HSU $280,000. *The Herald* understands the invoice was for a feasibility study for possible renovations to the union's Victorian offices and for installing partitions in the Sydney office.

Whilst the article states that there is no suggestion that Mah-Chut has acted improperly in relation to its work for the union or Mr Williamson, there is certainly an air of suspicion surrounding these payments. One would hope that Mah-Chut Architects are forthcoming in their assistance to the NSW Police when interviewed.

With all these scandals it is not surprising that the HSU, and through it the union movement, is suffering. As Mr Marco Bolano, the Deputy Secretary of the HSU’s Victorian branch told *ABC News* on 15 November:

“They've been lied to, they've been manipulated... some cases it's fear, in some cases it's blind loyalty fed by misinformation and I think it's an embarrassing day for the HSU.

An article in the *Sydney Morning Herald* on 7 November entitled 'Doctors keen to leave Health Services Union' outlines how doctors have been turned off by the scandals. The article outlines:

The doctors are the second group to say they no longer want the HSU to represent them. The Emergency Medical Service Protection Association says it has 2,500 paramedics and ambulance officers and wants to replace the HSU as their union.

Recently we have seen traversed in the media the happenings at the annual general conference of the HSU. Like some scenes reminiscent of *The Sopranos*, we heard yet again of intimidation, threats and the thuggish antics of the NSW Right of the Australian Labor Party. On 15 November the *Australian* reports that:

Reformers in the Health Services Union yesterday accused the supporters of union boss Michael Williamson of employing 'Stalinist' tactics to stifle dissent and ensure a vote today to split the union.

The two-day annual convention of ... HSU East, began in Sydney yesterday with bitter division between Victorian supporters of executive president Kathy Jackson's campaign to expose alleged cronyism and illegal activity, and the dominant NSW faction controlled by Mr Williamson and his deputy Peter Mylan.
The article quotes Ms Jackson, saying:
… the convention was being run 'like North Korea' and she and her Victorian lieutenants were gagged.
The article reports intimidation of delegates:
Several reform delegates said they had been subject to intimidation and threats from NSW union officials. Pam Daniel, one of the few NSW delegates to speak, said a salaried union organiser had asked a meeting of her members to put a motion to the convention censuring Ms Jackson. The members refused.
She said the organiser had discouraged her from signing a petition put forward by Ms Jackson, with the threat of legal action.
The organiser declined to comment and did not answer written questions.
Why all this intimidation? Because Ms Jackson has dared to refer to police allegations that Mr Thomson had misused his credit card. An insight into the Sydney meeting was given in an interview between Mr Marco Bolano, the Deputy General Secretary of the HSU East, and Ray Hadley on 2GB, on 16 November. Mr Bolano confirmed the threats made against him by Mr Williamson during a conversation regarding the motion moved against Ms Jackson:
Enjoy the rest of your time in the union movement, I will destroy you …
And there was an expletive in the middle there. Mr Bolano also spoke to Mr Hadley about the petition that Ms Jackson had recently circulated and the threats made to delegates.
Many of them that spoke to us allege that they were told that if they signed that petition they would be sued. Ah, they talked about dirty tricks within their sub branches where, you know, they would be rolled.
Mr Bolano went on:
That they would be made unfinancial. That there, you know, financial muck up with the membership record and be told "oh, you're unfinancial." A range of tricks ...
He went on in that vein and, effectively, explained what would be likely to happen to these delegates if they did not comply with the threats and the intimidation.
Ms Jackson herself also spoke about the meeting in an interview with Chris Smith on 2GB, on 17 November. She spoke of intimidation and bullying of delegates to vote in the no-confidence motion against her. She said:
I think a lot of people have been intimidated and continue to be intimidated. I find it an unfortunate set of events that we face in the Health Services Union. This is a good organisation. We're here to represent working men and women in the health sector and yet here we face this fight over, you know. All I'm trying to do is clean up this union. This is an anti-corruption fight. This is not about Victoria-NSW. This is about doing the right thing by our membership regardless of where they live.
Ms Jackson went on:
I am doing this, I've taken this action because at some point people have to stand up and do the right thing by working men and women. If money is being misappropriated, then we need to get to the bottom of that. This is an anticorruption fight, not a power struggle.
And in a scathing indictment of the boys club in the Labor Council, she said:
That's right. They can't take a trick. You know these people, I had the vain hope that maybe they'd see the light when these allegations were taken to the police. But instead they've bunkered down and its business as usual.
And she posed this challenge:
They think this plan is about splitting the Union, so they get rid of me and they get rid of any dissent and its business as usual like they have had. NSW has had a free hand for the last fifteen years. They can do no wrong. They hear no evil. They see no evil. They follow blindly. They rubber stamp.
What I say is, if you've got nothing to hide, produce all the documentation to the police and
the other relevant authorities. Don't hide behind the Council. Don't hide behind Michael Williamson and, you know, the truth will prevail. With this entrenched situation, one can only wonder what sort of cooperation the likes of Mr Williamson and Mr Mylan will give the New South Wales and Victorian police.

But her most scathing criticism was levelled at the standoff tactics of Sussex Street and the New South Wales Right. These are the faceless men who helped put Julia Gillard in The Lodge, who politically assassinated former Prime Minister Rudd and to whom Ms Gillard sold her political soul. Ms Jackson said:

And Sussex Street and the NSW right are known for this. And I'm just sick of it. I'm sick to death of people outside this organisation trying to influence what happens inside the organisation. What I'm trying to do, and other people that are assisting me, is rooting out corruption in this Union and my advice to Sussex Street and the ALP is to get out of our affairs and let us clean up our Union for our membership.

The following exchange about the criminal investigation demonstrates firsthand the seriousness of the allegations against Mr Thomson and Mr Williamson and what the police investigations are likely to uncover:

Chris Smith: Are there people within the NSW Labor Council a little nervous about what the Victorian police investigation might uncover?

Kathy Jackson: If they're not nervous they should be nervous.

Chris Smith: Why?

Kathy Jackson: I stand by my initial position which is: I've come to the view that there is serious misappropriation of funds occurring in this Union and it needs to be cleaned up. I stand by that.

And of course all this leads back to the Gillard government. This is what is at the heart of all the resistance, the bullying, the standoff tactics and the intimidation. The reason for that is that this could all lead to charges being laid against the member for Dobell and it would impact on the survival of the Gillard government. The following exchange says it all:

Chris Smith: Do you think this all began because the Executive was scared that any investigations into Craig Thomson might lead to a change in Government?

Kathy Jackson: Um ...

Chris Smith: Has this been the motivation for this from the beginning? Not from you, but from those who would stop you doing what you've done?

Kathy Jackson: Yes.

Chris Smith: They were scared that any investigation would lead to charges against Craig Thomson, which would lead to the dissolution of this current government.

Kathy Jackson: Yes, yes. I believe that. I strongly believe that.

And so where is the Gillard government in all of this? Does the Prime Minister support Ms Jackson's attempts to clean up the HSU or does her silence on the matter infer tacit condoning of those persecuting the HSU national secretary? When asked in question time, on 21 November, by Senator Ronaldson whether the Prime Minister would publicly and unequivocally back Ms Jackson's actions in blowing the whistle on the member for Dobell, all we got from the Leader of the Government in the Senate was a diatribe about slurring people up and jumping to conclusions.

There appears to have been no public utterance by the Prime Minister on this matter, despite the deep involvement of key New South Wales Right figures. So where does the Prime Minister stand? Alongside Ms Jackson, who is trying to expose corruption and misappropriation, or alongside those seeking to intimidate and bully her into silence—the faceless men who put Ms Gillard in The Lodge?
We come back to the New South Wales Right. It was interesting to read the article in the Sydney Morning Herald, of 22 November, entitled 'Link by link, the powerbrokers of the Right emerge'. Interestingly, more details are emerging about the real estate purchases of two key figures of the New South Wales Right, Senator the Hon. Mark Arbib and the Hon. Eric Roozendaal. They must be on the way down, given the increasing number of leaks against them. I quote:

It was in July 2003 that Eric Roozendaal and Mark Arbib—both prodigious fundraisers through their then positions—Senator Carol Brown:

Mr Deputy President, I rise on a point of order. I ask the honourable senator to address the senator by his right title.

