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FORTY-THIRD PARLIAMENT
FIRST SESSION—SEVENTH 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—Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt, Arthur Sinodinos and Ursula Mary Stephens

Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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

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

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
# GILLARD MINISTRY

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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister for Social Inclusion</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Senator the Hon Jan McLucas</td>
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<td>The Hon Wayne Swan MP</td>
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<td>(Deputy Prime Minister)</td>
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<td>Minister for Financial Services and Superannuation</td>
<td>The Hon Bill Shorten MP</td>
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<td>The Hon David Bradbury MP</td>
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<tr>
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<td>The Hon Bernie Ripoll MP</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
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<td>Minister for Small Business</td>
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<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
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<td>Minister for Sustainability, Environment, Water, Population and Communities</td>
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Wednesday, 12 September 2012

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

MOTIONS

Instrument of Designation of the Republic of Nauru as a Regional Processing Country

Debate resumed on the motion:

That, for the purposes of section 198AB of the Migration Act 1958, the Senate approves the designation of the Republic of Nauru as a regional processing country, by instrument made on 10 September 2012. [F2012L01851] to which the following amendment was moved:

At the end of the motion, add “and in addition to the opening of offshore processing on Nauru, calls on the Government to implement the full suite of the Coalition’s successful border protection policies and:

(a) restore temporary protection visas as the only visa option available to be granted to offshore entry persons found to be refugees;

(b) issue new instructions to Northern Command to commence to turn back boats seeking to illegally enter Australia where it is safe to do so;

(c) use existing law to remove the benefit of the doubt on a person’s identity where there is a reasonable belief that a person has deliberately discarded their documentation; and

(d) restore the Bali Process to once again focus on deterrence and border security.”

Senator DI NATALE (Victoria) (09:31): It is another sad day in this Australian parliament. It is a sad day because I am sure that at some time in the future our kids are going to ask us, ‘How on earth did you let this happen?’ Ten years after the introduction of the Pacific solution, a failed policy that wrought so much suffering and misery on some of the most vulnerable people in this country, here we are today looking at introducing that policy once again—the Pacific solution. We have to ask ourselves: who is this solution for? What is the problem that we are trying to solve here today? Is it a problem about the movement of refugees and the harm that they face or is it a political problem that we are trying to solve—a problem where one side of politics is losing votes to another side, where populism, fear and untruths dominate the public debate?

The fact is that this is a debate that has very little to do with the welfare of refugees and everything to do with the most base and unappealing politics that this nation has seen. I find it especially galling when people, particularly on the conservative side of politics, dress up this issue with compassion and welfare for refugees when most of them have never believed that refugees who arrive here by boat have any right to seek protection in this country, that as a wealthy country we should be providing sanctuary and refuge to some of the most vulnerable people. Just listen to the language: ‘We are being swamped.’ 'They are illegals.' They are 'boat arrivals', for heaven's sake, not people! And I keep hearing about the thousands of people who are arriving here and who have arrived here under the current government. But most of them are found to be genuine refugees. Thousands of people are arriving in this country needing our protection because they are genuine refugees. That is why we have a refugee convention. I find the idea offensive that these are people who are taking advantage of the system, that they are chomping at the bit to come to this country and taking advantage of a weak government. I find it offensive because the decision to leave one's family, one's culture, one's traditions and one's language is the most difficult decision that any of us would ever have to face. I have a couple of kids and a
partner, and saying goodbye to her and to my kids, knowing that I might never see them again, is something that I hope I never, ever have to face. Yet we have one side of politics here claiming these are people seeking to take advantage of Australia.

If this legislation was genuinely about the welfare of refugees then surely those very people who are affected would have something to say about it—and they do. Since the introduction of this legislation, we have heard from people in places like Malaysia and Indonesia, and they have said very clearly that this legislation is not in their interests, this legislation is harsh, this legislation is inhumane and this legislation punishes the most vulnerable people on the planet—their words not our words. This is the great paradox at the heart of this legislation. How is it that we purport to act in the interests of refugees, yet they make it very, very clear that this legislation is not in their interests? We do not want to deal with that uncomfortable truth. We do not want to deal with it because it forces us to confront what this is really about: a political response to a political problem.

We are not just turning our back on young people and families who need our protection by the introduction of this legislation; we are actively inflicting harm on them. We are inflicting more pain, suffering and hardship on people who have every right—every moral, legal and human right—to seek refuge in this nation. We risk creating a generation of young children and young men who are scarred and damaged through the harms that we will actively inflict upon them. That alone is reason enough not to support this legislation.

But what has become abundantly clear in recent weeks and months is that there is very, very little evidence that this will work in terms of its intended purpose, which is to prevent people from taking this risky journey. Since the introduction of the legislation, we have seen more people continue to take a journey to seek refuge in this country. We have also heard evidence from a range of international experts who have put to us that, for those people who respond to these punitive measures, all it does is force them to take a much more dangerous journey to other parts of the world. We are outsourcing our responsibilities and we are outsourcing the suffering and loss of life that will result from the passage of this legislation. Just because someone does not die in Australian waters does not make their suffering any less.

Of course it is a debate that has been dominated by untruths and by lies. We keep hearing the coalition talk about their record on this issue. Their record is that, after the introduction of the harshest measures associated with the Pacific solution, we saw the drowning of over 350 people in the sinking of the SIEVX. This is a case of correlation versus causality. Let us be very clear about what the difference is. Just because people are in government does not mean that changes in the numbers of boat arrivals can be sheeted home to their policies. The movement of people across the world is a consequence of a complex number of factors that are outside of the control of the Australian government.

We have heard from people like Amnesty International and the Human Rights Commission, from groups like the ACTU, the Uniting Church and a number of other people who work in this area of public policy, saying clearly that they do not support the approach we are taking. It is true that we had the Houston panel provide advice but it is also true that they ignored the advice of those experts; they ignored the advice from Amnesty, from the Human Rights Commission, from the Uniting Church and from others.
Rights Commission, from the ACTU and from the Uniting Church.

I do believe we are making a grave mistake, and I have sat here listening to coalition speaker after coalition speaker. As I said, I find it galling that they dress up their response under the banner of compassion when it has been very clear that all they are interested in is populism and fear. What has been really interesting is that there is a very deliberate strategy from the coalition. Listening to speaker after speaker, I get the sense that they are trying to distance themselves from the decision they made only a few short weeks ago. It is dawning on them that they might have made a mistake, that people will continue to drown and that people will languish in indefinite detention without any clear sense of when they might be released; with young kids going in and coming out as men damaged and scarred from that experience—that in fact this may be a failed policy. You voted for it, you own it; you own the harm and the suffering that comes from the passage of this bill. If it fails to deter boats, it is your failure just as much as it is the government's. The cost in human suffering, kids languishing in these mental illness factories, more people continuing to do what is their moral, legal and human right—to seek refuge in this country—you own all of it. Of course you throw up the smokescreens of TPVs and turning boats around, but this is your failure just as much as it is the government's failure and no amount of double-talk or weasel words will change that.

Labor has been appalling on this issue. They deserve to be criticised just as harshly. But I will never forget that the breakdown of bipartisanship on the issue of people seeking asylum in this country occurred under the Howard government. That is when things changed. Things changed when under the Howard government we saw a collapse of the bipartisanship on refugee policy. We saw an opposition cede territory on that issue to cave in to the basest form of politics. We saw a departure from the leadership shown in previous Liberal governments—the Fraser government, for example. So the suffering and the hardship that result from this policy are just as much your doing as they are the government's.

There has been a lot of talk about compromise; we keep hearing about the notion of compromise. I find it fascinating that what we have is a debate where two political parties have taken the low road and that somehow compromise on the right thing to do, the moral thing to do, lies between those two political viewpoints. Compromise does not work like that. The truth does not work like that. The truth is independent of politics; the right thing to do is independent of politics. Regardless of the views of one side or the other, sometimes compromise on an issue like this means no more and no less than a betrayal of the things that we hold dear.

We have tried to make this bad legislation better. We have negotiated for things like time limits in mandatory detention. We still cannot get a clear answer from the government about what the no disadvantage test really means. What does it mean? A year in detention? Two years in detention? Five years in detention? No-one can tell us. If you are a 13-year-old kid and you go into a detention centre, when are you going to come out? Will you come out as an adult? In your 20s? No-one is prepared to answer that question—not Paris Aristotle, not the government and not the opposition.

And what about the conditions in Nauru? I am lucky enough to have visited that country. I understand that it is a poor, desperate country—broke—that would cling to any income that might come its way, but
these are people who have fled some of the most brutal regimes, who have taken a risky boat journey and who are scarred by that experience, and we are putting them in tents. This is not a detention centre: this is a war zone. We are going to see people with post-traumatic stress disorder, kids and young families in tents. This is more reminiscent of a war zone than of a nation ensuring that it does the responsible thing, the right thing and the generous thing—that is, to provide refuge. That is why we have a refugee convention: safety and security for people who need it. But no! We will send them to a war zone. We will send them to Nauru to live in tents with a lack of access to medical facilities.

We have also done something to try to improve that aspect of the legislation, which is why we have proposed to set up an expert, independent health panel that can visit these places, examine the sort of medical care provided to people and do at least some little thing to try to reduce the mental illness, the depression, the anxiety and the suicides that will follow as a result of this policy. This is a policy that has been taken up by the Australian Medical Association because, as doctors, we have a commitment to an ethic of care and to the Hippocratic oath, which says, 'First do no harm.' But we are harming people through this policy. People like Professor McGorry, Professor Newman, the AMA and others support the call for independent health advice and monitoring, and reporting back to the minister and to the parliament, not to the immigration department. We do not want a situation where we have the police policing themselves. We have to get that level of independent oversight reporting back to this chamber so that we see the cover-ups and the completely inadequate level of care that have been provided through the previous Pacific solution.

I know this is a tough policy for many people. I understand it. But people in this place have short memories. The memories are of the many hundreds of people protesting in detention centres, flinging themselves on barbed wire because we are taking away hope through indefinite detention; people sewing up their lips; and kids forced into catatonic states because they cannot see their mother, their father or their families. This is a generation of kids who will become Australians—because we know that, ultimately, most of these people will become Australians—and they will be damaged and scarred. And we are doing that. In trying to solve one problem we are creating a much larger and much more terrifying one—one that is of our own making.

After all the scaremongering and the lies from the conservative side of politics, we need to start changing this debate. We need to make it clear that as a wealthy, vast and bountiful nation having the capacity to provide protection, security and refuge is not a sign of weakness; it is a sign of strength. I would much rather live in a country that has the opportunity to provide that protection than being forced to flee from one that is responsible for torture and violence. One thing that is lacking in this debate is empathy. I am lucky enough to have been born in this country purely by accident. It is an accident of birth. The fact that I was born into a wealthy nation and been given a privileged education and opportunities are an accident of birth. I could just have easily have been born in a country like Afghanistan and found myself on the border—knowing my family and friends had been killed, knowing that I would be next—and been forced to flee that nation.

Empathy provides me with the capacity to know that we must do what is the right thing not what is politically expedient, not what
might get us a few cheap votes. We should be motivated to compromise only when compromise brings us closer to what is right not just what is popular, not just acting for the sake of acting. I do not know how we are going to progress in this debate. I do not know what failure means. We still have not defined what this policy means if boats continue to arrive and if kids are harmed, but I sure as hell hope that we do everything we can over the coming years to ensure we minimise the harm and suffering on some of the most vulnerable people in this nation.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (09:51): I rise not to actually condemn a lot of what the Greens have said. I think the Greens are claiming responsibility for the legislation in relation to the Abel Tasman. There is an ad in the paper today that says they are responsible for that. But I will reflect on some of what Senator Di Natale just said, that this legislation will force kids into a catatonic state, that we are delivering them to a war zone, that indefinite detention leaves people damaged and scarred, that it is a mental illness factory. He also quoted the Hippocratic oath, that the first job is to do no harm. The reality is that if the Greens really wanted to, they could stop this. If they were fair dinkum, they could stop it. They know full well that all they have to do is walk down to the Prime Minister's office and say, 'If you go forward with this, we will withdraw our support for the government' and it would stop immediately. It would finish it then. They know that. This is all hyperbole. This is the utter pitch of hypocrisy because the Greens have the power at their disposal to stop it and they choose not to. They will give a wonderful dissertation about the evils, but they know they have the element at their disposal to stop it. Why don't they? Because their love of the position of power is greater than their desire to stop this process. That is the reality. That is the absolute hypocrisy of what they are doing here.

Senator Di Natale interjecting—

Senator JOYCE: Because they are so offended by this, they bring up Cubbie Station. They are now equating Cubbie Station with the litany of issues they have brought forward. That is how pathetic they have become. They are totally and utterly compromised. They are interjecting because I have hit a nerve. They have the capacity to stop this and the Australian Greens choose not to. If they go right out this door right now to those listening and call a press conference saying, 'We will withdraw our support for this government unless this stops,' this will stop today.

Senator Di Natale interjecting—

Senator JOYCE: Senator Di Natale is talking about Cubbie Station. The trouble is that I am not actually part of the government. I was not in a photograph with Prime Minister Julia Gillard with a piece of wattle in my lapel signing an agreement to basically form the government—that was the Australian Greens in that photo. It was the Australian Greens and the Australian Labor Party making their decision, observed by Mr Tony Windsor and Mr Rob Oakeshott—the member for Lyne and the member for New England. They are the government. So we have the Greens complaining about themselves. So how does one take into account statements like, 'It's a war zone' and 'It's indefinite detention'? I agree: it is. It is indefinite detention. There is no doubt about it—this is indefinite detention. There is no doubt that it will leave some people damaged and scarred. There is no doubt that it will force kids in some instances to a catatonic state. There is no doubt that those who are capable of talking about and are proficient in mental illness say quite rightly that it will
have the capacity to induce that. There is no
doubt about that. And there is no doubt that
the Greens could stop it if they wished to.

**Senator Whish-Wilson:** Just like Cubbie
Station.

**Senator JOYCE:** There is no doubt that
when they make an interjection about Cubbie
Station they know that they are on such thin
ice and that what they are putting forward
has become so ridiculous and so pathetic,
because I am not part of the government. I
am in the opposition. I do not have the power
of sway over the government, but the Greens
do. The Greens do, and they take you all as
fools, pretending that somehow they are in
the government one day—when they put an
ad in the paper saying that they stopped the
*Margiris*, the big fishing boat. It is in the
paper. It is an affirmation of their position of
power. It is an affirmation of their position of
influence. It is an affirmation of what they
are capable of, yet when it comes to this, the
most vital core of their beliefs, they step
away because now they are not part of the
government. They have opted into the
government and out of the government
within 24 hours. Within 24 hours they are on
both sides of the fence.

So the Greens know what they can do. All
their supporters know full well that the
Greens can stop this today. They can stop this
tomorrow. They can stop this right now. They
just have to call the press conference and say, 'If you go forward with
this policy, we'll withdraw support for the
government.' That is it. That is where it
stops, and everybody knows that. If you
doubt their affirmation of their influence,
look at the ad in the paper today about how
they stopped the *Margiris*. They stopped that
boat—there is no doubt about it. They
stopped that one.

If it is as you all say, who are you casting
these aspersions about—that it is a war zone,
that it will leave people damaged and
scarred, that it is a mental illness factory, that
the Hippocratic oath forces you to do no
harm and that it will leave kids in a catatonic
state? Who else agrees with this? Could that
possibly be Senator Chris Evans who also
has brought this about? Surely that could not
be his position, because he had a different
position. He said the greatest thing he ever
did was to get rid of the Pacific solution.
Senator Chris Evans said that, but now he is
voting for it; now he is supporting it. Surely
that could not be the position of Senator
Trish Crossin. Surely it could not be her
position. It couldn't be. She hates this sort of
stuff, but she is voting for it. Surely it could
not possibly be the position of Senator Penny
Wong. It could not be her position. She
could not believe in this. She could not
possibly believe in this, but she is voting for
it. And we have not heard boo from them—
not boo from Senator Chris Evans, not boo
from Trish Crossin and not boo from Doug
Cameron. Surely Doug Cameron cannot
believe this, because Doug Cameron, more
than anybody else, used to say some
marvellous things about 'the closure of the
disgraceful offshore processing centre in
Nauru'. He said it was 'a disgrace, it was an
international shame and it brought nothing
but loathing of this country'. Senator
Douglas Cameron said that on 15 November
2010. Senator Douglas Cameron is now
voting for it.

The Prime Minister, Julia Gillard, said
'Labor will end the so-called Pacific
solution—the processing and detaining of
asylum seekers on Pacific islands—because
it is costly, it is unsustainable and wrong as a
matter of principle'. The Prime Minister of
Australia, Julia Gillard, said that it was a
matter of principle that they had to stop it.
The Prime Minister of Australia, Julia
Gillard, brought forward the process to
reincorporate this Nauru centre. It is
obviously a different principle, a different day. It is complete and utter hypocrisy. It is abounding hypocrisy, and this hypocrisy goes hand in glove with their partners in this process who sustained the government in bringing back this process. It is not our bill—it is not the coalition's bill. It is the Labor Party-Greens-Independents alliance bill. It is their government's bill and it is their government bringing it in.

I will be honest with you: quite honestly there are things in this bill—and I support strong immigration laws; I am not for one moment denying that, but my position is consistent and has been from the start—we could not have possibly have got it through the coalition. They are too tough, but you are voting for these things. The Labor Party vote for it every day and the Greens could stop it today by walking out, calling a press conference and saying: 'We withdraw our support for this government because of this insidious act—this act that will turn the place back into a war zone, will create mental illness factories, will put kids into a catatonic state.' They have a role, as do those who are doctors, to uphold the Hippocratic oath, so they could change it but they choose not to. They choose not to do so because they want to play a little trick on the Australian people that apparently they are on both sides of the fence. They support the government that is bringing in this bill, but they do not support it. It is absurd and no-one believes it.

But surely it cannot be wrong, because Senator Kim Carr could not possibly support this. He could not support this as a matter of honour. He would stand up and stop this—I know he would—but he is voting for it. I know Senator Carol Brown does not support this, but in the core of your being the ultimate statement is not to vote for it. You cannot vote for it, so why are you voting for it? Why are you doing this to yourself? You cannot let people destroy you, because that is what they are doing. They are destroying your soul. I know Senator Carol Brown, although there is so much that we have differences over. But I know those ladies have a consistency of principle—their principles might be different to mine, but there is the consistency of principle. I have admired them because I always believed they would stick to their principles. But now they are not sticking to their principles. You cannot do this and drag your core principles through the mud. It is absurd. I know it hurts and I know how much it hurts if you stand up. You will get smacked around the head. I know that, but you have got to do it. You have got to do it if you are fair dinkum, because if you are not fair dinkum then everybody will mark you down. Not one of you—not Chris Evans, not Doug Cameron, not Trish Crossin, not Carol Brown, not Gavin Marshall, not Penny Wong, not Senator Moore, not Kim Carr—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Senator Joyce, I remind you of the requirement to address senators.

Senator JOYCE: Not Senator Evans, not Senator Doug Cameron, not Senator Trish Crossin, not Senator Carol Brown, not Senator Gavin Marshall, not Senator Penny Wong, not Senator Claire Moore, not Senator Kim Carr and not Senator Louise Pratt—not one of them has gone to the doors and said: 'We disagree with this. We find this to be anathema. We absolutely will stand by our principles. We will not let this happen.' Not one of them has done that. There has been silence—the silence of the Left as they pass this over and then this ridiculous process of the Greens, who have the power to stop it, trying to fool people into thinking that somehow they have got the power this morning in the paper with a full-page ad but they do not have the power now. It has gone. It has gone into the ether. They do not have the power anymore.
Be fair dinkum. You know full well that you can stop it, because we have been there before. I will give you examples of when we have been there before. I remember when the West Papuans turned up and it was on for young and old with a bloke called John Winston Howard, the Prime Minister, and a whole coalition that supported strong borders. Another coalition senator and I said we were not going to vote for it; we were going to cross the floor because we believed that the dignified thing was that these people be let in. We got absolutely poleaxed, but they let them in. It made the difference. You can make the difference if you want to. If you really want to, if you are fair dinkum, you can make the difference. What is so absolutely and utterly disgraceful is that you do not make the difference. You will not make the difference. You do not have the ticker to make the difference.

Honourable senators interjecting—

**The ACTING DEPUTY PRESIDENT:** Senator Joyce, I remind you of the requirement to address your remarks through the chair. Senators on my left and right, I remind you of the obligation to allow senators to be heard in silence.

**Senator JOYCE:** The reality is that the Australian Greens do not have the ticker to make the difference to stop this—they do not have it. They know full well how they could do it. There is not one person that—

**Senator Hanson-Young interjecting—**

**Senator Williams:** Mr Acting Deputy President, on a point of order: you have requested a couple of times for Senator Hanson-Young to stop interjecting Senator Joyce during his speech. I ask you to enforce that. I think what Senator Hanson-Young is doing is disrespectful.

**Senator Hanson-Young interjecting—**

**Senator Williams:** And now she is doing it to me. Will you please call her to order.

**The ACTING DEPUTY PRESIDENT:** Senator Williams, interjections have come from both sides of the house.

**Senator Hanson-Young:** Mr Acting Deputy President, on a point of order: I would like the record to be corrected. You have not named me in any of these interjections.

**Senator JOYCE:** Let us find out if Senator Sarah Hanson-Young has the capacity to go to the front, call a press conference and announce that the Greens will withdraw their support for the government if this goes forward. There you go—simple; done. Let us see if Senator Di Natale has the moral capacity to go into the courtyard after this, call a press conference and say that the Greens will withdraw their support for the government if this goes forward. Let us see if Senator Lee Rhiannon has the capacity to go to the courtyard after this and call a press conference and say that the Greens will withdraw their support for the government if this goes forward. Let us see if Senator Whish-Wilson has the capacity to go to the courtyard and say that he will advocate withdrawal of support for the government if this bill goes forward. Let us see if any of them do. If none of them do, then discredit totally and utterly any utterances they have made in this chamber today.

**Senator WRIGHT** (South Australia) (10:09): This is another dark day in the life of this parliament as I stand to speak today on the designation of the Republic of Nauru as a regional processing country. This designation is being made by the Minister for Immigration and Citizenship pursuant to section 198AB(1) of the Migration Act 1958. This has become possible because of the recent shameful passage of the Migration
Legislation Amendment (Regional Processing and Other Measures) Bill 2012—another dark day in the life of this parliament. The Human Rights Law Centre have been scathing about the human rights violations inherent in this legislation. To quote them:

It enables the government of the day to designate any country as a regional processing country regardless of the human rights protections afforded in that country either under international or domestic law. This is likely to give rise to violations of non-refoulement obligations under the Refugee Convention, the International Covenant on Civil and Political Rights and the Convention against Torture, all of which have been ratified by Australia.

They go on to say:

The Act provides for the removal of unaccompanied children to a regional processing country for a broad range of reasons considered to be in the 'national interest', contrary to the general obligation under the Convention on the Rights of the Child to ensure that the best interests of the child are given primary consideration and the specific obligation to ensure that asylum seeker children receive all necessary human rights protections and humanitarian assistance.

It does not stop there. The Human Rights Law Centre also point out:

The act provides that the rules of natural justice do not apply to a range of Ministerial decisions, including decisions as to which countries should be designated as regional processing countries, whether an asylum seeker should be sent offshore, and which regional processing country an asylum seeker should be sent to. This directly breaches Australia’s obligations under the ICCPR to ensure that, in the determination of rights and obligations, a person must have access to the courts and is entitled to a full and fair hearing.

It is a very bad day when we are asked, in the Australian parliament, to support a government process that will see the export of vulnerable people, who have come to our country seeking asylum and our protection, to another country, where the length of their stay is indeterminate, there are inadequate facilities for their accommodation and the only condition for the exercise of the Minister of Immigration's power is that it is in 'the national interest' as determined by him or her.

The designation of a country to be a regional processing country specifically need not be determined by reference to the international obligations or domestic law of that country; as the Human Rights Law Centre said, 'regardless of whether that country has human rights protections in international or domestic law'. This designation has not been subject to human rights scrutiny which would be available under the Human Rights (Parliamentary Scrutiny) Act 2011, which established the Parliamentary Joint Committee on Human Rights earlier this year. That committee and that legislation were established to scrutinise the engagement of human rights in relation to legislation and subordinate legislation in this parliament. But the government has chosen to exclude the designation from the scrutiny of that process. Why is that? It is stated in clause 12 of the explanatory memorandum with regard to a statement of compatibility—which is ordinarily prepared in relation to legislation and subordinate legislation for the committee then to have an opportunity to assess whether human rights are engaged, to what extent they are compromised and to what extent that would be justifiable—that a statement of compatibility has not been prepared for this instrument. That is because there is not a technical requirement, according to the explanatory memorandum, that that occur because of the nature of the way this particular instrument has been created. But why, when there are so many questions about this entire process, has a statement of compatibility not been provided so that this
parliament can have clear scrutiny about the implications of the decision that we are being asked to ratify the day? It is a very bad day when the majority of parliamentarians, those in the coalition and the ALP, are choosing to turn a blind eye to these violations in the name of our 'national interest'. I know that many Australians agree that in relation to refugee policy we need a humane solution to what is a very complex issue. The Australian Greens say that it is our humanity and our essential decency as Australians which is in our long-term national interest. But despite the wealth, prosperity and advancement of our nation, when it comes to refugee policy this government has taken us backwards. The Australian Greens have an alternative to this. We have a humane solution—one that will save lives by providing safer pathways, not by punishing people and banishing them for an indefinite period to far-flung dumping grounds provided by our less wealthy neighbours.

The Greens have a humane, compassionate and human rights based approach to refugee policy in Australia. Our practical proposal for a New Regional Plan of Action has strong support from refugee advocates, human rights lawyers and members of the Australian community. But instead, the Gillard government has fallen into line with the former Howard government and Tony Abbot's coalition to pursue an approach which it has previously criticised vociferously when in opposition. It has continued and, indeed, strengthened offshore processing as the central tenet of its refugee policy. Let us make no mistake: the government's policy is inhumane and it will be ineffective; it will fail. Indeed it is already failing, with so many arrivals since the policy was announced that Nauru and Manus Island are already full before they are even opened.

Paul Lonot Sireh is a Manusian, a Manus Islander, and I recently read his heartfelt plea for humanity—not only for his own people but also for those who will be subject to detention on his homeland. Why is it that the poorest—those who have the least—often have more capacity for compassion and generosity than those who have much? I will share his words:

Being a Manusian, I am feeling sad for my island and my people. I was born and bred in Manus and did my primary and secondary schooling there before going to the seminary to study for the priesthood. I left PNG for Australia about 12 years ago.

The move to spend millions of dollars to reopen the Manus detention centre is very much like building a palace in the middle of a slum. Manus Island is a forgotten province in PNG to say the least as regards development. People's lifestyle is undisturbed and peaceful. However like most developing peoples we are now feeling marginalized and our needs ignored by both governments. Because I reside in Australia, I am privileged to have access to a modern and western lifestyle, with three meals a day, better clothing, and many other benefits from living in this country. Manus Islanders don't have these privileges.

Can both the Australian and PNG governments help improve the living conditions of the islanders before thinking of spending millions on an exercise that will not be beneficial to all? If foreigners are to be sent to Manus how will the needs of all Manus Islanders be met?

What would be the ideal way to boost the local economy on Manus? Here are a few suggestions for much needed improvements to infrastructure. Our deserted Lorengau town needs to be developed with good roads, housing and good sanitation. The Manus highway is very much like a logging track. The wharf has been there since World War II. People are dying every day because there are insufficient drugs and no hospital facilities to attend to the sick. The airport terminal needs to be renovated or completely rebuilt. These are just some of the vital needs of
Manus Island if Australia and PNG governments are serious about boosting the local economy.

But my main concern is that Australia is a prosperous First World nation that is economically capable of accepting a much large number of refugees who reach our shores seeking asylum from war, violence and persecution. By offering Manus PNG, with a much weaker developing economy, substantial aid to process many of these asylum seekers, Australia is lapsing back into the habits of its colonial past by exploiting the resources of another nation, in this case the willingness and economic needs of the remote Manus Islanders. The government is asking Manus-PNG to do what they themselves are not willing to do. The fact that the government's motive is to deny asylum seekers the protection of Australian Law makes moving their problems to PNG all the more reprehensible.

Every time we sing *Advance Australia Fair*: For those who've come across the seas We've boundless plains to share; my heart sinks. If Australia cannot welcome these asylum seekers into these boundless plains, then please omit this line from the national anthem. Despite the many differences, are there not also many parallels with the early history of Australia, when England decided to solve her convict problems by sending them around the world to Botany Bay—out of sight, out of mind?

He goes on to say it is important to recall the words and experience of the Palestinian asylum seeker Aladdin Sisalem, the sole detainee on Manus Island for 10 months in 2004. He told ABC Radio's *Saturday AM* program that he is not surprised by the federal government's approach to PNG. It would be wrong, he said, to reopen the facility.

It's a senseless decision, a very bad decision—bad for people's life, bad for the taxpayers' money. Mostly it was the fear on what is behind it, what is going to happen next, because I find that I have no human rights at all—anything can happen to me.

Every time I got the news that I will be released from detention to Australia, I was still unsure about it until I actually left the plane with some other people here in Melbourne. I wasn't secure until that moment. I actually do have a mental disability now from the post-traumatic stress and suffering. It's been so hard to build this life again after that.

Paul Sireh concludes:

I strongly urge that such experiences should not happen again. To re-open the Manus detention centre would be inhumane and destructive for the health and wellbeing of all involved.

Please leave Manus Island alone if the local people can't benefit from it, and the very name of Manus Island becomes linked around the world with injustice and persecution.

We know that we will be asked to make a decision like this one about Manus Island in the future; it is on the government's list of future asylum seeker destinations. But the observations are equally applicable to Nauru—the fact that Australia is displacing its own responsibilities onto less wealthy, more needy neighbouring countries.

If it is lives we genuinely want to save then this is not the way to proceed. Refugee advocates and experts consistently advise that the only way to save lives and deter people from boarding boats is by providing safer pathways for people fleeing persecution, terror and hopelessness. As Malcolm Fraser said in 2011:

What has been forgotten in this debate is that desperate people will go to any lengths to get to a country that they believe to be safe and that they know will give them, and more particularly their children, a future.

If we look into our own hearts and consider what we would do in similar circumstances, it does not take much imagination to understand that these are the decisions that we would also be driven to make.

If drowning at sea is not a deterrent to boarding boats then punishing people by
sending them away for indefinite periods out of sight and beyond scrutiny will not deter them. But it will endanger many, many more lives, because refugees will continue to arrive. As we know from our previous experience of warehousing people on Nauru, when they are detained for long periods of time we will put their health and their wellbeing and even their lives at serious risk. We know that immigration detention centres inevitably become an excellent vehicle for producing mental illness and mental disorder, and the mental health impacts are exacerbated by offshore processing. The uncertainty of immigration detention, currently for indefinite periods in order to create a nebulous no disadvantage effect, leads to hopelessness and despair. The government has consistently failed to indicate what this actually means in practice. It is a cruel and open-ended sentence imposed on people who have already survived experiences that most of us can barely imagine.

The vast majority of people in immigration detention are ultimately determined to be refugees—about 90 per cent—and granted Australian residency. Yet we are willing to leave them to languish in limbo until there is a strong risk that their sense of hope and a future is destroyed through living in a constant state of uncertainty, separated from family, friends and community. The overwhelming majority have fled war-torn countries. Many of those seeking asylum have experienced torture or trauma, and we know immigration detention compounds these existing problems. Unsurprisingly, victims of torture need supportive, caring environments and adequate access to health services, and receive neither in immigration detention. History teaches us very clearly that offshore processing will lead to self-harm, severe depression, suicide attempts and loss of lives through suicide.

Many mental health experts have decried the effects of indefinite detention and they are clearly on the record. Professor Patrick McGorry has said: 'We know that after about six and certainly 12 months in detention, mental health will deteriorate and there's very good evidence for that. We also know that people who have been through previous detention and torture and severe trauma of other kinds are especially vulnerable to these effects, and particularly children and adolescents.'

Many of Australia's mental health and health organisations are united in their concern about the standards of mental health care in our detention centres. They include a long list of organisations: the Australian College of Mental Health Nurses; the Australian Nursing Federation; the Australian Medical Association; the Royal Australian and New Zealand College of Psychiatrists; the Mental Health Council of Australia; the Brain and Mind Research Institute; Orygen Youth Health; the National Mental Health Consumer and Carer Forum; the Australian Psychological Society; Sane Australia; Professor Louise Newman, Royal College of Nursing Australia; Lifeline Australia; the Australian College of Psychological Medicine; the Mental Health Research Institute; Catholic Social Services Australia; the Mental Health Association of Central Australia; the Alcohol and Other Drugs Council of Australia; the Australian Association of Social Workers; the Royal Australian College of General Practitioners; and Suicide Prevention Australia. Last year, they were united in demanding that there be an independent investigation into the standards of mental health care in our detention centres because we know that centres wreck people's minds.
It is clear that locking people up destroys wellbeing and mental health, and the absence of time limits entrenches this damage. Senator Sarah Hanson-Young has consistently tried to ameliorate the harshest aspects of this policy by introducing basic safeguards of time limits for detention. It is for this reason that the Greens are seeking amendments to ameliorate the worst aspects of this designation—a 12-month time limit and an independent healthcare panel to oversee the health and wellbeing of people in offshore detention. But the government and the coalition appear to be intransigent and their recklessness as to the likely damage to the mental health of asylum seekers in the interests of adding to deterrence is utterly unconscionable.

Through this policy, they are condemning another cohort of refugees to wretchedness and enduring suffering into the future, and most of these people will become Australian residents. The Australian Greens remain utterly opposed to this action by the Labor government, which is urged and is supported by the coalition parties. I believe that in the future Australians will look back, as with other shameful periods in our history, at this time of hysteria, fear and madness and say, 'What were they, our elected representatives, thinking?'

Senator SINODINOS (New South Wales) (10:28): I found the speech by the previous speaker quite an important speech because she made many points about our humanity and about how this is a complex issue, and she is absolutely right. The art of government has always been how you balance the various competing considerations. This is the dilemma we have always faced. In this particular issue, over the years we have tried to find a way to meet our obligations to the international community through our membership of the refugee convention while not allowing the perception that compared to other countries with similar obligations we are somehow a soft touch; therefore, more likely to be a place where people should go and therefore on the basis of which an industry can spring up, people smuggling, which seeks to feed on the fears and concerns of asylum seekers.

All of us want Australia to play its role as a global citizen. There is no doubt about that. That is why we have one of the most generous refugee and humanitarian programs in the world, particularly on a per capita basis, and there have been discussions over time in the context of legislation about how the intake might be lifted and all the rest of it. One of the issues we face in this debate is that, if we want to be infinitely compassionate, doesn't that mean that you just allow anybody who wants to to come here? If there are 20 million refugees in the world, why should we cap our program at 20,000 or 50,000 or 100,000? In other words, what are the limits on our compassion? Should there be limits on our compassion? As a society, we have to balance a lot of concerns. We cannot take everybody. We have to have a rules based society, and we have to have some rules by which we determine who comes here and who does not.

It is one of the fundamental tenets of good government that the government has to observe the laws and the laws have to be enforced, not have this idea that we can somehow give a wink and a nod to people smugglers, reinforce their business model and put money in their pockets—and that is not money coming from us; that is the money being put together by people overseas who are concerned to try and find, in many cases, a bolthole, somewhere to get to. Many of them are genuine refugees; there are others who, quite conspicuously, are economic refugees. But the fact of the matter is that if we want our community to consent
to a generous refugee program and, even more importantly, a large immigration program, we need to show that we are in control of what happens.

These are the sorts of considerations that real people, real governments, have to deal with. It is fantastic when we come in here and display our morality and live up to the highest ideals of our conscience, but we all have to live in the real world as well. When the *Tampa* was steaming on its way to Indonesia and was diverted to Australia, no respectable Australian government was going to sit by and just say, 'We'll put out the welcome mat and in you come.' That is not how you run a country. No country runs like that. We have to have a policy. We have to be generous but it has to be on our terms, because this is our country. We make the rules. We make them in a way that is consistent with our global responsibilities.

I have heard talk over time about the impact of the measures that we have taken on people's mental health. I think that is a real issue. We should try and do whatever we can to address those sorts of issues, but it is people like the people smugglers who are putting people at risk on the sea and at risk of mental problems in these facilities. I never hear condemnation from some of the speakers in this chamber of the people smugglers, the ones who are battenning on the wretchedness and misery of others. We are trying to find better pathways, but we are not in favour of an open pathway. If we say we will process whoever gets to Malaysia or Indonesia, it is an open door policy. No respectable government can have that. That has never been the Australian way. It will not be the Australian way. We are in control and we will remain in control.

I hear myths perpetrated around this chamber around the perfidy of previous governments in potentially allowing people to die at sea. There is no Australian government, Labor or coalition, that, with the possession of information about the risk to people at sea, would knowingly say, 'Let them sink.' That is a myth. That would not happen in our system. There are too many people in our system with access to the right information and, more importantly, with the conscience to do something about it—on both sides of politics. It is a myth that people would not take action in circumstances where they have a capacity to do so.

May I say that there is no monopoly on morality or wisdom in these matters, but there are some in this chamber for whom there seems almost to be a monopoly on sanctimony—a holier than thou attitude. Well, I can tell you, when you are in government you have to make choices. People on the other side of this chamber know that all too well. You have to make choices and you have to be responsible for those choices. We cannot have an open door. We must make those choices and often it is making the best of a bad lot of choices. Today we are in that position because we should have made these choices a few years ago when the problem started to reoccur. We had a certain policy which appeared at one stage to be a bipartisan policy all the way up until after the 2007 election and then it started to unravel. That started to send mixed signals to people overseas and it allowed us to get into the situation we are in today. Senator Wright is right when she said we have gone backwards: we have gone backwards.

We need a full suite of policies and we can do that while exhibiting compassion in terms of our refugee and overall immigration intake. I would like to see the Greens address the issue of a higher overall immigration intake because that is one way we can make sure as many people around the world have the capacity to come to Australia, always
subject to the caveat of what is our absorption capacity, our carrying capacity as a country. If we want to be generous, why aren't we going down that route? That is something I think the Greens should address in terms of the general immigration program.

Finally, let me conclude by saying this. The Houston report is welcome by the coalition because it verified on an evidence basis many of the propositions we had put. Yes, it is a nuanced report and there are things in there that we have to grapple with as well as the coalition but the point is finally an independent report verified that what we have said for years was not based merely on ideology, prejudice or crass political pointscoring. There are real policy issues in this area and, for too long, they have been treated as a basis for political pointscoring. Hopefully, we are getting to a better basis for policy. I call on the government to adopt the comprehensive suite of measures that we have said are necessary in order to provide effective deterrents in this very sad and sorry situation we find ourselves in.

Senator WATERS (Queensland) (10:36): I rise to speak with great sadness on the designation of Nauru as a regional processing centre. I think it is a tragic irony that, as we debate opening Nauru, in fact it is already full. It has capacity for 1,500 people and there have already been almost 2,150 refugees seeking our help in recent weeks and months. Where will we send them to next? Obviously, Manus is next on the list and Malaysia after that. Where else?

It troubles me that rather than take responsibility for the human rights of people who are legally seeking our protection and who we are legally obliged to assist and protect we are looking around for everywhere possible—anywhere but here. We are looking for human rubbish tips and we will have to keep looking because, as we have seen and the figures have shown over decades, this so-called deterrence approach simply does not work.

We have already seen yet more refugees from Afghanistan and Pakistan arriving in Indonesia since the announcement of this policy. I have a quote here from a Pakistani refugee, Alemzadeh, who says:

They know [about the new policy], but they don't stop. They say it's too dangerous to stay in Pakistan.

Of course it is, and that goes to the heart of the problem with offshore processing: this is not going to stop the boats. It is only when Australia is going to be so horrible and desecrate these people's rights and their very existence that there could possibly be a disincentive. I certainly hope we never reach that day. We are fortunate as Australians that we have never had to live under such brutal regimes, so we cannot possibly understand the pressures that these people are facing.

I call upon all members of this chamber to search your hearts, put yourselves in their shoes: if you were facing death or persecution and you felt so unsafe in your home country, what would you do? Would you just stay there while members of your family, your extended family and your community were persecuted, shot or tortured? Of course not. You would act like any other human being, any other parent, and flee to safety with your kids.

Clearly, the push factors will always be stronger than the pull factors. While we have war-torn nations in our region, which sadly it seems we will for a long time yet, people will have no other option. I think we need to start recognising that and designing our policies accordingly, which is exactly what the Greens have said. This is why we need to increase our humanitarian intake—not to 20,000 but to 25,000. This is exactly why we need to properly resource those refugee-
processing centres that already exist. It is because people are waiting in those centres, sometimes for decades in limbo—they cannot work, they cannot send their kids to school and they are not able to access public health care—that they are getting on boats to come here. Who could live with that uncertainty? We need to give these people another option apart from getting on the boat. It seems to me that the most sensible option is to say: ‘Yes, you will be processed more quickly. Just wait a bit longer; we will put some more people on the ground. There will not be just two people assessing applications; there will be lots more. You're going to get a safe pathway. Just be a bit patient. It won't take 20 years.’ That is the way we give people a real option and stop them getting on those boats.

As I said before, unfortunately the figures bear out that this approach of deterrence simply does not work, and we know that. All of my colleagues have referred to the tragedy of the SIEVX, where 353 people, mostly women and children, died after John Howard's Pacific solution had been introduced. It does not stop the boats. Unfortunately, probably nothing that we do can stop the boats. What we can do is try to give people a safer option and try to impress upon them the fact that, if they just wait for a little bit, we will properly resource these processing centres and they can come as genuine refugees—as most of them are recognised to be—and they can come here safely, start their new life, not have to face that terrible persecution and risk of death in their own home country, and not have to face decades of limbo in the refugee-processing camps. We have other options.

It really saddens me that the Greens spoke to the government at length about this and we put our position forward. All of the solutions that we were proposing did not even require the sanction of this chamber, including increasing the humanitarian intake, properly resourcing those refugee-processing centres, working better with the Indonesian government and better implementing our obligations under the Safety of Life at Sea international rules. None of that required this chamber to act, yet the government still refused to adopt any of them.

Thankfully, the Houston report then came out backing some of those aspects of what the Greens were calling for, and I really welcome the fact that the government has now increased, or said it will increase, the humanitarian refugee intake up to 20,000 from just shy of 14,000, where it has remained static for many decades despite other categories having been increased. We welcome that, but where is the progress on that? The government has said that it will in fact increase those numbers. When is that going to happen? These are real ways that we can make a difference, by relieving that pressure and that feeling of folk in refugee-processing camps that they have no other option but to get on the boat. These are real things that we can do to alleviate that, and I would just urge the government to please move along with implementing that positive aspect of the Houston report that the Greens and the experts have been calling for for a long time. It does not need legislation. The government can act on that, and I say to them, 'Please do so.' I think we are all concerned about the loss of life at sea here and I welcome the fact that senators from all parties have expressed that desire. Clearly we differ on the ways to respond to it but, when we have the Houston panel clearly saying that increasing humanitarian intake to 20,000 is one way of reducing that pressure, I say: please, please hurry and implement that.

I want to take issue with something that a fellow Queensland senator, Barnaby Joyce, said in his speech. He was saying that the
Greens could stop this and that we should be taking the government to task over this. I would just like to correct the record. The Greens tried and tried and continued to try to negotiate with the government about this issue. We have consistently proposed a comprehensive range of solutions, many of which do not require this chamber to tick off on them, and unfortunately, to the great shame of many Australians out there who think that we have bigger hearts and that we should do better, the government chose to vote and go with the coalition and to adopt the vast bulk of coalition policy. So I would like the record to reflect that Senator Barnaby Joyce's contention that the Greens could somehow stop this is in fact ridiculous when you consider that we will vote against it, and he and his party and the opposition will vote for it. I am afraid that Senator Joyce seems a little confused and I take this opportunity to correct the record. If he feels so strongly then he should come over here and vote with us against this designation of Nauru as a regional processing centre.

Obviously the Greens are opposing this but it seems that the government and the coalition are determined to continue on this race to the bottom to treat people as cruelly and inhumanely as possible under this so-called no disadvantage test, which still remains quite unclear and undefined. We still do not know what that means in terms of how long people will be locked up for, how long they will be abandoned in the middle of the Pacific Ocean with no access to health care, with no floorboards at this point, with no kitchens, with no toilet facilities, with no showers, I heard on the radio a day or two ago. At the moment they have got some tents. Is it any wonder that after facing the brutality and the persecution and the torture that they faced in their own countries, after battling the waves on the sea, if they end up on Nauru to have filthy living conditions and again be in limbo for years, for how long we do not know, there are going to be serious mental health implications from that, as we have already seen the last time we had this policy. That is why, even though with every fibre of our being the Greens resist offshore processing, we are going to try and improve the situation for those people who are dumped on Manus and who are dumped on Nauru and probably will be dumped in other offshore ports anywhere but here.

That is why my colleagues Senator Hanson-Young and Senator Richard Di Natale have introduced yesterday a bill to establish an expert healthcare panel to ensure there is an independent panel of doctors and physicians who are actually overseeing the health and mental wellbeing of asylum seekers. We need this desperately. This would make a cruel and inhumane policy slightly less cruel and inhumane, and I would urge all members of this place to please reflect on the terrible mental health outcomes, the suicides, the hunger strikes, the sewing of lips, just appalling things that people did to themselves, and reflect on the real need of some independent oversight from the medical profession and to report back to this place every six months so that we know what is going on there and we can make decisions in the full knowledge of what we are doing to people.

The Australian Psychological Society have outlined their concerns about offshore detention and processing. They have quite a long list of concerns, including the history of escalating mental health issues resulting from detaining people offshore, including suicide attempts, self-harm incidents such as hunger and water strikes, the lip-sewing, the riots, the protests, the fires and the breakouts. They also say that the remoteness of offshore locations restricts accessing of mental health and other services, as well as compromising the ethical delivery of such services. They
talk about the fact that the links to community resources, to networks and to legal assistance are also severely limited in detention centres given the remote locations. They talk about the inequity in human and legal rights for those detained offshore and they talk about the particularly vulnerable groups such as unaccompanied minors, children and families and those with pre-existing torture and trauma experiences. They point out that these people are likely to be at particular risk when parked in offshore detention without adequate support. Lastly, they mention the lack of appropriate access to interpreters and translation services which limits basic communication and access to those already restricted services. In summary, they express their serious concern that sending such vulnerable people to countries other than Australia, and particularly those countries which are not signatories to the UN refugee convention, risks exacerbating existing vulnerabilities and adding to their sense of uncertainty, fear and despair. They conclude that these are extremely costly options in both the short and long term, and I would add there is both a financial and a human cost.

I urge all members of this place to seriously reflect on the need for this expert healthcare panel, the need for independent oversight of the mental health effects of offshore processing, the need for that evidence and that real human experience to be brought back to us here so that we may reflect on what our policies are doing. If the evidence suggests, as I fear it will, that this is doing untold mental health damage to people then it is for us to change our minds and take a more humane approach that will actually work to reduce the desire for people who are escaping torture and legal limbo to get on boats. It will treat people with dignity and it will treat them as we would have ourselves treated.

I have already talked about the fact that it remains unclear for how long people will be held in indefinite detention. Of course, that is tautological: it is indefinite. We await the details of this no-disadvantage test. But it still grates on my sense of humanity and fairness that we should aim to be just as mean, just as cruel and just as inhumane as other countries in order to deter people from coming here. What a sad day when we have to be as cruel and as bad as other war-torn countries in an effort to save people's lives. It just does not even make sense. It is not even logical. It will not work. We have already seen that. The data does not show that deterrence works. In fact, the data shows that deterrence does not work. So there is no logical reason for the no-disadvantage test. It is simply an embarrassment and a blight on the Australian character.

I also take issue with a number of the speakers in this chamber who have again had the temerity to call asylum seekers 'illegals'. I wish there were something in the standing orders that allowed the President or the Acting Deputy President to rule on inaccuracies, because it is to my great irritation that we hear constant inaccuracies that go unchallenged. And perhaps the most insulting of them is that it is illegal to seek asylum. It is not illegal to seek asylum. It is exactly why Australia signed the refugee convention: to recognise the rights of people fleeing the threat of torture, death and persecution and to recognise their right to seek asylum and their wanting to have a better life and for their kids to be able to go to school and grow up without the fear of being shot. So I again point out to the chamber that it is not illegal to seek asylum, and I urge senators to get some legal advice if they do not want to rely on what is obviously in the refugee convention. And please do not perpetuate that wrong,
insulting, delegitimising and incorrect statement.

I have talked about the fact that at the moment the regional processing centres are vastly underresourced. I want to mention now the fact that there is sometimes mentioned a floodgates argument, which is that, if Australia were somehow kinder to people and upheld its human rights obligations under the refugee convention, there would be somehow a flood of refugees. I want to point out some facts. Currently, we accept 1.3 per cent of the world's refugees. That is not a large amount. In fact, in my opinion, we are already doing less than our fair share and we could certainly increase that amount. There will be no floodgates. We are at the bottom of the world here, but wherever we have war-torn countries of course people will keep coming. So we cannot expect that this policy of no disadvantage and of deterrence is going to stop the boats. We are kidding ourselves if we do. We need to accept that we have to do what we can and that wherever there are war-torn countries and conflict, people will seek our help; they will seek safety. It is the human condition. We all want what is best for our family, and I do not think anyone in this place would do anything different if they were in their shoes. So we need more than just two officers in those UNHCR assessment facilities in Indonesia. We have to speed up the processing times.

I want to lastly mention that again we have moved to improve the situation here in offshore processing with the establishment of the Expert Health Care Panel. Likewise, we have moved and will again move to try and limit detention from indefinite to just 12 months. Of course, we think 12 months is too long but we hope that 12 months might be an amount that the other parties would consider acceptable. It has already been voted down in the House, and my colleague will bring that back on today. Please, let us take an awful situation and try to improve it slightly for these people who we have the legal obligation and the moral obligation to do better by. I do think that Australians have the heart and the courage to do better, and I firmly believe that the community wants to see this place extending more of a helping hand and a more humane approach to this issue than we have seen demonstrated in recent weeks and months. Again, I ask everyone in this chamber and any Australian listening or reading the Hansard to put themselves in these people's shoes. You would do exactly the same thing. I am a parent and I would do anything for the safety of my little girl. We would all do the same, so please let us reflect on that in the course of this discussion.

Senator RHIANNON (New South Wales) (10:55): I rise to support the comments of my colleagues on this issue, and I congratulate senators Sarah Hanson-Young and Christine Milne for the extensive work that they have done on this quite extraordinary situation that Australia finds itself in at the moment. There have been so many aspects of it that have troubled us deeply, and I acknowledge there are so many people working very hard to bring some decency to how we treat refugees in Australia. Many aspects have been taken up by the Greens, and my colleagues have pointed out very clearly how far we have moved away from our international responsibilities. We have abandoned the rule of law and—something that is particularly disturbing and back in the news today—we have abandoned the principle that the minister is the guardian of unaccompanied children.

To read that the government is on the point of sending women and children, including unaccompanied minors, to Nauru and Manus Island marks another shocking
day in this saga that the Labor government have made so much worse. They could have worked with the Greens when we came up with a humane position that honours our international obligations and gives assistance to people who have been through such terrible times. I have had the opportunity to visit Villawood Detention Centre, where I met with many people who have told me the stories of why they left their countries. In all the aspects of the debate, one that I find most disturbing is when senators from the other parties doubt why people leave their countries and make out that this is done for frivolous reasons—just coming to Australia to get a better life. The people from Sri Lanka, Afghanistan and Iran that I have met tell harrowing stories that would break your heart. Many of them have lost loved ones along the way or are now separated from their loved ones, and they do not know how long they will be apart.

A big part of this story is that we are handing over the running of these detention centres to Transfield Services. There is a big question mark over this company and how it operates; it really needs to have more of a spotlight put on to it. It is interesting that over the last decade this company's financial standing has not been really good, whereas Serco Australia, the division of the British multinational that runs most of Australia's current detention centres, reported a 45 per cent rise in net profits to $59 million last year. The revenue of that company almost doubled from $369 million $693 million—that is what Serco Australia has picked up. What do we know about Transfield Services? It is part of a sweep of companies and it is often hard to distinguish between them. There are Transfield Holdings, Transfield Services, Transfield Corporate, Transfield Pty Limited and numerous partnerships in a whole number of projects. What you find out when you start to look at them is that they have no experience in running detention centres—very little experience in running any facilities. The bulk of their work is in construction, so I thought it was necessary to look at aspects of some of the work that they have undertaken. The company have a bus project in Adelaide. They are that city's largest bus operator, and they were actually fined by the South Australian government when it was found that on the north-south route the buses were late nearly 50 per cent of the time. They were fined $120,000 because of that, and their performance was criticised by both the government and the opposition. This is a bit of theme that you start to see when you look at Transfield: their operations do not live up to the promises that are made or the contracts that they have signed. Sometimes they are a bit loose with their own paperwork. In New South Wales this company has been successful in winning contracts from successive Labor and coalition governments.

The company have a long history going back to the 1980s. The Perisher Skitube Joint Venture was established. Then the Sydney Harbour Tunnel contract was awarded, another joint venture. Interestingly, on the eve of the Labor government going out of office, when everybody knew that their days were over, the Keneally government awarded Transfield Services a $450 million contract to undertake facilities management and cleaning services in public schools, TAFE buildings and other government facilities from the Hunter to the north-west Sydney suburbs—that is a huge contract. In the late 1990s, Transfield was a senior partner in the very controversial $650 million Walsh Bay development in Sydney, which saw the privatisation of a considerable public space.

In 2010, we saw Transfield again run into some problems. They looked to expand their operations with the New South Wales
government, applying to that government for a $350 million wind farm. To undertake that they had to put in with their submission some paperwork about their political donations, and they failed to notify details of those donations. There was a donation that they had made to go to a dinner with the then Labor Treasurer, Mr Eric Roozendaal, which they were totally allowed to do, but again there was a failure to disclose.

This weakness on paperwork becomes a bit of a theme, and where this becomes interesting is that this company has now adopted a policy not to make political donations. That is a good move, but I will come back to a few more details about how they are handling that aspect of their work. On their construction work, some of the very serious problems that occurred with the Lane Cove Tunnel need to be put on the record. Not only was this a financial basket case, but we also saw the partial collapse of an apartment block that occurred during the excavation that Transfield was involved in. There are many problems that come through when you look at the projects that they are involved in.

I want to move onto the issue about how this company has handled its political donations, which have been considerable over the years. What we have seen with this company—and you would hope it was more than a public relations exercise, as it is with some companies, although some companies do enforce it very thoroughly—is that in September 2010 they adopted their political involvement and support policy, which says:

Transfield Services does not make political donations …

This is interesting, because I have just detailed some of the projects that they have been able to pick up over the years. Particularly in New South Wales, we see that considerable donations were made. From 1999 the total donations to all political parties comes in at more than $1 million; it is $1,126,546. The coalition were not so favoured by Transfield Services—all the Transfield companies. The coalition picked up $389,300, while Labor in all states since 1999 has picked up $737,246. The story becomes interesting when you look at the recent donations in light of the policy that this company has adopted. It has given more than $1 million to the political parties. But, when we get to September 2010, it says it is not giving political donations anymore and it has adopted a new policy. This information needs to be tracked through the various websites of the electoral commissions where you find that in the 2010-11 financial year Transfield disclosed making eight donations to the major parties. If you look further you find out that Transfield Services—the one that adopted this policy—gave two $5,000 donations to federal Labor in July and August 2010 and Transfield corporate services gave a $50,000 donation to the federal ALP division in August 2010, a total of $70,000 donated to the federal ALP last year. That is all okay according to the company's policy.

Transfield Services also disclosed giving three donations to the Liberal Party that year totalling $16,500. The last donation of $5,500 was listed as given to the New South Wales Liberal Party on 10 June 2011. This is some eight months after the company claimed it had ceased giving donations, in September 2010. Maybe this is a reflection of lax paperwork, but the theme becomes quite worrying. We find out about Transfield (1) that it has a lack of experience in anything that comes close to managing detention centres and (2) how it manages its own affairs.

It is interesting to look at the financial health of this company, because the company's shares have really not increased
in value over the last decade, still sitting at around $2.10 per share. In this time shareholders have probably been wondering if their investment was worth it. At the same time, senior management have been looked after. In 2010-11, managing director Dr Goode received $2.8 million, an increase of $400,000 at a time when the return to shareholders went backwards. You become concerned about why the company has put up its hand for the Nauru and Manus Island detention centres. Is the company looking to make profits out of vulnerable people? We know from experience with Serco—I gave the figures earlier, but they are worth repeating because they are quite staggering—that this company picked up a 45 per cent rise in net profits. I find it very troubling that Transfield Services, a private company, has been brought in although it has really no experience of running centres anywhere, let alone under such extraordinary conditions as would be faced on Nauru and Manus Island. It is very relevant to this debate to consider the motivation of this company.

Coming back to Dr Goode, who received an increase in his salary package, you would have to say that was an interesting reward considering that Transfield has been dropped from the ASX 100 Index. Dr Goode, at the end of this month, moves over to become a consultant to Transfield. The new head of Transfield Services will be Graeme Hunt. His background is interesting, particularly in light of this new extensive work that Transfield Services will be undertaking. Mr Hunt's background is in the mining industry; he spent 34 years with BHP. I put that on the record, because that is the relevant part of today's debate: who is running the detention centres on Nauru and Manus Island and their experience with handling people who are in a traumatised situation. That trauma is about to be added to as they are forced to move to another location with facilities that we have heard many speeches in parliament and people outside parliament calling highly inappropriate for people in this situation. So I would hope—I always try to look on the positive side—that out of this debate people become more aware of how far Australia has moved away from its obligations. Those obligations should have been met. The Greens put up very clear proposals to the Labor government. That is where we had the opportunity to work together, to come forward with real solutions—solutions which, if they had been put in place, would have reduced the number of people taking boats to come to Australia.

If we had taken more refugees into Australia and, in particular, had given more resources to the UNHCR, then that would have provided safer pathways for people to come to Australia. It would have been such an important shift in how we are managing refugees in this region and it would have been the way to spread the message that the government tells us it wants to spread through our region. But what we are seeing is that people are not getting the message 'Don't come to Australia by boat,' because the government's own policy has been failing since we debated this very issue in the parliament just a few weeks ago. The boats continue to come. Again, that is a message that I get time and time again when I speak to refugees at Villawood and other places. They always say they are not thinking about the situation they will face where they are about to arrive; they are thinking about what they have to escape from, how they have to protect their family and their loved ones or just their own personal safety because of the attacks, the abuse and the killings that are occurring in Sri Lanka against the Tamil community and what the Hazaras are facing in Afghanistan. That is why these people are taking these terribly dangerous trips.
The essence of the government's failure is shown in the fact that the boats are still coming. The fact that they have to expand the number of places to take the refugees who are coming is clear evidence that the government has got it so deeply wrong. We knew that the coalition had got it wrong, but the fact that Labor moved into Mr Abbott's territory is indeed very shocking.

Again, I would like to thank my colleagues in the Greens and the many community organisations that have worked so extensively on this issue. I know they will continue to add their voice for the need to take a humanitarian approach and to have respect for international law to be the foundation of how we handle refugee policy in Australia.

Senator WHISH-WILSON (Tasmania) (11:12): In rising to speak on this motion I would like to begin by focusing on the concept of deterrence, by pointing out that on page 6, clause 21, of the Instrument of Designation of the Republic of Nauru as a Regional Processing Country, under the heading 'Discouragement of irregular and dangerous maritime voyages', it says:

21. I think that designating Nauru to be a regional processing country may act as a circuit breaker in relation to the recent surge in the number of irregular and dangerous maritime voyages to Australia.

On page 7, it concludes:

I also think that designating Nauru to be a regional processing country will make it more difficult for people smugglers to sell the opportunity to resettle in Australia. The key reason we are debating this motion today is that this regional processing centre can not only effectively process people but provide a deterrent.

One month ago, along with my colleagues, I debated this subject and I pointed out what was very obvious to me back then on the question of risk management: what would occur if the number of boat arrivals continued? Would we have the resources in place to process them in a place like Nauru or Manus Island, given their capacity, and what would happen if the number of boat arrivals was to continue? Just assume for a second that we were wrong and that the deterrence was not provided for whatever reason—and I will get to that in a moment—what would we do then?

It is not something to brag about but looking at the arrivals, which are actually mentioned also on page 6, in the year to 8 September 2012 nearly 9,000 passengers have arrived and nearly 2,500 have arrived in the last month, since I spoke about this. It has been pointed out by a number of my fellow Green senators today that Nauru itself is nearly full or will be at capacity if we are to move existing refugees there. If these boat numbers continue to arrive, we will need to initiate Manus Island. This has also been reported in the media. It was on the front page of the Australian yesterday.

Let us look at the Malaysian solution. The Malaysian solution, as reflected on by the Houston panel recently, is on the bottom of the pile as an option for us as a humane country in international law to send refugees. The reason, apart from the fact that the High Court has already decided that our sending our refugees to Malaysia is illegal in international law, is that there is no legal protection for refugees in Malaysia. They are not part of the refugee convention. We have evidence of inhumane treatment such as abuse and torture, and caning is one example. The Houston panel said it is going to take a long time before these problems can be fixed and before they, for example, sign the convention. This is not having a go at Malaysia at all; their reality is different to ours. But from where we are in parliament
today it is obvious that if the Malaysian solution is not a solution, and I very much doubt that it is, and the Greens do not advocate sending messages to Malaysia, where do we go next if Nauru is full and Manus Island is full? My understanding is that Manus Island can take 600 people at peak capacity and Nauru up to 3,000. What do we do then? Do we set up a series of human rubbish tips around this country where we dump people? How many islands could we put detention centres on? How is that going to look to the world?

The reason I raise this is because, as I mentioned a month ago, as someone who is new to parliament, it seems to me that the politics of this debate has been pitched at a very debased level and that in a lot of ways it is not just parliamentarians who want this issue to go away and would like to see a quick fix; a big part of the Australian people also want to see a quick fix. They expect that the Pacific solution as it stands is going to be a silver bullet and that this problem is going to go away. I think we have got very good evidence in the last month, since this was flagged to the world, that the problem is not going to go away. I hate using these words, but the boats have not been stopped.

I enjoyed Senator Sinodinos’s speech today. I sensed there was a bit of a philosopher in him when he spoke today. But it is interesting that he spoke of people smugglers, this external entity, as people who are rational in planning and are calculating in how they traffic to Australia the world’s poorest people and some of those who suffer in misery. A calculating, rational group of people; that may be true. Maybe people smugglers do have cartels. But if they are that way inclined then it seems a simple enough proposition to me that if they are standing back and looking at our new Pacific solution which we are here to debate today then the maths is very simple. These centres are nearly full and are likely to be full, so if more people keep coming and the people smugglers are that organised and have the planning in place then they will look at it and say they can overrun the islands where people are dumped. What are Australians going to do then? What are we going to do when another 600 people arrive and the islands are full to capacity?

It is an interesting concept that people smugglers are calculating. If they are, it makes sense to me that they have already come up with a solution—that is, they will keep sending the boats, keep trading in human misery which none of us in here today want to see, and then we will be stuck with the same problem we had months ago. Once again what concerns me is that the Australian people believe this is going to go away. We have told them enough times—I and my Australian Green parliamentary colleagues have not told them, but Tony Abbott has told them—that we can stop boats, that we did stop the boats.

**Senator Ryan interjecting—**

**Senator WHISH-WILSON:** Well, you haven’t stopped them yet. Where do we go next? The issue in this country is that we need to have an honest and mature debate. This is also something that the good Senator Sinodinos mentioned. We as a country need to reflect on how we deal with this issue and come up with a solution. Of course we need a solution to be put in place and we need laws. I totally agree with Senator Sinodinos when he says that, I just disagree with him that this is the right law and the right policy prescription for this problem. I do not believe for a complex problem like this that we are anywhere near a solution. We should be managing the expectations of the Australian public. To offer up through spin, rhetoric and nauseating messaging that we
can stop the boats is wrong—I think it is idiocy.

Can we afford to take 25,000 people or 20,000 people? As a country, can we afford to take 100,000 people or half a million people? I do not have the answers to those questions and I would be very surprised if anyone in this parliament or this country has the answers. It is my feeling that it is because we have not delved deeply into this issue. I question whether Senator Sinodinos has the answers. If you believe what the coalition parties were saying about refugees recently, the push factors facing refugee movements in our region are not going to go away; instead they are going to get a lot worse. In particular, the Tamils in Sri Lanka, as well as Afghanistan, where our forces are operating, were singled out as being very significant for future refugees seeking asylum from persecution; potentially millions of people will be seeking asylum. Once again, if we have two island rubbish tips at the moment that can process nearly 4,000 unfortunate human beings, where are we going to stick 400,000?

If we concentrate on the pull factors and Australia being too soft, for people who fear in their own countries execution or worse—if that is possible—what would be the difference between coming to Australia or going to live in Malaysia or another regional processing centre in Indonesia or somewhere else? If you are that desperate it makes sense that you are going to try and get away. All the arguments about pull factors and Australia are not too different when you are desperate and you are dealing with extreme situations to what we see in other countries. I urge my fellow parliamentarians to rise above the gutter with their rhetoric in this House and start speaking rationally, logically and honestly about how we are going to solve this problem, which I think will be the single biggest issue facing this country in the next hundred years. I want to focus on something positive like my colleague Senator Rhiannon did—that is, the Greens' Migration Amendment (Health Care for Asylum Seekers) Bill 2012, which we hope to bring before the House. We would ask that the other good senators in this chamber support this bill.

I will quickly read from a 22 August media release by the AMA about health and the concerns they have about our processing facilities on areas such as Nauru and Manus Island:

The AMA has tonight called on the Australian Parliament to establish a truly independent medical panel to oversee and report regularly on the health services that are available to asylum seekers in immigration detention facilities, both onshore and offshore.

AMA President, Dr Steve Hambleton, told politicians at the AMA Parliamentary Dinner—which, no doubt, some people in this chamber were at—that the Parliament had to restore some humanity to an otherwise inhumane approach to asylum seekers.

“The AMA proposes a truly independent panel of medical experts … I am very fortunate to have so many talented people in the Greens parliamentary team, and one of those is in the chamber with me at the moment. It is Senator Di Natale, who is himself a doctor. I do not know if he is currently part of the AMA, but he used to be, as did Bob Brown prior to his time in parliament.

This bill proposed by the Greens sets up an independent board of health and mental health experts to monitor and evaluate the wellbeing of asylum seekers who are sent offshore for processing. The panel will be empowered to make recommendations in relation to individual cases and provide six-monthly reports directly to parliament. The
bill requires the minister to establish an independent panel to monitor, evaluate and make recommendations on the health of asylum seekers. Peak medical, mental health, nursing, dental and child health bodies will submit nominations from which the minister will select the panel. The bill requires the minister to establish a panel within 30 days of making a country designation. The panel will be mandated to make ad hoc recommendations directly to the minister on individual cases. The feature in place here is similar to the powers and reporting functions of a Commonwealth ombudsman. The panel will have powers to subpoena and inspect medical records held by the department or private companies running the detention sites, and the panel will largely set its own terms of reference.

The ACTING DEPUTY PRESIDENT (Senator Marshall): Senator Whish-Wilson, are you actually speaking to another bill that is not before the Senate?

Senator WHISH-WILSON: No, I am speaking to an amendment.

The ACTING DEPUTY PRESIDENT: Sorry; continue.

Senator WHISH-WILSON: I will quickly talk about why this is an important policy, and I think you have heard from all my fellow Greens senators today about their concerns over the mental health issues, particularly of having children—who, in this country have so much, including my children—put on an island away from the rest of the world, having left their previous life, for a long period of time with very little hope for anything different. It is quite logical to most of us who live the good life that we do in Australia and who are blessed with everything that Australians have that they would not want to put themselves in that position. Nor would they want their children to find themselves in that position. So establishing a panel to oversee health and mental health issues is critical in light of the fact that neither the UNHCR nor the IOM will be involved in managing the proposed offshore sites of Nauru and PNG. We believe that this is a solution which will help mitigate the issues that we foresee based on previous experience—the very dreadful things we have all seen on TV: self-mutilation, suicides, riots. However, it goes nowhere near far enough to solving the problem.

I would like to finish by saying that what is most important to me overall is how we respect humanity, how we uphold the standards that we expect for ourselves and our children and their future, that we actually have a more mature and honest debate about this long-term issue, and that we start managing the Australian public’s expectations on this issue. We should start here in parliament and show some leadership.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (11:31): In reiterating to the Senate the integral nature of supporting this motion to designate the Republic of Nauru as a regional processing country, I would like to address the amendments put forward by the coalition and the Greens and the reasons why the government will not be supporting these amendments.

The government is taking action recommended by a panel of experts. The government has agreed in principle to implement all 22 recommendations of the expert panel report on asylum seekers, and this is how responsible governments develop policy: listening to the advice of experts. Those recommendations included regional processing in Nauru as soon as practicable.
However, the expert panel report does not recommend temporary protection visas, a measure that in the past saw 68 per cent of refugees permanently remain in Australia, and makes it clear that tow-backs do create a risk to the lives of Australian Defence Force personnel and would only ever work with agreement with other countries—something Indonesia has said will not happen.

Faced with opposition for opposition sake, we are taking the politics out of this issue. Instead, the principle behind this policy is that saving lives is paramount. Contrary to the Greens accusations levelled through the course of the debate, transferees will not be left on Nauru indefinitely. However, to have an effective policy, it is necessary, as articulated in the expert panel report on asylum seekers, to have a no-advantage principle for people seeking asylum—that is, those who seek asylum are not given any preferential treatment in processing their claims as a result of travelling irregularly to Australia. That means that people who arrive in Australia by boat should not be resettled any faster than refugees waiting in refugee camps around the world.

If the government is going to invest in a regional process, it is fundamental that asylum seekers should be required to access that process and not seek an advantage by travelling to Australia irregularly. It is important to remember that irregular maritime arrivals would have been waiting long periods in the region for processing and provision of a durable outcome. We are not adding to that time, only reinforcing the principle that there will be no advantage gained in paying a people smuggler to bring them to Australia and risking their lives in the process. These measures are in conjunction with the unprecedented rise in the humanitarian intake to 20,000 people. This will include refugees who have been waiting for a number of years in the hope of resettlement.

It is also important to note that the panel has also recommended circumstances in which people spend time waiting in Nauru will be different than when asylum seekers were processed in Nauru in the past. The intention is that facilities will be open, there will be appropriate mental health arrangements, and transferees will have access to education and vocational opportunities. The department is still negotiating the final details of the arrangements with international health and medical services, but people will receive a similar level of health care in Nauru as is provided to people in detention in Australia. People transferred to Nauru will receive health care from on-site general practitioners, nurses, paramedics when necessary, and counsellors and psychologists. There will also be a visiting psychiatrist and other specialists as required. The transferees will be provided with any medications prescribed by general practitioners and other medical specialists. The local medical facility on Nauru will be available to support certain services, including X-ray, dental and maternity.

This motion seeks to implement a key and urgent recommendation of the expert panel report: the designation of the Republic of Nauru as a regional processing country. The government's policy will be a clear demonstration that people can pursue regular options and be safely referred to resettlement countries like Australia as part of an orderly humanitarian program while providing no advantage to those who arrive by boat, and together these things will undermine the people-smuggling trade. For these reasons, the government will be opposing the amendments put forward by the coalition and the Greens. I commend the substantive motion to the Senate.
The PRESIDENT: The question is that the amendment moved by Senator Cash be agreed to.

The Senate divided. [11:40]

(The President—Senator Hogg)

Ayes..........................29
Noes...........................35
Majority......................6

AYES
Abetz, E
Bernardi, C
Brandis, GH
Cormann, M
Eggleston, A
Fifield, MP
Joyce, B
Macdonald, ID
McKenzie, B
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Williams, JR

Back, CJ (teller)
Boyce, SK
Cash, MC
Edwards, S
Fawcett, DJ
Heffernan, W
Johnston, D
Kroger, H
Mason, B
Nash, F
Rondalson, M
Ryan, SM
Sinodinos, A
Thorp, LE

NOES
Back, CJ (teller)
Bernardi, C
Bishop, TM
Brown, CL (teller)
Cameron, DN
Conroy, SM
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McLucas, J
Moore, CM
Rhiannon, L
Singh, LM
Sterle, G
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

Bishop, TM
Collins, JMA
Cross, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lund, KA
Marshall, GM
Milne, C
Pratt, LC
Rhiannon, L
Rhiannon, R (teller)
Thistlethwaite, M
Waters, LJ
Whish-Wilson, PS
Wright, PL

PAIRS

Birmingham, SJ
Boswell, RLD
Bushby, DC

Wong, P
Bilyk, CL
Polley, H

Chamber Division

The PRESIDENT: Mr President, I seek leave to make a brief personal statement.

Leave granted.

Senator THORP: Mr President, I aplogise that I rushed in and inadvertently sat on the wrong side of the chamber during the division.

Senator HANSON-YOUNG (South Australia) (11:44): I move revised Greens amendment to the motion:

At the end of the motion, add “with the inclusion of a 12 month time limit on detention of an individual in Nauru, and calls on the Government to immediately establish an independent Health Care Panel to monitor and evaluate the medical, psychological and psychiatric welfare of refugees sent offshore”.

The PRESIDENT: The question is that the amendment moved by Senator Hanson-Young be agreed to.

The Senate divided. [11:45]

(The President—Senator Hogg)

Ayes .........................10
Noes .........................45
Majority .....................35

AYES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS

Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ
Wright, PL

NOES

Back, CJ (teller)
Bishop, TM
Collins, JMA
Cormann, M

Bernardi, C
Brown, CL
Cash, MC
Conroy, SM
Crossin, P
The PRESIDENT: The question is that the motion moved by Senator Lundy be agreed to.

The Senate divided. [11:49]

(The President—Senator Hogg)

Ayes....................49
Noes.....................9
Majority.................40

AYES

Back, CJ
Bishop, TM
Brown, CL (teller)
Cameron, DN
Collins, JMA
Cormann, M
Edwards, S
Evans, C
Faulkner, J
Feehey, D
Furner, ML
Heffernan, W
Humphries, G
Ludwig, JW
Lundy, KA
Macdonald, ID
Marshall, GM
McLucas, J
Payne, MA
Ronaldson, M
Ryan, SM
Singh, LM
Smith, D
Sterle, G
Thorp, LE
Xenophon, N

AYES

Singh, LM
Smith, D
Sterle, G
Thorp, LE
Xenophon, N

Question negatived.

AYES

Back, CJ
Bishop, TM
Brown, CL (teller)
Cameron, DN
Collins, JMA
Cormann, M
Edwards, S
Evans, C
Faulkner, J
Feehey, D
Furner, ML
Heffernan, W
Humphries, G
Ludwig, JW
Lundy, KA
Macdonald, ID
Marshall, GM
McLucas, J
Payne, MA
Ronaldson, M
Ryan, SM
Xenophon, N

AYES

Sinodinos, A
Smith, D
Thistlethwaite, M
Urquhart, AE

Question agreed to.

BILLS

Broadcasting Services Amendment (Anti-siphoning) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator RONALDSON (Victoria) (11:53): I am pleased to be finally in a position to give this speech. I rise to speak on the Broadcasting Services Amendment (Anti-siphoning) Bill 2012. This bill amends the Broadcasting Services Act 1992 and seeks to amend the Anti-siphoning Scheme which ensures that major sporting events are broadcast on free-to-air television.

First let me put on record what a mess this bill has been. Amendments are still being finalised and approved by Senator Conroy’s own side. We understand there are many amendments to come which have not been circulated. The opposition has no specific idea what is in the amendments or how they would alter the bill before us—there are just the rumours from stakeholders to go on. It is clear that Senator Conroy has abused the process and his responsibilities as a minister and to parliament. It is sloppy work from
Senator Conroy; but, to be fair, Senator Conroy is nothing if not consistent.

The Anti-siphoning Scheme was introduced to ensure that, with the advent of pay TV in Australia, all Australians still had access to major sporting events without having to purchase pay TV services. The scheme operates by preventing pay TV broadcasters from acquiring the rights to designated events—that is, events listed on the antisiphoning list—before free-to-air broadcasters have the opportunity to bid to acquire them. The scheme does allow for a wide range of sports not on the antisiphoning list to be broadcast exclusively on pay TV; however, events like the Melbourne Cup and the AFL and NRL finals are protected.

For many years this scheme has faced criticism on a variety of fronts, including that too many sporting events were protected and that in many cases events were not shown by free-to-air broadcasters but at the same time could not be shown on pay TV. Sports themselves have also raised concerns that, by specifying that events must be shown on free-to-air TV, they receive lower licence fees than they may have been able to secure had pay TV also been able to bid for the rights to televise their sport.

I am pleased that some of the concerns stakeholders have had about the antisiphoning regime are being addressed. This bill will allow free-to-air broadcasters to make greater use of their digital multichannels when showing listed sports which, considering the digital switch-over is well underway, is a sensible move which will increase the programming flexibility of broadcasters without impacting on the ability of Australians to access free-to-air sports. I am sure that when antisiphoning is next reviewed, after the switch-over is complete, further relaxation of restrictions on multichannels will be considered.

This bill also increases the period before an event is delisted. Where free-to-air broadcasters have not purchased the rights to an event and the event is therefore not being broadcast on free-to-air TV, the event is automatically delisted from 12 weeks to 26 weeks. This will enable pay TV providers to better assess, prepare for and manage their purchase of rights to such events and sports bodies to better negotiate and engage with broadcasters for the sale of their broadcast rights. I hope this change will see more sports being televised, providing greater revenue for sporting bodies and more choice in sports content for viewers.

In a similar light, the bill introduces must-offer provisions which require free-to-air broadcasters which hold the rights to an event, but which cannot or do not cover the event, to offer those rights to other free-to-air broadcasters within 120 days of the event for $1 to prevent hoarding of rights by free-to-air broadcasters. If another free-to-air broadcaster fails to acquire those rights they must be offered to pay TV 90 days from the event. This provision will also ensure that more sports are shown on TV and reduce the number of occasions where rights to an event are held but not used.

Under this bill, we will also see the introduction of a tier system for antisiphoning while new category A and category B quota groups will enable different conditions to be applied to different events. Tier A events include iconic sporting events such as the Melbourne Cup, the Australian Open final, and the AFL and NRL finals series and must be broadcast live or with as short a delay as possible. Tier B events must be broadcast within four hours of play commencing and may be broadcast on digital multichannels. Quota groups are rounds of AFL and NRL matches where a minimum number of matches—a quota—must be shown on free-to-air television. This
therefore provides flexibility for certain listed events to bypass particular antisiphoning provisions. This quota is four for AFL matches and three for NRL matches, meaning pay TV may acquire the rights for the remaining matches. The system will also enable the minister to determine which is the best Friday night match to be shown on free-to-air and matches involving local teams to be shown in their state market. The listing of particular events is a matter of ministerial discretion and adds to the sense of some stakeholders that the system is overly complex and provides too much ministerial control, which I will refer to again later.

The changes we are considering in this bill have been a long time coming. The government first announced changes to the scheme in November 2010—almost two years ago. Since then these changes have been subject to much consideration, commentary and examination, including by the Senate Environment and Communications Legislation Committee which reported in May.

The committee found that the bill should be amended to expand the quota group mechanism to include sports other than the AFL and NRL in competitions such as tennis. Including tennis under the quota group mechanism would make it likely that more tennis would be shown live on TV, with tournaments such as the Australian Open being able to be shown on free-to-air and pay TV, subject to commercial arrangements. The government, however, has not agreed to this amendment, leaving a confusing situation where different multi-round sporting events are treated differently, with AFL and NRL given preferential treatment, leaving other sports at a financial disadvantage.

The committee also recommended amendments to relax the reporting requirements placed on broadcasters in relation to the acquisition and cessation of rights. It was found that the current arrangements where free-to-air broadcasters must notify ACMA both when it acquires rights and ceases to hold rights is an undue administrative burden. It was recommended that this be amended to require broadcasters to notify ACMA of the expiration date of broadcast rights at the same time as rights are acquired. I am pleased that this issue is being addressed via the amendment bill and that this bureaucratic red tape will be cut.

It is worth noting that the antisiphoning system is a controversial one with free-to-air broadcasters, pay TV and sports holding varied views on its existence and operation. The Productivity Commission found that the regime was:

… a blunt, burdensome instrument that is unnecessary to meet the objective of ensuring wide community access to sporting broadcasts—and is— inherently anti-competitive.

I hope that the changes we are examining today will improve this system even if it remains a point of concern for some.

This, of course, is just one area where we are examining the regulation of media in this country. It seems that this government has an unhealthy obsession with media regulation and one wonders if before too long newspapers will have to be vetted before they can be printed each day to ensure that their content is acceptable to the government.

What the Labor government has failed to realise—or is incapable of comprehending—is that media coverage critical of the government is the result of its own poor performance and not the imagined vendettas of the media. If the government wants to limit critical coverage, it does not need an
overarching News Media Council but simply
needs to end its appalling policy failures in
programs like pink batts, school halls and
green loans, the Australia network tender
debacle as well as promising no carbon tax
then implementing a carbon tax which fuels
poor coverage.

Poor performance breeds critical media
coverage. We can all see that. It is
remarkable that those opposite choose to
blame the messenger rather than reflect on
their own shambolic government. Take for
instance the member for Bendigo, Steve
Gibbons. A few weeks ago he came out with
the bizarre statement:

In my view, fines such as these for publishing
blatant untruths or misleading reports, or
temporary suspensions of the right to publish or
broadcast, would lead to a major improvement in
the accuracy and fairness of our media.

Quite frankly, that was truly remark-
able commentary. Labor MPs suggested
newspapers be fined or even shut down if the
government believes their reporting is
misleading. I was concerned by the reporting
of the comment of Mr Gibbons because Ben
Packam's article posted on the
Australian
website failed to include anything on Mr
Gibbons saying that politicians who state
blatant untruths or mislead the public be
fined or suspended from parliament. Perhaps
Mr Gibbons did not make such a comment.
Perhaps he realised what was good for the
goose was good for gander and as such Julia
Gillard, the Prime Minister, would be thrown
out of parliament for the blatant untruths she
has told the Australian people.

Can you imagine the witch hunts the new
rules of Mr Gibbons would create. However,
an upside would be that newspapers would
no longer be able to print stories on the
rollout of the NBN because we all know that
the figures NBN Co. produces are
misleading, if not blatantly untrue. They
have never met a single deadline they have
set for themselves so I assume printing NBN
Co.'s 'pie in the sky' promises of millions of
homes being passed by fibre would fail the
truth test of Mr Gibbons. But suppose a
newspaper was brave enough to print NBN
Co.'s claimed rollout figures, when the
deadline passes and they are found to be
untrue, who would pay the fine—the
newspaper or NBN Co. for misleading them?
Attacking the freedom of the press surely is a
sign of the desperation permeating in Labor's
ranks. It is the desperate, embarrassing
bleating of a government incapable of
dealing with its own failures.

Finally, in regard to the antisiphoning bill
at hand, it should be noted that in a
converged world we are seeing increased
coverage of sports from online sources and
on mobile devices and with Australians
having more television channels than ever
before, thanks to digital TV, consumers are
coming to demand greater flexibility in the
way they access and view sports coverage.
There is also increasing pressure from
sporting bodies to ensure that they are able to
maximise the return they receive from
selling the rights to cover their sports. Time
will tell whether this iteration of
antisiphoning rules has struck the right
balance or not, but in any event I expect this
is a debate we will be having again in the
not-too-distant future as convergence
accelerates and the preferences of consumers
for more flexible access to sports coverage
matures.

Due to the shambolic nature in which
amendments to this bill have been handled
by Senator Conroy and Labor, this bill will
not be ready to be finalised today. Yet again
there will be more delays, mess and another
disgraceful show by this dysfunctional Labor
government. This scheme is an important
piece of public policy and sports-loving
Australians do have the right to expect that
any changes to this scheme will be carefully
and thoroughly considered. The coalition will ensure that such consideration is given once the Labor Party finally gets its act together.

I will make some comments in relation to the ministerial council control issues that I raised before. Quite legitimately, there is a sense from stakeholders that there is too much ministerial control and indeed that this amending bill does nothing to address that and it may even worsen that. But we have seen another example in the last 24 hours of a government determined to place the interests of individual ministers and the Australian Labor Party against the good of all Australians. We saw this bill introduced today in relation to the trawler—I will call it the 'trawler bill'—and what is in it? It is 'ministerial discretion' again: again, there is the ability for Minister Conroy to impose his will on the Australian people. Quite frankly—

Senator Ludlam interjecting—

Senator RONALDSON: I will take that interjection: I think you are going to move some amendments in relation to this matter. If you believe this minister can maintain the level of ministerial discretion that is there at the moment, that is okay. If the Greens think it is not an issue, I accept that that is what they are saying. But that is not what the stakeholders are saying in relation to ministerial discretion and these antisiphoning rules. If the Greens say that it is not an issue, that is fine. The stakeholders know the Australian Greens do not think the level of ministerial control in relation to this matter is an issue. We think the stakeholders are right. We think the view of some stakeholders that there is far too much ministerial control is right. The Greens do not think it is. That is fine. Maybe the spokesperson can clarify the matter when he speaks, and perhaps the intervention of his colleague was not terribly helpful on this occasion.

I will finish on this note. This bill was due to be debated, from recollection, on Monday morning. We are none the wiser in relation to what Senator Conroy actually wants out of this amending bill. We are none the wiser as to what the potential amendments are going to be. We are none the wiser as to what the impact of those amendments will be on the amending bill, and I believe there will be a course of action recommended by those in the Australian Greens and, subject to that being the matter being discussed with other people in the other place, we will be supportive of that.

Senator DI NATALE (Victoria) (12:09): I rise today to speak to this bill as a very passionate advocate for Australian sport; normally a bill around communications would be dealt with by my very erudite colleague Senator Scott Ludlam. At its core, this bill is about Australian sport and the protection of Australian sport. It is critically important that we safeguard this stake in law. One way to do that is with antisiphoning provisions that we are debating today.

These rules ensure that key sporting events are shown on free-to-air television and that they are available to the widest possible audience. Why is this important? It is important because we are a sporting nation. Sport is an integral part of the national character. In my own state of Victoria, for example, the AFL occupies a space somewhere between sport and religion. It is very rare for someone to visit the state of Victoria and not adopt an AFL football team. We talk about water cooler conversations or barbecue stoppers; there is no greater barbecue stopper than the
discussion around Collingwood losing by a point, or my team, Richmond, winning the odd game.

We crowd around the TV on Melbourne Cup Day. We try and cheer home the people's champion, or you might cheer home the nag that you drew in the office sweep. We all were enthralled by the Olympics and the Paralympics. State of Origin, test cricket—they all occupy a very special place in the hearts of Australians. That is a really good thing, an unashamedly a good thing.