The DEPUTY PRESIDENT: I remind you, Senator Fierravanti-Wells, that if you address senators then you should do so by their correct title.

Senator FIERRAVANTI-WELLS: Thank you, Deputy President. I did refer to Senator the Hon. Mark Arbib.

Senator Carol Brown: No, you didn't.

Senator FIERRAVANTI-WELLS: I did.

The DEPUTY PRESIDENT: Order! You have the call, Senator Fierravanti-Wells.

Senator FIERRAVANTI-WELLS: Perhaps, Senator Carol Brown, if you had woken up and listened then you would have heard what I had to say. I quote:

It was in July 2003 that Eric Roozendaal and Mark Arbib—both prodigious fundraisers through their then positions as head and deputy head of the NSW Labor party—completed their respective real estate purchases.

Neither has been able to explain what coincidence led to them purchasing boutique beachside apartments not only in the same suburb but also in the very same block.

I will leave these real estate issues to another day. The focus of the article was on the connection between Senator Arbib, Mr Roozendaal and their friend Alexandra Williamson, who still works for the Prime Minister and house shares in Canberra. It is indeed a complex web of—

Address by the President of the United States of America

The DEPUTY PRESIDENT (00:43): Senator Ludlam, are you seeking leave to make a 20-minute contribution?

Senator LUDLAM (Western Australia) (00:43): That is exactly what I am doing, Deputy President.

The DEPUTY PRESIDENT: There being no objection, leave is granted.

Senator LUDLAM: I rise to acknowledge that I got just as carried away as everybody else on the occasion of the visit last week by the President of the United States of America, Barack Obama. I was looking forward to the chance to see him up close and to get a sense of the rhetorical power that first caught the attention of the world at the Democratic National Convention in 2004. In that regard, he did not disappoint. His speech to the Australian parliament was beautifully crafted. He held 226 Australian parliamentarians and a packed public gallery spellbound. After the oration we saw him work the room with ease, flashing his smile and taking his own time to meet the MPs who had just given him a long, standing ovation. To me, at least, he seems to be a genuinely warm and charismatic human being.

Listening to the speech, the 500-year arc of history, the drive to a more perfect union and the liberating power of democratic ideals fought through the second half of the 20th century hung in the air with tangible force. A few minutes into his speech it became apparent, firstly, that this hypnotic invoca-
tion of shared sacrifice and global democratisation was intended for a much larger audience, listening in from the US and Beijing respectively, and secondly, that it was being delivered from a parallel universe. In this universe, winding down two successful forced injections of democracy into Iraq and Afghanistan frees up nuclear armed military assets for further peace building in the Asia-Pacific region. In this universe, the democratic process in America has not been crippled by massive parasitic corporate interests that have brought the country to the brink of financial and social collapse. In this universe, all Australians will automatically accept the newest in a line of more than 1,000 US military bases scattered across the globe, despite the unfortunate lapse in democratic due process that saw not a single Australian voter asked if they thought it would be a good idea. In this universe, whistleblowers and journalists at the Wikileaks organisation can be pronounced summarily guilty by the highest office bearers in the country and threatened with extrajudicial killing. The President can riff beautifully on the rule of law, transparent institutions and equal administration of justice. In this universe, above all, amnesia must prevail. In order for the United States to take its place as the guardian of democracy, a few details are required to be quite aggressively forgotten. Just considering the postwar period, the US has actively supported the overthrow of democratically elected governments, including but not limited to the administration in Iran in 1953, in Guatemala in 1954, in the Democratic Republic of the Congo in 1960, in Brazil in 1964, in Ghana in 1966, in Chile in 1973, in Argentina in 1976, in Guatemala again in 1993 and probably in Haiti in 2004. There has been well-documented, overt and often harmful US interference in Iraq on multiple occasions since 1963 and in Nicaragua, El Salvador, Afghanistan, Cambodia, Vietnam, Angola, Somalia and possibly Venezuela. In addition, sustained financial, political and military support has been provided for decades to dictatorships in places like the Philippines, Nicaragua, Panama, Chile and medieval fiefdoms like Saudi Arabia.

Oddly, in a speech largely focused on the power of democracy, the President barely mentioned the Arab spring that has rocked North Africa and the Middle East this year with a grassroots pro-democracy tide. It is odd until you recall that almost to the bitter end the US government was a key backer of the very regimes in Tunisia and Egypt that were toppled by ordinary people putting their lives on the line. Obviously this is not something that is specific to the United States. All major powers throughout history have behaved that way. China is behaving exactly that way at the moment in Burma and across Africa. The Soviet Union, towards the end of its reign, behaved the same way, as did the British Empire and the Spanish before that.

This is not to say that the US has not been a force for positive change in many places. The US government's sanctions against the vile dictatorship in Burma are actually stronger than Australia's. And the President's acknowledgment of Daw Aung San Suu Kyi's struggle will help remind pro-democracy campaigners in Burma that they are not forgotten. But no such complexity or nuance seemed possible in the address last Thursday. President Obama, in asking us to accept the United States as a unilateral force for good deeds in the world, has offered Australians a more poetically crafted version of President Bush's admonition that 'you are either with us or against us'.

With this simple logic accepted uncritically by the government and with the
nauseating submission by Mr Tony Abbott, of course the next step in the Asian century is for a permanent US military presence in Australia. Can we forget, please, this concept of a marine base hosting 2,500 US marines on a rotating basis? Because of course that is just the label on the box. Once established, the facility will take whatever the shape the US government requires it to, as has happened at literally hundreds of installations from Subic Bay in the Philippines to the sprawling complexes of Germany, Japan and the UK and dotted right across the Pacific.

Without a whisper of consultation, the Australian government has taken us into uncharted territory. There are, we are aware, more than 1,000 US bases around the world. The US anthropology professor David Vine says that these represent the largest collection of bases in world history. He adds: Officially the Pentagon counts 865 base sites, but this notoriously unreliable number omits all our bases in Iraq (likely over 100) and Afghanistan (80 and counting), among many other well-known and secretive bases. He continues: Where are all those military bases outside the military zones like Iraq and Afghanistan, and what purpose do they serve? These are questions that Australians really should be asking. More than half a century after World War II and the Korean War, wrote Vines, we still have 268 bases in Germany, 124 in Japan and 87 in South Korea. What are these bases in Germany and Japan actually for?

With so little known about what form these bases will take in reality, a couple of questions are in order. It would have been up to the Prime Minister to have asked them last week, but I suspect that she did not. Firstly, why are the people of Okinawa, an island chain to the south of the Japanese mainland, so desperate to get rid of the massive US facilities there? Their campaign succeeded in changing the government in Japan in 2009 and forcing the United States, with great reluctance, to begin casting around for alternative hosts. If we want to know why they have so fiercely resisted the presence of US forces in Okinawa, we can take a few hints. It has to do with the noise impacts of living in a practice war zone, widespread chemical contamination, periodic rapes and sexual assaults, unexploded munitions, drug abuse, prostitution and the enormous financial cost to the Japanese government.

In May 2010 a survey of the Okinawan people conducted by Mainichi shimbun, a mainstream newspaper in Japan, found that 71 per cent of Okinawans surveyed thought that the presence of marines on Okinawa was not necessary—and I am not sure if any opinion poll has yet been taken in Australia—with 15 per cent saying that they thought that it was necessary.

From 1952 to 2004, there were approximately 200,000 accidents and crimes involving US soldiers in which 1,076 Japanese civilians died. Over 90 per cent of the incidents were vehicle or traffic related. In 1995, the abduction and rape of 12-year-old Okinawan school girl by two US marines and one US sailor led to demands for the removal of all US military bases in Japan. This helped change the government in Japan in 2009 and it is the reason why the political situation there has so radically changed. The incoming government in Japan immediately about faced, but we can still see enormous pressure to move the military installations or at least some of the heavy footprint in Okinawa out of Japan. And now the United States is casting around for alternative sites. We should not imagine that this is simply something suffered merely by the people of Okinawa or even by people simply in the footprint of US bases. This is not something
that occurs under one particular flag or another; this is just about the heavy imprint of military facilities, no matter which flag they fly.

I am interested in one of the few examples that I know of in which US military installations were contested non-violently by host populations and the US military left. People may know that the continuing post-war presence in Vieques in Puerto Rico by the United States Navy drew enormous protest and dissent from the host population there, angry mainly at the expropriation of land and the incredible environmental impacts of continual training bombardments by the United States Navy. Protests came to a head in 1999 when a native of Vieques, David Sanes, who was an employee of the US Navy, was killed by a bomb from a navy fighter that fell outside the impact template. He had been working as a security guard for the US Navy. That brought events in Vieques to the boil. Now the United States is gone and again US military commanders are looking for areas that they can bomb, areas that ships can dock in and places where soldiers can train. This will affect host populations, especially women. Alcohol consumption is also a problem.

We do not hear a great deal about the impact of military facilities on South Korea, but it is now something that Australians, particularly residents of the Northern Territory, are going to need to learn a great deal about very rapidly. This is now real. The Australian population have not been asked if we think that this is a good idea. We have been told. The announcement was obviously leaked to the Fairfax press last week. The President said that during his address on Thursday it appears that this drive to democracy that the United States has been spearheading around the world will not extend to the people of Australia, because we will not be asked. One South Korean woman told the press in a recent interview, ‘Our government was one big pimp for the US military’. That is something that we are going to need to get used to as well: the epidemic of sexual violence that surrounds bases with huge numbers of frustrated young people, mostly men.

My second question for the government is what control Australia will have over activities conducted on the base, imagining that it will go ahead. For example, it appears that cluster munitions, which Australia was until recently part of the campaign to abolish, will be allowed to be stored there. But I am interested to know about nuclear weapons, depleted uranium munitions and other things that the ADF do not deploy, to their great credit, and have no intention of deploying.

This afternoon, my attention was drawn to a press release by the Cluster Munitions Coalition, who put out a statement acknowledging that the ALP caucus, to their enormous shame, appears to have voted not to amend its widely criticised cluster munitions prohibition bill, which was introduced into this place months ago and which disappeared off the Notice Paper when, to my understanding, sustained backbench opposition on both sides of this chamber caused defence and legal spokespeople to withdraw it and consider whether perhaps amendments would be required, and of course they are. The Cluster Munitions Coalition wrote: The two key loopholes the Government has written into the Bill, which the Coalition supports, enable Australian troops to actively assist the USA in the use of cluster bombs and also explicitly permit the USA to stockpile its cluster bombs on Australian soil. These allowances blatantly disregard the whole intent of the Convention which aims to eradicate these weapons for all time.
That is shameful if it is true. And for this base the Australian government will be talking about a policy of not storing nuclear weapons on Australian soil, which this government is committed to eradicating from the world, yet, in my view, unless this is enacted into law, the US government will eventually be doing just that because that is how they behave.

My third question is: what happens in the event that the US government uses the base for a military invention that, heaven forbid, the Australian government or the Australian public might not support? That is something that has clearly not been thought through. Australia has its own regional security interests in the Asia-Pacific region and they are not always going to be in perfect alignment with those of the United States. But what happens if the US chooses this platform or this base or this lily pad, or whatever the jargon is these days, for a surge deployment into a war zone that Australia actually thinks is a terrible idea, as many Australians did on the Afghanistan deployment and a vast majority of Australians did in terms of the invasion of Iraq? What will we do if these US facilities—not just communications bases, because goodness knows we have plenty of experience of those in Australia—are used in an actual deployment of US troops, aircraft, munitions and vessels from Darwin for a war zone that the Australian people do not support? Do we really believe that an Australian government of either flavour will have the spine to stand up and say, 'No, you can't use those facilities'? This is a direct ceding of sovereignty to a foreign power and I cannot believe the bizarre bipartisan silence on this announcement.

Another question I have is around environmental contamination. Again this is an issue that has severely impacted areas where training, in particular, occurs but also where there is just stockpiling of chemicals. In the Australian Greens we tend to focus on things like radiological weapons, cluster munitions and so on because there is that global push to simply eliminate these things from the arsenals of the world. But in fact at military bases around the world, whether in southern Japan, South Korea, Puerto Rico, central Europe or wherever else, the most severe long-term impacts can come from the highly carcinogenic material, just from the fuels, the solvents, the oils and heavy metals that are released during military operations and which affect the land, water and ocean.

If you are talking about bombing training ranges and so on, you have the additional problem of unexploded munitions—chemicals, propellants, explosives and so on that either are blown all over the landscape when the munitions detonate or lie there undetonated, effectively sterilising that land from all other forms of use. I did not hear a great deal about that last week when these announcements were being made. This is something that is of particular interest to me, having followed these issues now for about 10 years. In 2001 and 2002, in the lead-up to the invasion of Iraq, there were very strong moves to introduce military bases, in particular a naval facility, into my hometown, into Cockburn Sound, south of Perth, for so-called sea swap trials, where the United States would sail a naval vessel into port, airlift in a new crew and airlift out the old crew and save the vessel from having to traverse all the way back to Guam or wherever it had come from. That would have been very efficient from the US government's point of view. The other thing they were very interested in was the training range at Lancelin, where US Navy aircraft would repeatedly blast with air-to-ground munitions and ships would use ship-to-shore munitions, to the enormous detriment of the local people there. I have no doubt at all that
that facility is back on the cards again. We did not hear much about that last week. I have many other questions, but the principle one is this: in the suffocating spirit of bipartisan Obama worship that fell across Canberra like a fever last week, will this debate even get to occur? Mr Obama, I wish you well in confronting the daunting challenges that surround you at home and I wish you wisdom and foresight in planning America’s responses to the security challenges of the 21st century. But as an Australian citizen I say with the greatest respect that you are not my president.

Member for Dobell

The DEPUTY PRESIDENT (01:00): I ask the Senate if leave could be granted for Senator Fierravanti-Wells to complete one minute of her speech, as inadvertently the clock did omit one minute. The clerk at the table has researched this and there is one minute owing to Senator Fierravanti-Wells.

Leave granted.

Senator FIERRAVANTI-WELLS: Previously, I was talking about the real estate efforts of Senator Mark Arbib and the Hon. Eric Roozendaal. I will leave those to another day, but it is indeed a complex web of political links, personal relationships and private dealings. These are matters on which I will continue on another occasion. I would like to complete my comments this evening by talking about the missing member for Dobell. I have spoken in the past about the member for Dobell and his part-time activities. From speaking to people in Dobell, it is very clear that the best thing that Craig Thomson can do is to resign and give his constituents a proper Christmas present by allowing another election in Dobell as soon as possible.

Occupy Movement

Murray-Darling Basin

Senator RHIANNON (New South Wales) (01:02): by leave—I pay tribute to the world-wide Occupy Movement. The courageous participants in New York, where the Occupy Movement was born, and those in Sydney and Melbourne have acted on the concerns of many. These protests have focused on social and economic inequality, high unemployment, greed and the undue influence of corporations. Occupy Wall Street has inspired more than 750 events around the world, involving hundreds of encampments.