Being able to watch key sporting events, for example, motivates people to become more active, to play sport. Our tradition during the AFL Grand Final is kick-to-kick, where some of the old fellas are a bit sore and sorry for themselves afterwards. I have occasionally been inspired to play the odd round of golf after watching one of the great final rounds in one of the major championships. It is good for people's health; it is good for social cohesion.

Sport can be an important bridge between cultures. Sport can be a vehicle for social change. The AFL has played an important role in debates around sexism and racism, for example. I will never forget Nicky Winmar, a talented Aboriginal player, raising his jumper and pointing to his skin in a gesture directed at some abusive fans.

Recently in this chamber I spoke about Peter Norman, the Australian 200-metre champion, who played a critical role during the civil rights movement; the stand he took in solidarity with other black athletes who gave the black power salute during the 1968 Olympics. It was a defining moment for the civil rights movement. That is why it is critical that we ensure that key sporting events are televised on free-to-air where they have the widest possible audience.

I visited the UK recently—I have been there on several occasions; my wife happens to be a Pom—and I was shocked to discover that during the last Ashes series the English public could not watch a game on free-to-air television. As it turned out, this was a hell of a lot worse for them than it was for me—the Australians suffered a pretty humiliating defeat—and they were denied bragging rights. I never want to get to a situation where we in Australia cannot hang it over the Poms after an Ashes thrashing. I learnt in England that for their premier sporting code, the Premier League, they cannot watch a match in its entirety on free-to-air. Could you imagine a weekend in Australia where there was no free-to-air TV broadcasts of Aussie Rules or the NRL? I know some people would think that is a good thing, and there might even be the odd person in my party who might think that is a good thing. I certainly do not and I want to make sure, as my party does, that the right of all Australians to watch sport on free-to-air TV is protected.

We have a situation in Australia where iconic sporting events are protected through the antisiphoning list. When an event is on the list, pay TV broadcasters cannot get the rights to show that event unless certain conditions are met that safeguard access to free-to-air TV. Free-to-air broadcasters have to show the event on the main analog and digital channels. Of course, we have to remember here that the law does not actually compel the broadcasters to buy the rights or the sporting codes to sell them at any cost, but it does give the free-to-air networks the right of first refusal.

The bill before the Senate today is intended to update the antisiphoning laws. It does not change that core and important protection that free-to-air TV will be protected when it comes to obtaining the rights to our premier sporting events, but it does bring in a few important innovations that are worth supporting. The bill creates
two classifications for sporting events: tier A and tier B events. Tier A events are those of national, iconic importance. The examples I listed, the Melbourne Cup or the AFL grand final, are clearly tier A events. Tier B events are those with more regional or local significance such as home-and-away matches in the AFL or NRL. Events in tier B can be made subject to a quota, such that a proportion of events in a group can be added to the list without specifying each individual event.

Another feature of the bill is that it accounts for digital television and multichannelling, which is going to make it easier for people to access a variety of sporting events because broadcasters can choose to purchase some events and show them through multichannelling. The existing system requires that networks broadcast these events on their main channel. This bill will allow tier B events to be shown on a digital multichannel. Some tier A events can also be switched to a multichannel under certain circumstances. We know that analog is going the way of the dodo, with most houses now having digital receivers—they are inexpensive pieces of equipment and are built into many new TVs—so that is a sensible arrangement.

For the first time, though, the bill puts an obligation on a broadcaster that has obtained the rights to an event to actually broadcast it. That is a good thing. Why on earth do we have a situation where some broadcasters purchase the rights to an event and deny the Australian public the opportunity to watch them? That is clearly against the national interest. So tier A events have to be shown live, if technically feasible, by a broadcaster that has obtained the rights. The same goes for tier B, but there is an allowance for a slight delay, of four hours, to account for time zones and so on, which seems to make sense. If a free-to-air network does not want to show an event on the antisiphoning list then it must offer the rights to every other broadcaster or apply for an exemption from ACMA. That is important because the rights for these important events should not lie fallow. Suppliers must offer the rights to all the free-to-air broadcasters for a nominal fee and then must offer them to pay TV networks. These antiboarding measures also prevent networks selling on unwanted rights and leaving the public to miss out.

The Greens take no issue at all with the antisiphoning provisions, unlike some members of the coalition. We think there should be strong ministerial intervention to protect the rights of Australians to watch these key sporting events. No, this is not simply a case of government interfering in a situation where Australians would otherwise get access. If there is not ministerial invention, there will be corporate intervention—and we know the pay TV networks are desperate to get their hands on these key events as a way of channelling more people into pay television, and that means that many people will miss out. So I welcome the strong ministerial intervention provided for in this bill.

But there are some concerns. Some of the provisions of the bill are complex, particularly around the provisions that involve football, AFL and NRL. As I have already indicated, I am a football fan and I want to make sure that people right across the country get access to games and to important games. The way this bill is structured is that it tries to deal with as many games spread over a season as possible. It does it by allowing the minister to create 'quota groups' of tier B events, which are AFL and NRL home-and-away games. These quota groups can either be numerical or have other conditions attached to specify which matches must be broadcast on free-to-air in a given round. For instance, for AFL
matches the minister may determine that four matches in a given round must be shown and include games on Friday and Saturday nights and a Sunday game. The minister could also place conditions such that, for instance, Western Australians should have access to a game involving their home teams, the Dockers or the Eagles, and for South Australians a game involving Port Power or the Adelaide Crows. That is what we expect to happen.

This is a flexible system, designed with the footy fan in mind, but we are concerned that no loopholes are left so that commercial imperatives can leave the fans high and dry. We are not assured that these loopholes have been exterminated. For instance, while the minister may require NRL games to be shown on a Friday night and a Sunday and may ensure that a game with a Queensland team is shown in that state, football fans in Queensland could still miss out most fans of the NRL in Queensland follow the Broncos, and we do not want a situation where Broncos fans find that most of their games are only to be had on pay TV while a team like the Cowboys are on free-to-air. So, while the provision might specify that a game involving a Queensland team is shown, we want to see most fans accommodated, and that means Broncos fans should not miss out.

I would hate to see us pass into law new antisiphoning legislation supposedly designed to protect Australian sports fans but which ends up forcing thousands of people to take out subscriptions to pay TV because their team—for example, the biggest team in Queensland—is missing out. That is why it is important to ensure that we get ministerial control, and that we have a situation where there is not the capacity for commercial imperatives to drive people into pay TV. We share these concerns with some of the key stakeholders, particularly in the free-to-air television environment, and it is for this reason that we will be moving that this bill be referred to committee to ensure that we can enshrine the protection that we want to see for Australian football fans.

It is not an unusual day in this chamber when we see a motion congratulating a sporting team on a new achievement, congratulating the performances of our Olympians and Paralympians or, sadly, on some occasions lamenting the passing of a former sporting great. These motions are very welcome and they are invariably bipartisan because sport is an important part of the national character and a healthy part of Australian life. It builds community and helps to break down social barriers. It is part of the Australian identity and it is worth preserving.

In order to preserve it we have to give all Australians access to as wide a range of free-to-air sporting events as possible. I am proud to have taken part in sport as both a participant and a viewer. I did not play in what we might call tier A matches—or tier B, for that matter—but footy has been a big part of my life just like it has been a big part of the lives of most Australians, and I want to ensure that they continue to get access to the best that Australian and international sport has to offer. I move the second reading amendment standing in my name:

Omit all words after "That", substitute "the Senate declines to give this bill a second reading at this time, and that the bill, and any amendments to it that may be subsequently circulated, be referred to the Environment and Communications Legislation Committee for inquiry and report by 1 November 2012".

Senator McKENZIE (Victoria) (12:25): I also rise to speak on the Broadcasting Services Amendment (Anti-siphoning) Bill 2012, and to reiterate Senator Di Natale's heartfelt words as a southerner and someone
who is very passionate about the old VFL—now the national game, the AFL—about our entire nation's strong cultural attachment to sport and the role it plays in keeping our community together and inspiring us to be the very best we can be. However, I suggest to Senator Di Natale that there was an inquiry into this piece of legislation. The Greens were a part of it and did not make any additional comments or dissenting reports to the recommendations handed down in that inquiry. Senator Di Natale may want to check that out if he is going to refer to it again.

As a member of the Standing Committee on Environment and Communications I participated in the inquiry into this bill earlier this year. The Minister for Broadband, Communications and the Digital Economy announced the substance of this bill in 2010, and it has taken until 2012 to finally reach the Senate here today. From what I understand, it is going to leave here looking a little different, but we do not have the details.

Stakeholders have for some time been anxious about achieving an outcome so that they can have certainty in their planning of their proposed schedules and bidding for broadcast rights. The process has been overly long and complicated but this has been necessitated by a government whose actions on this issue have been overly long and complicated. This bill makes the section of the legislation dealing with the issue roughly 80 times longer. It is needlessly complex and symptomatic of Senator Conroy's ministerial micromanagement. The bill changes the current antisiphoning and antihoarding rules, making adjustments to the way the list of significant events maintained by the Australian Communications and Media Authority is administered.

Antisiphoning rules are in place to ensure that the Australian public can, without having to pay, watch significant events such as every AFL game on every Saturday over winter, but also the Olympics, during which I, like many other Australians became bleary-eyed staying up late to watch the hockey and showjumping—but maybe that was just me.

It is particularly important for those of us who live in regional areas, where average incomes are lower and pay TV can be less affordable than it is in the cities, to have access to our sporting events that are so important for all of us in our nation. Ordinary Australians in regional areas need just as much access to key national and local events on television as those in urban areas. This is particularly true for the NRL and the AFL because we cannot jump on the tram and get down to the local game by 2 pm once we knock off from work at midday on a Saturday. We cannot watch our games live, so broadcasting rights become more and more important for those of us outside capital cities.

Those events included on the antisiphoning are restricted firstly to free-to-air television, with pay TV licence holders unable to acquire exclusive rights. Pay TV licence holders, however, are able to acquire non-exclusive rights or show events that other broadcasters have chosen not to show on their main channels. The rules also ensure that stations are not 'hoarding' programs—that is, purchasing the broadcast rights for significant live events and then not showing them, or showing them at a later time. This is helpful, for example, during the soccer World Cup or when there may be several important events on at the same time. The current antisiphoning list covers domestic and international sporting events in 12 categories, and around 1,300 events, including: the opening and closing
ceremonies of the summer and winter Olympic Games; the Melbourne Cup; the NRL State of Origin series; the finals of the Rugby World Cup; cricket test matches played in Australia; and each match of the AFL premiership competition, including the finals—and we are really enjoying those at the moment. Of course, most importantly, it covers the final of the netball world championships if that involves an Australian team—I think that is fantastic for the sport which most Australians participate in, that being netball.

We saw outstanding figures for the Olympic Games last month, with 13.57 million viewers across the two weeks on free-to-air channels. That was a great example of access to watching sport for our community. During the inquiry the IOC made comments that they assumed the minister intends to declare the summer and winter Olympics as a designated group going forward. A designated group has special conditions where the amount of content or the events available exceed the time frame. They were hoping that they could be made a designated group. But that is obviously the IOC assuming that this particular minister will declare and deliver. I think those of us on this side of the chamber may not have quite the confidence that the IOC has in that actually coming about.

Pay TV also picked up a number of viewers, with figures averaging nearly 550,000 per night in the prime time slot. Increasingly we are seeing this type of arrangement with our major events, where free-to-air and pay TV broadcasters partner to ensure the maximum content is played across the maximum number of channels hence ensuring more people get to see it. There are figures thrown around—this is also a big deal financially for those stakeholders involved. There was talk of the NRL deal: $1 billion, with Channel 9 and Foxtel to retain the broadcasting rights.

As a result of this bill the minister will be able to determine which events will be included and excluded from the antisiphoning list. There will be two tiers of antisiphoning events: tier A and tier B. Tier A antisiphoning events would include events of international or national significance. Tier B antisiphoning events would include events of local significance.

At present networks have until 12 weeks prior to an event to purchase the broadcast licence before it is automatically removed from the antisiphoning list. This will be pushed out to 26 weeks under this bill. If a television network finds their schedule too tight to show an event that is listed on the antisiphoning list and for which they have purchased the broadcasting rights, they must offer the broadcast opportunity to other networks for a nominal fee.

Some stakeholders have expressed their concerns about the minister having the power to make the final decision on what is on or off the list. In some circumstances, changes to the list—such as when no free-to-air networks have acquired broadcasting rights in a reasonable period—are a positive move. However, the level of discretion this bill affords the minister is unprecedented. I spoke earlier about stakeholders being keen for certainty so that they can plan ahead. This ministerial discretion undermines that certainty to be gained from the passage of this bill and makes planning difficult.

I think that the issue for this government is around providing certainty for those out in the community. It is not just for what they are going to be bidding for in broadcasting rights but how they are actually going to plan for their businesses; planning the educational outcomes for students, sending them away to
school et cetera. This really needs some reflection; it is quite concerning.

Telstra explained their position to the committee, saying:

The revised regime delivers a great deal of discretion to the Minister to set important parameters by determination once the legislation is passed. The effect will be to introduce unnecessary commercial uncertainty into rights negotiations and further distort the basis on which rights are acquired.

FOXTEL backed Telstra's point of view, saying:

I think what rights holders and broadcasters are looking for here is certainty. It is similar to the irrigators up in the Murray-Darling Basin and it is similar to so many groups around our nation—the power workers down in the Latrobe Valley. I do not think that there is a community group that is not looking for certainty under the current Labor government, to tell them where they stand.

For example: there are specific clauses around quotas that apply to the NRL and AFL, where there are a large number of games on a weekend. The quota means a certain number of games per round are guaranteed to be shown on free-to-air television. Hear, hear! The free-to-air games are also supposedly those of the highest quality, at the minister's judgement. I know that the minister is a huge fan of Collingwood. You may want to pass comment on that and how that will play into his decision making on which shows will get broadcast. I am not sure; I know that my father would be incredibly happy if the minister had his way with making sure that Collingwood was free-to-air to regional Victorians every Saturday, but I do not think it is quite going to play out like that.

I am not sure how the minister proposes to judge the quality of a football match. Nor do I think it is fair—and I have had constituents contact my office to raise this—by using this measure it seems that very few games from some clubs will make it to free-to-air. I know that Senator Di Natale mentioned his beloved Richmond; with the way that they have been playing over the past few seasons it is unlikely that they would be seen as a high-quality game. But I guess that is all subjective, as every discussion around football always is.

But we do know that it is generally the interstate teams that seem to miss out, and as it is such a national competition we have to guard against this. The AFL said, quite rightly:

What is the best game depends on where you live. If you live in Western Australia, you will have a different view as opposed to those living in South Australia or Melbourne. You would also have a different view if you are a coach of a club as opposed to CEO of a club—football versus commercial interests. You would also have a different view if you are a player about what you would want out of your fixture.

I think that what determines the ministerial discretion around highest quality is an issue, because it is such a subjective issue. The minister ought not to be in the position of kingmaker, as it were, for our sporting codes and some of this nation's most important events.

In relation to the idea of the quota itself, some sports—not just NRL and AFL—supported the idea, such as Tennis Australia, who suggested that the Australian Open also be subject to a quota so that...

...certain content from this tournament is available to subscription television broadcasters, whilst ensuring that key matches remain on the Tier A anti-siphoning event list and available on free-to-air television.

I love the Australian Open when it comes to town. I would love to see some of those doubles matches held on the outside courts.
We never get to see them in our lounge rooms. It is an issue, and Tennis Australia was right to raise it through our inquiry. The committee subsequently recommended in their final report that this approach be adopted for other sports, such as tennis, where appropriate.

During our inquiry, the committee also looked into the notification requirements imposed on television broadcasters. A broadcaster will be forced to notify the Australian Communications and Media Authority in writing within 10 business days about any rights to televise an antisiphoning event that the broadcaster has acquired, or of any rights the broadcaster ceases to hold. So they have had had the negotiation and they have the broadcaster rights. Why not let ACMA know that the contract goes for X period of time rather than requiring broadcasters to come back? It should all just be done in the one notification. Free TV Australia described it as 'cumbersome and unnecessary'. They said:

… you have to notify within 10 days of the cessation of the rights, so if someone makes a five-year deal and they know the end date when they make the deal they cannot tell ACMA then. They have to wait until the end of the deal and then they have this short 10-day window in which to notify ACMA. If they do not do it within that 10-day window, they can be fined $55,000 a day. That is just silly, really.

I could not agree more. It just shows how little this government understands about the commercial reality when it is designing its policy.

So, Madam Acting Deputy President, you will see that this bill is not without some notable problems and has been the source of some angst for stakeholders. The committee made a further recommendation in relation to this issue, suggesting:

… that the bill is amended to enable broadcasters to notify … (ACMA) of the expiration date of broadcast rights at the time those rights are acquired and/or upon any change to the expiration date.

This is common sense really, but it is sadly lacking. The government's response to the convergence review also has the potential to change things for stakeholders in the broadcasting game, and we await the final content of that response with interest.

Technology is changing fast. Traditional broadcasting faces competition from new formats—not just the sourcing and downloading of TV programs from the internet but the creation of whole new mediums. In country Victoria, I refer specifically to the BFN, the Bendigo Football Netball League, of which I am the patron for the netball league. We are heading to our finals at the moment, and we cannot always get to our games either, for whatever reason. In terms of broadcasting those games and sharing our wins and our losses with the community far and wide, in Bendigo we have an IPTV provider, which really highlights the new technologies that are out there and are going to change the face of how we access our sporting content. If you log onto IPTV, you will be able to download the seniors final games right across the BFN this weekend. Any time you like to watch them, you will be able to download them on a computer near you. So technologies are changing fast, and it is going to have implications for how we juggle broadcasting rights et cetera, but that is coming down the track.

There is the competition faced by broadcasters from within their own networks. More digital channels split the viewers and the advertising dollar, though they offer huge potential and, as digital television is finally rolled out across the country, may one day make some of the provisions around the antihording sections in this bill redundant. There will be enough
channels available for each broadcaster to play all of the content they own to their heart's desire and their viewers' desire. We will never miss coverage of another three-day event in our lives. That lawn bowls final will not be lost to the communities that have a passion for that area. So I think there are some exciting things technologically in this space around accessing sporting events for regional Australians—although it is important to note that not everything new is seen by everyone as better than the old.

The High Court recently gave some clarity around one of the other issues we investigated throughout the inquiry, which was the definition of what 'live content' was, in the decision they handed down on Optus Now. Overall, though, stakeholders are very keen to get some certainty around this issue, and it is important to update the antipiphoning lists and allow our sports to negotiate their broadcasting rights in good faith with some idea of what is in store for them down the track—unlike this chamber today around this piece of legislation. We are still waiting for amendments to a piece of legislation that was announced two years ago. It does not bode well for the ideas around the degree of ministerial discretion afforded in this bill, but I think it does ensure that Australians have access to the great sporting events in which we participate and that are such a key part of the fabric of our nation and our identity. The bill goes some way to ensuring that all can share in that. I will leave my comments there and look forward to the minister's amendments.

Senator BILYK (Tasmania) (12:43): I rise today to speak on the Broadcasting Services Amendment (Anti-siphoning) Bill 2012. Australians love their sport. We are a nation of supporters and fans. Whether it is football, cricket, the Melbourne Cup or the Olympics, Australians will cheer until they are hoarse. They will laugh and cry in a common bond with each other. We celebrate the highest triumphs and commiserate over the most heart-wrenching defeats, and this government understands that. We understand that not all Australians can afford to or want to opt into subscription television services, and this is why a Labor government created the antipiphoning list in the first place: to ensure all Australians can have access to the sports that form a core part of our national identity. Twenty years later the government realises that the media environment is changing. Where there was merely a handful of television channels previously there are now many more, and digital TV is transforming the choice Australians have to watch sports, news and entertainment. Digital TV has completely altered the way the media landscape looks compared to when the Broadcasting Services Act was introduced.

This bill seeks to preserve the existing arrangement whereby subscription television broadcasters are prevented from acquiring the rights to events—

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Boyce) (12:45): Order! It being 12.45 pm, I call on matters of public interest.

Employment

Senator CAMERON (New South Wales) (12:45): I rise on a matter of public interest: the proposition that Australian workers should be benchmarked against African workers in order to lift the competitive position of the Australian mining industry. The comments of Mrs Gina Rinehart in her recent address to the nation have been reported around the world with a mixture of scorn and disbelief. Today I want to place on the record some of the implications of her
so-called visions and her policy wish list based on vested interests.

As one of the richest women in the world, Mrs Rinehart cannot be easily dismissed. Since she clearly wants to be a player in policy debate, her policy prescriptions should be subject to critical analysis. I would like to undertake some of this today.

What are the issues raised by Mrs Rinehart? Mrs Rinehart believes:
There is no monopoly on becoming a millionaire. If you’re jealous of those with more money, don’t just sit there and complain. Do something to make more money yourself – spend less time drinking or smoking and socialising and more time working.

Mrs Rinehart in her most recent excursion into public policy debate made the following observation:
The evidence is inarguable that Australia is becoming too expensive and too uncompetitive to do export-oriented business.

… Africans want to work and its workers are willing to work for less than $2 per day. Such statistics make me worry for this country's future.

To underpin this vision, Mrs Rinehart has been a long-term supporter of establishing a Northern Australia special economic zone where her company would enjoy special privileges unavailable to other Australians. She has set up a lobby group called Australians for Northern Development and Economic Vision—ANDEV—to promote the idea. ANDEV is vigorously promoted by another of the cogs of the mining industry's propaganda machine, the Institute of Public Affairs. I note that shadow Treasurer Joe Hockey gave some initial support to this proposal until some crisis management was implemented by the office of the Leader of the Opposition.

The wish list from Mrs Rinehart continues the response from big business to the exhortations of the Leader of the Opposition to business to advise him of problems with the current industrial relations system. Hardly a day goes by without some overpaid and underworked executive pontificating about the lack of productivity and the need for more flexibility in the Australian industrial relations system. Make no mistake about this: it is the political and business work choices cheer squad promoting their vested interests at the expense of the wages and conditions of ordinary working Australians. Mrs Rinehart's agenda must be analysed and understood in this context.

I do not intend to spend much time on the bizarre proposition that, if you stop complaining and spend less time drinking, smoking and socialising and more time working, this improves your chances of becoming a millionaire. The reality is that for ordinary workers in working-class suburbs around the country there is probably more chance of winning the lottery and becoming a millionaire than there would be because they stopped drinking and gambling and worked a bit harder.

My message to Mrs Rinehart on this issue is that she should take some time out from trying to run the country from her boardroom and get some experience of how the real world operates. Business leaders need to get out of their gilded towers of business and finance. They need to see the real world, not just the billionaires' compounds that line the Swan River and Sydney Harbour. They need to talk to real workers to understand the daily struggle of making ends meet that characterises life for many working-class Australians.

I now come to the issue of Africans wanting to work for $2 per day and this somehow being relevant to Australia's competitive position. The implication in this is that Australian workers are greedy, lazy and should sacrifice wages and conditions in
the interests of profits and overblown executive salaries. Let's have a look at the reality of life for workers trying to improve their working lives around the world. The 2012 survey of violations of trade union rights released by the International Trade Union Confederation should be compulsory reading for businesspeople and politicians who argue for free trade and competition with some of the most exploited and oppressed workers in the world. Those who point to $2 per day in wages in Africa have a moral obligation to explain why workers in advanced economies should be forced to compete against countries that allow business to violate workers' rights in the name of productivity and profit.

In 2011 at least 76 workers died as a result of their trade union activities. They were killed by people who wish to exploit workers for their own greedy ends and who are determined to deny workers any rights. There were 56 deaths in Latin America alone, including 29 in Colombia, the most dangerous place in the world to be a union official, and a further 10 in Guatemala. At least eight trade unionists lost their lives in Asia. Four were killed in the Philippines, all shot and killed in four separate incidents. These courageous men and women were fighting for decent wages and conditions, not a continuation of $2 per day exploitative rates.

In 2011 at least 76 workers died as a result of their trade union activities. They were killed by people who wish to exploit workers for their own greedy ends and who are determined to deny workers any rights. There were 56 deaths in Latin America alone, including 29 in Colombia, the most dangerous place in the world to be a union official, and a further 10 in Guatemala. At least eight trade unionists lost their lives in Asia. Four were killed in the Philippines, all shot and killed in four separate incidents. These courageous men and women were fighting for decent wages and conditions, not a continuation of $2 per day exploitative rates. Some of the deaths occurred as a result of excessive police violence. In South Africa, a municipal worker died in clashes with the police. Two workers were killed in Indonesia when police opened fire on strikers. In Bangladesh, one worker was killed when police attacked protesting chemical workers. Other incidents of police violence leading to injury and death were reported in Sri Lanka, Pakistan, India, Egypt and Nepal.

The repression of strike action through mass dismissals, arrests and detention was widely reported including in Georgia, Kenya, South Africa and Botswana, where 2,800 workers were dismissed after a public sector strike. In India, striking brick kiln workers were warned by the owners that they would 'kill them and rape their women' if they did not return to work. Is it any wonder that millions of workers around the world are struggling to achieve decent wages and conditions?

I now want to turn specifically to Africa, where Mrs Rinehart claims workers are willing to work for less than $2 a day—I think she said they would be happy. Mine operations in Africa are often portrayed as a competitive threat to the Australian mining industry—as if the poverty level wages and abuses of workers' rights ought to be considered the natural order of things.

Let us have a look at the Marikana tragedy just recently that resulted in 45 miners being shot dead by the South African police. These deaths are in addition to six fatalities that occurred at that mine in the first seven months of 2011. These were workplace deaths due to the lack of appropriate health and safety measures. CFMEU National President, Mr Tony Maher, has drawn attention to the fact that Xstrata owns about 25 per cent of Marikana's operator, Lonmin. I join Mr Maher in demanding that Xstrata, one of the biggest and most influential global mining companies operating in Australia, address the causes of the industrial dispute at Marikana. Xstrata have an obligation to resolve the issues that sparked the tragedy.

In a press release on 24 August 2012, ILO mining specialist Martin Hahn said miners working in such mines as Marikana were often exposed to a variety of safety hazards: falling rocks, exposure to dust, intensive noise, fumes and high temperatures, amongst others. Is this Mrs Rinehart's benchmark for African competition? Two dollars per day
wages, unsafe working conditions, violence, intimidation and death. Does Mrs Rinehart seriously claim that this is the 'free enterprise' against which Australian mining companies and their employees must compete?

Are we to compete with the goldmines of Mali, where Human Rights Watch reported that at least 20,000 children are working under extremely harsh and hazardous conditions? In a report published in December, Human Rights Watch stated:

Children as young as six dig mining shafts, work underground, pull up heavyweights of ore, and carry, crush, and pan ore. …Mercury attacks the central nervous system and is particularly harmful to children.

Is this the free market at work? Is this what Mrs Rinehart wants Australian workers to compete with? Is it any wonder that African mine workers are paid $2 a day when they face systematic intimidation for joining a union and attempting to improve their wages and conditions? Implicit in Mrs Rinehart's statement that they want to work for $2 a day is the idea that they are happy. It is a ludicrous suggestion.

In Zambia, a Human Rights Watch report revealed a culture of anti-trade-union practices at Chinese-run mines. Over 2,000 striking miners at the Non Ferrous Corporation Africa Mining company were sacked, requiring the government to quickly step in to order their reinstatement. Prosecutors in charge of the case against two Chinese supervisors who shot at African and Zambian miners in October 2010 decided to drop the charges against them after the company agreed to pay compensation. The two were facing 13 counts of attempted murder after they fired live ammunition into a crowd of miners on 15 October 2010. This was during a protest over a wage dispute at the Chinese-run Collum coalmine, a major supplier of coal to Zambia's copper and cobalt sector. Working conditions at the mine are extremely harsh and wages are often no more than $4 a day. Against Mrs Rinehart's benchmark, those workers are paid double the market rate!

Human Rights Watch released a report in October 2011 outlining a string of workers' rights abuses at Chinese mining companies in Zambia. The report, You'll be fired if you refuse, outlines labour abuses based on interviews with miners between November 2010 and July 2011. The report reveals long working hours and appalling health and safety standards. Miners are expected to work 12- or even 18-hour shifts under conditions without adequate ventilation—a major cause of lung disease—and without vital safety equipment. Protests over these conditions are not tolerated. The research found that outspoken union representatives faced retaliation and that workers' rights to join a union were violated by managers. In addition to this, protesting Zambian miners have been arrested, and a culture of anti-unionism predominates.

I do not have time to detail all of the abuses perpetrated against mining workers in Africa. I simply say that to characterise the deaths, the bullying, the intimidation and the unsafe work practices in African mines as a competitive disadvantage to Australia is reprehensible and obscene.

I take the view that Mrs Rinehart should actually have a close look at what happens in Africa—why workers are repressed, why they are working for $2 a day, why they are being shot, why they are being intimidation and why their rights are being violated—before she comes out and argues that we should be competing against these workers. She should actually stop the argument for a special economic zone in Northern Australia because, around the world, special economic zones are synonymous with violations of
workers' rights, intimidation of workers and deaths of workers. It is about time Mrs Rinehart woke up to herself.

Rhiannon, Senator Lee

Senator SINODINOS (New South Wales) (13:00): It is again an honour to follow Senator Cameron, whose capacity to twist the words of a great Australian is almost beyond measure. While I am on my feet, referring to the weight of people when you are seeking to criticise them is playing the person rather than the issue.

Senator Cameron: Madam Acting Deputy President, I rise on a point of order. In my speech I did not mention any physical characteristics of Mrs Rinehart and the senator should withdraw that imputation.

The ACTING DEPUTY PRESIDENT (Senator Boyce): That is not a point of order, Senator Cameron.

Senator SINODINOS: In February I addressed Senator Rhiannon's attempts to discredit her ASIO file and her involvement with KGB agents Ivan Stenin and Vladimir Alekseev. In 2010 Senator Rhiannon promised that a full report on her ASIO file would shortly be placed on her website. She never did this. My speech encouraged her to do so. Alas, this has not occurred.

I also outlined a number of serious questions Senator Rhiannon had to answer. What was her involvement with KGB agents Ivan Stenin and Vladimir Alekseev? Did she visit any Eastern bloc countries in 1970-71? If so, which ones, why, and precisely when did she return to Australia? Did she attend the Lenin School during any of her trips abroad? Senator Rhiannon has also declined to address these questions, meaning that there continue to be serious concerns about her political activities and antecedents.

However, today I wish to focus on another of Senator Rhiannon's political associations, this time with a curious, anti-Semitic fringe group which has infiltrated the Greens, namely the Truthers—those who deny that Islamic terrorists were responsible for the 9-11 terrorist attacks on the World Trade Centre in New York. I note that yesterday was the 11th anniversary of the tragic 9-11 attacks on the World Trade Centre.

But first some background. There is a video of Senator Bob Brown addressing an anti-war rally in 2003 outside Parliament House. He is standing in front of a banner which reads, 'Why?—whatreallyhappened.com'. This banner promotes a particularly repugnant, conspiracist, anti-Semitic website that argues that the September 11 terror attacks were a US-Israeli conspiracy. If only everything in the world was so simply explained! The banner clearly suggests that the reason for the invasion of Iraq can be found at this website.

The subject headings on this website give you the drift: 'US Government Treason', 'Fake Terror', 'Lie of the Century', 'Waco', 'JFK', 'Killing Jesus' Family'. And whatreallyhappened.com's loopy conspiracy theories are coupled with anti-Semitism, found under headings such as 'Israeli Thuggery'. Amidst all of this you have herbal healing catalogues and articles on how to make your own solar panels to overcome President Obama's conspiracy to drive up power prices! Clearly Truthers like the one who held the whatreallyhappened.com banner behind Bob Brown feel the Greens can muster a sympathetic audience. And I note that in New Zealand, the co-leader of the Greens signed the 'politicians for 9/11 truth' petition.

Flash forward to 2010 and the Greens candidate for Flinders in Victoria, going by the unlikely name of Bob Brown, had this to
say to the *Western Port News* regarding the September 11, 2001 attacks on the USA:

The 9/11 commission was not conclusive that al-Qa'ida was responsible …

There are huge questions that need to be asked—one building came down without being hit, architects say the buildings looked like they were brought down by controlled explosions. What happened to the bodies and plane at the Pentagon?

This Bob Brown later retracted his comments, saying:

I was speaking as an individual only and regret my comment.

I turn now to the infiltration by Truthers of the New South Wales Greens—attempts fostered by none other than Senator Rhiannon when she was a New South Wales member of the Legislative Council. John Bursill is a self-described aircraft engineer and Illawarra Green. He is a prolific contributor to websites which promote conspiracy theories about 9-11. On 11 May 2008 John Bursill posted the following on the 911 Truth Now forum:

Today on May 11th at a Greens Public Forum at their Erskineville (Sydney) Head Office, Truth Action Australia was in attendance in strength. We had a very interesting time and made some real ground with the Staffers and elected members present including the formidable Lee Rhiannon NSW MP who has agreed to view the DVD's given to her and she said "she will be in touch" She was fully conversant with "False Flag Terrorism" and was really genuinely interested! Numerous people within our movement and the Greens have been working on this issue for two years now and maybe it is now paying off?

There has been an obvious change to the response received on this issue and I am now confident of a result within the Greens is possible if not probable. The attendance of MP Fujita to our Sydney Conference is making a real difference in "the reality" of our cause and they simply cannot deny us any longer, we are changing the world.

It would be fair to say that the 10 or so 9/11 Truthers in attendance, two of which were Greens Members, were impressed by the open and fair hearing they were given on the issue of a new 9/11 Investigation.

I should point out that Yukihisa Fujita is a Japanese MP who demanded an independent investigation into 9/11.

While quite detailed by itself, this post by John Bursill might be discounted as wishful thinking. Similarly Lee Rhiannon's agreement to view the Truthers' DVDs and to be in touch might, by itself, be dismissed as politeness. However, on 6 August 2008 on the 911oz Forum John Bursill posted this:

Invitation to the Greens to attend the "NO FEAR TRILOGY" Public Meeting.

If you are not aware of how we have now met "officially" with Lee Rhiannon at the NSW Parliament, a few weeks back. These discussions were very successful and we are hopeful of a break through.

I believe the Senate is entitled to know if indeed Lee Rhiannon did have a meeting with these Truthers around July 2008 at the New South Wales parliament. If so, coming after her exchange at the Greens public forum in Erskineville, this would appear to be in full knowledge of the Truthers' bizarre beliefs and agenda. Senator Rhiannon should answer this question: did she meet with these Truthers and, if so, why? John Bursill's post also details a letter sent to Senator Rhiannon's office on the same day. I quote from the letter, which says:

Hello Lee and Linda,

Truth Action Sydney are holding a Public Meeting "Delusion 911" on the anniversary of the September 11 Attacks 2001. Starting 7pm at the Tom Mann Theatre, Surrey Hills. This is part of our "NO FEAR TRILOGY" Three Truth Events in September, for more details see below.

Two of the speakers at this meeting (details below) are members of the Australian Greens, James O'Neill, Barrister and North Brisbane Convener and myself John Bursill, Engineer and
Illawarra Green. We are hopeful that Lee or an official of the Australian/NSW Greens may attend and speak in support for our call for a proper criminal investigation into those events that lead to the death of 10 Australian's and two terrible wars in there name.

The next day, on 7 August, John Bursill posted this update:

Unfortunately Lee is unable to attend this meeting as she is away down the South Coast. She has given me her assurance the Greens are looking for a representative (with a long neck) to attend this meeting and will be distributing this information to their e-mail list.

If you know the history of my/our campaign with the Greens you will realize this is of great significance!

Regards John

What are we to make of Lee Rhiannon declining to attend the 'Delusion 911' event on the anniversary of the September 11 attacks? On 8 August 2008, under Lee Rhiannon's banner, an e-brief, No. 211, was issued from the offices of New South Wales Greens MPs containing information about the activities of the New South Wales Greens. Under 'Coming events involving Greens', Lee Rhiannon's e-brief advertises:

DELUSION 9/11: PUBLIC MEETING
Thursday September 11
7 pm
Tom Mann Theatre
136 Chalmers St. Surry Hills
5mins walk from Central Station

At least they are using public transport. It goes on:

Find out why millions of people around the world reject the official explanation of 9/11 and the collapse of the twin towers!

Speakers include -

• Dr Frank Legge - Chemist/Scientist and Peace Activist
• James O'Neil - Barrister at Law and Peace Activist
• Gillian Norman - Film Maker, former BBC Journalist
• John Bursill - Licensed Aircraft Engineer
• Kevin Bracken - Victorian Union Secretary

I am not sure which union he was from. The e-brief says, lastly:
Presented by Sydney Truth Action (info@truthaction.org.au)

I believe it is incumbent on Senator Rhiannon to explain why she appears to have abetted the publicising of the event 'Delusion 9/11'. This is another opportunity for Senator Rhiannon to be straight with the Senate and the Australian people.

Why has she, as it appears, flirted with, given comfort to and aided the wacky, anti-Semitic conspiracy theories of the Truthers? What other contact has she had with these people and how many of them are Greens members? It is in the public interest that Senator Rhiannon address these concerns.

The common thread with her previous support for the old-style Soviet Union, for the boycott, divestment, and sanctions, or BDS, campaign and for the Truthers is their extremely hostile positions on Israel. We are entitled to know the truth. No-one here pretends that MPs are not subject to a lot of people wanting to come to see them, and you have to see them where possible; we are representatives of the people. But, in this case, we are dealing with a situation where a person who has had a particular history, on which I have elaborated in this place before, has also potentially been entertaining the views of people who are anti-Semitic and who propagate theories and myths that have already been shot down—shot down by a very comprehensive 9-11 commission in the United States very soon after that particular
tragedy happened. That was a very comprehensive blue-ribbon panel, as they call them over there, which involved people from all sides of politics, so there was no way that their conclusions could have been nobbled.

We live in a world where, if we are to bear witness to the truth—Mr Acting Deputy President Ludlam, you are in the chair and you are a great supporter of Julian Assange and the odyssey he has been on—we have to be bearers of the truth in all situations, and we have to be prepared to stand up to people who are propagating these falsehoods and lies, which only lead to prejudice and blind ideological perversities. I believe the Truthers have committed those in what they are saying. Of course we need to move on the issues that affect peace in the Middle East. No one is saying that somehow Israel is alright and that the other proponents in the various Middle East conflicts are somehow wrong. We are trying to come to a situation where there is an accommodation between all those parties in the Middle East. I do not believe that these sorts of activities of the Truthers and others help us to actually get to that point and I am disturbed that members of this parliament can entertain those sorts of people.

Let me make a more general point about the Greens at this time in their evolution. They are starting to evolve beyond their roots, essentially, in the environmental movement. That does create dangers for them, and I think the greatest danger is that they will become a magnet for all sorts of loopy fringe groups on the Left who think that they are a convenient vehicle through which they can reach for broader power than they would be able to achieve in their own right. I think this is an issue that the Greens must face up to. The Greens have always done best when they have stuck to their roots, which were essentially in the environmental movement. Yes, of course, any political movement is free to move into new areas and to talk about, as they do, social justice and the like, but the fact of the matter is that what is happening now is an attempt by part of the Greens movement to take over the rest of the Greens movement and to recast them in their own image.

I think it is incumbent on all of us to understand those pressures which are at work. There have been many political parties on both sides of the house that have had experience with small groups that infiltrate and then seek to exert a broader influence. We know how malign that influence can become. It is very important in these situations that we take the opportunity to identify those influences in the broader public interest because, as representatives of this parliament, when we talk about the need for truth we cannot be selective. We have to be prepared to face the truth in all sorts of difficult and different circumstances, and it is not always comfortable for us as parliamentary representatives to do that because sometimes we have two confront some of our own preconceptions. But the reality is that, in this particular case, as I have adumbrated here, there is an issue that the Greens do need to address, and I look forward to the new Greens, like the new Green who has just come in, Senator Whish-Wilson from Tasmania, encouraging the Greens to go back to their roots. No-one can have an argument about the need to focus on the broader policy issues, but what I do have an argument with is when people, first of all, try to dissociate themselves from their past without in any way seeking to, if you like, accept that some of the things they did in the past were perhaps antidemocratic, as in the case of the support by Senator Rhiannon of the previous Soviet Union, or in the present seeking to encourage and give succour to
groups who peddle prejudice, propaganda and mythmaking.

**Marine Plastic**

**Senator WHISH-WILSON** (Tasmania) (13:14): Senator Sinodinos, as someone who has worked in the World Trade Centre complex, I find your words today very disturbing, as would all my Green colleagues, and I am sure they will be addressed in good time. I would like to see this chamber rise above that sort of debate and constructively use the time we have got here to raise real matters of public interest.

I would like to talk today about something that has been very dear to my heart and is an issue which all Australians from all political colours, no matter what party they support, would also agree on—and that is the issue of plastics in our marine environment. Recently I was up in the Great Barrier Reef with my family and within 20 metres either side of our towels my children and I found 46 plastic bottle caps. We also collected a whole bag of rubbish. Then we went to the guard on duty and said, 'Does anyone clean these beaches in the morning?' And he said: 'We clean them every morning. But it doesn't matter what we do, by the next morning the beach is absolutely covered in plastic.' That is just one island in the middle of the Pacific.

Marine plastics is one of the single biggest marine pollution issues in the world. For 40 years now various conventions right around the world, including cooperation amongst all countries, have tried to address this problem, but the problem is only getting worse. I would like to read you some basic statistics on the amount of plastics in the ocean. The amount of plastic produced from 2000 to 2010 exceeded in those 10 years the amount produced during the entire last century. Plastic is the most common type of marine litter found worldwide. An estimated 100,000 marine mammals and up to one million seabirds die every year after ingesting or being tangled in plastic marine litter. Up to 80 per cent of plastic in our oceans comes from land based sources. Plastics comprise up to 90 per cent of all floating marine debris. Plastics do not biodegrade but instead breakdown in what is called photodegrading into small particles that persist in the ocean, absorb toxins and enter our food chain through fish, seabirds and other marine life.

I have a report here by Dr Jen Lavers from CSIRO in Tasmania looking particularly at short-tailed shearwaters, a species of seabird endemic to Tasmania. The conclusion of her research and others is that the ingestion of plastic was first reported in 1984 in these birds. Studies following that reported the frequency of plastic ingestion—that is the proportion of these seabirds with plastic inside—to be around 85 per cent. However, recent comprehensive scientific studies in 2011 show the proportion of the population is now 100 per cent. So every bird tested has plastic in its body. We have also found plastic now inside plankton—the bottom of the food chain. Plastic is all through our ocean. It is probably not unreasonable to say that certainly parts of the ocean, such as the North Pacific Gyre, have turned into a plastic soup.

I want to focus on the issue of land based sources of plastic. Recently on **Catalyst** Dr Britta Denise Hardesty from CSIRO said:

Observationally we do not find full plastic bottles or cans or glass bottles in, in South Australia and I would likely attribute that to the, to the container deposit scheme that they have there. The waste that's associated with the beverage industry comprises a third and some estimates are as high as a half of the marine debris that we find globally. So that's bottles and cans and straws and disposal coffee cups, bring your to go cup with you.
People ask, ‘How do we solve this marine plastics problem?’ It is not going to be solved very easily. The place to start is in raising awareness through education and through action that this is actually a serious issue. For years I have been involved with volunteer organisations in cleaning beaches right around the country. I have also been fortunate enough to visit Tasmania’s remote south-west where, with four fishing boats, we removed 4½ tonnes of marine plastic off three beaches. That occurs every year through the hard work of some Tasmanians, such as Matthew Dell.

What can we do as parliamentarians? It is our role—and I see it as a duty—to look at effective policy prescriptions for such a problem. One thing that has been talked about for years without any action is a container deposit scheme. Recently I was given a touch-up on A Current Affair by the Australian Food and Grocery Council—a lady called Jenny Pickles, in particular, who was criticising the Greens for wanting to bring in a ‘great big new plastic tax’. We have heard that line before. Unfortunately, I did not get a chance to respond in kind, but I would have pointed out that it is actually a deposit scheme that the majority of Australians support. It is not a tax; it is simply a payment or an incentive for people to do the right thing, and that is: return rubbish to be effectively recycled.

It is implemented in South Australia, where, as I mentioned earlier, the evidence shows that it has helped to reduce marine debris, which is a serious problem in our ecosystems, and it is operational in the Northern Territory. Why isn’t it operational in other parts of the country and, indeed, other countries around the world?! I get asked this question all the time: if this scheme works and it does help reduce the amount of litter and debris, why hasn’t it been implemented?

The key reason goes back to Jenny Pickles and her group the Australian Food and Grocery Council. The leader of the pack of companies lobbying to prevent container deposit legislation is none other than Coca-Cola, with a number of other beverage companies. Through various means Coke—not just in Australia, but also internationally—have had the funds to run a very effective lobbying campaign to prevent them having to put their hands in their pockets to help clean up what is fast becoming, or is already, a major global pollution problem and a threat to marine life.

The Boomerang Alliance claim that this is purely ideological—Coca-Cola is a company that does not like being told what to do; they believe in a free market, not government regulations. I have a lot of specific examples of exactly the lengths that Coca-Cola and other companies in the packaging industry in Australia have gone to to prevent things such as container deposit legislation. As an example, during the state parliamentary debate on introducing CDL into the Northern Territory in February this year, Coke and its allies mounted an expensive media advertising and political campaign against the legislation. Coke was eventually accused by the NT Chief Minister of running a ‘misleading’ public campaign and told to desist from their ‘lies’. Coke is now threatening to take legal action against the Northern Territory government. I will give another example: during 2005, the then WA Labor government considered introducing a container deposit scheme. The government pulled back due to reported threats of Coke running a marginal seat campaign against the party. This meant campaigning against sitting Labor Party MPs in electorates where the race was tight, thereby threatening the Labor government with the loss of power.

But this is not just something specific to beverage companies. There is an enormous
amount of literature on lobbying campaigns in places like the US against the introduction of things such as plastic bag bans. I would like to put on record that I use plastic. Plastic is probably one of the best inventions of the last century in terms of the benefits it has brought to our society and those benefits are undoubtedly immense; however, only human beings can produce a product that nature cannot recycle—and that product is plastic. For our own benefit we have created a monster. It makes a lot of sense that, given our capacity and intelligence as a species, we now look at what we can do to reduce plastic production and invest in schemes, incentives and technologies to replace plastic—especially single-use plastics.

Going back to public education and what people can do to help as to the problem of plastics in the ocean, we can re-use, recycle and reduce—especially the use of single-use plastics which are everywhere in our supermarkets; we can also volunteer to get involved with local community groups in beach clean-ups and remove debris from beaches. That is one of the big advantages of container deposit legislation. This idea that producer responsibility is unfair on producers flies in the face of the classic economics that producers should be responsible for the externalities of their products. The beauty of CDL is that it includes consumer responsibility and puts the onus on consumers to return bottles and take action. So, apart from cleaning beaches and getting involved in local campaigns to recycle plastics, CDL forces both consumers and companies to do the right thing. This is something that Australia could show some significant international leadership on.

The whole movement towards educating the public on global plastics has, as I mentioned, been in train for nearly 40 or 50 years—since we started discovering plastics turning up in our ocean. The South Pacific Gyre, where probes down to 200 metres under the surface have discovered solid plastics in the ocean, was discovered by Captain Charles Moore, a Coast Guard captain from the US. He has been given an honorary doctorate and is arriving in Australia next week. He is now dedicating his life to educating the world on marine plastics and the dangers that marine plastics pose to our ecosystem. He will be going on a public speaking circuit around the country next week and the following week, and will then be going around the world. In conjunction with his talks on the dangers of marine plastics and how we can combat this problem will be the showing of a movie called *Trashed*—the first global documentary to highlight the issue of marine plastics in our environment. To quote Charlie Moore, if I may call him that:

…the world must be convinced to cease using its oceans as the final resting place for its waste…

*The Plastic Pollution Conversation*, which is the name of his global tour, ‘must continue with an even louder voice,’ says Moore. His media release continues:

His vision is to increase the volume of that voice in a fundamental rethinking of the plastic age and the associated growing global health crisis.

Education and awareness is going to be very important but we have a special ability in both federal and state parliament to implement a policy scheme that can begin to address such frightening facts as that, for example, a third of all plastics in the ocean—which break down into millions of pieces all the way down the food chain to plankton—is from beverage containers.

Tangaroa Blue is a fully-funded government body that is doing a lot more data research on marine plastics and, as our database increases, we get a much better understanding of just what types of plastics we have in the ocean and what the sources of
those plastics are. That work will continue as well. I urge fellow senators to take an interest in this subject because it is going to become a very important issue in the future.

**Grey Electorate: Infrastructure**

Senator GALLACHER (South Australia) (13:30): I also rise to speak on a matter of public interest—namely, infrastructure investment in the electorate of Grey. I recently had the pleasure of accompanying the Minister for Regional Australia, Regional Development and Local Government, the Hon. Simon Crean, in announcing two of the four successful grant applications in the second round of the Regional Development Australia Fund. The electorate of Grey is one of the largest electorates in Australia and is one of South Australia's most important economic regions. The area is home to South Australia's resources. According to the Department of Foreign Affairs and Trade, South Australia's top five exports include copper, iron ore and concentrates and copper ore and concentrates. In the 2012-13 state budget review, mining exports in the year to March 2012 totalled $4 billion, four times greater than a mere decade ago.

However, mining is not the be-all and end-all within the electorate of Grey. Farming is still a staple of the economy, producing some of Australia's best agricultural exports in often difficult conditions. In fact, according to the Department of Foreign Affairs and Trade, wheat was South Australia's top individual export in 2011 with $1.792 billion worth of wheat. Large towns such as Whyalla, Port Pirie, Port Augusta and Port Lincoln are vitally important to South Australia in respect to energy production, iron ore exporting, steelmaking and, most importantly with Port Lincoln, fishing. The area is also strategically important in respect to our defence training and testing with Cultana and Woomera bases located in this vast area. Port Augusta, as most Australians know, is the connecting point of all transported goods north, west and east of Australia. By the way, Whyalla is still there in a vibrant state. The last Saturday night I spent there was quite an eye-opener.

The area is also one of great significance, especially with the opening of new mines. This will mean that major towns such as Whyalla, Port Pirie, Port Augusta and Port Lincoln will remain the doorstep to the economic boom, even with the delaying of the expansion of Olympic Dam. It is quite likely that skilled workers from these towns will drive in and drive out, will fly in and fly out to the mining centres and importantly, before returning to their homes, put some money back into communities. Olympic Dam, which is still an ongoing commitment from BHP, and the continued exploration in the region will mean the need for an expansion of ports there, greater capacity of transport workers necessary to bring in machinery and products to mines being developed and also the transport of minerals from the mine to new ports.

It should not be forgotten that Olympic Dam produced 192,600 tonnes of copper, 3,885 tonnes of uranium, 117,845 ounces of gold and 907,000 ounces of silver in the year to June 2012, contributing approximately $1.7 billion to the South Australian economy. The Hon. Tom Koutsantonis, state Minister for Mineral Resources and Energy, issued a media release on 3 September highlighting that mineral exploration has hit a post-GFC high, and that spending on mineral exploration in South Australia has risen to $328.4 million in the 12 months to the end of June 2012, an increase of nearly 30 per cent.
In the light of the current success and potential in this region, it is important that federal, state and local governments, as well as private investors, make the necessary improvements in infrastructure for a successful future. With more and more people to be employed in industries directly or in a supportive capacity, investment is vital. While there will be an increase in people living in towns like Roxby close to mines, many will opt to live by the coast. It is no great secret that the majority of Australians live on our great coastline. That is why these regional centres that already have infrastructure capacity, and many of the creature comforts that Australians are familiar with, will be the homes for the bulk of employees working directly or indirectly in the mining industry.

Housing affordability and overall lifestyle opportunity that these regional centres offer will be a great incentive for people to live there. Another advantage is the local skilled workforce. As the demand for skilled workers increases, commuting reasonably by car to these exciting opportunities will be attractive. The development of these areas, as well as the development of existing towns, is crucial for future prosperity. This latest round of funding out of the Regional Development Australia Fund has put money towards fantastic projects that will cater for the future needs of these local communities. The recipients of this round of the Regional Development Australia Fund are Port Augusta for a new sports hub; Coober Pedy for a water for growth project; Lucky Bay for a harbour extension, and new and affordable housing will be constructed in Roxby Downs, Whyalla, Port Augusta, Clare and Port Pirie.

The sports hub in Port Augusta will see the alignment of the central oval; the construction of a new sporting pavilion; improvements to surrounding roads, car parking and landscaping; and the installation of water and energy saving devices. The Australian government through the Regional Development Australia Fund will provide $5 million of the $12.2 million needed for the project. As Minister Crean stated, when it is completed the sports hub will be one of the best one-stop recreational facilities in the state, joining the dots between football, cricket, basketball, netball and other community activities. As I have discussed, these sorts of investments make the community a more attractive location because of the added value of the liveability. At this point I would like to say that the Mayor of Port Augusta, Joy Baluch, attended the function—even though she was not in the best of health—and was over the moon in her praise of Minister Crean and the work of this Labor government in bringing together enough money to get this project over the line.

For many young Australians, sporting culture is extremely important, and having a sports hub like the one at Port Augusta will only make the area more attractive; the benefits of the sea on one side, the Flinders Ranges on the other and all the modern services and infrastructure in a central location. Sport is a significant part of community life for most regional Australian communities, and Port Augusta is no exception. There is a real sense of unity when sporting events are held in Port Augusta, and I am sure that all the residents will be extremely proud of the proposed new facility. Not only will this be a great new sporting facility; it will also accommodate local community events. Port Augusta's vibrant local Indigenous community will benefit from sporting clinics and the use of the pavilion for education, cultural gatherings, training, and art and craft expos.

Another really important initiative is the Unity Housing company. They were a
successful recipient, receiving another $5 million from the Regional Development Australia Fund for the Northern Region Affordable Housing Initiative. The project is worth $26.8 million in total and will supply 100 affordable rental houses at less than 75 per cent of market rent and half the electricity cost to tenants. The houses will be strategically built by targeting areas in growth industries such as mining, tourism, agriculture and infrastructure innovation, but with workers of low to moderate incomes. This will see houses built in Port Augusta, Roxby Downs, Whyalla, Port Pirie and Clare. The project is the culmination of Unity Housing, which is South Australia’s largest not-for-profit housing provider, affiliated regional councils, state and federal governments and the private industry all coming together in support of this project.

It is expected that the project will benefit the local communities in the construction phase. This means tradesmen, contractors, suppliers and labourers from the communities will also benefit. The affordable housing initiative will create 57 positions in the first year and 55 in the second year. Not only will these communities benefit from the economic stimulation of construction; they will also benefit from their newest residents who will do much to stimulate the local economies. Those targeted to live in these houses are young people who are starting in their careers in expanding areas. The Unity Housing website states:

Unity Housing Company Limited (Unity) was pleased to receive support from the Federal Government’s Regional Development Australia Fund (RDAF) towards its proposed $26.8 million affordable rental housing project. This project has National Rental Affordability Scheme (NRAS) support and aims to also harness both State Government and Local Government alongside private finance to develop rental housing for people on low to moderate incomes. This project demonstrates Unity’s innovative approach to increasing the supply of affordable housing through the use of a Public Private Partnership model.

The project will aim to provide a platform to support the northern region of South Australia and to cover a wide area including Port August, Whyalla, Port Pirie and Roxby Downs.

The Coober Pedy Council was another organisation that received funding in their ‘Water for growth project’. This saw $910,000 granted towards the project, which will cost $1.8 million, for a new 12-kilometre section of water pipeline from a subartesian bore field, a new water irrigation system at the town oval and the extension of the community orchard. Once again, this is an example of long-term foresight for the future sustainability and capability of a regional centre. It will most definitely support key industries such as mining and tourism in Coober Pedy. It is extremely important to deliver a project that enhances long-term reliability and healthy water supply to regional centres surrounded by arid lands.

I have great hope that this project will allow Coober Pedy to contribute to the growth of the area. Coober Pedy District Council Mayor, Steve Baines expressed via email that he was extremely pleased to receive this Commonwealth funding:

The funding for this project has been sourced from the three tiers of government and will ensure that Coober Pedy will have a continued and viable supply of water for the next 30 years. This is testament to what can be achieved with perseverance and a collaborative approach.

There is another beneficial outcome of this project, and that is the project will provide a training program to three long-term unemployed residents from the Umoona Indigenous community, assisting them to gain ongoing work.
Finally, for the electorate of Grey, out of the second round of the Regional Development Australia Fund was a $2.2 million grant which will establish a common-user facility as part of the Lucky Bay Harbour extension totalling $12.1 million. This will allow for the export of iron ore through an innovative transhipment system. The transhipment system allows for iron from the Wilcherry Hill mine near Kimba to be taken by train to Lucky Bay in sealed containers. The next process is the iron ore barge to a mooring point, where Panamax sized vessels will load the iron ore for export. This extension will also mean better facilities for the ferry service from Wallaroo, separating the export barge movement from the movements of the ferry. This allows for a safer passage for the ferry to the port.

There are also clear benefits to the region and the local economy. Access to a port for exports will allow regional companies in Eyre Peninsula to grow and have confidence that the facility will save time and transport costs. There will also be a direct benefit to the local area, with employment opportunities not only in industries benefiting from the extension but in the functioning of the port.

The other direct benefit is in the tourists that the ferry system will deliver. According to the statistics, approximately 230 new jobs will be created in the region. District of Franklin Mayor Eddie Ellwae said, 'Any assistance to get this project up and running is extremely beneficial.' He went on to say, 'The end result will provide employment in the local community and also in the broader community. Mayor Ellwae discussed the fact that this project will do much for the future export capacity of the harbour. This is about improving the ability of industries to maximise their capabilities throughout the area. It is a win-win situation.

These investments, together with investments the Labor government has made in regional Australia and in particular in the upper north and west of South Australia, have been outstanding. These investments will stand the test of time and will make regional South Australia a real option for families looking to take advantage of the opportunities that are on offer. Investments in the Building the Education Revolution, economic development, regional sustainability and liveability mean the regions have been left on a much better footing as a result. The success of South Australia in the regions will be not just a win for the towns directly but a win for the state and the nation as well. I would like to congratulate the successful applicants, especially those individuals who put their time and effort into preparing the successful applications.

**Women in the Australian Defence Force**

Senator Johnston (Western Australia) (13:45): Before I turn to the matter of public interest I want to raise, I just want to say, having listened to some of the MPs this afternoon, that I think the Greens need to come into this chamber and tell the Australian people whether they do support the 'truthers'. I think it is of great concern and alarm to all Australians that the Greens appear to be supporting the conspiracy theory behind 9-11 at this time of the anniversary.

I am very pleased to speak today in support of the tabling of the *Review into the treatment of women in the Australian Defence Force: phase 2 report*, a comprehensive, balanced and common-sense document authored by the Australian Human Rights Commission under the leadership of Commissioner Elizabeth Broderick. In this speech, for convenience, I have attributed the
report to her, despite the fact that she is the leader of a very esteemed, five-member team. The phase 1 report was tabled in November 2011 and focused on the treatment of women at the Australian Defence Force Academy, ADFA, and the opposition strongly endorsed the findings and recommendations of that report.

As an independent observer with unfettered access to ADFA and its personnel, Ms Broderick certainly did not mince words in her first wide-ranging cultural review. Part 1 found, first and foremost, that ADFA is an elite academic institution where both male and female students take enormous pride in their work; however, it did find widespread low-level sexual harassment was common. Whilst I was encouraged that the commissioner spoke so highly of ADFA as an elite institution, it is also important to recognise there is absolutely no place for any level of sexual intimidation at the college where we are training our future military leaders.

The review found the quality of recent commandants had been high, and many cadets, staff and parents commented very favourably on Commodore Bruce Kafer’s leadership and commitment to ADFA. I pause to remark that I too have had many people contact me personally, tell me of their experiences and affirm that Commodore Kafer is a man held in the highest of esteem and is of great integrity. Upon such factual accounts, and in accord with the finding of the commissioner, I believe him to be a very high-quality commandant and leader.

I firmly believe that ADFA is a first-class institution, but it has of course had its share of bad publicity and bad press over the years. As political leaders we must strive to assure the mums and dads of the nation that they can send their kids to ADFA with confidence that, as an institution of excellence in every respect, it will continue to mould young men and women into great military leaders. Our role is to ensure these reviews are not simply an exercise in tokenism, to be shelved and never see the light of day again. Our role requires eternal vigilance on the implementation of these recommendations. Ms Broderick also directed that within 12 months of the release of part 1 of the review the Vice-Chief of the Defence Force, in association with the service chiefs, report back as to progress on her recommendations. I look forward to seeing this progress report in November this year.

Turning to phase 2 of this review, it was not surprising to read women are underrepresented across most areas of the Australian Defence Force and more so in senior ranks. Overall, women make up 13.8 per cent of all ADF personnel, less than five per cent of star ranks and less than eight per cent of warrant officers. This is one of the largest employers in the nation and it employs women at a rate of a little over one in 10.

The retention rates are also of considerable concern to me. Female personnel that do commit to the ADF leave at an earlier age than their male colleagues. Most women leave at an age when they are starting a family. It is not the sole cause of their retirement from the ADF but it is certainly a significant push factor. The report says that within the ADF there was a widespread belief that women in the services must choose between a career and a family. Look at the statistics in senior ranks: 88.9 per cent of men in star ranks have children, compared to only 22.2 per cent of women in similar ranks. This means that either we lose altogether talented and experienced personnel who happen to be women, or we expect them to sacrifice having children as the only way to move up the ranks. Frankly, this is nonsensical.
From a practical perspective, it now costs $21,000 per enlistment just to recruit a new member to the Australian Defence Force, up from $7,000 per recruitment a decade ago, yet we consistently fail to meet recruitment targets. This says nothing of the value-adding and investment and overall value of a several-year-in experienced employee. Like any employer, the ADF needs to take that into account. Does it rethink its workplace and offer more flexible options for personnel starting a family? I think so, and that applies to men as well as to women—as Ms Broderick points out, most of her recommendations in this report are actually gender neutral. Or does the Defence Force sit back and watch their investment and considerable valuable talent walk out the door on maternity leave, never to return? It is an issue facing all workplaces, with some organisations and industries waking up to it earlier than others.

There is increasing pressure on recruiting men and women into the forces, and the ADF struggles to meet its annual targets, particularly in times of low unemployment. Not only does Defence need to draw on a broader talent pool, but it must look at innovative ways to retain the people they have already trained at great expense. Again, this is not an issue of gender. The report notes the pool from which the ADF traditionally recruits from—that is, people between the ages of 17 and 24—is diminishing. Deloitte has found that over the next five years Australia is projected to see fewer than 125 exiting education for every 100 people retiring. Australia is about to enter a period with the highest ratio of job market retirements to new entrants in its history. Attracting more women into the ADF broadens the talent pool as competition for the best workers across all sectors intensifies. I am very pleased to see recognition in the report of the gap year program which was initiated by the Howard government but recently cancelled by the Gillard government as part of its 'bleed Defence white' budget approach, treating the portfolio as nothing more than an ATM to fund its budgetary shortfalls. The gap year program was essentially a 'try-before-you-buy' 12-month placement in one of the services so young people, mainly school leavers, could get a taste of military training and lifestyle with just a one-year commitment. It was a very successful and positive program.

Compared with normal recruitment methods, the gap year program attracted a higher proportion of women into the ADF. Under the different categories of enlistments, in 2010-11 gap year transfers made up one-third of all female recruits, more than twice the amount of women as ab initio entrants at 15.2 per cent. It was reported as being a significant new development through which to address the gender imbalance because women were more likely to sign up knowing it was only a 12-month commitment and that they could leave after that time. But, as I said earlier, once women are in the pipeline, so to speak, then there is the challenge of keeping them in there.

The review acknowledges that, while the challenges of balancing work and family is not unique to the ADF environment, there are distinctive issues in Defence such as posting cycles, operational commitments and overseas deployments. The report states:

This means that, for women especially, the need to combine work with family disproportionately impacts on career progress and hinders leadership opportunities. There are deeply held beliefs within the Australian Defence Force that many roles cannot accommodate flexible working arrangements, and the review team concedes that flexible work arrangements may be difficult in some circumstances. However, it
was found that in the majority of roles there is a lot that can be done to increase flexibility by looking at new or different ways in which work outcomes could be achieved.

Some of the remarks published in the review are telling. There is the case of the woman choosing to discharge from the Royal Australian Navy:

She's one of the cleverest girls in the organisation. She's discharging in a month's time. She's been at sea for the last five years and ... the Navy just hasn't come to her aid with regard to saying 'Yes, we'll guarantee you two years in that position so at least you can pop out one child', so that's why she's going.

This is to me one of the most disappointing reports that you could possibly read, and discloses a managerial mindset that must be changed. Then there's the example of a couple both in the service:

I transferred to the [Navy Reserve] as there was no guarantee that with both of us in the [permanent Navy], there would always be one of us posted ashore to care for our children. After nine years of service, I would have remained in the [permanent Navy] if there was a guarantee that my spouse and I would not serve concurrent sea postings so that we could care for our children.

The review outlines a number of issues critical to keeping both men and women in the ADF. These relate to child care; career progression; parental leave; occupational segregation, including combat exclusion; and career management. A different, more innovative approach is the only thing that will protect the Australian Defence Force's employment in the face of industries such as oil and gas and mining, where HR policies are aggressive, flexible and generous.

There is also a chapter in this report on sexual harassment, discrimination and abuse, and it is worth noting that although the levels of abuse are similar to those in other Australian workplaces, the report says underreporting in the ADF is a significant issue. An option that allows personnel to make confidential reports could address this issue and should be investigated by the ADF as a matter of urgency.

This was a truly independent look into Defence, and the issues identified surrounding women in the ADF were kept in perspective. The recommendations are practical, very well balanced and, I believe, very achievable. On the flip side, in this culture of 24-hour news and five-second grabs it is easy to pigeonhole these complex issues into absolutes. Yes, there are women in Defence who find their job incompatible with family life, but there are others, as Ms Broderick found, who have supportive superiors and are able to find a way to do both. In the words of one ADF member quoted in the report:

My friends in the civilian industry are amazed by the flexibility offered by my organisation, the excellent benefits, my ability to attend school swimming carnivals and undertake occasional school drop offs, our maternity benefits and option to work part time, and wish their employers were as magnanimous and trusting.

With regard to women in combat, this issue also lends itself to absolutes. There is quite a lot of resistance to change both from within the military and on the outside, with arguments ranging from the perfectly reasonable to those based on high emotion and sometimes even hysteria. For a start, the debate in recent times in Australia seemed to ignore the fact there are already many women performing roles in Defence that were once the domain of men only. There are women in Defence, such as those I have met in Tarin Kot, at Camp Smitty in Iraq or on a submarine out of Stirling, who must have felt a bit invisible during that recent debate. As the report notes:

... in Navy, women have served on ships and submarines in combat roles on operational
(active) service at sea since the Gulf War … In Army, women … can operate unmanned aerial vehicles in artillery, surface-to-air missiles and ground-based air defence systems.

The myth that soldiers in combat roles face more danger than those … far removed from the theatre of operations must be dispelled because new advances in military technology … have made all areas of duty equally dangerous. In low-intensity conflict there is no 'front' in the conventional sense, or rather the front is everywhere and all soldiers are equally at risk.

The coalition supports the removal of combat restrictions for women in the ADF as long as the current physical and psychological standards are maintained. We have been promised that there will be a specific set of physical employment standards defined by the DSTO for every job in the military. Lieutenant Colonel Peter Conroy, who is in charge of the implementation of the physical employment standards, has said they are not going to be easy tests and they will raise the overall fitness standards of the Army.

This report also points out that aside from the focus of the PES there should also be an effort to address the significant cultural and attitudinal barriers which exist to women taking up these roles, particularly in Army, which has the largest proportion of jobs from which women have previously been excluded. It is widely agreed that without having combat service under her belt a woman will not make it to senior levels or to a service chief or chief of defence position. The most senior woman at present is a two-star rank.

In closing, I quote the commissioner. I hold her in extremely high regard and I place on record my gratitude to her for keeping me updated on the progress via a series of excellent briefings on these issues. In the report she said:

The commitment is there. A path, by way of these recommendations, is laid out. It is now for the ADF to make good on this ambition—to realise an organisation which, in return for their service to Australia, gives all of its members, irrespective of their gender, the opportunity to thrive.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Fisheries

Senator COLBECK (Tasmania) (14:00): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. I refer to the press conference that the minister held yesterday with the minister for the environment, in which he said he was introducing new fisheries legislation because he was uncertain of the effects that larger boats would have on the industry. I also refer to the 26 July statement available on the AFMA website, which says:

AFMA has found no evidence that larger boats pose a higher risk to either commercial species or broader marine ecosystem when total catches are limited and the limits are enforced.

How can the minister claim that there was uncertainty about larger boats when the evidence from AFMA was so clear and so unambiguous?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:00): I thank Senator Colbeck for his question. The Australian Fisheries Management Authority, as Senator Colbeck knows, is an independent authority responsible for the sustainable management of Commonwealth fisheries. I do have confidence in AFMA and the strength of the fisheries science behind the small pelagic fishery.

There are uncertainties around environmental science regarding the impacts of large freezer vessels on endangered species and other wildlife, and the
government has taken separate action in this regard. The Gillard government has introduced legislation to toughen up environmental controls on vessels like the supertrawler. To this end, the government will seek to provide the Minister for Sustainability, Environment, Water, Population and Communities, working with the minister for fisheries, with greater powers under the Environmental Protection and Biodiversity Conservation Act 1999. Of course, what these powers will do is to allow for the suspension of declared fishing activities pending further assessment of the proposed activity if there is uncertainty about the environmental, social or economic impacts of the fishing activity.

This government remains a strong defender of Australian fisheries. This world-leading fishery management system was established under the Hawke government—a Labor government—not a coalition government. If you look at the record of the coalition government in this, which I may come to, you will find it lacking. Yesterday, with Minister Burke, I did announce proposed changes to legislation. I also announced the first major root-and-branch review of the fisheries management system. Whilst the— (Time expired)

Senator COLBECK (Tasmania) (14:03): Mr President, I ask a supplementary question. I refer to the statement by the CEO of AFMA on 26 July that unwanted bycatch from non-target species by midwater trawlers is 'exceptionally low'. How can the ministers claim that there was uncertainty about bycatch when the evidence from AFMA was so clear and so unambiguous?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:03): If Senator Colbeck looked at the press release that I put out—if he has missed something in the last couple of months in following the fisheries website—he would also note that there is a bycatch strategy release that has been put out by me for review. Why? Because it needs to be updated. There have been uncertainties created through that. That was done back in March; so it has not been something that has happened suddenly. I would expect that he would, hopefully, at least do his research before asking those questions.

It is an area where the review that I announced yesterday will also give him an opportunity of having input into the system, because— (Time expired)

Senator COLBECK (Tasmania) (14:04): Mr President, I ask a further supplementary question. If the science is certain but the minister is uncertain, is it correct that uncertainty then prevails?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:04): Again, I thank Senator Colbeck for his question. Again, it seems to me that the opposition missed the press conference yesterday and what it actually entailed.

We are amending the environmental act to allow Minister Burke to deal with environmental concerns that he had raised. The Australian Fisheries Management Authority continues to be well supported by government. It is an independent regulatory authority and it has been getting on with its job of managing the fisheries. It does deal with individual fisheries, such as the small pelagic fishery, but there are two different issues. One is the concerns that Minister Burke raised under the environmental act; and those others, which are created under the small pelagic fishery. What the opposition
are missing in all of that is that they seek to confuse the two. They are two separate—

DISTINGUISHED VISITORS

The PRESIDENT (14:06): Order! I draw to the attention of honourable senators the presence in the gallery of the Swedish Parliamentary Committee on Taxation, led by Mr Henrik von Sydow MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Education

Senator THISTLETHWAITE (New South Wales) (14:06): My question is to the minister representing the Prime Minister and the Minister for Tertiary Education, Skills, Science and Research, Senator Evans. Can the minister advise the Senate how the Gillard government’s record investments in education and skills, and strong jobs growth, are good for the Australian economy?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:06): I thank the senator for his question, because it is at the core of the priorities of this government. Despite the global financial crisis, this government has seen the creation of 800,000 new jobs and has invested at record levels in education and skills—in all levels of education, be it preschool, primary school, high school, vocational education or tertiary. That commitment and that investment have been at the heart of our attempt to drive a modern economy to make sure that we have the skills and education of our people so that they can take advantage of the economic opportunities that become available to Australia and obviously drive innovation.

But that investment has been undermined by announcements by state governments in recent days that seek to reduce Australia’s overall commitment to education and skills by slashing their funding to education and skills development in the Australian economy. Not only that, but they are sacking thousands and thousands of educators—thousands of people who are actually contributing to the development of skills in this country. We know that the Liberal and National parties have been briefed on these things and their spokespeople have supported the measures that have been taken. Yesterday New South Wales took $1.7 billion out of schools, public and private. Eight hundred TAFE jobs will be gone, and there will be a 10 per cent increase in TAFE fees. How is that going to improve education? How is that going to improve job opportunities for young people? In Queensland 14,000 people lost their jobs and there are plans to halve the number of TAFEs. In Victoria $300 million is being taken out of the TAFE system. How can we skill our people with that sort of attack on education and skills development going on in this country? (Time expired)

Senator THISTLETHWAITE (New South Wales) (14:09): Mr President, my first supplementary question is: can the minister advise the Senate on how recent budget cuts from coalition state governments put at risk the benefits of the Gillard government’s investments?

Opposition senators interjecting—

The PRESIDENT: Wait a minute, Senator Evans. When there is silence we will proceed.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:09): Whilst we are investing at record levels, trying to meet the skills demands of the
economy and provide record education opportunities for our young people, these state governments are destroying that investment by taking money out at the other end, by sacking educators, by closing campuses and by slashing the educational opportunities available to young people, particularly those in rural and regional education.

Opposition senators interjecting—

Senator CHRIS EVANS: The hypocrisy of you, Senator—day in, day out, saying: 'Don't lift mining taxes. You'll destroy jobs.' Yet where are you when the coal industry suffers under these attacks?

Honourable senators interjecting—

The President: Order! Senator Evans, just resume your seat. Order! I remind senators on both sides that interjections across the chamber are disorderly. Minister, continue.

Senator CHRIS EVANS: Month after month they have come in here and said, 'A price on carbon will destroy jobs.' Well, tell me. It is nothing like Campbell Newman. All the lobbying says jobs will grow, but Campbell Newman is going to sack 14,000 people. So there are no questions about climate change, no questions about jobs and no questions about taxes on mining companies today, because the hypocrisy—

(Time expired)

Honourable senators interjecting—

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

Senator THISTLETHWAITE (New South Wales) (14:11): Mr President, I ask a further supplementary question. I further ask the minister: is he aware of any further risks to the Gillard government's record investments in education and skills?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:11): These cuts by Liberal-National state governments reflect the same agenda that the Liberal Party took to the last federal election, which represented the Howard government's record: failure to invest in higher education and failure to invest in vocational education. We know where their black hole will be funded from: out of education. When the Gonski report was released their leader, Mr Abbott, said: 'Public don't need any more money. We don't support this, because public schools don't need any more money to support a lift in educational standards.' We are seeing the VET system in this country ruined by state governments, and where are the National Party? When there are campus closures in rural and regional Australia and kids denied educational opportunities, we hear nothing from them. In fact, the Victorian and New South Wales ministers are Nats, and they are closing campuses and reducing opportunities for kids in rural areas. This Liberal-National agenda is—

(Time expired)

Live Animal Exports

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:12): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. I refer the minister to the government's knee-jerk ban on the export of live cattle to Indonesia last year, made without any formal submission going to cabinet. Is the taxpayers' contingent liability for compensation to the live cattle industry still unquantifiable? If it is not unquantifiable, what is the government's estimate of the actual liability? Does the minister deny this liability will be in the hundreds of millions of dollars? What other unquantifiable liabilities are on the budgetary horizon?
Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:13): I thank Senator Abetz for his continued interest in the live animal export trade. Can I say that the government supports the industry and its trade, and that is why we acted to put it on a footing. Self-regulation had failed in that industry to be able to ensure animal welfare. What the government did was to put in place a regulatory framework that meant the exporters had control right through to ensure animal welfare outcomes.

In terms of the contingent liability, that is an issue that has been raised in the budget. It is a matter for the Treasury to deal with. It is in the budget papers as a contingent liability. My advice today is that matters raising legal issues should be dealt with separately from me; and therefore I have said consistently that I will not comment on those matters. If it is a Treasury question then it should properly go to the Treasury portfolio. If it is an issue around legal advice then, as I have said continuously through this issue, it is an issue that I have said that I will not comment specifically on. They are matters that people can agitate, and it is not for me to question it.

In terms of the broader issue around live animal exports, this government remains committed to it. We have done the right thing to ensure animal welfare is taken into account right throughout the control of the animal welfare. What that means is that, unlike the opposition, who for the 10 years they had the trade going—they have the MV Cormo, they had a range of reviews into the matter—and did nothing about it, continuing to allow animal welfare issues to remain unaddressed— (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:16): Mr President, I ask a supplementary question. Has the minister sought or received legal advice going to issues of compensation to Seafish Tasmania as a result of the government's latest backflip? Does the government acknowledge that its knee-jerk reaction has exposed the Commonwealth to yet another significant liability, as with live cattle exports and its bungling of the Australia Network tender?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:16): In terms of the network tender I can reject the premise of that question. I am sure I have heard Senator Conroy answer that comprehensively a number of times. Again, in relation to matters of claims by commercial entities, they are matters the department can deal with should and when they arise. It is not something I am going to then canvass with you today. What I can say is that I have not seen any request for commercial compensation in relation to the small pelagic fishery.

In terms of the broad advice from the department I continue to get advice across all of these issues. In terms of legal advice, it is a well-known principle in this place that we will take it on notice as to the particular part of that question.

Senator Brandis interjecting—

Senator LUDWIG: I am answering that, Senator Brandis. What I will do is take it on notice— (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:17): Mr President, I ask a further supplementary question. Does the government's ban on live cattle exports to Indonesia and now its backflip on fishing add to the sovereign risk of investing in Australia's primary industries?
Senator Wong: As opposed to Campbell Newman’s massive hike on royalties?

The PRESIDENT: Order on my right! Senator Abetz is entitled to be heard in silence. Senator Abetz.

Senator ABETZ: If not, how does this kind of policymaking on the run help encourage investment and job creation?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:18): The Australian government supports investment in agriculture whether it be in live animal exports, whether it be in fisheries investment, whether it be in pasture, whether it be in cattle stations. That is because we support jobs in regional Australia. We support farms. We support building a strong economy. Our government is unambiguous and clear about our support for foreign investment.

If you look at the coalition, though, you are all over the shop like a dropped pie when it comes to foreign investment. You do not know whether you support it or are opposed to it. That, in fact, is what you look like: you look like a dropped pie when it comes to foreign investment. The reality is that foreign investment is not a new thing. Foreign investment has been the backbone of this country for a very long time. It is about time the doormats woke up to that and that it is important for agriculture. (Time expired)

Same-Sex Marriage

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:19): My question is to Senator Evans, the Minister representing the Prime Minister. Given that the Tasmanian House of Assembly has passed the Greens bill enabling equal access to marriage for same-sex couples, in the event of that legislation passing the upper house will the government rule out a High Court challenge to the validity of that law; and, further, will the government rule out any clarifying legislation that would seek to invalidate such state law?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:20): I thank Senator Milne for her question. I suppose the first point to make is that I am not briefed as to the scenarios that the senator poses as to what possible responses we might have to a series of events. I can, though, say that the question of equal right to marry is the subject of, I think, four separate bills currently before the parliament. This government has undertaken to ensure that the parliament has the opportunity to debate one of those bills in both chambers. We want to give every parliamentarian the opportunity to have a say about this important public policy issue and we are facilitating that by allocating government legislation time and also seeking to have the Senate sit late next Tuesday evening to facilitate the participation of as many senators as want to take part in the debate. My expectation is that sometime next week both the House of Representatives and the Senate will vote on one of the bills currently before the parliament that seeks to give equal rights to gay and lesbian people to marry. So the parliament will get a chance to express its view on that issue in both chambers, which I think is appropriate given the public interest and debate around that. From the Labor point of view, we will be having a conscience vote on that. But I understand other parties—

The PRESIDENT: Order on both sides! Senator Evans is entitled to be heard. Senator Milne is entitled to hear the answer.

Senator CHRIS EVANS: As I said, the Labor Party members will be having a conscience vote on that issue. But in terms of
expressing the view of the federal parliament, the parliament will get that opportunity next week.

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:23): Mr President, I ask a supplementary question. I note the minister did not answer the question about whether we would have the government ruling out a High Court challenge or clarifying legislation, given that the move to debate it next week is to get it off the federal agenda—this is about state legal rights in terms of the Constitution. Can the government now tell us whether there is any legal advice from the Crown Solicitor or any other source regarding the legality of the Greens bills for marriage equality in state parliaments? If so, will the government now table that legal advice?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:25): Mr President, I am happy to seek advice from the Prime Minister's office as to the issues raised by the senator, but I do not think we will be tabling legal advice, if it exists, on the sort of scenario she paints. In relation to who the Prime Minister meets, including the Greens, the Prime Minister does not talk about that publicly. I would not have thought people would think that that would be a wise thing to say. In relation to Mr de Bruyn's views, he put those at the national conference. He put them very forcefully. That is the national conference of the Labor Party, which is open to all, which is conducted in public and which was attended by hundreds of media representatives. During that debate there were strong views put from both sides and, in the end, the party adopted a policy position that its members would have a conscience vote. That authorisation, or that policy, will be reflected in the parliament when we debate these matters next week.

Fisheries

Senator BOSWELL (Queensland) (14:26): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. I refer to the minister's supportive
statement in question time on Monday regarding the trawler the *Abel Tasman*. The minister stated—

*Government senators interjecting—*

**The PRESIDENT:** Order! Senator Boswell, just stop for a moment. I need to hear you. The interjections from my right are disorderly.

**Senator BOSWELL:** The minister stated that output controls such as the total allowable catch, particularly individual transferable quotas, are the preferred approach to fisheries management and that small pelagic fish species including localised depletion were unlikely, and that the Australian Fisheries Management Authority, as the independent authority responsible for the sustainable management of Commonwealth fisheries, has continued to play that role very well. Can the minister explain what has changed since Monday?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:27): I thank Senator Boswell for his interest in fishing. Nothing has changed. I continue to support the independent regulator. I continue to support the way it manages the fishery. But talking about output controls and input controls—correct me if I am wrong, Senator Macdonald—I think it was Senator Macdonald's work that changed it from input controls to output controls.

**Senator Ian Macdonald:** Yes, that is right.

**Senator LUDWIG:** Contrary to some of the claims that have been made, I am advised that large trawlers were invited here during the Howard government. They invited one, and I think that has been mentioned couple of times, the *MV Veronica*, and by the time it arrived in 2004, they stopped it. But the nature of this particular vessel was—

*Honourable senators interjecting—*

**The PRESIDENT:** Order!

**Senator LUDWIG:** One of those areas is that, in that instance, they changed the entire law. They went from input controls, which is gear, right through to output controls. But there is nothing that has changed—AFMA continues to enjoy the government's confidence and continues to be an independent regulator. What is different is that Minister Burke—

**Senator Ian Macdonald interjecting—**

**Senator LUDWIG:** You interject, I know. But as I have said time and time again, I requested advice at the time from my department about my powers to act, and it was clear that I did not have the power to act under my legislation. As fisheries minister, my responsibility is to make sure that our fisheries remain some of the most sustainable and best managed in the world. That is why I did announce a review with Minister Burke—(Time expired)

**Senator BOSWELL** (Queensland) (14:29): Mr President, I ask a supplementary question. Seafish Tasmania has worked with Commonwealth officials for seven years. It has met all of AFMA's regulations and now finds the rules have suddenly changed. Is the government prepared to offer compensation to Seafish Tasmania and the small family fishing companies that intended to lease their quotas to Seafish Tasmania and who now face owning an asset that is near worthless. Has the government calculated the cost of compensation?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:30): I thank Senator Boswell for his supplementary question. In terms of the commercial decisions by the operator, they still remain and have a total allowable catch for a
particular fishery, which is the small pelagic fishery. Nothing has changed within that. As I have also indicated, nothing has changed in relation to the work that is being done by the independent regulator, AFMA, as the regulator of that fishery.

What has changed is that yesterday we implemented a bill which changes Minister Burke's legislation to allow him to take a certain action. That means it will seek to provide the minister for sustainability—or, in short, the environment—the powers of suspension for a declared fishing activity pending further assessment. It is important that we do the further assessment. It will take roughly 24 months to ensure that we do have the sound science to ensure—(Time expired)

Senator BOSWELL (Queensland) (14:31): Mr President, I ask a further supplementary question. Isn't yesterday's decision to change the rules midstream a repeat of last year's live cattle fiasco when the government, without any prior warning, suspended trade to Indonesia? Why would any company invest in Australia when the government abandons firm commercial commitments for no reason and with no notice?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:31): I thank Senator Boswell for his question, although I have answered this a couple of times today. His question misses the point. What we did with live animal exports over some period of time was to move from a place where there was completely no regulation to a place that ensures that the live animal export industry could continue to enjoy having a bright future. It continues to operate. A couple of weeks ago Santori celebrated 50,000 head of cattle going into Indonesia. That industry continues to export to Indonesia, unlike this issue that relates to fishing. An independent authority is already in place; it continues to enjoy the confidence of this government; it continues to do its job. Commercial fishers continue to have respect for AFMA and this government in the way they go about managing—(Time expired)

Employment

Senator FURNER (Queensland) (14:33): Mr President, my question is to the Minister for Human Services, Senator Kim Carr. Following the deep cuts across the board in Queensland's budget, announced yesterday by the Liberal-National Party government, what impact does the government anticipate on the Commonwealth's services?

Senator KIM CARR (Victoria—Minister for Human Services) (14:33): I thank Senator Furner for his question. This Labor government is one that faces up to its responsibilities when it comes to helping people. This is in very sharp contrast to the position that has been argued on the other side of this parliament. As recently as 22 August, the member for Menzies announced that the Liberals, if they were to get into government, would devolve responsibility for service delivery to the states. What a hollow gesture that now is revealed to be!

The state Liberal budgets have now revealed that they will want to pass on this advice from the Commonwealth to empty offices. What we are seeing with the Queensland Premier's actions yesterday is that there will be responsibilities that the Commonwealth will largely have to now bear. What we are looking at is that community groups have lost $368 million, local councils have lost $60 million, skills and training have lost $287 million. And that is before we take into account the consequences of the losses in human capability as a result of the job cuts in the public sector in Queensland—that is, the
knowledge, the skills and the experience that is being ripped out of the public sector within Queensland. We have 1,400 jobs from the health department, 400 people taken from community services, one-quarter of the workforce gone from housing and public works. And all of this will mean there is greater responsibility that ends up at the Centrelink office door.