The Occupy Movement has been criticised for not having a set of demands. Maybe that is in fact a strength as their message has well and truly penetrated public discourse. Many of their terms, such as 'We are the 99 per cent' and 'Occupy', have gained wide recognition and built understanding of what this movement stands for. They have taken their message to the world stage in a way that many advertising agencies that cater for the one per cent can only dream of. The web site Politico has found that mentions of the phrase 'income inequity' in print publications, web stories and broadcast transcripts spiked from 91 times in early September to nearly 500 in late October, an increase of nearly 450 per cent. This shift is a tribute to the world-wide Occupy Movement.

The respective incomes of the 99 per cent and the one per cent in Australia demonstrate the degree of inequity. The heads of Australia's largest companies have picked up pay rises almost three times the rate of inflation and equivalent to more than twice the average annual wage in the past year. This analysis of from the Sydney Morning Herald of 8 October this year. The Sydney Morning Herald report also found that the
median increase in base pay for chief executives for the latest financial year was about nine per cent, rising from $1.47 million to $1.61 million. Short-term cash bonuses for the same group of Australians, the one-percenters, rose to $2.61 million, up five per cent. In cash, that is a gain of about $130,000 per year. How the 99-percenters are faring in Australia stands in sharp comparison. The average wage is about $53,000 a year. A single unemployed person has to survive on $228 per week. Old-age pensioners receive $345 a week. Working and middle-class people—particularly those caring for children, elderly parents or family members with disabilities—often struggle with a lack of job security, affordable housing and reasonably priced public transport.

When the Occupy movement took this message of inequity to the world stage, those who were used to dominating that world stage quickly clamped down. It was interesting to note that the eviction of Occupy Denver, Occupy Salt Lake City, Occupy Oakland, Occupy Portland, Occupy Seattle, Occupy Melbourne and Occupy Sydney—and probably many other Occupy sites—occurred within about a five-day period. I visited Occupy Sydney, as did some of my Greens colleagues from the New South Wales parliament. It was at all times a peaceful movement. Occupy Sydney functioned through an open democratic process. Early on, they committed to non-violent protests and were open to negotiation with the police about how to maintain a peaceful protest.

It was quite concerning that this action as well as Occupy Melbourne were broken up by the police using rough tactics. The decision to break up these protests was a political decision and was not made by frontline police. Occupy Wall Street was also broken up with violence. According to a number of reports, this has been noted in Egypt. An Egyptian state television anchor, commenting on how the security forces responded to protests in his country, stated that Egypt ‘saw the firm stance the US took against OSW people … to secure the state’.

Our Australian Occupy movement brought together people of diverse backgrounds and ages who wished to voice their concern about the increasing global concentration of corporate wealth in the hands of a small minority. Occupy Sydney gave particular emphasis to the lack of housing. Rented accommodation and housing affordability are inaccessible for so many. Meanwhile, there are more than 100,000 unoccupied residential buildings in Sydney.

From my experience in politics, corruption-free politics and economic justice motivate the majority of people. The 99 per cent know from their own experience that life is deeply unfair. Some critics attempt to dismiss the Occupy movement by arguing that it has not achieved anything. I would dispute that, as it has injected the subject of economic and social inequality into mainstream media into the wider public debate. The movement also has had solid wins.

Occupy Ohio and the momentum from the whole Occupy movement has been recognised in the US as playing a key role in the defeat of an anti-union law passed by the Republican-controlled Ohio state legislature in March this year. This law, if enacted, would have curbed the collective bargaining rights of 350,000 teachers, firefighters, police and other public sector workers. It also aimed to limit union activity by making it harder to collect dues and fund political work. Earlier this month this law was overturned by Ohio voters, with 61 per cent against and 39 per cent for. Polls conducted in the run-up to this vote on 8 November
showed that a large majority of Ohio voters identified income inequality as a problem and thought that the federal government should take action. Many unions are supporting the Occupy movement.

This is how social change movements are built—allies coming together to support progressive campaigns. As another round of the global financial crisis hits more and more countries, the role of Occupy will become important in highlighting the need for social change and highlighting why we should oppose austerity measures that target the 99 per cent. The 99 per cent are not responsible for the economic crisis. The message I heard when I visited Occupy Sydney was that the public debate needs to shift away from debt, deficit and job cuts. As I stood in Martin Place with hundreds of others, I heard people discussing the need for a financial transaction fee, often known as the Tobin tax, a millionaire's tax, how to create sustainable jobs, and free education and health care for all. Dictatorship of markets was rejected time and time again. The eviction of Occupy Wall Street has shut down some actions but the struggle with all its zest and creativity goes on. At Occupy Wall Street, by the afternoon of the big eviction from Zucotti Park in New York, people were back carrying signs that read: 'You cannot evict an idea whose time has come'. The time has certainly come to end such extreme inequality that exists in our world today.

On another matter: we have known for many years that the Murray-Darling Basin is slowly dying. This massive water catchment covers most of New South Wales. The health of this river system is linked with our economy and environmental wellbeing. In 2008 a leaked scientific report to the government warned that part of the river system, particularly the Lower Lakes, was on its last legs and that parts of the basin were becoming so acidic that water was capable of burning human flesh. In 2009 the Daily Telegraph ran a story about how higher temperatures and a lack of constant flow in the Murray River is choking thousands of native fish, including some cod which are almost 100 years old, due to lack of oxygen in southern tributaries of the river. Without sufficient water, the basin's ecosystems will continue to deteriorate as will the viability of farming, cities and towns. Increasing challenges from climate change mean that we have to act now with a national plan that shows vision and leadership.

Recently, documents obtained by Friends of the Earth brought to light that the New South Wales government privately pressed the independent Murray-Darling Basin Authority to release more groundwater for the mining industry in its draft Basin Plan. This is outrageous. It is outrageous to do this to this catchment area but particularly at a time when the authority is coming to its own findings. Successive New South Wales governments have left a terrible legacy from placing mining interests ahead of those of communities and the natural environment. These short-sighted actions have resulted in a tragic loss of high conservation woodlands, forests and wetlands in New South Wales, reduced biodiversity, damage to pristine water catchments, rivers and aquifers and increased threats to prime agricultural lands. They have also ignored the rights and wishes of the traditional Indigenous owners on mining lands and have destroyed sacred Aboriginal heritage sites.

My colleagues in the New South Wales Greens are campaigning for a moratorium on coal seam gas and for the state New South Wales government to be tougher on coalmining applications in order to consider the long-term impact of coalmining on agricultural land and water. The impact of mining expansion in the Murray-Darling
The Murray-Darling Basin Authority is set to release its Basin Plan on 28 November. *Four Corners* called it 'the largest water reform plan in the nation's history'. Weekend news reports indicate that the Basin Plan has been leaked to several media outlets. It has been reported that the amount of water set aside to boost the health of the basin could be slashed by hundreds of gigalitres and that water quality and salinity targets have been diluted. These reports are causing much anxiety among many in New South Wales.

Over three million Australians depend on the basin for their drinking water. It contains over 40 per cent of all Australian farms, it is our most important agricultural region producing one-third of Australia's food supply and it supports over a third of Australia's total gross value of agricultural production. According to the Inland Rivers Network, the Murray-Darling Basin is reaching crisis point. Over extraction has dramatically reduced river flow volumes. Thirty major dams can harvest whole floods and over 4,000 weirs clutter its rivers, raising salinity levels, reducing fish breeding, shrinking wetland areas and increasing weed invasion. Native fish species, including silver perch, Macquarie perch, fresh water catfish and southern pigmy perch have disappeared from many rivers. Water birds, which rely on floods to breed, have been lost from many wetlands as water is extracted upstream for irrigation. Many environmentalists say that the government must commit to buying back 7,600 gigalitres of water to return to the river system to restore its future health. The draft Murray-Darling Basin guide, released last year, proposed returning 4,000 gigalitres to the Murray-Darling Basin. The recently leaked report indicated that the target will only be 2,800 gigalitres. That is simply not a sustainable limit. As the Greens water spokesperson, Senator Sarah Hanson-Young, has said, the best reviewed science says that only a minimum of 4,000 gigalitres will put the river system on a sustainable footing by flushing salt out of the river and keeping the Murray mouth open.

The debate over the Murray-Darling Basin has been unjustly framed as being between environmental and human demands. But we know that the two cannot be mutually exclusive and that the long-term viability of the communities, agriculture, wider environment and economy all depend on this river ecosystem. If the river chokes, if the river mouth closes, if the flood plain is no longer inundated, the livelihoods of everyone living and working in the Murray-Darling Basin will be at risk. The Basin Plan must deliver tangible environmental outcomes, now and into the future. The federal government cannot afford to risk reduced flow targets merely because it is political difficult to get science based targets. This could well be a once-in-a-lifetime opportunity to overcome decades of environmental degradation and secure the future health of one of Australia's most significant natural areas.

The Murray-Darling Basin Plan has the potential to revitalise our rivers, wetlands and ecosystems and to ensure the long-term sustainability of regional and rural communities dependent on the Murray-Darling Basin. The Greens urge the government to show true leadership and to pave the way for a sustainable future for these rivers and for the future generations who will depend on them. This is an issue that the Greens at state, federal and local levels among the communities along this river and the water plain that it supports are watching most closely.

*Senate adjourned at 01:17 (Wednesday)*
DOCUMENTS

Tabling

The following documents were tabled:

AAF Company—Report for 2010-11.

Anti-People Trafficking Interdepartmental Committee—Third report—Trafficking in persons: The Australian government response, 1 July 2010 to 30 June 2011.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2011.


General Practice Education and Training Limited (AGPT)—Report for 2010-11.

Grains Research and Development Corporation (GRDC)—Report for 2010-11.


Repatriation Medical Authority—Report for 2010-11.

Royal Australian Air Force Welfare Recreational Company—Report for 2010-11, including financial statements for the RAAF Central Welfare Trust Fund.

Rural Industries Research and Development Corporation (RIRDC)—Report for 2010-11.


Treaties—

Bilateral—Text, together with national interest analysis—

Agreement between Australia and the Republic of Latvia on Social Security, done at Riga on 7 September 2011.

Agreement between the European Union and Australia on the Processing and Transfer of Passenger Name Record (PNR) Data by Air Carriers to the Australian Customs and Border Protection Service, done at Brussels on 29 September 2011.

Multilateral—Text, together with national interest analysis—


Anti-Counterfeiting Trade Agreement, done at Tokyo on 1 October 2011.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Prime Minister and Cabinet: Code of Conduct Investigations**

*(Question No. 1047)*

**Senator Abetz** asked the Minister representing the Prime Minister, upon notice, on 29 August 2011:

(1) How many Code of Conduct investigations have there been within the Ministers portfolio for the financial years: (a) 2010-11; and (b) 2011-to date.

(2) How many investigations established: (a) a breach; or (b) no breach, of the Code of Conduct.

(3) In each case, what provisions of the Code of Conduct were thought to have been breached.

(4) What penalties were applied where the Code of Conduct was broken.

(5) How many investigations are ongoing.

**Senator Chris Evans:** The answer to the honourable senator's question is as follows:

Please see the response provided to questions 1043, 1048, 1065, 1067, 1072 and 1082.

**Trade**

*(Question No. 1095)*

**Senator Bob Brown** asked the Minister representing the Minister for Trade, upon notice, on 8 September 2011:

(1) Is the Minister aware of any products imported into Australia that have originated in full or in part from Israeli settlements in the occupied territories or in Israeli industrial zones in the occupied territories.

(2) (a) Is the government satisfied that all goods originating from Israel or the occupied territories are truthfully labelled with their place or places of origin; and (b) does the government require this differentiation on labels or import documentation; if not, why not.

(3) Is the Minister aware of the Australian Competition and Consumer Commission or any other government agency taking action against companies that label goods 'Made in Israel' when they are actually made partly or in full in the occupied territories; if so, what was that action and was there any remedy.

(4) Is the Minister or Austrade officials, who cover Israel and Palestine, aware of any contracts and/or agreements between Australian and Israeli companies to conduct research or business in the occupied territories, including in Israeli industrial zones in the occupied territories; if so, can details be provided of these arrangements.

**Senator Conroy:** The Minister for Trade has provided the following answer to the honourable senator's question:

(1) No.

The Australian Customs and Border Protection Service, in the Home Affairs portfolio, has advised that there is one United Nations Code for Trade and Transport Locations (UNLOCODE) assigned to a place within the Palestinian Territories, the city of Ramallah. Import records indicate there have been 27 imports from this location, all declaring the Palestinian Territories as the place of origin, since October 2005 (the limit of current electronic records).

The Health and Ageing and Home Affairs portfolios administer product labelling on imported goods.
The Australian Customs and Border Protection Service, in the Home Affairs portfolio, has advised that it has not made any seizures of goods that were falsely labelled as originating from Israel.

The Australian Customs and Border Protection Service also advises that under Australian law, and associated regulations, the declared place of origin of goods must be the location in which the goods were made, produced, manufactured or otherwise originated. See also the response to question 1.

No. The ACCC advises that it has not taken action for breach of the Competition and Consumer Act (or the Trade Practices Act) on the basis that goods were labelled 'Made in Israel' when they were actually made partly or in full in the Palestinian Territories.

The Treasury portfolio is responsible for competition and consumer policy.

No. Austrade is not aware of any contracts and/or agreements between Australian and Israeli companies to conduct research or business in the Palestinian Territories, including in Israeli industrial zones in the Palestinian Territories.

Sustainability, Environment, Water, Population and Communities  
(Question No. 1108)

Senator Abetz asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 9 September 2011:

With reference to the answer to question no. 114 taken on notice during the 2011-12 Budget estimates hearings of the Environment and Communications Legislation Committee in May 2011:

(1) If 331 tonnes of bait was used, is it correct to assume 212 tonnes of bait was destroyed on the island; if not, why not.

(2) Can details be provided on how was the bait destroyed.

(3) What was the cost of destroying the bait.

(4) What was the estimated cost of returning the unused or spoiled bait to Australia.

(5) On its return, why would the unused or spoiled bait need to go to landfill.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) Yes.

(2) The bait was incinerated.

(3) Purchase of the incinerator was approximately $42,000, some of which will be re-couped when the incinerator is sold.

(4) If the bait had been returned to Australia it is estimated the cost of its return and disposal would have been approximately $3 million.

(5) As the bait was registered by the Australian Pesticides and Veterinary Medicines Authority only for use on Macquarie Island, it was not lawful to use it elsewhere in Australia.

Families, Housing, Community Services and Indigenous Affairs  
(Question No. 1152)

Senator Cash asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 12 September 2011:
How many notices under section 439-20(1) of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 were issued, listed on an individual state/territory basis, in each of the following financial years:

(a) 2008-09; (b) 2009-10; and 2010-11.

Senator Arbib: The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator's question:

The table below was provided to the Minister by the Registrar of Aboriginal and Torres Strait Islander Corporations (the Registrar).

The table sets out on an individual state/territory basis the details of how many notices were issued by the Registrar under section 439-20(1) of the Corporations (Aboriginal and Torres Strait Islander) Act 2006, for the 2008-09, 2009-10 and 2010-11 financial years.