This is the true nature of the Liberal government. It is an ideological hatred of the Public Service. They are adopting a policy advocated by Phillip Blond and his Red Tories of the so-called 'big society'— *(Time expired)*

**Senator FURNER** (Queensland) (14:35): Mr President, I ask a supplementary question. What reports has the minister received from New South Wales about the impact on service delivery?

**Senator KIM CARR** (Victoria—Minister for Human Services) (14:36): Mr President, Premier Newman may well have set a new record when it comes to radical social engineering in this country, but he is rivalled by the actions we have seen in New South Wales—the wanton destruction that has been pursued through New South Wales. We have received reports from New South Wales about the effects on homelessness, the effects on the disabled. We are seeing the effects of rent rises in public housing. We are seeing the cuts to foster care and child protection. We have seen that more than $1.2 billion has been cut from more than 100 programs in New South Wales alone. Then of course we have the $1.7 billion cut to education. We know what this means. It means that people in Centrelink offices have to deal with the consequences of the human suffering that has been created as a result of the Tory ideological obsession with the so-called big society—the attempt to run down the ability of governments to help people. *(Time expired)*

**Senator FURNER** (Queensland) (14:37): Mr President, I ask a further supplementary question. Has the minister received reports from Victoria about impacts on service delivery?

**Senator KIM CARR** (Victoria—Minister for Human Services) (14:37): I am disturbed to have to report to the Senate that whenever the Liberals are in power, and Victoria is no different, we see the same thing. They are about undermining people's capacity to get a fair go in this country. They are about undermining jobs and they are about undermining the future of people's prosperity in this country. What we are seeing is the aping of their Tory masters from London. This is a model we are seeing across the board now. We have seen 4,200 jobs go in the public sector in Victoria, $300 million cut from TAFE colleges, cuts in the Education Maintenance Allowance—

*Honourable senators interjecting—*

**The PRESIDENT:** Senator Kim Carr, you might just resume your seat for a couple of minutes. A few people are excited. When there is silence, we will proceed.

*Honourable senators interjecting—*

**The PRESIDENT:** If you wish to take up the time of question time shouting across the chamber, that is your choice. Order on both sides!

**Senator KIM CARR:** We know that Phillip Blond and his Red Tory philosophies are now deeply embedded into the approaches being taken by conservative governments across this country. In Victoria, we have seen the Education Maintenance Allowance halved, we have seen the School Start Bonus scrapped, we have seen money ripped from working people right across the country as a result of the actions of state
governments, and now we see that jobs and skills and opportunities are being ripped away. *(Time expired)*

**Fisheries Research and Development Corporation**

*Senator COLBECK* (Tasmania) (14:39): My question is to the Minister for Agriculture, Fisheries and Forestry. Can the minister confirm that the Fisheries Research and Development Corporation is currently operating without a board and can the minister explain how this situation has come about?

*Senator LUDWIG* (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:39): I thank Senator Colbeck for his question. The Fisheries Research and Development Corporation continues to operate and continues to do a very good job across all of the work that it does. It is a shame that you want to call into question the board's—

*Opposition senators interjecting—*

*Senator LUDWIG:* Well it is, quite frankly. I thought we would have had bipartisan support to make sure that we have the best possible people available.

*Senator Brandis:* Mr President, I raise a point of order in relation to direct relevance. I know there are sometimes marginal cases in here but in answer to a question does a particular named statutory authority have a board, it is hardly possible for the minister to have been relevant in his answer so far when all he has been asked is whether it has a board or not.

*The PRESIDENT:* The minister has been going for only 32 seconds. I am very conscious of the question and I am listening closely to the minister's answer. The minister has one minute and 28 seconds remaining to address the question.

*Senator LUDWIG:* I thank Senator Brandis for his slight interjection and helpful comment. In terms of the management of the board, we are going through a system of replacing some members of the existing of the board. But let us be clear: that does not mean that the board is not operating. What we have done is call for—

*Senator Colbeck:* It expired two weeks ago.

*Senator LUDWIG:* I thank Senator Colbeck for his continued interest in the board. What we do have is a process to go through to reappoint the existing board. That does not mean that the board does not continue to operate. I have signed off under the PIERD Act the relevant need to have and appoint new members on the board. So, therefore, it will continue to operate when it next meets. It will be there in place to operate because—

*Honourable senators interjecting—*

*Senator LUDWIG:* Because that will be in place. It is quite clear.

*Senator COLBECK* (Tasmania) (14:43): Mr President, I ask a supplementary question. On 2 November last year, the minister advised the Senate that the Grains Research and Development Corporation was operating without a board. Can the minister explain how, once again, we find ourselves with a significant research and development corporation operating without a board at a time that is obviously critical to fisheries research and development management?

*Senator LUDWIG* (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:44): I thank Senator Colbeck for his question. The work of the Fisheries Research and Development Corporation is second to none in this area. The opposition know that. Perhaps it is worthwhile explaining how it
works. What we have is a board that has terms of office. They do come up and they do need to be reappointed. We do need to go through selection processes to make sure we have the best available people for those jobs. Of course, today we have signed off under the PIERD Act the reappointment of the new board so that it can fulfil its duties. Why? Because it is important work that they undertake under the Fisheries Research and Development Corporation. Research and development corporations do play a vital role in sustainability, competitiveness and productivity growth of Australian rural industries. These are important boards that play a vital role under the PIERD Act. (Time expired)

**Senator COLBECK** (Tasmania) (14:45): Mr President, I ask a further supplementary question. Minister, is this the latest failure of you to provide proper oversight and governance, another example of your disinterest in the portfolio, or is it, indeed, evidence of your reduced influence in your portfolio and in government?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:45): I thank Senator Colbeck for his supplementary question. It is one of those areas where Senator Colbeck has been perhaps negligent. How many times has Senator Colbeck moved out of his comfort zone in Tasmania to be able to engage with rural Australia? Because what we find with the opposition, when we look between the doormats to the Liberal Party, the National Party, and the Liberal coalition, is that they do not have an interest in agriculture. That can be seen in foreign investment. On the one hand you are opposed to increasing agriculture, increasing the ability of transference of skills and being able to ensure that research and development is done in rural Australia. On the other hand, foreign investment from the Liberals is completely different from that. What we do have is research and development corporations that work very diligently across agriculture to ensure that we do have all that vital research work done to lift productivity in agriculture. (Time expired)

**Reserve Bank of Australia**

**Senator XENOPHON** (South Australia) (14:46): My question is to the Minister representing the Treasurer, Senator Wong. I refer to revelations on ABC TV's 7.30 last night and in Fairfax newspapers today regarding the Reserve Bank of Australia’s knowledge of serious allegations of corruption and malfeasance in its subsidiaries well before such allegations became public in 2009. Documents revealed that, among other things, in 2007 Assistant Governor Frank Campbell was aware that Securencty International had hidden a $492,000 payment to a corrupt Malaysian arms dealer. They also showed that the arms dealer's company wrote to Mr Campbell demanding further payments and stating that it had convinced the Malaysian Prime Minister and cabinet to hand out contracts. Can the minister advise what course of action the government will be taking to investigate these serious claims?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:47): I thank Senator Xenophon for the question and making sure I did not have a question time without a question at all today. I am aware of the reports on the ABC's 7.30 Report last night. As the senator would know, there are a number of these matters which are currently before the courts, so obviously in this answer and I assume also in response to subsequent questions in the supplementary, I am obviously going to be reasonably constrained, because I am not
going to be canvassing matters which are currently before the courts.

I would make a couple of points, though. It is obviously in the community's interest to ensure that public institutions meet the highest standards. That is the view of the government and that is clearly also the view of the Governor of the Reserve Bank if you look to his public statements. The Reserve Bank has responded to the matters raised, I am advised, on the 7.30 Report. I am advised that they have reaffirmed that it has cooperated fully with the legal authorities and that the bank's executives acted in good faith and with integrity. I understand the RBA stated last night, as follows:

The Reserve Bank is committed to transparency on these matters with the community and the Parliament through the House of Representatives Economics Committee. In his Statement to the Committee on 24 August,—

and the senator would be aware of this—

the Governor said that the Bank was taking steps to seek the permission of the Court to allow the Bank to table a broad range of relevant documents. This work is progressing. It is important that the legal process is respected and that the release of any documents is done in a way that does not jeopardise the right of the accused to a fair trial.

The Bank has sought to deal appropriately with all the issues that have arisen. It has cooperated fully with the legal authorities, notifying them of the existence of relevant documents— (Time expired)

Senator XENOPHON (South Australia) (14:49): Mr President, I ask a supplementary question. I am happy for the minister to elaborate on the earlier answer, but does the minister concede that these fresh internal documents appear, on the face of it, to contradict the parliamentary committee testimony given by the Governor of the Reserve Bank, and does the government express full confidence in the way that the Reserve Bank has dealt with these serious allegations over the years?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:50): In relation to the last issue, the Treasurer has been asked that question and he has made very clear that the government does have faith in the Governor of the Reserve Bank. He is a first-class public servant and he has made a comprehensive statement about all these matters. The RBA is a very important independent institution in Australia, in terms, obviously, of macroeconomic policy and also as a very important institution more generally.

If I could just return to the quote that I was reading. It ended:

The Bank has sought to deal appropriately with all the issues that have arisen. It has cooperated fully with the legal authorities, notifying them of the existence of relevant documents and providing documents when requested.

I am also advised with regard to the first part of your question that the RBA stands by previous statements made to the House committee in respect of both NPA and Securency.

Senator XENOPHON (South Australia) (14:51): Mr President, I ask a further supplementary question. I am grateful to the minister. Can the minister advise whether the government has sought to ask the Australian Federal Police to investigate whether the RBA failed to alert police in a timely manner to critical documents, including the Hood report and the Freehills report?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:51): First, as the senator would know, the AFP is an independent body and is not directed by the government in matters such as the one he has referred to. I would also make this point: the RBA has taken steps
over the past few years to tighten controls and strengthen governance to avoid any recurrence of alleged behaviour. The bank has publicly announced, for example, that the use of sales agents has ceased and procedures at both companies have been overhauled. I am also advised that the RBA is fully cooperating with the Commonwealth Director of Public Prosecutions as part of these proceedings.

The Treasurer has previously said—and I would endorse his comments—that obviously these are serious matters which do deserve to be thoroughly investigated. That is what the Reserve Bank has been doing, and the accountability mechanism through the committee is entirely the appropriate course of action.

**Minerals Resource Rent Tax**

**Senator CORMANN** (Western Australia) (14:52): My question is to the Minister representing the Treasurer, Senator Wong. Does the Gillard government now recognise that the dodgy and ill-thought-out mining tax deal it negotiated, exclusively and in secret with the three biggest miners, has provided a direct—

**Government senators interjecting**—

**The PRESIDENT:** Order! Order on my right! Senator Cormann, continue.

**Senator CORMANN:** Does the Gillard government now recognise that the dodgy and ill-thought-out mining tax deal it negotiated, exclusively and in secret with the three biggest miners, has provided a direct federal government incentive to state and territory governments around Australia to increase royalties on iron ore and coal?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:54): What that question is putting to me is that Campbell Newman just could not help himself: 'It's all your fault, federal government!' He could not help himself when he cut 14,000 jobs. He could not help himself when he slashed health and when he cut education, and he could not help himself when he imposed what has been described as one of the biggest tax increases on the mining sector around the world. Now, of course, Senator Cormann, you might recall you have been in here on many occasions telling us about job losses that the mining tax and the carbon tax will impose. Have you listened to Rio Tinto? 'This increase'—meaning Campbell Newman's increase—'will further endanger jobs and investment in the coal industry at both existing mines and new projects.' The Queensland Resources Council has said it will mean job losses.'

**Senator Conroy:** Who said this?

**Senator WONG:** This is the Queensland Resources Council, that well-known bastion of Labor values:

It risks further mine closures and there are many coal projects on the drawing board that will now never get off that drawing board.

But what do we hear from the great defenders of mining jobs over there? Not a single word. You are absolutely hypocritical. You are happy to stand up for so-called mythical job losses before they have occurred when they have not occurred, but you will not stand up for those people whose jobs are in the gun because of your coalition mates.

**Honourable senators interjecting**—

**The PRESIDENT:** Order! You are entitled to be heard in silence, Senator Cormann, and when silence returns to the chamber I will give you the call. Order on my right!

**Senator CORMANN** (Western Australia) (14:56): The minister is in pain because she has to pay the bill for the royalty increases.

**The PRESIDENT:** Order! That is arguing. Ask the question.
Senator CORMANN: Mr President, here is my supplementary question. What is the total cost to the federal budget of decisions by governments in Western Australia, New South Wales, Tasmania, South Australia and Queensland to increase royalties on iron ore and coal since the Prime Minister and the Treasurer made the promise to the three big miners, in a private deal, to credit all state and territory royalties on iron ore and coal against any mining tax liability?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:57): Isn't it extraordinary that Senator Cormann, the great defender of the mining sector, is not at all interested in that question nor in the one before about the impact on mining jobs in Queensland. I am not surprised you are getting up. You do not want to talk about it, do you? You are very sensitive when it comes to Liberal-imposed taxes.

Senator Cormann: Mr President, I rise on a point of order and that is the requirement for the minister to be directly relevant to the question. There was a very specific question asked and that was: what is the cost to the federal budget from these royalty increases in states around Australia because this government has made a promise to the big three miners to credit all state royalties on iron ore and coal against the mining tax liability? It is a number. The only answer that can be directly relevant to the question is a number and, if the minister does not know it, she should take it on notice and sit down.

The PRESIDENT: Order! The minister has been addressing the question for 17 seconds and there are 43 seconds remaining. I invite the minister to address the question.

Senator WONG: As I said before, it is interesting that those on the other side do not want to talk about the effect on employment of a Liberal royalty increase but they are happy to exaggerate and make false claims about the effect on jobs of a Labor government's policy. I will share this with the Senate in response to the question: this comment has been previously made—'increasing tax on mining will cripple Australia's most productive industry and anyone who does not think this will deter investment has got rocks in their head'. Who said that?

Senator Conroy interjecting—

Senator WONG: No. It is even better. It is our own Lord Brandis!

Opposition senators interjecting—

The PRESIDENT: Order! Senator Wong, you need to refer to honourable senators by their correct titles.

Senator CORMANN (Western Australia) (15:00): Given the minister did not get anywhere near answering that question, I ask it again. What is the impact on the federal budget bottom line of increases in royalties in states around Australia given Labor's promise to credit all their state royalties on iron ore and coal against the mining tax liability. Given the government is already confronted with a $120 billion budget black hole on the back of its latest spending spree, how does the government propose to plug this latest multi-billion dollar budget black hole of its own making?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:01): I am asked about the bottom line and the bottom line is this: there are 14,000 Queenslanders who are going to lose their jobs as a result of your colleagues, let alone those in the mining sector who on the basis of the comments of the mining companies also have their jobs at risk.

Senator Cormann: Mr President, I have a point of order in relation to the requirement for the minister to be directly relevant. How
can comments on what may or may not be happening with the Queensland state budget be relevant to a question about the impact on the federal budget in relation to state royalty increases around Australia? I asked a specific question about the impact on the federal budget. The minister did not go anywhere near it. There is no way that you could possibly rule that she was being directly relevant to the question.

Senator Chris Evans: Mr President, on the point of order: the minister is being directly relevant. I can certainly understand the fact that Senator Cormann has a glass jaw and regrets asking the question, but the minister is having a great deal of fun and is absolutely relevant.

The PRESIDENT: Order! The minister has 41 seconds remaining. I draw the attention of the minister to the question.

Senator Wong (South Australia—Minister for Finance and Deregulation) (15:02): Thank you, Mr President. It is true that the Queensland government have imposed royalties and it is also true that we oppose the imposition of those royalties. I await those opposite actually indicating that they do not agree with it because I would like them to be aware of this: an executive from one Queensland leading coalminer said yesterday about the Campbell Newman government: 'They have absolutely lost the plot; this should ensure no new developments in Queensland and a declining set of existing mines—so much for a government which understands business, you would not let them run a train set.' That is from the mining companies. (Time expired)

Senator Chris Evans: As much as I would like another Senator Cormann question, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Asylum Seekers

Senator Lundy (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (15:03): On 11 September 2012, I took a question on notice from Senator Hanson-Young regarding migration. I seek leave to have the answer incorporated in Hansard.

Leave granted.

The answer read as follows—

Senator Hanson-Young asked the following questions:

1. When indeed is the government going to implement the increase to the humanitarian intake? When is the first group of refugees from Indonesia, Malaysia and Pakistan expected to arrive in Australia?

Answer:

The Government will increase Australia's humanitarian program to 20,000 places in 2012-13, in line with the recommendation of the Expert Panel on Asylum Seekers. This was announced on Thursday 23 October. The 2012-13 program is currently being implemented.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Fisheries

Senator Abetz (Tasmania—Leader of the Opposition in the Senate) (15:04): I move:

That the Senate take note of the answers given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to questions without notice asked by Opposition senators today relating to the fishing industry.

Just when you think the shambolic government cannot get any worse, oh yes, they can. Just when you think they cannot bend over to the Greens anymore, oh yes, they can. Just when you think the
government surely cannot have another liability issue on their hands after pink batts, the live cattle exports, after the Australian network tender debacle, oh yes, they can. This is the one area where this government excels.

Their bad decisions are always followed up by even worse decisions. Despite having seen the Greens decimated in recent elections, the hapless ALP will still dance to their tune. So having acknowledged and praised the science of the Australian Fisheries Management Authority as late as last Monday—only two days ago—the government now claim the science is 'uncertain'. So how did the science change? I will tell you how. It was the political science that changed because you had a Greens senator telling the people of Tasmania he was not interested in the science. He was not interested in the economics. He was just against the proposal.

Can you imagine the policy discussions in the Greens party room? 'My heart flutters a few more than yours per second', or 'I have a strong emotional feeling on this issue.' That is how they decide policy. It is not on science. It is not on economics. It is about heart flutters and the vibe and the feeling. Of course, that is how the Greens make their policy decisions on the run, which the hapless ALP, in lock step with them, just adopt willy-nilly. The concept of rational debate clearly does not occur or is not understood in the Greens party room. It is all about heart flutters. It is all about feelings. It is all about emotions. Science, economics, sovereign risk and sustainable jobs all count for nought.

The other bit of political science, of course, was when Mr Rudd said that he would support the private member's bill of the member for Fremantle. And another bit was that the Twitter trolls are now determining the Labor Party policy. Having induced a trawler to Australia with discussions for well over three years and with a harvest strategy that actually refers to the use of 'large-scale factory freezer vessels' signed off by none less than the now Minister for Sustainability, Environment, Water, Population and Communities, Mr Tony Burke, Mr Burke now says, 'I am uncertain.' So he has lured the enterprise. The enterprise has abided by every single requirement, and it is still being blocked. Every other fisherman in Australia needs to be concerned about this. Indeed, the bill that was introduced included every single recreational fisher. They now, I understand, have moved an amendment to the rushed bill. That is what happens when you do policy on the run.

Of course, recreational fishers, I understand, are now excluded. But what about the charter fishers? What about the other commercial fishers, who have literally, by one ministerial decision, had millions written off their balance sheets? Small family fishermen have now had their asset devalued because the minister feels 'uncertain'—without any scientific backing—and can simply say, 'I am closing the fishery for two years,' putting family fishers out of business.

So I say to the fishing industry: you might have been against the Margiris, but be very careful what you wish for. This minister will be able to stop any fishing activity for two years. Let us make no mistake, having been embarrassed that the Greens put recreational fishing into the bill, we now know what the true full agenda is: to include the recreational fishing sector. Sure, they have had to take a backwards step, but make no mistake: the trawler has been used to ensure that fisheries can be closed at the whim of a minister.
This is bad policy. It is a policy that is reminiscent of pink batts, cash for clunkers and the live cattle exports. Now we have this fishing debacle to add to this shambolic government's exceptionally poor record.

Senator THISTLETHWAITE (New South Wales) (15:09): When I heard the subject of today's take note debate and the coalition's questions in question time, I had to have a little chuckle. I was quite amused. The subject of today's debate is of course the supertrawler. Some might say that this is a red herring to the real issue of the day, which is of course the cuts to education services that are occurring in New South Wales and Queensland. That is the issue that is dominating political debate today. That is the issue that I have received the most emails on today: cuts to education services.

Senator Brandis: Mr Acting Deputy President, I rise on a point of order: relevance. I know some latitude is given in these debates but this is a motion to take note of answers given by Senator Ludwig in relation to the issue of fisheries management. It has nothing to do with any other topic. You should require the senator to be relevant.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Traditionally in take note debates, as you are aware, wide latitude is given to those who make a contribution. I intend to keep to that established practice, but Senator Thistlethwaite you should of course address the topic before the chair.

Senator THISTLETHWAITE: I shall. Obviously education cuts touch a raw nerve with those opposite. Turning to the issue of fishing sustainability and the FV Abel Tasman, in doing so, he was responding to community concerns, in particular to concerns in those communities to the south of Australia—in South Australia, Victoria and Tasmania—and indeed responding to the concerns of the experts in the field, most notably those who work in fishing communities throughout Australia.

I, like most of those opposite, am not an expert when it comes to matters of fishing sustainability, in particular in the Southern Ocean. But I do have an affinity with the ocean. I have an affinity with the sea, through my time as a surfer off the coast of Sydney. I have been in the water in Maroubra and many beaches around Sydney when they have dragged the shark nets up. When they have dragged the shark nets up off Bondi or Coogee or Maroubra, I have seen what gets pulled out of those shark nets on regular occasions: dolphins, small whales, grey nurse sharks. This is what has been referred to over recent days as bycatch: the unintended consequences of netting in these areas.

I believe that, when the experts in this area, the people who are commercial fishers and recreational fishers, raise issues of concern on behalf of their communities on issues such as bycatch, we should at least listen and consider the potential environmental damage and damage to fish stocks which they say is quite alarming.

When the experts expressed this concern, the government listened, as all good governments should. That is why this reform has been undertaken. Through this process that was introduced by Minister Burke yesterday, proper consideration and scientific studies will be undertaken to ensure that all environmental controls are considered. I do not see a problem with that. I see that as a prudent approach to the management of our nation's fish stocks and something that has
the support of fishing communities and environmentalists throughout the country.

I draw the Senate's attention to the views of those who are the experts in this field, those who have expressed an opinion on the government's decision publically.

**Senator Brandis:** Quote them!

**Senator THISTLETHWAITE:** I will, Senator Brandis. Nobby Clark, President of the Tuna Club of Tasmania, says that this is 'a victory for the little guys.' He said, 'We put the science questions to the minister and pleaded that we just want these answered. That is what the President of the Tuna Club of Tasmania has said about this, and the minister listened.

**Senator Brandis:** Does it make him an expert because he asked a question?

**Senator THISTLETHWAITE:** Well, these are the people that are closest to the industry, that work in it day in and day out, and the government has listened to their concerns. I do not see a problem with that; in fact, I think that is good governance. I wholeheartedly support the decision that has been taken by Ministers Burke and Ludwig. It is the right decision. It does not ban this activity, it just ensures proper consideration of the facts.

**Senator COLBECK** (Tasmania) (15:15): What a serious embarrassment! The previous speaker talks about a 'victory for the little guy' and yet the legislation that this government has introduced impacts on every single fisher in Australia. So much for the little guy!

Just before question time, the government rushed into the other place an amendment to their amendment. Why? Because they realised they had screwed up: they had screwed the recreational fishing sector yet again. Minister Burke said yesterday that this was about new occurrences, but when you read the legislation you find it impacts on every single fishing activity—not new activities but every single fishing activity. It impacts on commercial fishing, it impacts on charter boat fishing, it impacts on recreational fishing. In fact, any fishing activity that interacts with a listed species can be impacted, not just in the ocean but also in fresh water. So today they have brought in an amendment in the House to the bill they introduced yesterday afternoon to list this declaration against commercial fisheries only. But the question is: when is a recreational fisher not a recreational fisher?

The answer is: when they are on a charter boat, because a charter operation is regarded under the act as a commercial operation. So they have completely stuffed it up again. They cannot get this right.

This legislation is a huge overreach, a huge overreaction to the issue before the government—and, I might say, it is an issue that the government themselves invited. When Minister Burke—now the Minister for Sustainability, Environment, Water, Population and Communities—was the minister for fisheries he signed off, not once but twice, on the Small Pelagics Harvest Strategy that said:

- there are considerable economies of scale in the fishery and the most efficient way to fish may include large scale … freezer vessels.

That is exactly what the FV Margiris/FV Abel Tasman is—a large-scale freezer vessel. Tony Burke, as fisheries minister, effectively invited this vessel to Australia. What he has since done, in bringing this legislation into the parliament, is move a vote of no confidence in the commissioners of the Australian Fisheries Management Authority, AFMA. The ridiculous thing is that Tony Burke himself appointed those commissioners and gave them the responsibility to oversee fisheries management in Australia and yesterday he
intervened to take away their powers by giving him the power, on the basis of green scare campaigns, to intervene in a fishery. If he gets enough emails based on a green scare campaign he will intervene in a fishery. That is the mess that has been created here.

The government have hugely overreached, and today they are scrambling to resolve the problem they themselves created. But they have not fixed it because the charter boat operators, who are very important in the tourism industry and the recreational fishery up the east coast of Australia, are still caught in the web. So the minister has only half fixed the problem. He has completely messed it up. At a time when we should be seeing extreme confidence in our research and development corporations and our research institutions, the government have trashed their reputations and trashed the work that they have been doing.

Then we find today that the Minister for Agriculture, Fisheries and Forestry has let the board of the Fisheries Research and Development Corporation expire. It is not the first time he has done this—he did the same thing to the Grains Research and Development Corporation last year. You really wonder how much attention this minister is paying to his portfolio. Obviously the rest of the cabinet do not have much faith in him because he has been rolled twice now: once on live cattle and then yesterday on fisheries management. There is no confidence in Minister Ludwig within the cabinet. He comes in here and tells us that he has reappointed the board today. I bet he has gone back to his office to look for the briefing note so that he can sign it off this afternoon so he has not misled the chamber. I bet that is what he has done. I hope he does sign off on it today, because this is a time when fisheries management and fisheries research is at its most important yet this minister has not even signed off on the board and is completely incompetent.

Senator URQUHART (Tasmania) (15:20): I rise to take note of answers from Minister Ludwig, the Minister for Agriculture, Fisheries and Forestry, to questions on the government's decision to seek to extend the legal powers of the environment minister over the supertrawler FV Abel Tasman, formerly the FV Margiris, fishing in Australian waters. This action demonstrates that this government is a government that listens to community concerns and is respectful of science. There has been immense public interest in this. People have seen the dangers if something goes wrong, whether they be people with environmental concerns or the huge recreational fishing community that wants to make sure their fish stocks remain in place. There has not been a strong public campaign from the proponents of the supertrawler or from other members of the fishing industry who are now saying that they support the supertrawler.

Throughout this whole debate I have been firm in my stance that we need to focus on the facts. We need to try and move beyond comments based solely on emotion. The proposed delay of up to two years will allow for further scientific research to be undertaken. With my Tasmanian Labor colleagues, I took the concerns of recreational fishing and environmental groups to the responsible ministers. I am a strong supporter of both our commercial fishers and our recreational fishers and the contribution they make to our communities. These changes are needed to ensure continued confidence in the supplementary environmental protections that work with the strict fisheries controls. While our fisheries regulator is world leading, it is important that the community has confidence in the environmental controls which regulate it.

__________________________
CHAMBER
This comprehensive review of the fisheries management system will ensure it is in line with community expectations, socioeconomic concerns and environmental measures. We need to remove the emotion and concentrate on the facts. Our world-leading fisheries management system was established under the Hawke government in 1991 and is a proud Labor legacy. However, times change and after 20 years it is due for a refresh. We need to be certain about the system, and after 20 years, we need a fresh look. This will give our system and our fishers the confidence they need to continue to be some of the most productive, profitable and sustainable in the world. It will also lead to increased community confidence in Australia's world-leading fisheries management system.

There have been strong legitimate community concerns about the potential operation of the vessel, particularly relating to its local impacts. That is why Mr Sid Sidebottom, the member for Braddon, organised and convened a forum of environmental and recreational fishing representatives to air these concerns directly with Seafish Tasmania. I congratulate Mr Sidebottom on this initiative, which got everyone together to logically work through people's legitimate concerns. Unfortunately, the conversations between the recreational fishing, environmental groups and Seafish Tasmania were unsuccessful in achieving an agreed resolution. Therefore the government has decided to take action to delay fishing by supertrawlers.

The amendments proposed by Minister Burke will incorporate a new chapter into the Environment Protection and Biodiversity Conservation Act to allow the environment minister to prohibit a declared fishing activity while an independent expert panel undertakes an assessment of the potential environmental, social or economic impacts of the activity. The provisions would only be activated if the environment minister and the fisheries minister agree that there is uncertainty about the environmental, social or economic impacts of the identified fishing activity, and that further assessment is required. A final declaration would provide for prohibition of the fishing activity for no more than 24 months. Prior to making a final declaration, the environment minister would be required to consult with fishing concession holders who may be detrimentally affected by the prohibition of the declared fishing activity over an extended period. An interim declaration will prohibit the activity for no more than 60 days while the environment minister undertakes this consultation. This ensures procedural fairness for affected fishing operators.

The expert panel would need to undertake the assessment against terms of reference, and their report, once made available to the environment minister, would have to be tabled in the parliament. This amendment to the act is important because it will restore confidence in our fisheries management system. We have one of the best managed fisheries in the world and we will continue to have that. There have been many countries around the world that wanted to take a highly precautionary approach to this particular vessel. Australia is not alone in this. The government has recently established that we were not able to be as cautious under current law as we wanted to be. We need to remove the emotion and concentrate on the facts.

(Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:25): There is one thing Senator Urquhart said at the start of her speech that I agree with: this is about an expansion of ministerial power. If you want to understand just how absurd, how lunatic this act is then understand this: this act gives the minister a
power to make unlawful any declared fishing activity. The act defines a declared fishing activity as 'an activity that constitutes fishing'. That is the definition. Were this bill to be passed into law the minister could by ministerial fiat make it a criminal offence for any Australian to engage in any fishing activity. That is what the bill says. How extraordinary!

Even more extraordinary is the criteria according to which the minister may make that declaration that would ban any fishing activity by anyone in Australia. Proposed subsection 390SD(3) says:

The Minister must not make an interim declaration unless the Minister—that is, the minister for the environment—and the Fisheries Minister agree that:

(a) there is uncertainty about the environmental, social or economic impacts of the fishing activity...

Let me make two observations about that. First of all, the word 'uncertainty' has no legal meaning whatsoever. There is no act of this parliament that I can think of which makes a minister's power conditional upon the existence of uncertainty. So the act provides no guidance and no limitation whatsoever on the capacity of the minister for the environment and the fisheries minister to exercise that power. Secondly, the relevant uncertainty must be an uncertainty in the mind of the minister—not an objective uncertainty, if there were such a thing, but merely an agreement by two individual ministers, the minister for the environment and the minister for fisheries, that they were uncertain about something.

I suppose this bill, expressed in this way, is the absolute climax of the Rudd and Gillard Labor governments. The basis of the existence of a ministerial power to make any fishing anywhere in Australia by any Australian a crime is that two Labor Party politicians are uncertain about something. That is the criteria. If the minister does not understand the operation of a particular activity, if the minister cannot understand the science, or if the minister is incompetent, like most ministers in this government have been, then presumably they are uncertain about it, and that is the jurisdictional hook upon which they can then exercise these draconian powers. As I said, I have never seen a more absurd piece of legislation in my entire career. I have never seen a more draconian overreach of power. This legislation says that if two Labor Party politicians do not understand something, that provides them with a jurisdiction to make any fishing activity by any Australian anywhere a crime. That is what the parliament is being asked to agree to.

I wondered what prodigy of legislative draughtsmanship was responsible for this? But we cannot blame the Office of Parliamentary Counsel for this absurd provision because it comes not from them but from Senator Ludwig's press conference yesterday when he said, 'I have a degree of uncertainty'. So because Senator Ludwig is stupid, he can ban fishing anywhere in the country. That is the way this bill works.

Senator WHISH-WILSON (Tasmania) (15:30): Not being of a legal mind myself I would be very happy to defer to the senator's comments there about the veracity of this bill in legal terms and just say that our proposition a few days ago to bring in a disallowance motion which would make this quota illegal would have been a much simpler solution to putting this on ice and dealing with the propositions that we have in front of us.

I just want to explain where this debate started today. It started with a question, a question that was put up by a number of rec fishing groups and environmentalists at a
working group with the Labor Party two months ago. The question was very simple. It was: what impact would we expect if a supertrawler took 2,000, 5,000 or 10,000 tonnes of fish from a small area which our fishing spot was close to? And how long would it take that area to repopulate in terms of these small pelagics, which we know are very mobile fish?

The lack of answers surrounding that very simple question was what led to rec fishing groups walking away from that working group, which they had entered into with good faith in terms of the government trying to come up with a fisheries management plan. They also would not accept the voluntary plan; they wanted something legislated.

Once again, contrary to what Senator Abetz said today, they approached the Greens with these concerns and asked us to go in to bat for them, which is exactly what we have done. In the last few days we have arrived at the extraordinary circumstance where we now have agreement from the government that all our concerns over the lack of science in a very specific area—localised depletion—were valid; and that a management plan to manage the risks of localised depletion—let us call it 'uncertainty'—was also valid.

So I think that it is very rich to be saying that the Greens are antiscience. We have always supported the scientists—AFMA, CSIRO and IMAS are the groups. I would like to get it on the record also, for Senator Abetz's and everyone else's attention, that I have never said that the science does not matter or that the economics do not matter. The context of my comments were made very clearly at a forum, and also on ABC morning radio in Hobart the following morning. I had done a trip along the east coast of Tasmania, visiting hundreds of fishermen, personally and at a forum, and my comments were made while I was talking about our disallowance motion to put in place the chance for a management plan. The fishermen and the people who I spoke to were not interested in hearing about science or economics; they simply did not want the trawler, and they could see that no good would come of this to them. So suddenly, the Greens and I are antiscience and anti-economics.

Another thing about the science that is going to be fascinating following on from this debate is the proposition of marine protected areas. It is my understanding that Senator Colbeck has a bill before the House to give the parliament the chance to disallow the Commonwealth Marine Protected Areas program, which I may say is not based on just a few years of science but on 20 or 30 years of science. And a lot of the scientists behind that marine protected areas program are the ones who Senator Colbeck quotes supporting the lack of risks on localised depletion. I think it is also worth pointing out that the only science we received on localised depletion—and the quote was very clear to me when I was listening to Senator Colbeck a few weeks ago—was commissioned by him; if not paid for by him, certainly it was asked for by him. And that arrived on the day of our disallowance debate. We had no science in localised depletion to look at at all until that day.

I do not blame the scientists for that; I blame that on a lack of funding. I certainly hope that when the government reviews AFMA and fisheries management in general that they will look at the funding for this group which, incidentally, is provided by the industry. It is a user-pays system. Unless we have one of the world's biggest supertrawlers in Australia, we do not have the funding to do the scientific research—talk about putting the chicken before the egg! All these things
need to be sorted out, and the Greens feel very clearly that, given a lack of public interest in this debate and the lack of trust, we would rather see a ban put in place on supertrawlers, with the onus of proof being that the ban is overturned once the science, economic and social concerns are proven—

(Time expired)

Question agreed to.

PERSONAL EXPLANATIONS

Senator FAULKNER (New South Wales) (15:36): Mr Acting Deputy President, I seek leave to make a brief personal explanation as I claim to have been misrepresented.

Leave granted.

Senator FAULKNER: I thank the Senate. On 30 August 2012 Fairfax Media made available on the internet an online searchable database showing every federal parliamentarian's financial interests. This database was accompanied by major articles in the Sydney Morning Herald, the Canberra Times and the Melbourne Age, and to use the terminology that was provided in that media, those were articles about 'politicians' perks'. On that day I accessed my own profile on the database, and I seek leave to table a printout of my own profile, dated 30 August 2012—

I assure you, Mr Acting Deputy President, in accordance with the usual courtesies that have been extended and shown to senators representing different interests in the chamber.

Leave granted.

Senator FAULKNER: I wish to correct the record in relation to 10 entries in my profile. First is a directorship—which involves no remuneration—on the board of the Whitlam Institute within the University of Western Sydney. I can assure the Senate that I would not claim that the Whitlam Institute is a public policy institute promoting the life and work of GC Whitlam; I might suggest it is promoting the life and work of EG Whitlam. I can assure the Senate that I am not a member of the Australian Labour Party, spelt L-A-B-O-R. I can assure the Senate that I am not a member of the New South Wales Traders Foundation. I am, however, a member of the New South Wales Teachers Federation. I can assure the Senate—and this will come as a relief to the good parishioners of this church, I am sure—that I am not a member of the Clovercrest Baptist Church. Not only am I not a worshipper at the Clovercrest Baptist Church?; I can also assure the Senate that I have not become a worshipping twice, which is the suggestion on this particular website. I can also assure the Senate that I have no investment properties, even though the website says I have. I can also inform the Senate that I do not receive a DFRDB pension, although the Herald website says I do. I can also inform the Senate that I do not have, nor have I ever had, a family trust which is bracketed as not applicable after July 2011; in my case it is not applicable before July 2011. Nor do I have life insurance, nor do I own a motor vehicle.

I want to say that I acknowledge that the Sydney Morning Herald has informed me that its website will be amended today.
Finally in this personal explanation, I make clear to the Senate for the record that I am not asking for an apology on this matter. I am merely trying to ensure that the public record in relation to my pecuniary interests is accurate.

PETITIONS

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

Australian Republican Movement

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

The petition undersigned shows that the proponents and supporters of the push to make Australia a Republic are now aware:

- of the inclusion of the word 'indissoluble' in the current Australian Constitution; and
- that it was specifically included to prevent the Constitution from ever being dismantled; and therefore, they should also be made aware that:
  - the word 'indissoluble' can't legally be removed from the Constitution; and
  - the Constitution can't legally be dismantled; and therefore
  - Australia can't legally become a Republic; regardless of whatever conniving or devious action may be taken by anybody trying to manipulate the provisions of the Constitution or of Constitutional Law itself.

AN AUSTRALIAN REPUBLIC IS ILLEGAL

I find it incredible that the debate about whether Australia should or should not become a Republic still continues; and I also find it incredible that nobody seems intelligent enough or responsible enough to bring the debate to a long overdue end.

From this point of view, the current Australian Constitution was framed on the basis that various States of Australia:

"........have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland........"

and the word 'indissoluble' was specifically and deliberately included to prevent the Constitution from ever being dismantled; and this means that Australia will never be able to legally become a Republic.

At the time that Paul Keating introduced the proposal, I was amused by his failure to understand the meaning of 'indissoluble' and I wrote an appropriate poem as displayed hereunder:

- The Republican movement is a public disgrace,
  And those involved should hide their face,
  They'll still wish to attend the Commonwealth Games,
  And attend all the functions with Commonwealth names,
  They'll beg for assistance in times of war,
  Through a lack of ability to defend our shore.
  And they'll want to hope that those they've offended,
  Won't sit on the fence and watch unperturbed,
  An inferiority complex is the driving force,
  And those involved should take a course,
  Self-discipline and purpose is what they need,
  Although this advice they will never heed.
  Earlier Monarchs with all their Knights,
  Would have solved the problem with all their might,
  Through the Traitors Gate' and into the Tower,
  And there the traitors would be made to cower,
  Cower that is or join the dead,
  For those who didn't would have lost their head.

I have bombarded the various areas of the media and the various Political parties with this fundamental fact ever since the proposal was introduced by Paul Keating but it has fallen on 'blind eyes' and 'deaf ears'.

Although, it must have eventually had some level of impact because about (20) years later a former Chief Justice of the High Court of Australia recently asserted that he had devised a method of removing the word 'indissoluble' from
the current Constitution; and he is pursuing this goal so that the current Australian Constitution can then be dismantled so that Australia can become a Republic; and I find it disturbing that such a high profile member of the Australian judiciary could fail to understand the significance of the inclusion of the word 'indissoluble' in the Constitution.

This act demonstrates the infantile and ill-informed lengths which even an undisciplined member of the judiciary will go to, to achieve their desired goal; however, he does not appear to be astute enough to realize that taking an 'eraser' and removing the word 'indissoluble' from the current Australian Constitution does not change the fact that the Australian Constitution cannot be legally dismantled. In essence, and by analogy, what this fool is saying is that if motorists drive around with a spray can of black paint and cover up speed limitation signs so that they can't read them, then it is legal for them to drive at an excessive speed even though they are aware of the speed limit.

However, the act of 'hiding' the element of law in each instance does not affect its ability to be enforced; although, I remain somewhat surprised that with his level of intelligence, that he didn't simply suggest removing the word 'indissoluble' from the Australian Constitution with the use of 'liquid paper'. Nevertheless, to remove the word 'indissoluble' from the current Australian Constitution by any means whatsoever would, in itself:

- be a breach of the provisions of the Constitution itself; and
- be an illegal act.

In this regard, the proponents and supporters of the push to make Australia a Republic are now aware:

- of the inclusion of the word 'indissoluble' in the current Australian Constitution;
- and that it was specifically included to prevent the Constitution from ever being dismantled; and therefore, they should also be aware that:
- the word 'indissoluble' can't legally be removed from the Constitution; and
- the Constitution can't legally be dismantled; and therefore
- Australia can't legally become a Republic; regardless of whatever conniving or devious action may be taken by anybody trying to manipulate the provisions of the Constitution or of Constitutional Law itself; and just as interfering with the visibility of speed limiting signs would be illegal so too would any attempt to remove the word 'indissoluble' from the Constitution; and in the latter case it would also negate the principles of both Constitutional Law and Contract Law.

Nevertheless, the Australian Prime Minister was asked in about 2010 if she intended to take any action in connection with the push to make Australia a Republic and she replied that it wasn't a priority at that time.

I found the specific response rather confusing because it is well-known that both the Australian Prime Minister and the Australian Governor-General are firm proponents and supporters of the push to make Australia a Republic. However, I was only confused until I found out that the former Chief Justice was endeavouring to find a method of deleting the word 'indissoluble' from the Constitution; and his actions made it very clear that the probable reason that it wasn't a priority for the Prime Minister at the then time was that she was waiting for a means to remove the word 'indissoluble' from the current Constitution.

Even worse! The Australian Constitution requires that Australian Politicians swear an 'Oath/affirmation of allegiance to the Monarchy'; and commonsense alone dictates that for them to even talk about making Australia a Republic represents a breach of oath and involves sedition and treason; and all such offending Australian Politicians should:

- lose their Parliamentary appointment;
- lose their Parliamentary superannuation; and
- lose all of their Parliamentary privileges; and spend a lengthy term in prison.

Worse yet! If Australian Politicians are not currently able to interpret and enforce our current 100 year old Constitution, how then are they ever
going to be able to adapt to or even 'create' a new Constitution. In this regard, the current Australian Constitution specifies that it is 'indissoluble'; and one would have to question the intelligence of anybody who can't understand what 'indissoluble' means; and this would seem to even include some Australian Politicians.