<table>
<thead>
<tr>
<th>Year</th>
<th>NSW</th>
<th>VIC</th>
<th>SA</th>
<th>WA</th>
<th>NT</th>
<th>QLD</th>
<th>TAS</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>10</td>
<td>2</td>
<td>2</td>
<td>13</td>
<td>10</td>
<td>15</td>
<td>0</td>
<td>52</td>
</tr>
<tr>
<td>2009-10</td>
<td>7</td>
<td>0</td>
<td>5</td>
<td>16</td>
<td>19</td>
<td>9</td>
<td>0</td>
<td>56</td>
</tr>
<tr>
<td>2010-11</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>13</td>
<td>17</td>
<td>5</td>
<td>0</td>
<td>38</td>
</tr>
</tbody>
</table>

Families, Housing, Community Services and Indigenous Affairs

(Question No. 1153)

Senator Cash asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 12 September 2011:

(1) Did a delegate of the Registrar of Aboriginal and Torres Strait Islander Corporations issue a notice under section 439-20 of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 in March 2011 to the Directors of the Yindjibardi Aboriginal Corporation; if so, what was the substance of the notice.

(2) Has the delegate or Registrar been provided with a written response to the notice; if so, on what date.

(3) Is the delegate or Registrar satisfied that adequate action and rectification has been taken by the Directors of the Yindjibardi Aboriginal Corporation; if not, what further action has the delegate or Registrar taken in this matter.

Senator Arbib: The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator's question:

(1) On 8 March 2011, the Registrar of Aboriginal and Torres Strait Islander Corporations (the Registrar) issued a notice under section 439-20 of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 to the directors of Yindjibarindi Aboriginal Corporation RNTBC (the corporation) (ICN: 4370).

The notice requires the corporation to take action to rectify instances of non-compliance with the Corporations (Aboriginal and Torres Strait Islander) Act 2006 and its rulebook in relation to its corporate governance and financial management practices.


(2) The corporation has provided the Registrar with a number of written responses since the notice was issued. The responses were received on 22 June 2011, 11 July 2011 and 19 September 2011.

(3) The corporation is progressively addressing the matters raised in the notice, and the Registrar is satisfied with the progress made by the corporation.
The Registrar will continue to monitor and work closely with the corporation until all matters are resolved.

Treasury: Program Funding
(Question No. 1200)

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 13 September 2011:

(1) What was the total expenditure for the 2010-11 financial year on staff education and training for each of the following:
   (a) The Department of the Treasury;
   (b) Australian Bureau of Statistics;
   (c) Australian Competition and Consumer Commission;
   (d) Australian Office of Financial Management;
   (e) Australian Prudential Regulation Authority;
   (f) Australian Securities and Investments Commission;
   (g) Australian Taxation Office;
   (h) Commonwealth Grants Commission;
   (i) Corporations and Markets Advisory Committee;
   (j) Inspector General of Taxation;
   (k) National Competition Council;
   (l) Office of the Auditing and Assurance Standards Board;
   (m) Office of the Australian Accounting Standards Board;
   (n) Productivity Commission; and
   (o) Royal Australian Mint.

(2) What is the budgeted total expenditure for the 2011-12 financial year on staff education and training for each of the following:
   (a) The Department of the Treasury;
   (b) Australian Bureau of Statistics;
   (c) Australian Competition and Consumer Commission;
   (d) Australian Office of Financial Management;
   (e) Australian Prudential Regulation Authority;
   (f) Australian Securities and Investments Commission;
   (g) Australian Taxation Office;
   (h) Commonwealth Grants Commission;
   (i) Corporations and Markets Advisory Committee;
   (j) Inspector General of Taxation;
   (k) National Competition Council;
   (l) Office of the Auditing and Assurance Standards Board;
   (m) Office of the Australian Accounting Standards Board;
   (n) Productivity Commission; and
   (o) Royal Australian Mint.
Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

**Treasury**
(1) The Department of Treasury 2010-11 financial year expenditure on staff education and training was $4.9 million.
(2) The Department of Treasury 2011-12 financial year budgeted total expenditure on staff education and training is $5.1 million.

**Australian Bureau of Statistics (ABS)**
(1) The total 2010-11 expenditure for staff education and training for the ABS was $7.875 million.
(2) The budgeted 2011-12 expenditure for staff education and training for the ABS is $7.905 million.

**Australian Competition and Consumer Commission (ACCC)**
(1) ACCC expenditure on learning and development for 2010-11 totalled $3,680,911.
(2) The ACCC budget for learning and development for 2011-12 is $3,496,990. However, overall expenditure for this period is expected to be increased when salary costs for staff attending courses are taken into account at the end of the financial year, as they have been in the overall expenditure figure for 2010-11.

**Australian Office of Financial Management (AOFM)**
(1) The total 2010-11 expenditure for staff education and training for the AOFM was $121,097.09.
(2) The budgeted 2011-12 expenditure for staff education and training for the AOFM is $160,000.

**Australian Prudential Regulation Authority (APRA)**
APRA expenditure on staff education and training during the 2010/11 financial year was $1,375,000.
(2) APRA budgeted expenditure for staff education and training during the 2011/12 financial year is $1,403,000.

**Australian Securities and Investments Commission (ASIC)**
(1) The total expenditure on staff education and training for the 2010-11 financial year for ASIC was $3.787 million.
(2) The budgeted total expenditure on staff education and training for the 2011-12 financial year for ASIC is $3.853 million.

**Australian Tax Office**
(1) The Australian Taxation Office (ATO) including the Tax Practitioner Board (TPB) and the Australian Valuation Office (AVO) incurred $68.2 million on staff education and training expenses in 2010-11. A detailed breakdown of this expenditure is provided in the table below:

<table>
<thead>
<tr>
<th>Description</th>
<th>2010-11 Actual $m</th>
<th>2011-12 Budget $m</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design, develop and deliver internal learning and development</td>
<td>$35.5m</td>
<td>$35.0m</td>
</tr>
<tr>
<td>Purchase of external courses</td>
<td>$7.7m</td>
<td>$8.1m</td>
</tr>
<tr>
<td>Tuition Assistance Program – payment of university fees for approved students.</td>
<td>$2.2m</td>
<td>$2.7m</td>
</tr>
<tr>
<td>Scholarships – payment of fees and salaries for approved scholarship holders</td>
<td>$0.3m</td>
<td>$0.6m</td>
</tr>
<tr>
<td>Graduate Program – salaries to graduates and cost to design, develop and deliver Graduate Program</td>
<td>$20.7m</td>
<td>$28.3m</td>
</tr>
<tr>
<td>Other Development Programs – includes IT apprentices, IT</td>
<td>$1.8m</td>
<td>$1.5m</td>
</tr>
</tbody>
</table>
(2) The 2011-12 budget for staff training and education is set out in the table above. Note that this budget is subject to change.

**Commonwealth Grants Commission**
(1) The total expenditure for the 2010-11 financial year on staff education and training for the Commonwealth Grants Commission was $47,624 (GST excl.)
(2) The budgeted total expenditure for the 2011-12 financial year on staff education and training for the Commonwealth Grants Commission is $36,000 (GST excl.)

**Corporations and Markets Advisory Committee (CAMAC)**
(1) CAMAC's total expenditure for the 2010-11 financial year on staff education and training was $5,654.56.
(2) CAMAC's budgeted total expenditure for the 2011-12 financial year on staff education and training is $5,000.

**Inspector-General of Taxation (IGT)**
(1) The total 2010-11 expenditure for staff education and training for the IGT was $11,654.
(2) The budgeted 2011-12 expenditure for staff education and training for the IGT is $20,000. Note that the question (2) figure is projected given that budgeting for 2011-12 is yet to be finalised.

**National Competition Council**
(1) The total expenditure for the 2010-11 financial year on staff education and training for the National Competition Council was $19,306.
(2) The budgeted total expenditure for the 2011-12 financial year on staff education and training for the National Competition Council is $19,500.

**Office of the Australian Accounting Standards Board (AASB)**
(1) The total expenditure for the 2010-11 financial year on staff education and training for the AASB was $31,179.
(2) The budgeted total expenditure for the 2011-12 financial year on staff education and training for the AASB is $35,979.