Worst of all! Even if Australia could legally become a Republic, the only real outcome, other than THE SATISFACTION OF THE EGO OF SOME POLITICIANS, is that Australians would be faced with more expenses. In this regard, the proponents and supporters of the push insist that it wouldn't cost any more to be a Republic. However, I would suggest that anybody who believes that is either telling a lie or is naïve; and the ego of the 'El Presidente' alone would drive him/her to want:

- the purchase or construction of a 'Presidential Palace';
- the purchase of Presidential housing in each capital City;
- the purchase of a Presidential Yacht;
- the purchase of a Presidential jet aircraft;
- the purchase of a Presidential helicopter; and
- the purchase of Presidential limousines;
- etc., etc., etc.; and then there would be other associated costs:
  - the running costs for toys (transport);
  - the maintenance cost for toys (transport);
  - the security service;
  - the maintenance of buildings;
  - the salary;
  - the travel allowance;
  - the overseas travel allowance;
  - the general allowance;
  - the entertainment allowance;
  - etc., etc., etc.; and
  - probably the establishment of their very own new Federal Department;
- all in all: -

- suggested establishment costs of say $300 to $400 million; and
- suggested annual running costs of say $100 million;
and all of the above would be provided to the continuing detriment of the provision of adequate essential services for the Australian taxpayers.

Above all! Such a proposal would not achieve anything positive at all; and the President would simply:

- entertain prominent people from around the world; and
- travel throughout the world;
in order to engage in continuing self-boosting ego exercises.

Actually, the overall unity of the British Commonwealth is being progressively eroded 'World Wide' and even in England with:

- the push to make Australia a Republic;
- insults to the Monarchy by Australian Politicians;
- the breach of Constitutional responsibilities by Australian Politicians; and
- the breach of allegiance to the Monarchy by Australian Politicians;
and I attribute this to the destructive influence of two recent Australian labour Prime Ministers. In fact, they are lucky that they weren't born earlier in history, because earlier Monarchs would have rowed them through the 'Traitor's Gate' at the Tower of London and had them both beheaded for treason along with their followers; after all, even the act of seeking a Republic is, itself, a breach of allegiance to the Monarchy.

In fact, it could be said that the Australian Republican Movement is not just causing disharmony within Australia and throughout the British Commonwealth, it is spreading like a contagious disease; and I would suggest that:

- the defiance in Taiwan;
- the coup in Fiji; and
- the coup in the Solomon Islands;
were all aroused by the rebellious attitude of the Australian Republican Movement towards the Monarchy. There will be more to come; and the
only difference between the trouble in the various Islands and the Australian Republican Movement is that guns aren't being used in Australia—at least not yet.

In truth, I remain fascinated by the attitude and lack of ability by the proponents and supporters of the push to make Australia a Republic to understand the truth about the push to make Australia a Republic; and it makes me wonder if any of them are aware of the provisions of Section 59 of the current Constitution.

In this regard, Section 59 of the current Constitution allows the Monarch the right to annul any law which is considered inappropriate. Accordingly, I not only confidently assert that it is illegal to change Australia into a Republic but that if Australia was ever illegally changed into a Republic, the Monarch would:

- not only have the right to annul the laws pertaining thereto: but would
- have a mandatory obligation to do so to correct an illegal act; in legal support of the legal obligations conferred by the conditions of the Constitution itself; and anybody who doesn't understand that should take a revision course in Oxford English.

There have been references to:

- the fact that 'indissoluble' is only contained in the Preamble to the Constitution: and
- the assertion by the late Sir Harry Gibbs that a referendum could only be successful if it was passed by each of the original States of Australia;

however, both of the above along with all of any other associated statements to justify the creation of a Republic are nothing more than convenient and deliberately selected erratic and desperate assertions to try to justify a desired objective; and I wouldn't be at all surprised if some of the proponents of the cause eventually resorted to the convenient excuse that:

- I wasn't alive at the time and I shouldn't be bound by somebody else's incompetence.

The operative word is 'indissoluble' and regardless of the fact that it is only contained within the 'Preamble' it is still a part of the Constitution; and the current Constitution can't be legally dismantled, amongst others things:

- whether a referendum was passed by each of the original States of Australia; or
- whether a referendum was passed by every resident of Australia.

There is a popular belief and then there is the truth; and the simple truth is that an Australian Republic is illegal. In the meantime, tens of millions of dollars are being wasted on a lost cause by supporting the propositions for and against an illegal proposal; and therefore the matter should be brought to a long overdue end.

From this point of view, the failure to disclose the simple truth about the push to make Australia a Republic makes me wonder whether those involved on either side:

- aren't intelligent enough to work out the truth or understand the meaning of Indissoluble'; or
- aren't now prepared to disclose the truth for fear of ridicule;

after all there are sure to be those who would ask: -

**IF IT WASN'T LEGAL WHY DID YOU PERSIST WITH IT FOR (20) YEARS?**

Nevertheless:

**YOU NEVER KNOW WHEN YOU ARE WELL-OFF UNTIL YOU AREN'T**

and even if such a proposal was legal, I can only think of one reason that Australia should become a Republic—most third world Countries are; and Australia is doomed to become a modern third world country owing to the continuing failure by our Politicians, both State and Federal, to ensure the provision of adequate essential services.

Your petitioner asks that the Senate makes a formal determination in this matter regarding:

- whether or not the word 'indissoluble' can legally be removed from the current Constitution;

and

- whether or not the current Australian Constitution can legally be dismantled; and
whether or not Australia can legally become a Republic; followed up by information on such a determination;

- to all Politicians in Australia, both Federal and State; and

- to all Australian residents;

because the money being wasted on what I confidently assert is an illegal proposal could be used for a more meaningful purpose.

by Senator Abetz (from 1 citizen).

Petition received.

NOTICES

Presentation

Senator Bishop to move:

That the Economics Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 13 September 2012, from 3.30 pm.

Senator Thistlethwaite to move:

That the Select Committee on Electricity Prices be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Monday, 17 September 2012, from 4.45 pm.

Senator Urquhart to move:

That the Parliamentary Standing Committee on Public Works be authorised to meet during the sitting of the Senate on Thursday, 13 September 2012, from 5 pm, for the purpose of making an inspection.

Senator Colbeck to move:

That the following bill be introduced: A bill for an act to amend the Environment Protection and Biodiversity Conservation Act 1999, and for related purposes.

Senator Fifield to move:

That the Senate notes the Gillard Government's $120 billion budget black hole.

Senator Waters to move:

That the Senate—

(a) notes:

(i) the intention of the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to transfer responsibility for protecting our nationally threatened species and wilderness places to state governments by March 2013, and

(ii) that the Victorian Premier (Mr Baillieu) is ready to sacrifice the endangered Leadbeater's Possum for logging and development; and

(b) calls on the Government to retain responsibility for all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places.

Senator Siewert to move:

That the Senate—

(a) notes that 13 September 2012 is the 5th anniversary of the United Nations Declaration on the Rights of Indigenous Peoples;

(b) congratulates the Government on expressing support for this important document in 2009; and

(c) calls on the Government to continue to work towards implementing this declaration into policy and domestic law, including the ratification of the International Labour Organization Convention No. 169.

Senator Xenophon to move:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 29 November 2012:

(a) the findings of the Australian Transport Safety Bureau into the ditching of VH-NGA Westwind II, operated by Pel-Air Aviation Pty Ltd, in the ocean near Norfolk Island airport on 18 November 2009;

(b) the nature of, and protocols involved in, communications between agencies and directly interested parties in an aviation accident investigation and the reporting process;

(c) the mechanisms in place to ensure recommendations from aviation accident investigations are implemented in a timely manner; and

(d) any related matters.
Senators Fierravanti-Wells and Wright to move:

That the Senate—

(a) notes that Thursday, 13 September 2012 is R U OK? Day;

(b) recognises that:

(i) today, six Australians will die through suicide and more than 200 will make a suicide attempt,

(ii) one in four deaths among young people occur through suicide,

(iii) suicide is the leading cause of death for 15 to 24 year olds each year at 23.3 per cent,

(iv) suicide is the biggest killer of men under 44 and women under 34, and

(v) suicide currently ranks 15th in the overall causes of death in Australia;

(c) encourages people of all backgrounds to regularly check in with each other and ask the question, “Are you ok?”, because a conversation could change a life; and

(d) calls on the Government to increase efforts to raise awareness about the problems and complexity of suicide, especially among our young Australians.

Senator Hanson-Young to move:

That the Senate calls on the Government to rule out a Commonwealth High Court challenge to state-based marriage equality legislation if the bill currently before the Tasmanian Parliament is passed into law.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reporting Date

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:42): by leave—I move:

That the time for the presentation of the report of the Senate Rural and Regional Affairs and Transport References Committee on the Foreign Investment Review Board national interest test be extended to 28 November 2012.

Question agreed to.

Corporations and Financial Services Committee

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:42): by leave—I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate today, from 4.30 pm, to take evidence for the committee's inquiry into the oversight of the Australian Securities and Investments Commission.

Question agreed to.

Education, Employment and Workplace Relations References Committee

Meeting

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (15:43): At the request of Senator Back, I move:

That the Education, Employment and Workplace Relations References Committee be authorised to hold a public meeting during the sitting of the Senate on Monday, 17 September 2012, from 6.30 pm, to take evidence for the committee's inquiry into the allowance payment system.

Question agreed to.

MOTIONS

Disability Employment Services

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (15:44): I move:

That the Senate—

(a) recognises that the rate of employment for people with disability in Australia is significantly less than for people without disability;

(b) commends efforts taken so far by disability advocates and a number of big and
small businesses who are working to remedy this concerning need;

c) acknowledges the significant economic and productivity benefits of having more Australians with disability in work; and

d) calls on the Government to:

(i) engage with the Australian Securities Exchange (ASX) about the merits of the ASX extending their Corporate Governance Principles and Recommendations, to require reporting on the employment of people with disability, and

(ii) explore ways to ensure companies of more than 100 employees report on their efforts to employ people with disabilities.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee Reference

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:44): I, and also on behalf of Senators Colbeck, Xenophon, Nash, McKenzie and Madigan, move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 21 November 2012:

The proposed importation of potatoes from New Zealand, including:

(a) the validity and supporting scientific evidence underpinning the Pest Risk Analysis included in the New Zealand Potatoes Import Risk Analysis 2009;

(b) the extent of scientific knowledge and understanding of the Tomato/Potato Psyllid and other pests identified in the Draft Review of Import Conditions; and

(c) any related matters.

Question agreed to.

Economics References Committee Reference

Senator XENOPHON (South Australia) (15:45): I, and also on behalf of Senator Milne, move:

That the following matter be referred to the Economics References Committee for inquiry and report by 27 November 2012:

Allegations of corruption, bribery and maladministration in respect of the conduct of Securency International Ltd and Note Printing Australia, subsidiaries of the Reserve Bank of Australia (RBA), with particular reference to:

(a) the dates and level of knowledge of the RBA in respect of these allegations and their governance procedures for dealing with such allegations;

(b) the actions taken by the RBA once it was made aware of these allegations and whether the actions were appropriate and timely in the circumstances;

(c) the involvement of Austrade in the activities of Securency International Ltd and Note Printing Australia;

(d) Austrade’s knowledge of the allegations, including dates, and their actions thereto;

(e) the role of the Australian Securities and Investments Commission (ASIC) in investigating these allegations, and whether ASIC acted in a timely manner in relation to these matters; and

(f) any other related matters.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): The question before the chair is that notice of motion No. 1, moved in the names of Senator Milne and Senator Xenophon, be agreed to.

The Senate divided. [15:50]

(The Acting Deputy President—Senator Bishop)

Ayes ......................11
Noes ......................35
Majority .................24

AYES

Di Natale, R Hanson-Young, SC
AYES
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

Madigan, JJ
Rhiannon, L
Waters, LJ
Wright, PL

NOES
Abetz, E
Bernardi, C
Bishop, TM
Brown, CL
Colbeck, R
Cormann, M
Edwards, S
Fawcett, DJ
Fierravanti-Wells, C
Furner, ML
Kroger, H (teller)
McKenzie, B
Moore, CM
Ronaldson, M
Sinodinos, A
Stephens, U
Thorpe, LE
Williams, JR

Back, CJ
Bilyk, CL
Boyce, SK
Bushby, DC
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Fifield, MP
Gallacher, AM
Marshall, GM
McLucas, J
Pratt, LC
Ruston, A
Smith, D
Thistlethwaite, M
Urquhart, AE

Question negatived.

MOTIONS
Search and Rescue

Senator HANSON-YOUNG (South Australia) (15:53): I, and also on behalf of Senator Milne, move:

That the Senate—

(a) notes the importance of clarifying and codifying best practice guidelines for Australian agencies conducting search and rescue missions at sea; and

(b) calls on the Government to immediately implement Recommendation 13A from the report of the 2002 Select Committee on a Certain Maritime Incident, that 'operational orders and mission tasking statements for all Australian Defence Force operations, including those involving whole of government approaches, explicitly incorporate relevant international and domestic obligations'.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): The question is that the motion be agreed to.

The Senate divided. [15:52]

(The Acting Deputy President—Senator Mark Bishop)

Ayes ...................... 11
Noes ...................... 33
Majority .................. 22

AYES
Di Natale, R
Hanson-Youn, SC
Ludlam, S
Madigan, JJ
Milne, C
Rhiannon, L
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

NOES
Back, CJ
Bilyk, CL
Bishop, TM
Bushby, DC
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Fifield, MP
Gallacher, AM
Marshall, GM
McLucas, J
Pratt, LC
Ruston, A
Smith, D
Thistlethwaite, M
Urquhart, AE

Question negatived.

Israel

Senator SINODINOS (New South Wales) (15:57): I move:

That the Senate—

(a) notes that:

(i) Senator Rhiannon has acknowledged that some votes shifted away from the Greens in Marrickville in the New South Wales local
government elections because of the boycott of Israel issue,

(ii) Marrickville Greens councillor, Ms Marika Kontellis, voted in 2011 to retain the Council’s Boycott, Divestments and Sanctions (BDS) policy and in August 2012 attended the Byron Bay BDS conference,

(iii) the New South Wales Greens chose Mr Karel Solomon, a BDS advocate who has branded Israel an apartheid state, as a candidate for the Marrickville Council, and

(iv) Ms Irene Doutney, the Greens candidate for Sydney Lord Mayor, has supported BDS actions and said that she personally favours a full boycott of Israel;

(b) calls on the New South Wales Greens to explicitly reject the BDS policy; and

(c) condemns the BDS campaign.

I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT: Leave is granted for one minute.

Senator SINODINOS: This motion addresses an issue which was important in New South Wales in the inner city of Sydney in the context of a campaign by Greens councillors to promote a boycotts, divestments and sanctions policy against the state of Israel. My reason for putting this motion up is that the results of the local government elections in New South Wales—

Senator Fierravanti-Wells: The overwhelming results!

Senator SINODINOS: The overwhelming results in New South Wales confirmed a backlash towards these sorts of campaigns. The point I want to make is: if we want to engage states, promote cooperation and peace on issues like the Middle East, the best approach is to engage the parties involved rather than to seek to isolate parties and make them appear to be the villains that they are not. I am therefore calling on the New South Wales Greens to explicitly reject the BDS policy and for the Senate to condemn the BDS campaign.

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:58): I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT: Leave is granted for one minute.

Senator MILNE: The Australian Greens have always had a position of supporting a two-state solution. We support the aspirations and rights of the Palestinian people and the Israeli people to an independent state, living in peace and free from the threat of invasion from neighbours and free from abuse of human rights. We support peace and nonviolence and we condemn violence against property and people from any quarter. The BDS is not New South Wales or Australian Greens policy, for the benefit of Senator Sinodinos and the Australian.

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

The Senate divided. [16:03]

(The President—Senator Hogg)

Ayes .................28
Noes .................33
Majority .......... 5

AYES

Abetz, E
Bernardi, C
Boyce, SK
Bushby, DC
Colbeck, R
Fawcett, DJ
Fifield, MP
Johnston, D
Kroger, H (teller)
Madigan, J
McKenzie, B
Payne, MA
Scullion, NG
Smith, D

Back, CJ
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Fierravanti-Wells, C
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Ronaldson, M
Sinodinos, A
Williams, JR

CHAMBER
Senator DI NATALE (Victoria) (16:06): I seek leave to amend general business notice of motion No. 917 standing in my name for today relating to foetal alcohol spectrum disorder.

Leave granted.

Senator DI NATALE: I move the motion as amended:

That the Senate—

(a) notes that:

(i) Fetal Alcohol Spectrum Disorders (FASD) is the leading preventable cause of non-genetic, developmental disorder in Australia,

(ii) while the prevalence of FASD is unknown, conservative prevalence estimates for Fetal Alcohol Syndrome (FAS), one of the conditions within the spectrum, indicates in the order of 200 children are born with FAS each year, and

(iii) there are currently limited opportunities for people to be accurately diagnosed with FASD, and there are a lack of appropriate early intervention options and support for people with FASD, their families and carers;

(b) notes the Expert Day of FASD Briefings being held today at Parliament House and the Australian FASD Action Plan released today by the Foundation for Alcohol Research and Education; and

(c) supports the Government’s current commitments to research and projects relating to FASD and calls on the Government to adopt a comprehensive plan to ensure that children do not continue to be born with the condition.

Question agreed to.

Burma

Senator LUDLAM (Western Australia) (16:07): I move:

That the Senate—

(a) notes:

(i) on 29 August and 30 August 2012 the Burmese regime removed the names of 1,147 foreign citizens, including ex-Burmese citizens, as well as 935 Burmese political dissidents from the Blacklist,

(ii) the Assistance Association for Political Prisoners (Burma) believes there are 818 political prisoners in Burma,

(iii) human rights lawyer Saw Kyaw Kyaw Min is Burma's latest political prisoner, sentenced to 6 months in jail on 29 August 2012 on contempt of court charges, after returning to Burma in May, and

(iv) 90,000 people have been displaced by the ongoing military attacks and human rights violations in Kachin State, northern Burma; and

(b) calls on the Australian Government to:

(i) call on the Burmese Government to immediately and unconditionally release all remaining political prisoners, to lift any restrictions imposed on already freed political prisoners and repeal all laws that have political prisoners arbitrarily detained,
(ii) publicly support an independent investigation into the number of political prisoners in Burma,

(iii) call on the Burmese Government and all parties to immediately cease hostilities and implement a nation-wide ceasefire, and, if necessary, invite independent international observers to monitor the implementation of the ceasefire,

(iv) encourage the Burmese Government and all parties to take further steps beyond the current ceasefire agreements and enter into a comprehensive, inclusive and time-bound political dialogue that fully engages the democratic opposition, genuine representatives of all ethnic opposition groups, and civil society actors, and

(v) support the inclusion of language of the above recommendations into the 2012 United Nations General Assembly Resolution on Burma.

Question negatived.

Environment

Senator WATERS (Queensland) (16:08):

I move:

That the Senate—

(a) notes:

(i) the intention of the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to transfer responsibility for protecting our nationally threatened species and wilderness places to state governments by March 2013, and

(ii) that the Western Australian Premier (Mr Barnett) is ready to sacrifice James Price Point for a gas hub; and

(b) calls on the Government to retain responsibility for all major decisions on environmentally damaging projects that affect our nationally threatened species and wilderness places.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop):

The question is that Senator Waters's motion be agreed to.

The Senate divided. [16:13]

(The Acting Deputy President—Senator Mark Bishop)

Ayes .................... 11
Noes ..................... 36
Majority ............... 25

AYES

Di Natale, R
Ludlam, S
Milne, C
Siewert, R (teller)
Whish-Wilson, PS
Xenophon, N

NOES

Back, CJ
Bishop, TM
Boyce, SK
Brown, CL
Carr, RJ
Colbeck, R
Crossin, P
Farrell, D
Feeney, D
 Fifield, MP
Gallacher, AM
Kroger, H (teller)
McKenzie, B
Moore, CM
Payne, MA
Ronaldson, M
Stephens, U
Thistlethwaite, M

Riley, Ms Vikki

Senator MADIGAN (Victoria) (16:15):

I, and also on behalf of Senator Xenophon, move:

That the Senate—

(a) expresses its condolence at the death of Ms Vikki Riley who passed away on 10 September 2012 and extends this condolence particularly to her partner and son, as well as family, friends and those she campaigned tirelessly for;

(b) notes her advocacy on behalf of refugees and the people of West Papua and East Timor; and
(c) acknowledges her work with refugees and the people of West Papua and East Timor.

Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MADIGAN: Vikki Riley was a tireless campaigner for those in most need. She campaigned for refugees and oppressed people of other nations. Vikki was a woman of many talents. She worked as a journalist for the ABC Victoria and the Kabul Press. She was an artist and used her love of painting to organise art workshops to help asylum seekers as they waited for their cases to be processed. Only last month, she organised a successful detainee art exhibition at the Northern Territory Supreme Court. She continued to assist refugees after they were released from detention, helping them to find accommodation and jobs.

Vikki was adopted by Aboriginal parents in Kallista, Victoria. Her adopted parents retained her surname after the adoption. Her partner, Jimmy Hatton, said this situation made her unique. She loved her partner and her son deeply, but she spent enormous time away from her loved ones to help those most in need.

Senator CROSSIN (Northern Territory) (16:17): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CROSSIN: I want to place on the record that Vikki Riley is a constituent of mine in the Northern Territory. It is true that she worked tirelessly to assist people seeking refugee status in our country and most recently, of course, with the Hazaras at the Darwin Airport Lodge. I place on record my deepest sympathies to her partner and to her son.

I understand the government will not be supporting this motion because of her involvement with West Papua, in that it is in conflict with our foreign policy. I want to be absolutely clear that I place on record my support for her family and my recognition of her work for refugees at this very sad time.

Senator DI NATALE (Victoria) (16:18): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator DI NATALE: I am absolutely staggered that we are going to vote down a condolence motion for a great Australian who has campaigned tirelessly on a number of issues as well as the rights of refugees, somebody who has contributed to the artistic community and who has worked on East Timorese issues—something that Australians should all be proud of. Yet, on the basis of her advocacy for the people of West Papua, who are currently being slaughtered, we are going to vote down a condolence motion. Where is the courage to stand up and say: 'Well done. You deserve our respect.' It is appalling. Have we become China, that we cannot celebrate a great Australian citizen who has worked so hard on so many issues and deserves the respect of this parliament? I am absolutely appalled.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): The question is that Senator Madigan's motion be agreed to.

The Senate divided. [16:24]

(The Acting Deputy President—Senator Mark Bishop)

| Ayes | ...................... | 11 |
| Noes | ...................... | 37 |
| Majority | .............. | 26 |

AYES

Di Natale, R
Ludlam, S
Milne, C

Hanson-Young, SC
Madigan, JJ
Rhiannon, L

CHAMBER
AYES
Siewert, R (teller)  Whish-Wilson, PS  Xenophon, N  
Waters, LJ  Wright, PL

NOES

Question negatived.

BILLS
Minerals Resource Rent Tax Amendment (Protecting Revenue) Bill 2012

First Reading

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:26): I move:

That the following bill be introduced: A Bill for an Act to amend the Minerals Resource Rent Tax Act 2012, and for related purposes.

Question agreed to.

Senator MILNE: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:27): I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill and have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The Government's mineral resources rent tax is a pale shadow of that recommended by the Henry Tax Review, with its low rate, exclusion of most minerals and other unjustified concessions conceded by the Government under duress after the mining industry launched a $20 million advertising campaign.

The particular weakness of the tax addressed by this bill is the interaction with mining royalties levied by the states. The Government has effectively given the states a 'blank cheque' to raise mining royalties by promising to rebate the cost of all royalties to the mining companies.

The Henry Review considered crediting companies for royalties paid. It said very clearly, however, that "the state royalty regimes would need to be fixed at a particular point in time to ensure that the Australian government does not automatically fund future increases in royalties". Under the Rudd Government's original RSPT the refund was limited to royalties imposed at the time of announcement.

The Government foolishly moved away from this principle in its negotiations with the big three mining companies and the subsequent deliberations of the Policy Transition Group and agreed to also rebate any future royalty increases. The Western Australian, New South Wales, and Tasmanian Governments have already announced royalty increases and the Queensland Government have foreshadowed increases in its budget. Under the terms of its current policy the Gillard Government will have to refund these additional royalty payments to the companies paying them, which could reduce revenue from the MRRRT by around a cumulative $10 billion by 2020.
The Government has threatened to cut grants to states which increase royalties after July 2011 but this may prove difficult. It may, moreover, be circumvented by the Commonwealth Grants Commission's principles of horizontal fiscal equalisation.

The bill presents a better, clearer remedy to this problem of the Government's own making. We had warned the Government about this problem at the time, moving an amendment to the MRRT legislation on 19 March 2012. This bill essentially reprises that amendment, and will restrict the rebating of royalties to those in place as at 1 July 2011, protecting the MRRT revenue from erosion by the states. This additional revenue is especially needed when we want to fund the social reforms our country needs, particularly in education so that when the minerals start to run out or their prices drop we have a more educated and productive workforce able to generate sustainable incomes for Australia.

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

Leave granted; debate adjourned.

MOTIONS
Illicit Drugs

Senator DI NATALE (Victoria) (16:28): I move:

That the Senate—

(a) notes the report titled Alternatives to Prohibition – Illicit Drugs: How we can stop killing and criminalising young Australians, released by Australia21 on 9 September 2012; and

(b) acknowledges that evidence-based approaches are needed in minimising the harms of drug use and appreciates the work Australia21 is doing to inform the debate on this important issue.

Question agreed to.

Construction, Forestry, Mining and Energy Union

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:28): I move:

That the Senate—

(a) notes that the Supreme Court of Victoria issued interim injunctions against the Construction, Forestry, Mining and Energy Union (CFMEU) in relation to Grocon sites in Melbourne, and that contempt proceedings in relation to certain injunctions remain before the court;

(b) condemns the CFMEU’s blockade of the Myer Emporium site, which involved violent attacks on police and police horses and posters issued by CFMEU bosses labelling workers as 'scabs';

(c) notes that Grocon workers, who are members of the CFMEU, have expressed disappointment at abuse, threats and intimidation by CFMEU bosses and at the CFMEU's failure to adhere to the law;

(d) affirms that violence, unlawful activity, bullying, harassment and thuggery have no place in any workplace; and

(e) calls on the Australian Labor Party and the Australian Greens to refuse to accept any further donations from the CFMEU until it desists from unlawful activity, thuggery and violence in the workplace.


The ACTING DEPUTY PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS: The government do not support this motion. We raised an earlier version with Senator Abetz's office and proposed wording that would fix errors of fact and law. Unfortunately, the senator was too busy playing politics to get
his facts straight or to achieve any consensus on this which is an important issue. We will not be party to an exercise that co-opts the Senate into Senator Abetz's political tactics and allows the Senate to act like a Star Chamber or a quasi-court. What the government proposed is as follows and reflects the clear and consistent position we have taken during the Grocon dispute. We proposed (a) that the Senate notes that the Supreme Court of Victoria issued interim injunctions against the CFMEU in relation to Grocon sites in Melbourne and contempt proceedings in relation to certain injunctions remain before the court, (b) condemns the CFMEU's blockade at the Myer Emporium site and (c) notes that violence, unlawful activity, bullying, harassment and thuggery have no place in any workplace and urges all participants in the building and construction sector to comply with the rule of law.

Senator WRIGHT (South Australia) (16:30): I seek leave to move an amendment to the motion.

Leave not granted.

Senator MADIGAN (Victoria) (16:30): I seek leave to move an amendment to the motion.

Leave not granted.

Senator WRIGHT (South Australia) (16:31): I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Leave is granted for one minute.

Senator WRIGHT: The Australian Greens are not able to support the motion that has been moved by Senator Abetz and the coalition. The Greens amendment would have omitted all the words after 'that the Senate' and substituted the following: (a) notes that Grocon refused to abide by a recommendation from the President of Fair Work Australia, which was accepted by the CFMEU, that would have seen the protest cease and work recommence while talks continued, (b) reaffirms the importance of independent health and safety representatives willing to stand up for the employees they represent and (c) calls on the Victorian Baillieu government to fully explain its role in the dispute. It is a shame that the amendment was not put to the chamber for a vote.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:32): I seek leave to make a one-minute statement.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Leave is granted for one minute.

Senator ABETZ: There are 1.7 million reasons as to why the ALP do not want to support this motion and there are 30,000 reasons why—

The ACTING DEPUTY PRESIDENT: Order! I am going to put that request for leave again. Is leave granted for Senator Abetz to make a brief statement? Leave is granted for one-minute.

Senator ABETZ: I am sure the clock will start again. There are 1.7 million reasons why the Australian Labor Party are opposing this motion and there are 30,000 reasons why the Greens are opposing this motion, because they have been the beneficiaries of donations from the CFMEU, which has been proven to have been engaged in thuggery and intimidation on worksites around Australia. So, when we have a motion to call on the Australian Labor Party and the Australian Greens to refuse to accept any further donations from the CFMEU until it desists from unlawful activity, thuggery and violence in the workplace, they cannot bring themselves to vote against such a motion because they are more interested in the money than in the rule of law. They are more
interested in the union bosses than in the rights of individual workers to be able to go to and from work without the fear of intimidation from union bosses.

Senator XENOPHON (South Australia) (16:33): I seek leave to make a one minute statement.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Leave is granted for one–minute.

Senator XENOPHON: I cannot support this motion in the absence of Senator Madigan's amendment being put which essentially calls on all Australian political parties to refuse to accept any donations from any group, whether union or corporation, that commits any act of unlawful activity, thuggery or violence against employees or employers in the workplace. That to me seemed a much more sensible proposition, much less partisan than the opposition's, and on that basis, in the absence of Senator Madigan being able to move what I thought was a very sensible amendment, I cannot support this motion.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:34): I seek leave to respond to that comment as to why that amendment was not accepted.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Leave is granted for one minute.

Senator ABETZ: The reason why the opposition could not accept—

The ACTING DEPUTY PRESIDENT: Senator Abetz, I misheard it. I am advised that they said no. Leave is denied. The question is that Senator Abetz's motion be agreed to.

The Senate divided.

(The President—Senator Hogg)

Ayess.................................27
Noes.................................35

Majority.................8

AYES

Abetz, E
Boswell, RLD
Brandis, GH
Cash, MC
Eggleston, A
Fiffeld, MP
Humphries, G
Joyce, B
Macdonald, ID
Nash, F
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

Bernardi, C
Boyce, SK
Bushby, DC
Cormann, M
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
Mason, B
Payne, MA
Ruston, A
Scullion, NG
Smith, D

NOES

Bishop, TM
Cameron, DN
Carr, RJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
Milne, C
Pratt, LC
Siewert, R
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

Brown, CL (teller)
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Madigan, JJ
McLucas, J
Moore, CM
Rhiannon, L
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

PAIRS

Back, CJ
Birmingham, SJ
Colbeck, R
Edwards, S
Fawcett, DJ
McKenzie, B
Parry, S

Evans, C
Wong, P
Polley, H
Bilyk, CL
McEwen, A
Lundy, KA
Ludwig, JW

Question negatived.

Fair Work Australia

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:42): I, and
also on behalf of Senator Fierravanti-Wells, move:

That the Education, Employment and Workplace Relations Legislation Committee publish all the documents received from Fair Work Australia concerning its investigation into Mr Craig Thomson and the Health Services Union.

Senator MARSHALL (Victoria) (16:43): I seek leave to make a brief statement.

The PRESIDENT: Leave is granted for one minute.

Senator MARSHALL: The committee decided not to release the source documents provided to it from Fair Work Australia in relation to this matter. This decision was taken after careful consideration of the request to release the material, which runs to many thousands of pages. The committee was concerned to minimise potential invasions of privacy that might be caused to individuals through the publication of documents, in particular those who are not subject to allegations and those who are not public figures.

The Fair Work Australia report is a comprehensive distillation of the original source material and this report has been made public. While the report itself runs to over 1,100 pages, the conclusions it reaches had regard to the material covering many thousands of pages. Release of the supporting material could easily give rise to misinterpretation of the evidence, therefore reducing clarity rather than enhancing it. The government stands by the conclusions of the committee and does not support the motion.

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

The Senate divided. [16:46]

(The President—Senator Hogg)

Ayes......................29
Noes......................33
Majority.................4

AYES
Abetz, E
Boswell, RLD
Brandis, GH
Cash, MC
Eggleston, A
Fifield, MP
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Payne, MA
Ruston, A
Scullion, NG
Smith, D
Xenophon, N

Bernardi, C
Boyce, SK
Bushby, DC
Cormann, M
Fierravanti-Wells, C
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Nash, F
Ronaldson, M
Ryan, SM
Sinodinos, A
Williams, JR

NOES
Bishop, TM
Cameron, DN

Brown, CL (teller)
Carr, KJ
Senator BOB CARR: The Australian government strongly opposes the boycott, divestments and sanctions campaign. The government does not support boycott movements that seek to ban exchanges with Israel and policies that impede legitimate trade between states and that unfairly target lawful Australian businesses. Indeed, the Australian Labor Party fought a campaign in the state division of Marrickville on this very principle and won against the Greens party. The government opposed the motion for two reasons: firstly, the government has a long-established practice of not attempting to navigate foreign policy matters through Senate motions and, secondly, the motion moved by Senator Sinodinos politicises an important issue through criticism of individuals. We fiercely, unequivocally, strongly oppose BDS and, unlike the armchair purists—(Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (16:50): I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator McKenzie): Is leave granted? Leave is not objected to.

Senator BRANDIS: It was obvious during the division on this motion, notwithstanding Senator Bob Carr's statement, that he and Senator Sterling were remonstrating with their Labor Party colleagues that they were voting on the wrong side of that motion and they were beseeching their Labor Party colleagues to do what they should have done in the first place and support the coalition in supporting the state of Israel and opposing anti-Semitism.

MATTERS OF PUBLIC IMPORTANCE

Military Superannuation Pensions

The ACTING DEPUTY PRESIDENT (Senator McKenzie) (16:51): The President has received the following letter from Senator Fifield:

Pursuant to standing order 75, I propose that the following matter of public importance be submitted to the Senate for discussion:
The Gillard Labor Government's ongoing failure to deliver fair, just and equitable indexation of DFRB and DFRDB military superannuation pensions.

Is the proposal supported?

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

The ACTING 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 RONALDSON (Victoria) (16:52): Before I start on today's matter of public importance, I want to say something, and I do so more in sorrow than in anger. The government in question time today reached a new low in its deliberate campaign of vilification and personal attacks on the integrity of the Leader of the Opposition. It was in true Labor form of playing the man and not the ball aka former Premier Anna Bligh's disgraceful attacks on then opposition leader Campbell Newman.

In question time today, Acting Prime Minister Wayne Swan attacked the Leader of the Opposition for not doing radio. It is true that Mr Abbott did not do radio today and the reason is that there was a private funeral today in Canberra for one of our own killed in Afghanistan on 29 August. As a mark of respect for the family and for the memory of this young man Mr Abbott had decided not to do radio and other media today. After Acting Prime Minister Swan's attack on the Leader of the Opposition, the Manager of Opposition Business in the House, Christopher Pyne, spoke to the Leader of the Government in the House, Minister Albanese, behind the Speaker's chair, which is convention, and explained all this to him. This was communicated to Acting Prime Minister Swan, yet, despite being alerted to the situation, Mr Swan again repeated the allegation, which left Mr Abbott with no choice but to publicly explain the situation to the House. 

My views of Acting Prime Minister Swan's behaviour are, quite frankly, unprintable. His behaviour will quite rightly be viewed by the ex-service community and indeed all Australians as beneath contempt and, regrettably, will undoubtedly be a precursor to the behaviour of the Labor Party between now and the next election.

I will just read through the text of today's matter of public importance so that there is no doubt about it. It reads:

The Gillard Labor Government’s ongoing failure to deliver fair, just and equitable indexation of DFRB and DFRDB military superannuation pensions.

I know that some from the Labor Party will be speaking on this MPI today, and I know that Senator Wright, the Greens spokesperson, will be speaking on this today. When they do so, I want them to tell this chamber and I want them to tell representatives of the ex-service community who are here today and others who are not here today exactly what is precluding them from supporting fair indexation. If I get the chance, I will go through some of the comments that have been made by some in the Australian Labor Party and some in the Greens about this measure.

The Australian Labor Party went to the 2007 election with a policy to do something in relation to fair indexation; they promised to do something about it. Senator Lundy, the member for Eden-Monaro and others wrote a letter, which has been referred to in this place before, to Minister Wong and asked her to do something about implementing the Australian Labor Party's policy of the 2007 election. Nothing has been done. The
coalition went to the last election with a commitment to do something about fair indexation. History shows that we were not elected. History shows that there was a convoluted relationship between the Australian Greens and the Australian Labor Party—a disastrous partnership on any account.

On behalf of the shadow minister for defence science, technology and personnel, I brought a bill into this chamber seeking fair indexation, seeking that those on DFRB and DFRDB would be treated in the same way as those on the age pension and the service pension. The Australian Labor Party and the Australian Greens had the opportunity then to match actions with words, deeds with commitments, but they failed at the hurdle. In my view, it was a dark day for the Senate when those men and women, the 57,000 DFRB and DFRDB recipients and their families, were denied fair indexation.

Two weeks ago, we sought to amend an amendment bill in the other place in relation to a variety of veterans matters. Indeed it was a bill that was not time sensitive. Despite the carry-on of members Oakeshott and Windsor and others about it, and the comments of the Greens and the other Independents in the other place, there was no time sensitivity in relation to it. Effectively, what we sought to do was to halt that bill until fair indexation legislation or a bill had been introduced. This was in the main a bill that was seeking to sort out a number of matters that were not time sensitive. They could have been done in March and April of next year. We had drafted the bill for indexation. We introduced the bill into this place. The government needed only to send it off to the parliamentary draftsman in the House of Representatives and it could have been introduced, quite frankly, the next day. It was not, and it was voted down.

Indeed, today in the other place, a motion will be moved by the Independent member for Lyne, Mr Oakeshott, who has been parading around the country giving some indication that he would be putting forward a motion for which there would be an outcome, which would address fair indexation. I will read the start of this motion. It says that it 'calls on the government to consider increasing military superannuation payment indexation'. 'Consider' is not seeking action. They are weasel words from the member for Lyne: 'consider fair indexation'. He had the opportunity to actually vote for fair indexation not consider it, and he failed at that hurdle. I want to make it absolutely clear that every senator on this side of the chamber and every opposition member of the House of Representatives has signed up to a commitment that Tony Abbott believes that the opposition has signed up to—that is, in the first budget of an incoming Abbott government, if we are given the great honour to be elected, we will bring in that legislation and make the funds available for fair indexation. Indeed, this is a commitment signed by the Leader of the Opposition and signed by candidates and members all over the country. I ask Labor Party members to take a very long, hard look at this and see whether you are, indeed, prepared to make that commitment.

Senator Mark Bishop: You had 11 years and you did zilch!

Senator RONALDSON: I will take that interjection. You are absolutely right, and I have said that from one RSL congress to another. I have said that at nearly 50 veterans forums around the country: we should have done something about it earlier. But, my fine feathered friend, what I will say to you is this—through you Madam Acting Deputy President: you went to the 2007 election with a commitment. Indeed, Senator Lundy and
the member for Eden-Monaro, Mike Kelly—the current member for Eden-Monaro; not for long, because he has let down his own people in Eden-Monaro. They go into their electorates and they get in with ex-service community members and veterans and say, 'We're going to sort this out.' Mike Kelly has been doing it down in Eden-Monaro—'Don't worry, I'll sort this out.' And there is Mr Neumann, the member for Blair, was in the Ipswich Times, saying: 'This is outrageous. I have written to Minister Wong about this. It is unfair. They are not getting enough.' Of course, what did he do a week and a half ago in the other place when he had the opportunity to actually put a bill in place to achieve fair indexation? Of course he fell at the hurdle. Weasel words from people who are happy to go out and say what they think is appropriate and what people like to hear in their electorates, and when they get here and when they have got the opportunity they absolutely squib it. They have squibbed it on this occasion and they will continue to squib it.

There will be another opportunity for those opposite when this bill comes back from the lower house. I will move the same amendment and I will say at that stage: we will halt this bill until we get fair indexation legislation introduced by the government. That will be the big test. It will be the big test for Senator Lundy and it will be the big test for everyone over there who slimes around like snakes in the grass telling their constituents they actually care about this, but they do nothing. (Time expired)

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:02): The only people who would truly benefit from any changes to the indexation of military indexation are those already on higher pensions or with other incomes and significant assets. For everyone else, the changes to indexation are small but they would create significant difficulty for the federal budget. Those opposite understand this, which is why for 11 years they did nothing. In fact, this government's tax cuts introduced on 1 July 2012 are likely to provide more financial assistance for those veterans earning less than $80,000 per annum than any proposed changes to the indexation of military super.

When we discussed the Defence Forces Retirement Benefits Scheme, DFRB, and the Defence Force Retirement and Death Benefit Scheme, DFRDB, we must remember that these are not the same as the aged pension and they are not the same as the service pension. Neither scheme is even open any longer, with the more recent DFRDB closing in 1991.

Our military super systems are tailored specifically to meet the special needs of military service personnel and are already more generous than their counterpart Commonwealth civilian schemes. That, of course, is appropriate. Many people on DFRB and DFRDB retired from the military while still at working age, with time to continue to save for their retirement. The general trend has been that some 75 per cent of DFRDB members were under 45 years of age when they ceased service and 40 per cent of those were between 35 and 40 years of age. These are people who should have continued to work and continued to save.

Relying on an indexation system designed for aged pensioners is not the answer to increased retirement wealth. The majority of veterans who receive a pension from these systems still have access to other financial assistance such as the age or service pension—that is, it is not their only source of income. The DFRB and the DFRDB are guaranteed sources of income that are not subject to market fluctuations and are not subject to the same levels of risk that most
Australians in the superannuation system are exposed to. These are generous schemes that receive benefits not received by other sectors and certainly not received by the average Australian. I think this is an appropriate juncture for me to note in the context of some of the more inflammatory correspondence I have received—care of the provocations of Senator Ronaldson—it is a more generous arrangement than prevails for people elected to this place since 2004.

Recipients of DFRB and DFRDB get higher contribution rates—up to 30 per cent—compared to the national legislated rate of nine per cent. Even as the national rate of super gradually increases to 12 per cent, another Labor achievement, it is still nowhere near the potential 30 per cent contribution for military personnel. Military pensioners get an annual payment that is not subject to market risks. Those under the DFRDB get the option to receive a larger payment upon retirement, a commutation of between four and five times, for a reduced annual payment. This is a choice exercised by over 99 per cent of retirees, and accessed immediately upon retirement after 20 years of service as opposed to the preservation age for the rest of the Australian community.

Changes to the indexation methodology for generous systems would be inappropriate. Changes would be inequitable. Changes would be costly. Vastly, they would have a minimal impact for those on lower pensions—minimal impact for those not on higher incomes. Finance and the Government Actuary costed of the opposition's bill, Defence Force Retirement and Death Benefits Amendment (Fair Indexation) Bill 2010 at a cost of $1.7 billion over the forward estimates. That is $1.7 billion to change a system that will provide little real help for retirees on lower incomes. If we are talking about fairness, if we are talking about equality, then what about those under the current Military Superannuation and Benefits Scheme, the MSB? What about those on civilian Commonwealth schemes? Why are Senator Ronaldson and his colleagues absolutely silent on those important questions? We would also need to alter the indexation arrangements for those in other schemes if this were really about fairness and not entirely about politics. The opposition, right now, have a $70 billion black hole and it is growing and growing. Changes to these systems are not financially sustainable nor are they fair. This is just another unfunded promise by the opposition and it cannot be justified. That is why the coalition, after 11 years in government, never made the changes that they are spruiking today. Let me quote former finance minister, Nick Minchin. Former Senator Minchin said:

"This … claim—to change indexation—was properly rejected by the Howard Government, of which I was a member. There is no inherent logic to the proposition that a public sector employment-related superannuation payment should be indexed in exactly the same fashion as a means-tested welfare benefit in this case, the aged pension.

Former finance minister Nick Minchin said that then and he says it now. He was right then and he is right now, and the Gillard government agrees with him. Senator Ronaldson and his colleagues, in their spruiking of this policy, remind me of that old diggers' saying, 'What do you call a politician spruiking for veterans? A member of the opposition'—because when in government these obligations and promises were as nothing. This is a 'road to Damascus' conversion from a group of politicians who only comprehended this mission when they were in opposition. I predict that should they ever form a government this promise will be the first on the cutting-room floor. Today's
debate is purely political in motivation. The proposed changes would be zero help for those under the current MSBS. For those under the MSBS who served in East Timor it would mean zero help. For those under the MSBS who served in Afghanistan it would mean zero help. For those under the MSBS who served in Iraq it would mean zero help.

The Gillard government is committed to providing an equitable and fiscally responsible competitive remuneration package for all current and retired members of the ADF that reflects the unique nature of military service. Changing the index arrangements is not the answer. There is no intention here to deny former servicemen and servicewomen their beneficial rights. Our military super schemes are generous, providing early access and a higher percentage of employer contributions than most other Australian workplace schemes. Comparing military super with the age pension is just not relevant. Super payments are an employment based benefit; the age pension is a means-tested income support system that forms part of our welfare system. For many, the age pension is their only source of income. Military super payments are a guaranteed level of income regardless of the person's other income or assets and does not remove their eligibility for the service or age pension. They are not the same and they are not comparable. The age pension is indexed so that the maximum basic rate of the single adult age pension, after indexation, does not fall below a rate equal to 25 per cent of total average weekly earnings. This was done so that pensioners would share in the increase in community living standards.

The DFRB and the DFRDB pensions, unlike the age pension, were not intended to ever be the sole lifelong income source for those who were still of working age when they ceased service either through choice or due to rank retirement age. The rate of indexation of the age pension is not relevant to military super payments and yet here we see the opposition trying to use it to justify changes. Criticisms of the DFRDB Scheme are not justified. It is a generous scheme, even more so than most other Commonwealth superannuation schemes, and changes to the indexation proposed by those opposite would be unfair, unjust and costly without helping those on lower pensions. It is not a habit of mine to fully agree with former Senator Nick Minchin but on this occasion he was right.

Senator WRIGHT (South Australia) (17:11): As the Australian Greens spokesperson on veterans' affairs, I am very aware of the cause of fairer indexation of military superannuation pensions. I have spoken at length to organisations representing veterans and their families and I, along with many other MPs, have received extensive correspondence from the veterans' community about this issue.

Let me say at the outset that this is not a new issue but the coalition is a recent convert to the cause of fairer indexation of military superannuation pensions. Perhaps we should reframe this MPI to include the failure of the coalition to deliver fairer indexation while they were in government too. After all, they were in government for 11 years and had numerous opportunities during that time to reform the system, but they did not do so. There were two inquiries during those years—in 2001 and 2002—which recommended that government consider fairer indexation for superannuation pensions to better reflect costs of living. But the coalition did not act. Why was it that they waited until 2010, when they were out of power and in opposition, to first introduce legislation to change the indexation arrangements? Could it have been that they
wanted to make it a Labor government problem?

The current situation is unfair. The Defence Force and Commonwealth public service schemes in question have been closed to new members but they still have significant current membership which is affected by the issue. These Defence Force superannuation pensions in question are indexed to the consumer price index. Once a useful measure of increases in living expenses, it is widely acknowledged that this does not always reflect the underlying increase in prices affecting the costs people face every day. The CPI, as acknowledged by the Australian Bureau of Statistics, is not a measure of cost of living but a measure of inflation. This is an important distinction. In contrast, the age pension has an indexation formula which takes into account changes to wages by reference to MTAWE, or male total average weekly earnings, and the Pensioner and Beneficiary Living Cost Index. It is clear that the indexation applied to the age pension has seen increases on a greater scale than those to the defence and Commonwealth superannuation payments and they have been lagging behind over time.

It is important to acknowledge that there cannot be a direct comparison between the age and service pensions and superannuation pensions. The age pension is a safety-net payment to reduce poverty in retirement, while the superannuation pensions provide retirement pay and comprise part of a person's remuneration for services rendered. The two payments also differ in respect of the rate of payment and the impact of income and assets. The maximum rate of the age or service pension single is approximately $19,000 per year while the average rate for a defence superannuation pension is approximately $24,000. In addition, the age and service pensions are reduced according to income and assets, while the superannuation pensions are not.

However, the Greens accept there is unfairness in the current indexation measures for Commonwealth superannuation pensions, both military and civilian. I note that there have been a number of inquiries that have found that the CPI is not the most appropriate means of indexing Defence Force personnel superannuation pensions. Over the past 10 years, there have been three separate Senate inquiries and two government commissioned inquiries that have made recommendations on this issue. The three Senate inquiries in 2001, 2002—both in the time of the Howard coalition government—and 2008, all recommended that government consider fairer indexation for superannuation payments to better reflect costs of living.

Most recently, in 2009, the Matthews review commissioned by the government in 2007 recommended no change to the indexation measure unless a more robust measure of price inflation is available. The government appears to have accepted this recommendation, but we say that the government should further consider the matter of fairer indexation of Commonwealth superannuation pensions as a priority.

The Greens have been supporters of the campaign by both defence and civil personnel on this issue for some time now. Senator Bob Brown wrote to the Finance Minister in November 2009 asking the minister to reconsider the-government's response-to-the-Matthews review and develop a fairer indexation method. The Greens formally requested that the federal government consider this policy change as part of this year's budget. We now know that a change to indexation was not included in the 2012 budget, but we will continue to
negotiate with the government to urge them to find a way in which we can achieve a financially responsible reform of the indexation of pensions.

I acknowledge that this issue has a long history in the parliament. It has been an unresolved problem for governments of both of the old persuasions over many years and its significant cost and dispute over funding mechanisms have dogged its resolution. The cost impact of this is something that we need to be mindful of in the current fiscal climate. There are two costs involved in changing the indexation—the cash cost per year and the unfunded liability into the future. These are substantial. The Matthews review estimated the cash costs to be $111 million over three years from 2010 and $23 billion in unfunded liability by 2020. There is still some dispute between the government and the opposition as to the actual costs involved, but it is clear they are significant and it is essential that any serious proposal be properly costed.

In 2011, the Greens did not support the coalition's bill because the coalition did not propose a responsible means of paying for the reform. After 11 years in government, they introduced the reform, wanting to make it the government's problem without indicating how it could properly be paid for. After consideration in 2011, the Greens took the view that, without an identified and budgeted means of paying for the change, it was not fiscally responsible to support the legislation, however meritorious its aim. The money has to come from somewhere.

The Greens have consistently proposed serious revenue measures to fund reforms such as this and others which would result in a fairer share of our national income. Indeed, we called for the implementation of the original Resource Super Profits Tax, as advocated by Treasury, to see a fair return to all Australians from our shared mineral resources—resources that belong to all of us. Instead, in the face of a vociferous and hugely well-funded campaign by mining companies, the government settled for a mere shadow of the original tax, the Minerals Resource Rent Tax, which will net almost nothing, at a loss of up to $10 billion per year—$10 billion income which could have funded reforms like this.

I was very interested to see that billionaire Gina Reinhart has recently given her support to the campaign for fairer indexation. But, unfortunately, words are fairly cheap. I did not notice her suggesting that she would fund it herself from her own considerable wealth—and she reportedly earned $18.87 billion in 2011—or any acknowledgement that if she and the other mining companies who were so opposed to the original mining tax were to pay a fair share of the profits they make from mining our shared resources there would be more money available to the governments to fund outstanding and long-needed reforms such as fairer indexation of military superannuation, the NDIS, an increase to Newstart and more funding for Australian schools. Instead we have $10 billion a year forgone, supported by the coalition.

I acknowledge that there are many passionate and committed advocates for change to see fairer indexation for all Commonwealth and Defence Force superannuation pensions and I will continue to listen to these concerns. I continue to urge the government to find a way in which this reform can be effected in a financially responsible manner. I have been working with veteran organisations and their supporters on a range of measures to acknowledge the contribution and service they have provided to our Australian community, including their needs in relation to mental health services and welfare and support for their partners and families.
The bill that was introduced by the coalition in the House of Representatives was in a sense trying to jeopardise the passage of unrelated veterans entitlements legislation, to be put off to the never-never until some time when this sort of reform is funded. It was not done in good faith. In fact, the coalition were not prepared to allow the Greens to even see the amendments before they were tabled in that House. If they were genuine about negotiating with the Greens and trying to get that legislation passed, they would have been prepared to provide some information about the nature of that bill. Instead they did not, because it was a stunt. It was a stunt that was at risk of jeopardising the passage of other unrelated legislation which would have put on hold entitlements for veterans which were not related to this.

Senator Ronaldson: Did you ask for it?

Senator WRIGHT: We did ask for it and we were told that it was not available, and we were not able to see it. It was disingenuous. It was a stunt. And that is what a lot of this has been. The coalition should have passed legislation when you had the power to do it. The Greens will continue to work with the government to find a way in which this reform can be effected in a financially responsible manner.

Senator Johnston (Western Australia) (17:21): Today I must confess I have heard a load of nonsense. Senator Feeney says that this is not about fairness. What did they tell the electorate in 2007? What did they say to the veteran community? They said in their policy document very callously that there is perhaps no greater duty that we as a nation and as a parliament have than to honour, remember and express our gratitude to those Australians who have served in the defence of our nation. They went on to say:

A Rudd Labor government will provide a fresh approach to veterans' affairs and a fresh leadership team which is dedicated to working in partnership with the ex-service community on the issues that concern them. They then nominated six goals. The first one was restore the value of compensation and repair further erosion to income due to unfair indexation.

A key concern with the veteran community is the impact of rising costs of living and the erosion of their entitlements over time due to unfair indexation arrangements under the Howard government. It went on to state that Labor would change that indexation. It is not about fairness, Senator Feeney. I can tell you that, when you are trying to get elected, it is about anything you think can rip off a vote. Their policy document of 2007 further states:

… to help combat this, Labor is committed to indexing all disability pensions and the domestic component of the war widows pension to movements in the Consumer Price Index or the Male Total Average Weekly Earnings (MTAWE), whichever is the greater.

There is the promise. They go on to say:

A Rudd Labor Government will restore the value of the Special Rate Disability Pension ... Intermediate Rate and the Extreme Disability Adjustment Pensions by indexing the whole of these pensions to movements in Male Total Average Weekly Earnings … or the Consumer Price Index … whichever is the greater.

These promises to the veterans community were exactly like and resemble and have the aroma of 'There will be no carbon tax under a government I lead.' This is the currency of this government. They will say or do anything if they think they can extract a cheap vote from anybody.

We should have changed this in government. Let us not be unclear about this. We should have changed this; we did not do it. But the one important thing I want to
stand here and say is: we never lied to them and ripped them off for their vote. We never said to them: 'Vote for us and we will change it.' We have a policy, we have put it on the table and we have costed it. Senator Lundy has costed it—and I will get to her letter in a minute—it is about $45 million a year to index these pensions properly. Everything you hear from the Labor Party is utterly disingenuous.

Senator Feeney says, 'It is not about fairness.' If he thinks there is a vote in it, he will say and do anything to sucker you into voting for the ALP. Can I tell you there are a hell of a lot of veterans out there who really believe that they were suckerized by the Labor Party. Can I tell you there are a hell of a lot of former and present Labor Party members who think they were suckerized by their own party: Mike Kelly, Senator Kate Lundy, Bob McMullen, the former member for Fraser, and Annette Ellis, the former member for Canberra, wrote to Lindsay Tanner on 14 September. It is a great series of letters; I have tabled them before. But let me just read out what they said to their then finance minister.

Significantly, many people genuinely believe that prior to the 2007 election the ALP had committed to determining a fairer method of indexation, and a review would provide the direction. So the immediate acceptance of the recommendation of no change in government response is being seen as a reversal of the pre-election position espoused by the ALP in the campaign material.

There are their own members of parliament saying: 'Hang on. We promised the electorate we would give them fairer indexation. We promised. Why are we now breaking our promise?' The letter goes on:

We respectfully request you respond to both of these points—
that is, the points they have raised in the letter—and clarify the government stance particularly since correspondence issued during the election enthusiastically pressed the point of finding a fairer method of indexation through the process of review.

They just callously, without a care in the world, suckerized the veteran community into voting for them. Now they get up and say, 'Oh, it is all too expensive.' So these four members of parliament—including Mike Kelly, who is a complete goner in this coming election; he will not be back—says to the then minister

It is our view that the fair and reasonable way forward we have described is the best course of action because it honours the spirit and the letter our election commitment in the first instance, and secondly, opens the way for consultation and further progress towards fairness in the future.

If ever there was a confession that this Labor Party has ripped off the votes of these veterans, there it is in this letter. It is a beautiful letter. It is a confession. It is a smoking gun of the sort of misrepresentation and electoral fraud perpetrated in that 2007 election.

Kate Lundy has a website on which she said:
The first year’s gross cost of $42 million—
she is talking about the fair indexation cost—which will compound, is a little more than one tenth of one per cent of the 2007/08 budget surplus. There will be indisputable clawback of approximately 40% due to increased income tax and GST collections and a reduction in Age Pension expenditure.

… … …

Unfunded superannuation liability estimates will increase but these are balance sheet figures only and are not estimated for far larger items such as Age Pensions, Veterans’ pensions, Medicare etc. They are big numbers only because they’re cumulative forty year estimates.

The government wants to give you the forward estimates out to 40 years to tell you,
'Oh, it is a huge amount of commitment.' Kate Lundy tells us the cost is 42 million bucks a year; probably about the same amount of compensation owed to a fishing trawler that has just had its job taken away from it. That is about the relevance.

So I want to say to all those who are here that the average DFRDB pension is 24,386 bucks, and these miserly weasel-word laden government members say it is not about fairness. It is everything about fairness. And if the Greens want another opportunity to vote for fairness, we will certainly give it to them.

Senator GALLACHER (South Australia) (17:28): I rise to make a contribution in this matter of public importance debate on military superannuation pensions. In the very short time that I have been a senator for South Australia I have had the experience of mixing it with service personnel in a number of different areas, including in a very short stint—in comparison to our serving personnel—in Afghanistan. I have also had representations made directly to my office from the service associations. I have to say there has not been a large number of representations—three, in fact—and in all the exposure I gained in Afghanistan, where I sought out every opportunity to talk to serving men and women, not one raised the matter of the service pensions.

I would point out that I have an interest in this matter. I have a niece who is a serving member of the Australian defence forces and has served in Afghanistan; I have a prospective son-in-law who is a veteran of Iraq and Afghanistan; I have a brother who is a returned soldier, a veteran of the Vietnam conflict—the list goes on and on, if you like. So I have listened very carefully to the debate here today, I have listened very carefully to the constituents who have approached me and I have sought out the views of many members of the armed forces. And it appears to me that this debate today is an extremely politicised one that is not succinctly and clearly addressing what the facts actually are. The contribution from former Senator Minchin was extremely illuminating when he said:

There is no inherent logic to the proposition that a public sector employment-related superannuation payment should be indexed in exactly the same fashion as a means-tested welfare benefit, in this case the age pension.

He also said:

This … claim was properly rejected by the Howard government, of which I was a member …

So someone had the courage of their convictions, both in political life and in the aftermath, to succinctly and clearly put their position on the public record.

It is very clear to me in relation to members of our defence forces, no matter what conflict they have served in. My next-door neighbour is a veteran of the 2/48 Battalion and at 92 years old, living independently, is a shining example of the contribution our servicemen have made to the community. He has never raised the indexation of benefits with me.

Senator Ronaldson: So you don't think it is an issue?

Senator GALLACHER: My point is that we are appropriately looking after members of the defence community. The special needs of military service are met more generously than is the case with the average Commonwealth civilian schemes—and rightly so. The risks for those who serve in the military are very clear and self-evident, but these Commonwealth superannuation pensions provide a guaranteed source of income that, very importantly, is not subject to market
fluctuations. If we look at what has happened to people in superannuation in the private sector, they have been subject to the GFC and they are subject to market fluctuations. Very importantly, these schemes we are talking about are not.

A military superannuation pension is not necessarily a measure of the person's complete financial situation. Many complete 20 years of glorious service and retire prior to retirement age. They go on to have another career, easily supplemented by a pension. I have worked with and I have represented members of the Air Force who have then been engaged in the service industry, in particular at Armaguard or any of those industries, where they very clearly supplemented a Defence Force pension with another career and they got another nine per cent in superannuation, which is perhaps now going up to 12 per cent.

The reality is the pension is not designed simply to be indexed in the same way as the age pension. The availability of the service pension also recognises those people who have served in a theatre of war, in a conflict zone or a highly dangerous situation. Quite properly, as Senator Feeney outlined earlier, the current notional employer contribution rate for the DFRDB is 33.3 per cent. That is a contribution significantly—more than three times—higher than the nine per cent of the superannuation guarantee. So people are not in invidious terms here. I understand that they have a widely held and deeply felt grievance.

**Senator Ronaldson:** I don't think you do!

**Senator GALLACHER:** I do understand that, Senator Ronaldson. Access to the retirement income, as I have said, could conceivably have been achieved by these people at the age of 40 and they could have then gone on to have another career. Another really important thing that happens in this particular set of pension arrangements is that 99.5 per cent of people have commuted to a lump sum. I am not foolish enough to believe that that is not a win-win for both the provider of the pension and the recipient, though it is probably a job for an actuary to work out whether giving a lump sum or paying someone over the whole of their life is the cheaper benefit. But 99.5 per cent have chosen to take a lump sum, up-front, and therein lies the figure which has been put out here today of $24,000-odd for the pension. It is not subject to market fluctuations, is to be paid for all their life and to pass on to their next of kin.

So if people are going to come in here and get high and mighty and righteous about it, we really have to talk about the correct situation, as it exists. To put it quite simply: the proposition that a military superannuant who has retired at age 55, having received a lump sum payment of $200,000 or $300,000 or $400,000 or higher, and has an annual non-means-tested superannuation payment of $40,000 or $50,000 or $60,000, should have that annual superannuation payment indexed in the same way as an age pension is not something that I am supporting. Clearly, we need to treat an apple as an apple.

If we were able to digest all of the information that we get in this place on any given day, one of the really important pieces of information that has come across all of our desks this week was from the Actuaries Institute. It was entitled 'Australia's longevity tsunami'. Its opening paragraph in the executive summary sets up some of the problems that any government is going to face in this area. It said: Australia is experiencing a major demographic and societal transformation. By 2050, almost a quarter of the population will be aged over 65 compared to 14 per cent now. Australians are already one of the longest lived populations on
the planet, and our longevity is steadily improving.

Australian life expectancies are rising much faster than commonly understood and this has serious social policy implications—especially in economic, retirement incomes, health and welfare policy.

Anything that is done in this area will be tested against the ability of another group in our community to run and win the argument.

All governments should recognise that we may face an electoral tsunami if we put the wrong foot forward in this space. The baby boomers will vote and they will probably get a result that they enjoy, but the fiscal responsibility argument will not go away.

Senator HUMPHRIES (Australian Capital Territory) (17:39): I said yesterday in the course of another debate that I sometimes wish there could be tears in the space-time continuum and people could hear from the future the words that they would be saying in the context of the present debate. I would love to have had the comments of Senator Feeney and others in this debate sent back to the debates that happened before the 2007 and 2010 elections because the tone and the comments were very different between then and now. Before the 2007 election in particular the Labor Party was sending very strong signals to the veteran community that it was going to fix this problem not only, incidentally, for the veteran community but also for all Commonwealth superannuants. There would be a process to deal with the inequitable arrangement with indexation for all Commonwealth superannuants. There would be a process to deal with the inequitable arrangement with indexation for all Commonwealth superannuants. There would be a process to deal with the inequitable arrangement with indexation for all Commonwealth superannuants. 'We will do a review,' they said, 'which will get to the bottom of this issue.' In commissioning that review, producing that review and, immediately the day that the review was tabled, backing the review, in its rejection of any adjustment to superannuation arrangements the government spectacularly dishonoured those promises.

I am not asking the Senate to take my word for that phrase 'spectacularly dishonoured its promises'. I am asking the Senate to accept the words of those members of the Labor Party who have already been quoted by Senator Johnston. A letter by the present member for Eden-Monaro and the Labor Senator for the ACT, Senator Lundy, belled the cat very nicely when it said to the then finance minister:

... there is huge disappointment in both the findings and the Government response announced on the same day—

that is, to the Matthews review. It went on to say:

Significantly, many people genuinely believed that prior to the 2007 election, the ALP had committed to determining a "fairer" method of indexation, and 'a review' would provide the direction, so the immediate acceptance of the recommendations of no change in the Government response is being seen as a reversal of the pre-election position espoused by the ALP in campaign material.

And indeed it was. It was seen as a broken promise, because the Labor Party wanted to play to that gallery before the election and now it wants to be fiscally responsible: 'We cannot possibly put that money forward because it would not be responsible.'

The problem is that the Labor Party is still playing to that gallery. Mr Neumann, the member for Blair, said to the Queensland Times a few weeks ago that he was sympathetic to the DFRDB lobby. He had written to the finance minister about the 'pitiful' increase in their pension:

It is ridiculous to expect people to accept a 0.1 per cent increase ...That is unviable, given the cost of living. It is too meagre and it needs to change.

He asked the minister to consider a 'fairer' form of indexation for DFRDB benefits. The
Labor Party has not given it up. It is still in the business of misrepresenting what it intends to do.

I want to correct the impressions created by both Senator Feeney and Senator Wright in this debate. Senator Feeney implied that we had broken some promise by never indexing these pensions during the time we were in government. We never promised to make any change to those pensions. We did not have that as a commitment of the government. We were tackling a huge amount of inherited debt, and I admit that there were philosophical views among many in the government that we should not make that change.

But after the 2007 election we reassessed all the policies of the coalition and came to the view that it would be fair to address this question with respect to the superannuation arrangements of veterans. We went to the 2010 election with a clear commitment to change that policy and to index those pensions on a fairer basis. We kept our promise when Senator Ronaldson introduced into this place the legislation to make that happen—we were not introducing the legislation just to facilitate it but putting before the members of the Senate the means by which we would fund those arrangements. We put savings proposals to the government which were obviously well-based savings proposals because, subsequently, in its following budget, the government accepted and reaped those savings in adjustments it made to spending within the Defence budget.

I also have to make some comments about Senator Wright's contribution. She talked about fiscal responsibility but seemed to ignore the fact that at the 2010 election—as at the 2007 election and, indeed, the 2004 election—the Greens promised to use their votes in the parliament to index not just veterans' pensions, military pensions, but all Commonwealth superannuation arrangements by the higher of CPI or MTAWE. They promised to do all of those things, and so for the Greens now tell us that fiscal responsibility demands that they cannot even partially index those pensions is very, very mysterious. If it was possible to promise everybody a higher pension, why could they not have supported even partially addressing that problem through the bill that Senator Ronaldson put forward?

A veteran has written to me, and I can only finish by citing what he had to say about the unfairness of the government's position. He said that the government had broken its commitment to the people of the Defence Force by refusing to support this important measure of reform:

A breach of many implicit and explicit promises (before the election!) to fix the problem. He said:

… veterans are condemned to continued erosion of the purchasing power of their pensions, …

And he is right. He also said that the refusal of the government to follow through with its promises from before the 2007 election represents:

A betrayal of Labor's own core values of fairness and its principal of a fair go for all Australians.

There is unfinished business here. The coalition has made clear with its actions that it is going to follow this through, and it is time that the other parties who made similar promises to veterans in this country did likewise.

Senator MARK BISHOP (Western Australia) (17:46): I bring a somewhat different perspective to this discussion, because I have been involved in this discussion for the 15 years or more I have been in this place. So I bring a degree of corporate knowledge, history and experience
as to the growth and development of veterans' benefits over the last 10 to 15 years.

I go back to the time when Mrs Dana Vale—I think she was the member for Hughes—was the Minister for Veterans' Affairs and Senator Sandy Macdonald was the Parliamentary Secretary for Defence in this place. I had some frontbench responsibilities in those days in opposition for some three or four years, in this area and in other areas. I remember at the time that we suffered a number of deaths of personnel in combat, and there was a raging debate as to the alleged inadequacy of benefits that their widows, partners or children might receive subsequent to the death of a soldier in operations. It became a very heated issue for some two or three years.

Arising out of that debate, the government of the day—the Howard government—introduced legislation into the parliament to improve benefits for veterans, their partners and their children if the particular soldier should be killed or become severely disabled in combat. That bill, of course, was referred off to a committee, and a roadshow developed as it went around Australia. It was a legislation committee, so of course it was controlled by the government members of the day. At the end it came up with a set of recommendations which were quite radical, quite expensive and, in some senses, seeking to overcome discrimination practice that had existed post-World War II in payments of benefits to some soldier's dependants and not to others.

Initially, the position of the government of the day was to reject that uniform set of recommendations from the particular committee to improve benefits in that particular way. There were then some discussions held that I was involved in, and those negotiations were conducted with Senator Sandy Macdonald, who was the parliamentary secretary at the time. Interestingly enough, Senator Macdonald, as I recall the negotiations in his office, made it quite clear that he had authority to negotiate on a range of points and that if we could reach a package of agreement then that would be taken back to his party and he anticipated endorsement, subject to approval.

Of course, the authority to engage in those negotiations came from his cabinet—he was the delegated person instructed to have the negotiations with the opposition, and the Acting Deputy President before us today was intimately involved in that authority because he was the head of the Prime Minister's office at the time. Without going into the detail, a significant package of benefits for widows, for partners and for children as to payment of benefits upon death or disablement—payment of lifelong allowances for children and payment of a whole range of other allowances in particular circumstances—was negotiated between the government and the then opposition, put to both parties and presented to the parliament, and the bill went through. Since that time, effectively, you would have noted in the last three or four years with all of the deaths in Afghanistan that there has been little to no public outcry as to the utility of benefits paid to the widows, wives and dependants of all of those men who have been killed.

I raise that history because the opposition—the government of the day—here today and the Labor Party in opposition for many, many years bring to this debate and discussion a proud record of involvement and activity over many years seeking to improve the health, the financial benefits and the welfare of our soldiers who we seek to send overseas to face death, and of their wives, children and others who are dependent should they pay the ultimate sacrifice. We bring—and we are proud to say it—a long and proud record of involvement.
and activity in this entire discussion. I have said it before and I say it here again today.

Why do we do that? Why do we say that? Because in the final analysis it is an irrational choice for a boy of 19, 20 or 21 to join the armed forces, to go to war, to face death and to eliminate his life, because that happens to many of them. We say that that irrational choice has to be provided for by the government, which asks soldiers to do that with an implied promise: that we will look after their wives, their children and their dependants as to their finances and their health for as long as they would remain dependants, if their husband or father should be killed. That is the philosophical justification for having higher, different and larger benefits, and for improving benefits for veterans across Australia.

So in that context, when this discussion comes before the chair what can we say?

Senator Ronaldson: Mr Acting Deputy President, on a point of order: I am really reluctant to do this, but we have not heard one word from the senator opposite about the matter that is the subject of this MPI, and I ask him please to address the MPI.

Senator MARK BISHOP: Mr Acting Deputy President, on the point of order: no-one else has bothered to put the history and context—the proud history—of the Labor Party in this debate, and that is why it is necessary to have it on the record so that veterans can understand—

The ACTING DEPUTY PRESIDENT (Senator Sinodinos): There is no point of order. The time for the discussion has expired in any case.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (17:52): On behalf of Senator Macdonald, the chair, I present the 10th report of 2012 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 10, dated 12 September 2012.

Ordered that the report be printed.

Human Rights Committee

Report


Ordered that the report be printed.

MINISTERIAL STATEMENTS

National Disability Insurance Scheme

Child Care

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (17:54): I present two ministerial statements, relating to the National Disability Insurance Scheme and childcare growth.

National Disability Insurance Scheme

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (17:54): by leave—In relation to the ministerial statement by Minister Macklin, I move:

That the Senate take note of the document.

Minister Macklin's statement observes that there have been a number of significant developments in relation to the NDIS since the release of the Productivity Commission's final report 12 months ago. Every government in Australia—Liberal and Labor, federal, state and territory—supports the NDIS. Every opposition in the country—
Liberal and Labor, federal, state and territory—supports the NDIS. We have had the $1 billion which was announced in the budget over the forward estimates—money that the opposition supports. We have had the announcement of five launch sites—which, again, the opposition supports. We have had the appointment of the chief executive of the NDIS transition agency—again, an appointment that the opposition supports. This is all good and positive news, but there are a number of tough questions which do have to be asked and facts which do have to be faced up to in relation to the NDIS, none of which were covered in Minister Macklin's statement. I will quickly take you through those, Mr Acting Deputy President.

We do not have an answer to the question as to how the first phase of the NDIS can be completed when the government has only allocated a quarter of the money that the Productivity Commission said was necessary for that first phase. The government has allocated $1 billion over the forward estimates, whereas the Productivity Commission said that $3.9 billion should be allocated. So we do not have an answer as to how that first phase can be completed with that underfunding. We also do not have an answer to the question as to whether the government is committed to meeting the Productivity Commission's target deadline of 2018-19 for completion of the NDIS; we do not have an answer as to how the government would fund a full national rollout of the NDIS, and we do not have answers to even the most general questions about eligibility in relation to the NDIS, which is something that is particularly causing concern at the moment to people with sensory impairments. We did see a few days ago the government release some draft eligibility criteria, but they were very general and do not really shed much light as to eligibility for potential beneficiaries.

These are very reasonable questions which the opposition have put to the government, and I have to say that we have put them to the government in a very sober and polite fashion in this chamber during question time and in Senate estimates committees. Despite the fact that they are reasonable questions and are put in a courteous way, seeking information, each and every time we have asked those questions what is thrown back in our face by the government, quite wrongly and erroneously, is that the opposition is not really committed to or in favour of an NDIS. That is complete rubbish. There is a pattern here every time we ask a question, and that pattern is an adversarial one. The government should not be adopting an adversarial approach in an area that should be marked by cooperation. Even when the opposition proposes a mechanism to work through some of these questions that I have posed and some of these issues that I have raised, whenever we propose a mechanism that can do that in a nonpartisan way the government again accuse us of really being against the NDIS.

The mechanism which the opposition has proposed as a circuit-breaker is the establishment of a joint parliamentary committee, chaired by both sides of politics, to oversee the implementation of the NDIS. The NDIS's implementation will span several parliaments, and we need a mechanism that can lock in the support of all political parties over that time frame and that can provide a forum where questions of the nature that I have raised in relation to eligibility, funding and design can be asked in a way that is not seen to be partisan—a forum where there is no reason why the government should feel threatened. It is important to get this right. We need a forum where these questions can
be asked to make sure the NDIS is the best that it can be.

The Leader of the Opposition, Mr Abbott, has written to the Prime Minister five times proposing this mechanism. The Prime Minister has to date given an unequivocal no. I have moved a motion in this chamber to establish this joint parliamentary oversight committee and I was very disappointed that the government and the Greens combined together to vote that motion down. And I am not the only person who was disappointed; there are large numbers of people who have disabilities who were looking forward to the NDIS and were disappointed. There are a large number of organisations who support people with disability and who advocate for people with disability who were disappointed that that motion was voted down by Labor and the Greens.

What the Prime Minister and the government have done is, in effect, to reject the hand of bipartisanship. The government pays lip service to bipartisanship in relation to the NDIS, but at every opportunity to give that meaning the government says no. But there is some good news: the government does have an opportunity to reconsider. Mr Christensen, our colleague in the other place, has introduced a similar motion in the House to establish this oversight committee, and the other place will soon have the opportunity to vote in support of that. I hope that the government and the Greens reconsider and that the Independent members in the other place will support that motion.

I suspect the government's hesitation in supporting the motion here is because they are worried about sharing credit for the NDIS, but I have to say this is not about sharing credit. The government of the day will always get credit if they do something good—as they should. What we are putting forward is an entirely different proposition. It is not about sharing credit; it is about sharing ownership. I do not think the government should allow some misplaced sense of policy vanity or an excessive concept of proprietorship to prevent them from supporting the motion that will establish the joint parliamentary committee.

If there were any further demonstrated needed of the desirability of a mechanism to elevate the NDIS beyond partisanship, it was provided by the recent COAG meeting of heads of government. We saw there a Prime Minister who had the choice to treat the states and territories as partners or to treat them as adversaries. She chose to treat them as adversaries. That was something that surprised me because the only way an NDIS will become a reality is if the NDIS is viewed as a cooperative venture between the Commonwealth and all state governments. The Prime Minister sought to treat that COAG meeting not as a cooperative exercise but rather as some sort of industrial negotiation, and we will never see an NDIS for so long as a Prime Minister treats the NDIS negotiations as an industrial venture.

The states bring enormous goodwill towards the NDIS. Every state and every territory wants to see an NDIS. The states and territories even before COAG committed that they would put the money they currently spend on disabilities into an NDIS as per the Productivity Commission vision. My message to the Prime Minister is simply this. She said a few days ago when she was in Perth that she was going to fight for the NDIS; but, Prime Minister, there is no-one fighting you. Everyone wants the NDIS. Stop picking fights, start talking, start delivering. Everyone wants this. Make it happen.

Senator SIEWERT (Western Australia—Australian Greens Whip) (18:04): I take note of the statement tabled by the minister.
with responsibility for implementing the NDIS, Ms Macklin, about progress on the NDIS. I first pick up one of the points that Senator Fifield made about the oversight committee and groups wanting to see the oversight committee. Although I was not in this place at the time, because I was absent on bereavement leave, I did in fact get my office to check with advocates of the NDIS about whether they wanted to see such a committee in place. The response that we got was in fact not supportive of putting such a process in place, because they thought it would take even longer to implement the NDIS. I too talk extensively to people working on the NDIS, and people are very keen to see the NDIS in place as soon as possible, which is why we have welcomed the release just recently of the next series of discussion papers around the eligibility criteria and the reasonable and necessary support.

Having said that, I do in fact share Senator Fifield's comments on the fairly limited nature of the discussion papers that have been tabled. I understand they are eliciting a great deal of comment from advocates for the NDIS because people are starting to get anxious about who will be in and who will be out. In particular I note that advocates on behalf of those with sensory impairments are quite concerned that the NDIS will not be meeting their needs. I note that in the discussion paper on eligibility it does mention those with sensory disability or impairment, and I think that is an important step for people with a sensory impairment or disability, but I think that we need a lot more bones around the eligibility criteria and reasonable and necessary support before people will feel more relaxed. I am particularly disappointed that my home state of Western Australia has not got a launch site. There is a lot of support for the NDIS in Western Australia; in fact, representatives from Western Australia will be here at Parliament House for the NDIS breakfast next Monday. I look forward to them going back to Western Australia and continuing their advocacy for the NDIS. Western Australia does sort of pride itself on its support for people living with a disability. Having said that, we still have a large number of problems with disability support in Western Australia. Many people in Western Australia call it the race to the bottom, where you have to prove how bad you are before you get support. In fact, in Western Australia we do not have an idea of the unmet need for disability support because people stop applying for support—because they are sick of the race to the bottom and they are sick of trying to get support. We really do not have a clear idea of what the unmet need in my home state is.

I will note that our state government has been making some progress. It has said that it wants to continue to be involved in the NDIS and that it wants the NDIS to build on what happens in Western Australia. My concern there is that the state government is trying to portray the situation in Western Australia as if we have got a near-perfect system, and that is of course far from the reality. They say they want to build on that system, and I agree that some of the elements of our system, such as local area coordinators, individualised packages and those sorts of things, are worthy of support. We also have a strong disability services sector and we have seen, when we have had the various Senate inquiries, that there has been a stronger relationship between the sector and the government in Western Australia than in the other states. Again, you do not have to be very good to be better than some of the other states—not to have too much of a go at them.

My concern is that Western Australia yet again seems to be saying: 'We want to have
our own system. We don't want to be part of a national system.' The power of the NDIS will be that we will have a truly national system. So what I would dearly love to see is my home state taking the best of our system—and, as I have just acknowledged, there are some key elements that are very good and that I know the federal government has been looking at. But please do not come up with an entirely separate system in Western Australia to that of the rest of Australia! It is really important, I believe, not only that we have a truly national system but also that we do not forsake what is good about the West Australian system. So my plea is for our Western Australian government to come on board with the national approach and very strongly advocate for the best of our system to be included—but not to try and undermine a national approach, or a national agency, and not to try and run the states' rights issue yet again. I will be watching that issue very carefully.

I would like to make a few comments on some work that Graeme Innes, from the Human Rights Commission, has been doing around the NDIS. I know that next Monday he is speaking in this place to the Parliamentary Friends of Disability Group. Some of the key elements that he thinks need to be included in the NDIS are really important: for example, making sure there are review mechanisms in place for the NDIS—mechanisms for the review of the scheme funding, the eligibility decisions and, importantly, an independent merits review. He believes that making sure we have those review mechanisms is one of the key elements needed for people to have confidence in the decision-making processes. He also articulates the need for the NDIS to be practising what it preaches, in making sure that it incorporates procurement roles and models into the NDIS. That is a very important concept. For example, he says:

There are clear benefits in taking measures to ensure that accessibility features are built into universally designed goods, services, equipment and facilities, instead of people with disability needing to be served by specialised, segmented and thus inevitably less competitive and more expensive markets.

I think that is very important as well. He also talks about the need to look at the implementation of the various conventions to which Australia is a signatory and under which we have obligations, including of course the Convention on the Rights of Persons with Disabilities. He has some very good points about assessing our NDIS against those obligations.

The other important point he makes is around advocacy. He points out that once we get this scheme in place, it will be a powerful tool of advocacy for those with disabilities. It will be advantageous for people with disabilities that the NDIS will be able to advocate on their behalf—for example, in ensuring that access standards are met, so that people will have easy access to facilities. The example he used to describe this to me was ensuring that we are meeting the appropriate standards for access to cinemas, and that cinemas have those measures in place. What he is saying is that it will reduce the economic impact and the cost to an NDIS if, for example, people can have easy access to cinemas and do not need assistance to be able to access those facilities. That is a very easy example that I have just used.

Another issue that has been raised with me in terms of the NDIS is ensuring that it adequately addresses the issues raised by FASD. We have in this place today representatives talking about FASD and about whether the NDIS eligibility criteria are going to be strong enough and effective enough to accommodate those with the various FASD disorders. Another issue, before we finish, is the cut-off age at 65. If
you are under 65 you gain access to the NDIS and, if you are not, you are in the aged-services sector. That is a strong concern for many people who are ageing with a disability. What happens when you reach the age of 65 and have a different set of support services? The government says that that will not happen and I am keen to see that that is the case. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Sinodinos): Order! Senator Siewert, your time has expired.

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

Leave granted; debate adjourned.

COMMITTEES

Human Rights Committee

Report

Senator STEPHENS (New South Wales) (18:15): by leave—I move:

That the Senate take note of the report.

Senator STEPHENS: Mr Acting Deputy President, I seek leave to make a statement in relation to the report of the Parliamentary Joint Committee on Human Rights that was tabled.

Leave granted.

Senator STEPHENS: I missed the report being tabled, but I do want to make some brief remarks about what is becoming a very important Parliamentary Joint Committee on Human Rights. Processes are being developed for the committee to develop a robust framework in order to discharge its obligations.

In this second report of the Parliamentary Joint Committee on Human Rights the committee has considered nine bills that were introduced during the period 14 August to 23 August 2012. As well as those bills we have also considered 146 legislative instruments registered with the Federal Register of Legislative Instruments between 23 July and 22 August 2012.

Three of the bills do not engage human rights. One bill was introduced with a statement of compatibility claiming the bill does not engage human rights but for which the committee considers it requires further information before it is able to form its own view. A further bill was introduced without a statement of compatibility.

In each of those cases the committee proposes to write to the relevant minister and seek clarification before considering the bills further.

The remaining four bills engage human rights. The committee considers that one of these bills is compatible with the rights engaged and that it requires further information to assist in its consideration of the remaining three bills.

Once again, I would like to emphasise that the committee seeks to work constructively with the proponents of bills as they familiarise themselves with the requirements of developing a statement of compatibility.

The committee is particularly mindful of the needs of private members and senators in this regard. Private members and senators do not have the benefit of the resources of departments to support them as they familiarise themselves with the new requirements. We urge private members and senators to contact the committee secretariat to seek assistance in locating relevant reference material and templates. In fact, the committee has been considering how it can assist more in this way and is working on some practice notes to assist members and senators and their staff in drafting those statements of compatibility.

In considering its first tranche of legislative instruments, the committee notes that most of the instruments do not raise human rights compatibility concerns and
have been registered with statements of compatibility that the committee considers to be adequate.

However, a number of instruments have been introduced with statements of compatibility that do not fully meet the committee's expectations. As the instruments in question do not raise human rights compatibility concerns, the committee proposes to write to the relevant ministers in a purely advisory capacity providing guidance on the preparation of statements of compatibility.

The committee hopes that this approach will assist in the preparation of future statements of compatibility that conform more completely to the committee's expectations.

The committee has identified six instruments that it considers appear to be compatible with human rights but for which it proposes to seek further clarification from the relevant minister.

We have continued our good work and we continue to shape the environment and the framework in which we will consider the legislation as required under the act. I would like, again, to take the opportunity to place on record my thanks to the chair, Mr Harry Jenkins MP, and all of the other members of the committee, including those here in the Senate, who have been very diligent and seriously minded about discharging their duties and the work of the committee. I thank the Senate.

Question agreed to.

MINISTERIAL STATEMENTS

Child Care

Debate resumed on the motion:

That the Senate take note of the document.

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (18:19): I seek leave to speak to the ministerial statement on child care.

Leave granted.

Senator BACK: I seek leave to continue my remarks.

Leave granted; debate adjourned.

DOCUMENTS

Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red. Statements of compliance and the letter of advice are tabled in accordance with continuing orders on departmental agency files and contracts.

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

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Sinodinos) (18:20): The President has received letters from a party leader requesting changes in the membership of various committees.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:20): by leave—I move:

That senators be discharged from and appointed to committees as follows:

National Broadband Network—Joint Standing Committee—

Appointed—Participating members: Senators Ruston and Sinodinos

Public Accounts and Audit—Joint Statutory Committee—

Discharged—Senator Kroger

Appointed—Senator Ruston

Treaties—Joint Standing Committee—

Discharged—Senator Birmingham

Appointed—Senator McKenzie.
Question agreed to.

BILLs

Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012

Courts Legislation Amendment (Judicial Complaints) Bill 2012

First Reading

Bills received from the House of Representatives.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:21): 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 FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:22):

I present the explanatory memoranda and table the revised explanatory memorandum relating to the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012, and 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—

[Introduction]

I am pleased to introduce legislation to strengthen and enhance systems for managing complaints about the conduct of federal judicial officers.

The first bill, the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill which I will speak to now, deals with the role of the Parliament when considering removal of a judge under the Constitution.

The second bill, the Courts Legislation Amendment (Judicial Complaints) Bill, deals with the management of complaints within the courts.

This Labor Government is determined to ensure that the federal court system delivers accessible, equitable and understandable justice – one which protects and serves individual complainants at the same standard as large corporate players enjoy.

That is because an independent and impartial judiciary, in which the public has confidence that their rights will be protected and their complaints dealt with speedily and transparently, is one of the foundations of our democratic society.

In a mature, strong democracy such as Australia, it is easy to underestimate how critical these foundations are.

Judges form an integral part of the justice system in Australia and serve the community by declaring and upholding the law.

Australia continues to be very well served by its judiciary.

Consistent with the rule of law, our judiciary must always be accountable in relation to the exercise of judicial power.