**Office of the Auditing and Assurance Standards Board (AUASB)**
(1) The total expenditure for the 2010-11 financial year on staff education and training for the AUASB was $11,857.
(2) The budgeted total expenditure for the 2011-12 financial year on staff education and training for the AUASB is $18,274

**Productivity Commission**
(1) The Productivity Commission's expenditure on staff education and training in the 2010-11 financial year was $236,647 (1.6 per cent of annual budget).
(2) The Productivity Commission's annual expenditure on staff education and training is usually between 1.5 – 2.0 per cent of total annual budget, and we expect the same level of spending in financial year 2011-12.
Royal Australian Mint

(1) The Royal Australian Mint's total expenditure for the 2010-11 financial year on staff education and training was $157,113.

(2) The Royal Australian Mint's budgeted total expenditure for the 2011-12 financial year on staff education and training is $300,000.

Families, Housing, Community Services and Indigenous Affairs:
Accommodation
(Question No. 1203)

Senator Scullion asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 15 September 2011:

In regard to the 29 Indigenous Coordination Centres (ICC):

(1) What is the cost of the lease or rental agreement and what, if any, indexation or lease payment increase are associated with the agreement.

(2) What is the floor space of each ICC.

(3) When does each of the leases expire.

(4) What renewable options exist and what are their terms.

(5) Do any other agencies currently share office space or facilities in an ICC; if so, can a list of collocated agencies and the ICCs that host them be provided.

Senator Arbib: The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator's question:

(1) to (3) Please refer to the table at Attachment A (available from the Senate Table Office).

(4) Renewable options and their terms are considered commercial-in-confidence information and are not shown for this reason.

(5) Yes. Please refer to the table at Attachment A (available from the Senate Table Office).

Families, Housing, Community Services and Indigenous Affairs: Staffing
(Question No. 1225)

Senator Ludlam asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 20 September 2011:

With reference to current resources and the housing area:

(1) What is the current level of full-time equivalent (FTEs) positions in the department.

(2) What is the current level of FTEs in the department's housing area.

(3) Are there any intentions to reduce this number by the end of 2011.

(4) Can an organisational chart be provided of the department that illustrates the current arrangements for the housing unit.

(5) Is the Minister intending to revise the organisational chart in relation to housing resources; if so, how and for what reasons.

Senator Arbib: The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator's question:

(1) As at 30 September 2011, the Department's total managed FTE was 2,815.35.
(2) As at 30 September 2011, the total managed FTE for housing functions in Housing, Homelessness and Money Management Group and the Office of Remote Indigenous Housing was 163.67.

(3) No.

(4) The housing functions within the Department are the responsibility of Housing, Homelessness and Money Management Group and the Office of Remote Indigenous Housing. The Department's current organisational chart is available on the FaHCSIA website www.fahcsia.gov.au.

(5) No.

Asylum Seekers
(Question No. 1275)

Senator Abetz asked the Minister representing the Attorney-General, upon notice, on 12 October 2011:

With reference to the answer to question on notice no. 1011 (Senate Hansard, 11 October 2011, p. 106), how much has been paid by way of legal aid in the pursuit of the cases.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

Under the requirements of the National Partnership Agreement on Legal Assistance Services, legal aid commissions are required to report against specific benchmarks, which do not include this level of detail. The Commonwealth does not collect specific information about grants of legal aid for migration matters. The Attorney-General's Department has asked Legal Aid NSW and Victoria Legal Aid whether they have any information they could provide on legal aid for cases related to immigration detention. If that information is available I will provide it to the Senator.

Infrastructure and Transport: Midlands Highway
(Question No. 1314)

Senator Milne asked the Minister representing the Minister for Infrastructure and Transport, upon notice, on 31 October 2011:

Since 2006, has the Tasmanian Government ever applied for, or received, federal funding to upgrade the Midlands Highway between Bagdad and Pontville in Tasmania, specifically to install marked turnout lanes into the Bagdad post office, commercial premises and other road junctions, as recommended by a coroners' report after several fatal accidents.

Has the Tasmanian Government applied for, or received, federal funding to strengthen or repair the Midlands Highway between Dysart and Pontville, in view of the approval of a new quarry that will increase heavy vehicle movements by up to 55 000 per annum.

Senator Carr: The Minister for Infrastructure and Transport has provided the following answer to the honourable senator's question:

(1) (2) No.

Attorney-General: Emergency Alert
(Question No. 1434)

Senator Humphries asked the Minister representing the Attorney-General, upon notice, on 8 November 2011:

In regard to the failure of Emergency Alert in the Mitchell chemical fire in the Australian Capital Territory in September 2011:
(1) When was the department first made aware of the failure of Emergency Alert to function adequately after the Mitchell chemical fire.

(2) Who initially made contact with the department about the failure and when.

(3) What conclusions has the department drawn about the use of Emergency Alert in the Mitchell chemical fire.

(4) Does the Commonwealth issue guidelines to the states and territories for the operation of Emergency Alert; if so, can copies be provided.

(5) Has the Commonwealth issued advisory notices to state and territory emergency services regarding the incident.

(6) With respect to the faulty spelling on the messages, is there a standard suite of 'ready-to-go' messages; if so, why were they not employed in this instance.

(7) Is the department concerned that the emergency services agency of the Australian Capital Territory was under the misconception that the system could send out 170 000 messages in half an hour.

(8) How much training, if any, has the department conducted for state and territory agencies on Emergency Alert and when was this training last conducted.

(9) Why did the Australian Capital Territory Minister for Police and Emergency Services (Mr Corbell) say that he was advised that it would take '6 to 7 hours to reach the target area' of 170 575 landline phone alerts if the system can, according to its website, make 1 000 calls a minute, which would mean less than 3 hours.

(10) Is the Minister aware of any other technologies that can deliver warnings to the same number of people in a shorter period of time; if not, what investigations have been made into such technologies.

(11) Is the department considering reassessing its position on emergency warning, i.e. perhaps looking at sponsoring other emerging technologies.

**Senator Ludwig:** The Attorney-General has provided the following answer to the honourable senator's question:

(1) The Attorney-General's Department was made aware of the use of Emergency Alert for the Mitchell Chemical fire through normal monitoring of the media. As officers of the Department live in the vicinity of Mitchell, they also received the warning message on their landline and mobile telephones.

The Emergency Alert technology did not fail; the system was not used in accordance with the Recommended Use Guidelines.

(2) A Departmental officer made initial contact with the ACT Emergency Services Agency on 16 September 2011. The Department provided information about why people may not receive an Emergency Alert message if their details (in the Integrated Public Number Database) are not up to date.

(3) During the Mitchell chemical fire, Emergency Alert delivered over 54,000 SMS warnings and close to 20,000 voice messages to landlines – waking Canberra residents and alerting them to the situation. Without a telephone-based warning capability, emergency services could not have provided immediate and timely advice to so many residents.

Advice from ACT authorities is that the first message was an evacuation warning, sent at 1.38 am to the local Mitchell area advising residents to evacuate immediately. Emergency Alert performed as designed, dialling all 22,598 landline numbers.

The message informed recipients to evacuate the Mitchell area, telling them not to go to either the 'EPIC' (Exhibition Centre) or the racecourse. The message written by the ACT authorities failed to inform the public of where they could go. This text message was not aligned to a message template, a
number of examples of which are provided in the National Telephony Warning System Guidelines (Version 1 issued November 2009, Version 1.1 issued August 2011).

The second message issued at 3.19 am, sent a ‘watch and act’ message advising residents in a wider area to stay indoors. It had an expiry period of 30 minutes and included 86,801 landlines. 30,530 attempts were made in the 30 minutes, equating to a little over 1,000 calls per minute. 13,784 landline calls were answered, with the remainder of the landlines either not dialled because the campaign expired or not answered because they were PABX phones and/or attached to businesses, were busy, or because they were invalid numbers (see below comment on invalid numbers registered to the Crace exchange). Crace is a new suburb of Canberra on the fringe of the inner north, in the same district as Mitchell.

The campaign expired in 30 minutes because the ACT operator did not extend the validity time for the operation of the campaign, in accordance with the landline call volume and system design parameters. The failure to do so meant that there was only sufficient time for a third of the landlines to be dialled.

The 86,801 landlines in the warning polygon drawn by the ACT operator exceeded Emergency Alert's recommend limit of 50,000 calls for a single campaign (as per the Recommended Use Guide) by approximately 73%.

Of the 83,774 mobile phones, over 52,700 text messages were delivered. The remainder either expired (phones not turned on or out of range), or were undelivered (invalid numbers or SMS barring). This means that Emergency Alert was successful in sending the SMS' to all the active mobiles with a service address in the warning campaign polygon.

The data source for Emergency Alert (the Location Based Number Store - LBNS) receives data from the Integrated Public Number Database (IPND). The IPND contains old nine digit numbers. 8,300 of these old nine digit numbers were registered to the Crace telephone exchange's address and so were included in the numbers that Emergency Alert attempted to dial.

Prior to the ACT incident, preliminary work had been undertaken by the Attorney-General's Department, in consultation with the states and territories, to improve the integrity of the data in the LBNS for disconnected numbers. This work is continuing as a priority. The Victorian Department of Justice and the Attorney-General's Department are also progressing other scoped data changes to improve the integrity and filtering of data in the LBNS, including removal of the nine digit numbers.

Before the ACT's use, Telstra analysis indicates that the success rate of delivery of messages to landline phones was approximately 85% (or 70% if the invalid/disconnected numbers are included). Further, before the ACT's use, Telstra analysis indicates that the success rate of messages to available mobile phones appears to be more than 90%. As at 16 November 2011, since it became operational in December 2009, Emergency Alert has been used over 330 times, sending over 7 million messages.

(4) Emergency Alert is operated solely by the states and territories, with Victoria holding the Head Agreement with the service provider, Telstra. The Commonwealth has assisted states and territories to improve their warning capability by funding the development of Emergency Alert.

Primary responsibility for the protection of life, property and the environment rests with the states and territories in their capacity as first responders.

Accordingly, the Commonwealth does not issue guidelines to the state and territory emergency service organisations for the operation of Emergency Alert.

State and territory emergency management agencies have full autonomy in relation to: whether and when to issue an emergency warning; which delivery mechanisms they use to disseminate the emergency warning; and, the content of the warning.

The Victorian Department of Justice has issued a Recommended Use Guide and developed National Telephony Warning System Guidelines in consultation with jurisdictional users of Emergency Alert.
The Recommended Use Guide is part of the Emergency Alert Training Manual. It is updated on an ongoing basis, and is available via the Help Tab on Emergency Alert's live environment and training site.

(5) Following the incident, I wrote to both the ACT Minister for Emergency Services, Simon Corbell MLA and the Hon Peter Ryan MP, Victorian Minister for Police and Emergency Services asking them to discuss the lessons learned from the use of Emergency Alert in the chemical fire, at the 11 November 2011 Standing Council on Police and Emergency Management (SCPEM) meeting.

This discussion took place and resulted in all jurisdictions agreeing to partner in further enhancements to Emergency Alert, including looking at ways to improve the integrity of the static data relied on by the system.

(6) Jurisdictions are encouraged to have pre-planned message templates to assist in the timely development and dissemination of warnings. The National Telephony Warning System Guidelines provide examples and guidance. These templates are 'Common Alerting Protocol' compliant.

The ACT Government in its report 'Use of Emergency Alert during the Mitchell Hazardous Material Fire', 16 September 2011, states that the spelling error happened as a result of copying the phonetic spelling prepared for the voice message into the text message (page 5).

In preparing voice messages, Emergency Alert performs an automated text to speech translation and the state/territory emergency service organisation operator is advised to listen to the playback and adjust the spelling accordingly, so the automated voice pronounces words correctly. The Attorney-General's Department understands that the ACT operator undertook this activity, but subsequently 'pasted' the text with the same phonetic changes made to the spelling into the SMS message.

(7) The Attorney-General's Department cannot confirm if the ACT is under that misconception.

The Attorney-General's Department can confirm that Emergency Alert is designed to send 1,000 voice messages and 30,000 SMS per minute.

Analysis undertaken by the Victorian Department of Justice, in consultation with Telstra, indicates that in the significant use of Emergency Alert in Queensland for the 2010-11 floods and Tropical Cyclone Yasi, Emergency Alert performed well above its design parameters. Telstra observed SMS's being sent at over 500 messages/second on some occasions and fixed line calls being made at 900-1,000 calls per minute on average.

(8) As the system is managed and operated by the states and territories, the Attorney-General's Department has not conducted training for the states and territories.

The Department is advised by the Victorian Department of Justice that approximately 60 jurisdictional representatives have attended Telstra's 'Train the Trainer' sessions. These were held in August 2009 and November 2010.

Jurisdictions have full access to a replicated training environment, a comprehensive Training Manual and Recommended Use Guidelines. The Training Manual is accessible from the Emergency Alert user web-site. Emergency Alert is supported by a 24 hour / 7 day a week dedicated Telstra Service Desk.

Since the establishment of Emergency Alert, the Victorian Department of Justice has organised two lessons learned workshops for users of Emergency Alert on 3 March 2010 and 22 March 2011. The Attorney-General's Department understands that the ACT did not attend these workshops.

(9) That is a question for Mr Corbell.

Emergency Alert is designed to send 1,000 voice messages per minute, assuming a 35 second message duration, and a 22 second answer time. At the time of the ACT chemical fire, if the voice message was not answered, the system re-dialled the number twice.

A configuration change to Emergency Alert to limit the number of re-dials to one, was made after the ACT use.
Emergency Alert is limited by existing telephone infrastructure and the capacity of local exchanges. The system has 1,000 dedicated ports, allowing it to dial 1,000 landlines concurrently, providing the local exchange capacity can accommodate this rate. The system sends 30,000 SMS per minute.

(10) The Australian Government has advised the states and territories that it will assist them in enhancing Emergency Alert to enable the delivery of warnings to mobile telephones based on the location of the mobile handset at the time of an emergency. The proposed location-based solution will use network data and is not handset specific.

The countries which have made comparable progress in the development of mass warning capabilities – the United States, Japan and the Netherlands – are all employing telephone-based cell broadcast technology to develop their warning capabilities. This means that their capabilities are handset specific and rely on the voluntary participation of telecommunications carriers. In the United States, authorities do not expect to be able to send emergency warning SMS messages to the majority of citizens for over a decade.

The Council of Australian Governments' decision to prioritise the development of a telephone-based warning capability recognised that most Australians use and have access to landline and mobile telephones and that the percentage of the population who use a mobile telephone continues to increase. Emergency Alert operates across all carrier networks and can send messages to any type of handset.

Australia's decision to invest in a telephone-based warning capability does not mean that other warning technologies, such as radio-based warning mechanisms, will not be explored by the states and territories. The Attorney-General's Department is aware of two emergency warning products which could use radio frequency to turn on a warning device. Both of these products, if adopted by the states and territories, would require households to purchase the individual warning units and ensure that charged batteries are installed.

There is the suggestion that radio signals could be used to remotely switch on mobile telephone and other mobile communication devices. While the concept has potential, currently, a large percentage of these mobile devices do not include a radio chip, meaning many Australians would be unable to receive the alert.

(11) In 2012, the Attorney-General's Department will coordinate a national forum focussing on public warning and communication systems to inform all governments about emerging technologies. State and territory Ministers indicated their support for this forum at the SCPEM meeting on 11 November.

The Department was involved in the development of, and supports the National Emergency Warning System principles, which provide a framework to guide jurisdictional activities in warning the public.