An important mechanism for ensuring judicial accountability includes effective complaints handling processes, in a manner consistent with the independence of the judiciary.

The Senate Legal and Constitutional Affairs Committee stated in its 2009 report ‘Australia’s judicial system and the role of Judges’ that:

‘Fair and effective complaints handling is a critical component of a judicial system that is both respected and just, and seen to be so.’

That there have been few serious complaints about judges is testament to the high calibre of our judiciary and their commitment to the responsibility entrusted to them as holders of judicial office.

Instances of removal of judges from office in Australia have been extremely rare.
Since federation, the size of Australia’s Commonwealth judiciary has expanded to over 80 judges and 62 Federal Magistrates, and so we must ensure that we continue to support the independence and high quality of our judiciary into the future.

The Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill provides a standard mechanism to assist the Parliament in its consideration of removal from office of a judge or federal magistrate under the Constitution.

The Courts Legislation Amendment (Judicial Complaints) Bill, also to be introduced today as part of the Government’s package of reforms, provides legislative support for a process within the courts to assist the Chief Justices of the Federal Court and the Family Court, and the Chief Federal Magistrate to manage complaints about judicial officers that are referred to them.

Together these bills provide a clear, accountable and effective system for handling complaints about federal judicial officers. Importantly, they were developed in consultation with, and are supported by, the heads of federal court jurisdiction.

[Constitutional removal of judges]

Under Australia’s Constitution, the power to remove a federal judicial officer lies with the Governor-General in Council on an address from both Houses of the Parliament in the same session, praying for removal on the ground of proved misbehaviour or incapacity.

This Constitutional requirement goes to the very heart of the independence of the judiciary.

It upholds the separation of the limbs of government and strengthens public confidence in the Commonwealth judiciary by providing a mechanism that enables the Parliament to seek removal of a judge who is found to be unfit to hold judicial office.

By requiring the conduct of a judge to amount to ‘proved misbehaviour or incapacity’ in the estimation of both Houses of the Parliament, the Constitution ensures that only the most serious complaints against judges are considered.

In the event of a serious complaint about a judge, where the Parliament is called upon to consider removal, there is currently no standard way to assist the Parliament discharge its constitutional responsibilities.

While serious complaints about judges are extremely rare, previous cases have highlighted the uncertainty about how serious complaints about judges could be fairly and appropriately investigated by the Parliament.

It is therefore important that a clear, understandable and fair framework is in place in the event that a serious complaint about judicial misbehaviour and incapacity were to arise.

[Key features of the bill]

This bill establishes an effective tool that the Parliament can employ to inform itself about the factual basis of an allegation of serious misbehaviour or incapacity against a Commonwealth judicial officer.

The bill provides a fair and transparent process for the investigation of an allegation which can be used flexibly depending on the different circumstances which may arise.

The bill enables the Parliament to establish a Parliamentary Commission where a resolution is passed by each House of the Parliament, in the same sittings, to investigate a specified allegation about a specified Commonwealth judicial officer.

It is up to the Parliament to decide whether and when a Commission is needed.

A Commission would provide for an independent investigation into the factual basis of the allegation, in order to provide Parliament with appropriate evidence for its consideration.

A Commission would in no way usurp Parliament’s role in determining whether the conduct of a judicial officer amounted to proved misbehaviour or incapacity.

The bill reflects the non-partisan nature of a Commission by requiring its members to be appointed through resolution of each House of the Parliament, and with nominees to be put forward following consultation between the Prime Minister and Leader of the Opposition.

The bill establishes transparent processes for a Commission’s investigation and report to the Parliament.

In particular, the bill gives a Commission the powers and protections it needs to operate
effectively, while maintaining appropriate safeguards.

It enables a Commission to operate in an inquisitorial manner, similar to the way that Parliamentary committees operate.

A Commission will be required to act in accordance with the rules of natural justice, and the Bill specifies procedures a Commission must follow to ensure the Commonwealth judicial officer who is the subject of an investigation is treated fairly.

Chapter III of the Constitution establishes the independence of the Commonwealth judiciary from other limbs of government.

Consistent with this independence, a Commission would not have power to require the participation of current and former Commonwealth judicial officers in its investigation into an allegation.

Commonwealth judicial officers could still participate and assist a Commission’s investigation should they choose to do so.

[Consultation]

The Government has consulted across the Executive, Judiciary and the Parliament in development of the bill.

The Government is grateful for the views and suggestions of those significant stakeholders who have assisted to refine the bill.

I would particularly like to acknowledge the efforts of former Member, the Hon Duncan Kerr, in providing a valuable foundation for this bill.

Together with its companion bill, the Courts Legislation Amendment (Judicial Complaints) Bill, they will considerably improve the current ad hoc and somewhat opaque system of judicial complaints handling.

[Conclusion]

In Australia we must never take our constitutional strengths and system of governance for granted. Confidence in our democracy rests on continued improvement and vigilance.

These bills are important steps on the path, taken by this reformist Labor Government, to ensure our federal judicial system is responsive, impartial, and capable of resolving serious complaints.

I commend the bill.

Courts Legislation Amendment (Judicial Complaints) Bill 2012

[Introduction]

This Bill, in conjunction with the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 just introduced, will strengthen and improve the transparency of managing complaints about the conduct of federal judicial officers.

This Labor Government is committed to delivering an accessible, equitable and understandable justice system – one which serves individual complainants as well as large corporate players.

These bills, in combination, will take us an important step closer to these goals.

Developed in consultation with the Federal Court and Family Court Chief Justices, and the Chief Federal Magistrate, they will support the heads of jurisdiction in their role administering and maintaining public confidence in their courts.

[Complaints handling within the courts]

This bill’s companion bill, the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012, will provide the Parliament a clear framework for dealing with very serious complaints about judges.

However, Parliamentary consideration of whether a judge should be removed from office forms only one part of a system to handle complaints against federal judicial officers.

Given that the Parliament would only consider very serious complaints that might lead to removal of a judge, it would be expected that Parliamentary consideration would only occur comparatively rarely.

Another important component of judicial accountability is through complaints processes that operate within the federal courts.

The Chief Justices and the Chief Federal Magistrate rightly take a central role in any response to concerns about judicial conduct raised by parties or members of the public. This means
that almost all complaints about judges or federal magistrates would be appropriately addressed through the courts internal complaints processes.

The Chief Justices and the Chief Federal Magistrate play a significant part in the management of complaints about other judicial officers that have been brought to their attention.

An effective system for handling complaints against federal judicial officers recognises that concerns about judicial behaviour may vary.

The flexible approach being implemented with these reforms means responses to complaints can be tailored to the relevant circumstances.

Accordingly, complaints handling within the courts will remain largely non-statutory in nature, but supported in a number of key elements by this Bill.

This bill will not apply to the High Court.

That is because the High Court’s position at the apex of the Australian judicial system means that it could be called upon to determine the validity of any structure established to handle judicial complaints.

[Key features of the bill]

The bill gives a statutory basis for the courts heads of jurisdiction to manage complaints about judicial officers, and provides immunity from suit for participants in the complaints handling process.

It also excludes documents created through the complaints handling scheme from the operation of the Freedom of Information Act 1982.

This exclusion is appropriate to protect sensitive or personal information that may be created in the course of complaints handling processes.

The bill also enhances the ability of heads of jurisdiction to take timely action in relation to judicial officers, such as temporary restriction to non sitting duties, in order to maintain public confidence in the specific court and wider judiciary.

[Conclusion]

An effective complaints handling system serves the needs of the public, improves public confidence in the judiciary, and allows better courts administration.

This Government is confident that there will be significant longer-term benefits arising from these Bills for our justice system.

Introduction of this bill and the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill represent a significant amount of work over many years, and I would like to thank all of those involved.

The Government will continue to work closely with the courts in implementing these important reforms.

Together, these bills create an integrated, clear and effective system to handle complaints about federal judicial officers that promotes accountability and transparency of processes.

The reforms outlined in both bills can only serve to strengthen the judiciary and enhance the public’s confidence in the administration of justice in this country.

I commend the bill.

Debate adjourned.
National Portrait Gallery of Australia Bill 2012


First Reading

Bills received from the House of Representatives.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:23): 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 FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:24): 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—

National Portrait Gallery of Australia Bill 2012

Australians value a rich cultural life and more than 90 per cent of us participate in cultural activities and practice. However Governments at all levels, private individuals and companies must also invest in the arts and in developing Australia's considerable creative talent because it produces important social and economic dividends.

Investment in the arts helps underpin respect for diversity and individual expression. It encourages team work, supports the development of community cohesion and shared exploration of our identity and our role internationally – these are values and commitments that this nation cherishes. There is also an economic dividend—crucial as we face today's global challenges. Our comparative advantage and strengths are going to be determined by how innovative and creative we are in increasing productivity. Investment in the arts can produce that economic dividend.

The development of a National Cultural Policy, the first in nearly twenty years, will build the base for future growth in the arts, cultural heritage and creative industries. I look forward to delivering this policy later this year and setting out a strategic framework of support for individuals, organisations and communities involved in cultural expression. As Minister for the Arts I am dedicated to finding every opportunity to tell our stories, educate and skill our workforce and enable our culture to connect with the rest of the world.

This bill, establishing the National Portrait Gallery of Australia as a statutory authority, supports and delivers on the goals of the National Cultural Policy. It will enable the home of the national portrait collection to develop and flourish as one of Australia's pre-eminent national cultural institutions.

The idea of creating a national portrait gallery for Australia is not new. In the early 1900s the painter Tom Roberts was the first to propose that Australia should have a national portrait gallery. However, it was not until the 1990s, with the generous support of Gordon and Marilyn Darling, that the idea of a national portrait gallery began to take shape.

In 1998, the National Portrait Gallery was established as a part of the Government department responsible for the Arts, and was given the brief to develop a collection of quality portraits reflecting the breadth and energy of Australian culture and endeavour. The opening of displays and programs in the refurbished spaces of Old Parliament House in 1999 signalled the Gallery's arrival as a national collecting institution. The dedicated home of the Gallery was opened to the public in 2008 and since then, the Gallery and its unique building has won over 28 local, national and international awards.

Since 2008, the Gallery has acquired an impressive collection of over 2000 works of art, encapsulating the essence of achievement and endeavour across Australia. It has become a place that brings history and art together, with the
collection tracing our progress as a nation. It features portraits of the most famous Australians but also tells us about ourselves – who we read, who we watch, who we listen to, who we cheer for, who we aspire to be and who we'll never forget.

The Gallery has welcomed over 2.2 million visitors to view its collection in Canberra, with a similar number again participating in Gallery exhibitions, virtual activities and community outreach and engagement across Australia and overseas. The popular appeal of the National Portrait Gallery is borne out in the high satisfaction levels expressed by visitors.

As part of the 2012-13 Federal Budget, the Australian Government announced that the National Portrait Gallery would be established as an independent statutory authority. This decision acknowledged the success and significance of the Gallery and recognised that it should have a similar status to Australia's other great national collecting institutions, as a Commonwealth authority.

Establishing the Gallery as a separate statutory authority subject to the Commonwealth Authorities and Companies Act 1997 will ensure it is able to establish governance arrangements appropriate for managing a significant national collection. It will ensure the Gallery is overseen by a governing board, provide for greater financial certainty and independence, increase its public profile and position it more effectively to attract corporate sponsorship and philanthropy.

Establishing the National Portrait Gallery of Australia as a separate statutory authority will enable its functions to be enshrined in legislation for the first time. The functions of the National Portrait Gallery of Australia will be to develop, preserve, maintain, promote and provide access to a national collection including portraits that reflect the identity, history, diversity and culture of Australia. The Gallery will continue to develop and engage a national audience by providing access to its collection, other artworks and related material through exhibitions, publications and online programs.

The national collection will hold a unique sample of quality portraits of subjects who have made a major impact on Australia and internationally. The Gallery will be in position to foster enquiry, research, discussion, interpretation, participation and enjoyment of portraiture. The Gallery's program will continue to develop and be diverse, energetic and dynamic with constantly changing collection displays, exhibitions, formal and informal learning activities delivered onsite and online.

The bill gives the Gallery a strong mandate and a clear and coherent purpose reflecting its cultural role and importance. The Gallery will be expected to be a national cultural leader, responsive to emerging national and international opportunities and challenges, including technological innovations and changing audience preferences.

From its Canberra hub, the National Portrait Gallery of Australia will provide a national portraiture collection to serve all Australians, reaching the widest possible audiences in places where future subjects for the collection make their extraordinary contributions to Australian life. It will be a source of great pride to all Australians as well as a fitting tribute to Canberra, our national capital, in its centenary year.

I commend this bill to the Senate.


This is a companion bill to the National Portrait Gallery of Australia Bill 2012 which is also being introduced today. The National Portrait Gallery of Australia (Consequential and Transitional Provisions) Bill 2012 contains consequential amendments and transitional arrangements related to the proposed establishment of the National Portrait Gallery as a new statutory authority from 1 July 2013.

The key elements of the bill relate to transitional arrangements, including the transfer of assets and liabilities, matters in relation to the transfer of employees from the Department of Regional Australia, Local Government, Arts and Sports to the Gallery and the closing of the National Portrait Gallery Special Account.

It is proposed that on the establishment of the National Portrait Gallery of Australia on 1 July
2013, those assets and liabilities of the Commonwealth which are related only to the National Portrait Gallery program under the Department will be transferred to the National Portrait Gallery of Australia.

This bill also enables the smooth transfer of current employees to the new agency by ensuring that staff will not be disadvantaged as a result of the transfer. Transferring and new employees of the Gallery will continue to be covered by the current Departmental enterprise agreement until the National Portrait Gallery of Australia negotiates a new enterprise agreement in accordance with the Fair Work Act 2009.

In line with the new governance structure, the existing National Portrait Gallery Special Account will be abolished and an equal amount will be appropriated to the National Portrait Gallery of Australia. This will ensure that the funds in this account, including donations, are retained and available to support the growth and development of the Gallery.

The bill also provides for consequential amendments to the Archives Act 1983. This includes the classification of artworks in the national collection of the Gallery as exempt material under the Archives Act, a measure that is in line with the exemptions granted to other such collections of historical and cultural material.

Establishing the National Portrait Gallery of Australia as a separate statutory authority will provide it with an appropriate governance framework to capitalise on entrepreneurial and fundraising opportunities. It will also give it commensurate standing alongside our other great national collecting institutions. This bill will ensure that the transfer is seamless.

I commend this bill to the Senate.

Debate adjourned.

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
Legislation Committees
Report
Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (18:24): Pursuant to order and at the request of the chairs of the respective committees, I present reports on the examination of annual reports tabled by 30 April 2012.

Ordered that the reports be printed.

Legal and Constitutional Affairs Legislation Committee
Community Affairs Legislation Committee
Report
Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (18:25): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Legal and Constitutional Affairs Legislation Committee and the Community Affairs Legislation Committee as listed at item 17 on today's Order of Business, together with Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

BILLS
Broadcasting Services Amendment (Anti-siphoning) Bill 2012
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.
to which the following amendment was moved:
Omit all words after "That", substitute:
the Senate declines to give this bill a second reading at this time, and the bill, and any amendments to it that may be subsequently circulated, be referred to the Environment and
Communications Legislation committee for inquiry and report by 1 November 2012.

Senator BILYK (Tasmania) (18:26): As I was saying before my remarks were interrupted previously, Australians love their sport. The government understands this and understands that not all Australians can afford, or want, to opt into subscription television services. The government also understands that digital TV is transforming the choices Australians have to watch sport, news and entertainment. Digital TV has completely altered the way the media landscape looks, compared with when the Broadcasting Services Act was introduced.

This bill seeks to preserve the existing arrangement whereby subscription television broadcasters are prevented from acquiring the rights to events on the antisiphoning list before free-to-air television broadcasters have had the opportunity to acquire those rights. The bill will introduce a two-tier antisiphoning list. Tier A events will be required to be shown live on a free-to-air broadcaster's main channel. Tier A events include: the Olympic Games, including the opening and closing ceremonies; the Melbourne Cup; the AFL and NRL grand finals; the Rugby World Cup final; each test, one day, and Twenty20 cricket match involving Australia held in Australia; FIFA World Cup soccer matches involving Australia; the Bathurst 1000; and the Australian Open men's and women's tennis final, among others.

Tier B events will be required to be shown live or with a maximum delay of four hours. Tier B events can also be premiered on free-to-air digital television multichannels. This will provide greater flexibility for the coverage of important events, while also helping to drive the take-up of digital television. Australians actually want to watch the sport on the antisiphoning list. The antisiphoning list should not be used to purchase the rights to sport just to horde them or to prevent competitors from getting access.

The bill will introduce coverage and must-offer obligations on free-to-air broadcasters. This will ensure that broadcasters actually televise the listed events to which they have rights, or offer on those rights if they do not intend to show the event. The government also recognises that new media, like internet TV, has changed the way the media landscape operates. The bill amends the BSA to extend the operation of the Anti-siphoning Scheme to new media providers. This will future proof the Anti-siphoning Scheme and ensure that listed events are not siphoned off exclusively to content service providers, such as internet protocol television providers.

Deals between broadcasters and sporting bodies are complex and take significant time to negotiate, and the Australian public will not accept the uncertainty of whether a major sporting event will or will not be televised. Consequently, the bill will lengthen the automatic delisting period from 12 weeks to 26 weeks. It will also allow the minister, by legislative instrument, to extend this period to 52 weeks for AFL and NRL premierships. This means that listed events will be removed from the list at a date further out from the event, and will allow sporting bodies ample time to negotiate with pay television broadcasters, and secure a reasonable commercial outcome, in situations where free-to-air broadcasters are not interested in acquiring the rights to these events. The bill amends the BSA to provide the Australian Communications and Media Authority with the necessary power to monitor and enforce the Anti-siphoning Scheme. The bill also amends the BSA to permit the minister to designate certain conditions in relation to the events of the Australian Football League, the AFL, and
the National Rugby League, NRL, premiership covered by the Anti-siphoning Scheme. These means will allow the minister to protect certain matches for free-to-air television under the Anti-siphoning Scheme.

The bill will regulate the 2017 AFL seasons and beyond. However, the 2012 to 2016 AFL premiership seasons will not be directly regulated under the new scheme as the AFL’s new broadcast rights agreement for this period provides substantial and significant outcomes for AFL fans on free-to-air television, including shorter delay times, four matches per round, continued provision of matches on Friday and Saturday nights, and the protection of coverage of Western Australian and South Australian teams in their home states.

The NRL will be regulated under the new scheme. The bill provides for the making of the relevant legislative instruments not later than 1 January 2013 to provide time for the NRL to progress its rights negotiations for the 2013 season and beyond and deliver a quality outcome for NRL fans. The bill will also enable the minister to exempt events from the acquisition and conferral restrictions in circumstances where the rights to the whole event are not made available by the rights holder, or where a free-to-air broadcaster has no intention of acquiring the rights to the whole event. This will ensure that subscription broadcasters and content service providers are not unreasonably locked out from obtaining rights.

The bill’s quota group mechanism provides a means of effectively regulating the round-by-round matches of the AFL and NRL premierships under the Anti-siphoning Scheme. In its current form, the mechanism would allow subscription broadcasters to acquire any round-by-round matches of the AFL or NRL, provided this acquisition did not prevent free-to-air broadcasters from acquiring the rights to four weekly AFL matches and three weekly NRL matches.

On 22 March 2012, on the recommendation of the Selection of Bills Committee, the Senate referred the Broadcasting Services Amendment (Anti-siphoning) Bill 2012 to the Environment and Communications Legislation Committee for inquiry and report by 4 May 2012. As a member of the committee I had the opportunity to hear evidence at the public hearing into this bill from numerous stakeholders, including the Australian Football League, Foxtel, FreeTV Australia, ABC, ACMA and DBCDE. I would like to quote the ABC’s submission which highlights the importance of this bill:

The ABC strongly supports the policy principles underlying the Bill, which seeks 'to ensure that opportunities for free-to-air television coverage of anti-siphoning events are maximised'... The free availability of significant sporting events remains a key public interest objective. In a period of significant structural change in the media industry globally, government intervention to support this objective remains relevant given that most new and emerging media platforms are likely to be subscription based. Shared experience of significant sporting events contributes strongly to a sense of national and cultural identity. Audience numbers demonstrate the continued popularity of sports coverage in the Australian Community. In regards to the need for antisiphoning legislation to cover emerging technologies I would like to quote the report:

Given the burgeoning use of new media the committee believes it is appropriate for the anti-siphoning regime to take account of content service providers. The committee is also aware that the rapidly evolving media landscape will likely impact on the new anti-siphoning regime and its application to new media platforms. The proposed statutory review of the anti-siphoning scheme is an appropriate process during which the relevance and effectiveness of the regime in this regard can be assessed.
This bill is the result of a lot of hard work by the government and by Minister Conroy’s office and department, in consultation with a wide variety of stakeholders. This government has a commitment to keep the sport that Australians want to watch on our TV screens, free for all Australians to watch. With 70 per cent of Australians being unable to afford or choosing not to pay to watch sport on television, the antisiphoning list is vital to ensure all Australians are able to watch key sporting events. It is in the public interest to ensure significant sporting events are available free to air, as they have always been. It is what the Australian people want. It is what the government promised. I commend this bill to the Senate.

Senator EGGLESTON (Western Australia) (18:34): I would like to make a few remarks about the Broadcasting Services Amendment (Anti-siphoning) Bill 2012. I was chairman of the Senate communications committee for a long time—for about eight years, in fact—and antisiphoning was always an issue because it meant that to some degree the public was not getting access to televised sporting events, which of course to Australians is important because Australians love their sport: we are sports loving nation—Aussie rules, rugby, tennis, swimming, horseracing, cricket. Anything at all that is competitive, Australians like to watch on TV. But, because of the antisiphoning legislation there were sometimes restrictions which meant that people could not watch the sports they wanted to on free-to-air television if they had been purchased by pay TV companies, whose coverage was limited.

This bill proposes to repeal the current antisiphoning and antihoarding provisions in the Broadcasting Services Act and to introduce new antisiphoning measures. Of course, the world has changed and the world of broadcasting from the time when these provisions were first put in place, because now we have digital television. That has brought with it, through narrower spectrum, the opportunity for multichanneling. Television stations now often have three or four channels. That, of course, means that they are looking for content and the opportunity to broadcast sport to fill that content and to attract an audience is very, very important in that context. Siphoning refers to the practice employed by pay TV broadcasters, such as Foxtel and Austar, in which they adopt or siphon off some sporting events that have traditionally been broadcast on free-to-air television. This means that Australians who do not subscribe to pay TV are sometimes prevented from being able to see such important programs. As antisiphoning legislation currently stands, pay TV licensees are prohibited from acquiring rights to television listed events on pay TV until rights have first been acquired by the ABC, SBS or one of the commercial broadcasters. The antisiphoning listed events are determined by the Minister for Broadband, Communications and the Digital Economy and are on what is known as the antisiphoning list. These events must be available to free-to-air television for viewing by the public and provision is also made for an event to be delisted on the chance that no free-to-air broadcaster displays an interest in acquiring the broadcasting rights.

Australians love their sport. Antisiphoning laws and protections permit sport to be aired on free-to-air broadcasting and have been around for some time. There has been quite a lot of public and industry discussion about the need to reform the antisiphoning regime in view of new technological developments, as well as the need to provide equity to the community, and this bill goes some way to ensuring that all Australians will have the expectation of being able to view the great sporting events which are going on. The bill
allows free-to-air broadcasters to make greater use of their digital multichannels, which means that the bill is up to date with contemporary technology. It is a sensible move which will increase the programming flexibility of broadcasters without impacting on the ability of Australians to access free-to-air sports.

The bill also increases the period before an event where, if free-to-air broadcasters have not purchased the rights to an event and it is therefore not being broadcast on free-to-air TV, the event is automatically delisted from 12 to 26 weeks. This will enable pay TV providers to better assess, prepare for and manage their purchase of rights to such events and sports bodies to better negotiate and engage with broadcasters for the sale of broadcasting rights. In a similar light, the bill introduces a must-offer provision which requires free-to-air broadcasters that hold the broadcast rights to an event, but which cannot or do not cover the event, to offer those rights to other free-to-air broadcasters within 120 days of the event for $1 to prevent hoarding of rights by free-to-air broadcasters. Hoarding of rights was one of the big issues which needed to be addressed by this legislation and it has been, through these provisions. That is a public benefit.

Under the bill we will also see the introduction of a tier system for antisiphoning, while new category A and category B quota groups will enable different conditions to be applied to different events. Tier A includes iconic events such as the Melbourne Cup, the Australian Open finals—the West Australian Football League final would, I suppose, have to be up there with those—and the AFL and the NRL final series, and must be broadcast live or with as short a delay as possible. Tier B events must be broadcast within four hours of play commencing and may be broadcast on digital multichannels. Quota groups are rounds of AFL and NRL matches where a minimum number of matches—a quota—must be shown on free-to-air television. This therefore provides flexibility for certain listed events to bypass certain antisiphoning provisions. The quota is four for AFL matches and three for NRL matches, meaning pay TV may acquire the rights for the remaining matches. This system will also enable the minister to determine which is the best Friday night match which must therefore be shown on free-to-air TV around the country or the state concerned, and will enable matches involving local teams to be shown in their state market.

The listing of particular events is a matter of ministerial discretion and adds to the sense of some stakeholders that the system is overly complex and provides too much ministerial discretion, but this legislation should change that somewhat. The changes that are encompassed in this bill have been a long time coming. The government first announced the changes to the scheme in November 2010—almost two years ago. Since then these changes have been subject to much consideration, commentary and examination, including a Senate inquiry. The Senate inquiry made several recommendations, some of which the government picked up and some of which it did not, but nevertheless this new bill is a step forward and means that more Australians will be able to watch major sporting events on free-to-air television. That is to be applauded as a definite gain for the Australian public.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (18:44): I rise to speak on the Broadcasting Services Amendment (Anti-siphoning) Bill 2012. I would like to thank all the contributors to this debate—particularly those who spoke this evening, Senators Bilyk and Eggleston.
The Australian government is committed to ensuring that iconic and nationally significant events are made available to Australian audiences on free-to-air TV. This bill will deliver a more effective antisiphoning scheme and increase the coverage and quality of major free-to-air television events. A significant reform will be the introduction of a two-tier antisiphoning system that Senator Eggleston just spoke about. The bill will establish two tiers, tier A and tier B. Nationally iconic events such as the Melbourne Cup and the Ashes cricket will be on tier A. Free-to-air broadcasters for the rights to these events will show them live on their main channel, reflecting their importance and their popularity. Regionally iconic and nationally significant events such as State of Origin rugby league and the Australian Masters golf will be on tier B. Broadcasters may televise these tier B events live or on limited delay on their main channel or a digital multichannel. This will give broadcasters greater scheduling flexibility and help drive the digital television take-up.

The bill requires free-to-air broadcasters to televise listed events to which they hold rights or offer the rights to another broadcaster if they do not plan to televise. This will maximise the opportunity for Australian audiences to see antisiphoning events on free-to-air television. The bill will also extend the operation of the antisiphoning scheme to new media providers, future proofing the scheme and ensuring that major events are not siphoned off exclusively to online media such as internet protocol TV. The bill lengthens the automatic delisting period from 12 to 26 weeks, giving sports bodies more time to negotiate with subscription television broadcasters for rights to events that free-to-air broadcasters do not intend to buy.

New reporting obligations will also be introduced to ensure the new scheme is effectively overseen and administered by the Australian Communications and Media Authority with a review of the new scheme to commence before 31 December 2014. Through the development of this bill the government has recognised the significance of Australia's two largest domestic football competitions: the National Rugby League and the Australian Football League. The new scheme will enable the minister to specify a set number of NRL and AFL matches per round that should be available to free-to-air broadcasters.

In light of the issues raised through the Senate committee inquiry into the bill, the government will move a small number of amendments to this bill. Those amendments will, firstly, refine the notification provisions to streamline their operations and avoid a potential double notification requirement on free-to-air broadcasters. Secondly, it will remove redundant wording in the definition of 'live' in the bill along with the minister's discretion to modify telecast requirements for tier B events. Thirdly, it will narrow the definition of 'program supplier' to avoid the application of the scheme's rules to entities to which it was not intended to apply. Fourthly, it will modify the acquisition rules to prevent the rights to antisiphoning events being made available to subscription broadcasters where free-to-air broadcasters acquire rights that are less than the whole.

The final amendment will strengthen the acquisition and conferral rules that apply to round by round matches of the AFL and the NRL to provide a more balanced outcome for all broadcasters while ensuring free-to-air broadcasters continue to be able to acquire key matches for these iconic national competitions. I recommend that senators support this bill.
Debate interrupted.

**DOCUMENTS**

**Consideration**

The following orders of the day relating to government documents were considered:

The following government document tabled earlier today was considered:

Airservices Australia—Corporate plan 1 July 2012 to 30 June 2017. Motion to take note of document moved by Senator Back. Debate adjourned till Thursday at general business, Senator Back in continuation.


**ADJOURNMENT**

The ACTING DEPUTY PRESIDENT (Senator Moore) (18:51): Order! I propose the question:

That the Senate do now adjourn.

Kite, Ms Delcia

Senator FAULKNER (New South Wales) (18:51): On 21 August, just four days before her 89th birthday, a great Labor stalwart, Delcia Kite, died. Delcia was an institution in the Left of the Labor Party—a party activist always, a factional warrior when required, a member of the New South Wales Legislative Council for 19 years, an immensely loyal supporter and mentor to many. I was one of those. I am forever grateful for Delce's support, both personal and political, over decades, but particularly when I was a New South Wales Labor Party official in the 1980s—the toughest of times for those on the Left.

But through all those years, and before, and beyond, Delcia Kite had an extraordinary commitment to, and love for, her family. She was a supportive, practical, generous, and devoted wife, mother, grandmother and great grandmother. Delcia Kite was born Delcia Ivy Smith on the 25th of August, 1923. Her childhood home was in the inner-Sydney workers suburb of Rosebery; her family, Labor to the core. And her family and Labor were at her core—but in that order.

Delce joined the Party in the 1950s. By then, she had married Fred Kite, a committed Labor activist. By then, she was living in Granville. By then, the Labor Party was consumed with internal division. The ALP's Granville Central Branch was the battleground where the young couple, Fred and Delcia Kite, took on the 'groupers'—and won. Tom Uren was the first of many to win a seat in parliament with the help and sheer hard work of Delcia.

When I first met Delcia in the early 1970s, she was the formidable Secretary of the Combined Unions and Branches Steering Committee—the then Left faction of the NSW branch of the ALP. She was an intimidating presence; always at the front table; first to arrive; last to leave. Delcia looked as if she had walked off the set of Breakfast at Tiffany's. Any disputed meeting outcome, or ballot result, was easily resolved by Delce. She had the records; she kept the minutes; her word was final. No-one would dare question her authority. No-one would risk the tongue lashing. We all knew Delcia Kite had a long memory.

Delce immediately identified me as a Young Labor ratbag whose loyalty to the leadership of the steering committee was very much in question. I recall a heated argument with Delce over my lack of support for a particularly odious individual who was
being supported by the leadership of the Left. I was sent to Coventry for months. But soon her views softened, and so did mine. We worked together. We even agreed just how odious that individual was.

After the bashing of Delcia’s legislative council colleague, Peter Baldwin, the NSW ALP established a five-member inner-city task force to examine the books of its inner-city branches. I served on that task force with Delcia. We were a good team. Charter after charter was removed from shonky or corrupt branches that had been propped up by the NSW Right for years.

In the 1980 federal election campaign, Delcia worked with me in my Sussex Street office. A desk and phone was moved in, and Delce took up residence for the duration. The hours were long; her work, meticulous; her commitment, obvious to all. And this became a habit. Delce joined me in the federal campaigns of 1983, 1984, and 1987; and the state campaigns of 1981, 1984 and 1988. She handled every imaginable campaign crisis with calm efficiency—as well as bringing in morning tea, lunch and afternoon tea—and scaring the tripe out of every right-wing official who crossed her path. And she did it day in, day out, for weeks on end—except on Friday morning, a time that appeared to be reserved for her hairdresser.

The same occurred every year in the lead-up to the party’s annual conference. Delcia, a skilled draughtswoman, would copy every credential by hand and, for good measure, in her copperplate penmanship, address four envelopes to each individual delegate for future mail-outs. By conference weekend, Delce had addressed—by hand—literally thousands of envelopes. All this in Sussex Street where anyone from the Left was treated as a pariah.

In 1981, when I was persona non grata in Sussex Street and deliberately uninvited to the NSW ALP office Christmas party, it was Delce who brought in Christmas decorations, all the trimmings, and a complete Christmas feast, and organised a party I could attend, in my own office.

Delcia, along with then Deputy Premier Jack Ferguson and the entire leadership of NSW joined in. Delce discomfited many in the NSW Right by offering Christmas cake and mince pies to all; the petty noninvitation had backfired.

How do you find the words to thank someone that loyal, someone so important to your life in politics; someone with whom you have shared literally hundreds of Chinese meals and thousands of hours; someone who has been so kind and so encouraging? For whatever I have managed to achieve in politics, I know much of it would not have been possible without Delce.

My sincere sympathy goes to Fred Kite, to Darryl and Raelene, to Maureen—all of whom are here in the Senate Gallery tonight—and to all the family she loved so much. Like them, I know how important Delce was.

### Defence Procurement

**Senator FAWCETT** (South Australia) (18:59): I rise tonight to continue my remarks on the Senate Foreign Affairs, Defence and Trade References Committee report into defence procurement and specifically on the additional comments that I have made in four areas: governance, strategy, sovereignty and industry. I spoke briefly last night about the governance of Defence and the fact that we need to see a new relationship, such that civil control of the military occurs through the decisions of a well-informed elected minister connected into the governance processes of the whole
ADO in an ongoing manner analogous to the chair of a board of a publicly listed company.

I also talked last night about a strategic view of Australia's defence capability: that is, rather than seeing defence and things like the white paper just as a list of equipment, looking at our national defence policy and national security policy, deciding what military outcomes we need for our foreign policy and our domestic capabilities such as counterterrorism or disaster relief and then deciding on the capabilities that we need to actually purchase; but importantly, before issuing documents such as the white paper and the Defence Capability Plan, having a much tighter feedback loop so that government are aware of what those capabilities will cost not only to purchase but also to sustain through their life, such that if they realise that the sum of all those parts is more than they wish to afford in a given time period then the trade-offs can be made before the issue of the white paper and importantly before the issue of the Defence Capability Plan, which is the plan that so many people both within the government and particularly within industry use to base quite serious investment decisions on and when that plan is not adhered to there is a significant lack of productivity of the capital that the taxpayer invests into defence.

I started to speak last night about sovereignty. Sovereignty is the ability of a nation to choose a course of action in terms of defence. It does not mean that we should seek to be a superpower who can make and sustain in Australia everything we need for the defence of the nation. It does mean, however, that we do not want to be a Third World nation who has no alternative but to accept what somebody else chooses to sell us, at a time of their choosing, in a manner of their choosing and with whatever limitations they choose to place upon it. Australia has always chosen to be somewhere along the spectrum between those two extremes, and the label that has been given to it is that Australia is a 'smart customer'.

What is happening at the moment, though, is the ability to be that smart customer actually requires that both Australian industry and people within Australia's defence organisation need to have the skills and the experience, and the combination of those two means the competence, to assess what is being offered to the nation. The way you obtain those skills is not through doing a course; it is by having hands-on experience. It is like somebody who is an apprentice who works under a master: he gets the experience as well as his TAFE course to become qualified. The only way for defence industry and for Defence to get experience in things such as design engineering, certification, assessing risk and the ability to repair or modify equipment is to actually do it. So there has to be an investment in a level of activity that occurs with Australian personnel to provide the opportunity to grow that experience and therefore the competence to choose our place along the spectrum between the superpower and a Third World nation. Unfortunately, the short-term view of governments that have driven an increasing reliance on off-the-shelf acquisition has meant that we have seen a decreasing level of opportunity for people to grow those skills. So whilst we have people who are doing courses and getting qualifications, without the opportunity to gain the experience, we no longer have enough people with the competence to assess the risk of procurement decisions.

One of the things that came to light during the Senate inquiry was that many solutions presented to government as low-risk, off-the-shelf solutions were in fact quite developmental. Part of the reason that that was not picked up and flagged to government was that people who were
assigned to the task did not have the appropriate background in design engineering, in test and evaluation or in certification types of activities to be able to evaluate the datasets that were provided to them by the manufacturer and therefore to provide an informed report back to the decision makers within Defence and government as to the true state of the piece of equipment. So there is a long-term view that has to be held here, and that is that if we wish to be a smart customer we do need to make a level of investment. As I say, it is not about being a superpower and doing at all, but we cannot afford to just keep going on the trajectory we have been on, whereby we will end up being like a Third World nation. One of the things that differentiates a First World from a Third World nation is the sovereign ability to assess high-tech equipment, where necessary to modify or repair it, to understand the level of safety, risk and capability that it offers, to certify it and then to use it in the military.

A good example of that, because many people think if it is off the shelf it will be suitable, is the Chinook helicopter. The CH-47D helicopter, which is currently in service in Afghanistan with the Australian forces, is a military off-the-shelf helicopter purchased through the American forces under the foreign military sales program. Despite that, before Australia could deploy that to Afghanistan and earlier to other parts of the Middle East, the government did not accept the risk profile that the large part of the American army accepted, so significant modifications—around electronic warfare self-protection, ballistic protection for crews and improving the nature of the self-protection weapons, the Gatling guns, that were on the aircraft, as well as things like sand protection for the engines—were required before that aircraft could be deployed. What that points to is that an off-the-shelf acquisition may not meet the needs of Australia for safety reasons, operational reasons or just geographic reasons such as the distances we need to cover and the conditions we need to operate in. We need to have the ability to identify where those gaps in capability are and, as necessary, to modify, certify and operate the equipment. Defence industry is part of our defence capability. Unfortunately, defence industry has had to work over many years in the face of some fairly entrenched cultural indifference and even antagonism from both government and Defence. ADF personnel quite frequently talk about the fact that industry is just there to make a profit and should not be trusted. Executive governments of both persuasions have at times appeared to regard defence industry just through the prism of job creation rather than seeing it as part of our national security capability.

The Defence Materiel Organisation appears to regard industry as having an unending capacity to absorb risk without cost and to respond at short notice despite indefinite delays to procurement decisions. The DMO expects industry to be willing to create and retain advanced manufacturing capability without any guarantee of reliable cash flow to pay for the lending it has often made to acquire that capability.

Despite that, there is a rich history of Australian companies performing well, and so we need to change the nature of our engagement with industry. Again, some of those sovereignty decisions come in. At the moment decisions are made purely on the basis of competition. We seem very wed to having competition and seem to think that is the best value for money. In the short term that may be true, but when you look at the concept of sovereignty and that ability to be a smart customer, given that it applies to industry as well as to the Defence Force,
there are some situations where the consideration of industry capability should be part of the case that is put to government prior to first and second passes so that the government decision on where, when and how it will purchase equipment takes into account the investment that it wishes to make in a given part of our defence capability.

The current priority industry capability and strategic industry capability sound good on paper, but you can read through the report and the additional comments I have written to look at examples of where the theory is good but in practice it is not working. It is not allowing us to maintain that level of sovereignty to be the smart customer. It is that growing gap between where we think we are, and how we like to label ourselves, and the reality that is at the heart of some of our procurement problems. For those who are interested in the defence of our nation, I commend the Senate report and my additional comments to them.

**Bielski, Ms Joan Margaret, AO**

**Emergency Water, Sanitation and Hygiene Group**

**Senator RHIANNON** (New South Wales) (19:09): I express my sadness and acknowledge our great loss at the recent death of Joan Bielski, and I pay tribute to her memory. Joan is remembered for her passionate commitment to social justice and for the many great reforms brought about through her sustained advocacy.

Joan was born in Narrabri in the twenties and, like many women at that time, left school to find work before receiving the leaving certificate. In 1941, as soon as she turned 18, she joined the armed forces until the end of the Second World War and then studied to become a teacher. Indeed, Joan was a true educator and, from the early fifties up to this very year, spent her life educating and bringing about generational change in practically every level of society.

As a research officer on the Royal Commission into Human Relationships in 1975 and through the New South Wales Ministry of Education she advised the government, universities, colleges and schools on discrimination and sexism, multicultural education and anti-discrimination legislation within education, and employment in education. She was also instrumental in improvements in the school curriculum, in the introduction of TAFE apprenticeships for girls and in re-entry education and training programs for women that are still in place to this day.

Joan was a founding member of Women in Education, women educators lobbying for equal opportunity for women and girls, and a founding member of the Women's Electoral Lobby. She worked on the New South Wales Anti-Discrimination Act 1977, which brought about far-reaching reforms for women in regard to education and child care, employment and poverty, divorce law and inheritance tax. She was also a founding member and honorary secretary of Women Into Politics, which researches and advises on the issues that hinder the participation of women in politics and public life.

Joan and other WEL members played a key role in setting up the Women's Coordination Unit and the New South Wales Women's Advisory Council. This was a huge achievement, with the unit being part of the premier's department. In the 1980s I was fortunate to be on the Women's Advisory Council, and this is when I first met Joan. My strong memory of Joan is that she was a woman of ideas and energy. Joan was always positive—if on council or in any campaign we hit a roadblock Joan would have a plan. Joan and Jocelyn Scutt were the driving force in achieving far-reaching changes to
the sexual assault laws in the 1980s that council worked on extensively. In the 1970s Joan was actively involved in the federal Commission of Inquiry into Poverty. This resulted in legislation recognising the needs of single parents and their children.

As a lifelong advocate of equality for women in employment, education and public life, Joan was twice awarded the Medal of the Order of Australia: in 1988 for her services to women and girls in education, and in 2004 for services to women in politics and public life. Not only was she a tireless campaigner for the rights and equal opportunities of women but, with her inexhaustible energy, she also fought discrimination in all its forms, stood up for Indigenous and migrant workers' rights at a time when few others did and lobbied to put an end to the White Australia policy.

Joan died in the year of the 40th anniversary of the Women's Electoral Lobby, which adds to our sad loss. Joan was organising two tables for the celebratory event. It is very sad that Joan will not be at this dinner. On the day Joan suffered the massive stroke that killed her she had spent the day at Older Women's Network's Rights Roadblocks and Resilience forum. Joan's friend Helen L'Orange, in writing about being with Joan at this event, gives a beautiful picture of Joan. On that day they discussed two of Joan's passions—preserving the women's prison site in Tasmania and addressing systemic discrimination.

Joan's energy shone through. What I liked so much about Joan is how she just got on with the task at hand. Joan's own words reveal her strength and the guiding force through her life. 'I have always believed,' she said, 'that as one of the few of my generation that had the privilege of higher education, I could—and should—be of service to my fellow citizens.' On another matter, the EWASH campaign is undertaking important work in Palestine. EWASH, which stands for the Emergency Water, Sanitation and Hygiene group, is a coalition of almost 30 organisations, including the United Nations Children's Fund, UNICEF; the United Nations Development Program; the Applied Research Institute—Jerusalem; the Near East Council of Churches; the Palestinian Agricultural Relief Committee; and the East Jerusalem YMCA.

The campaign seeks to draw attention to the vast inequalities of water access between Palestinians and Israeli settlers in the occupied Palestinian territories. EWASH states:

As an Occupying Power, the Israeli government is responsible under International Humanitarian Law for the well-being of Palestinians, including ensuring that they have adequate water supply. Even though it controls all sources of fresh water in the West Bank the Israeli government has neglected this obligation. The campaign has issued a challenge for people to live on 24 litres of water for 24 hours, including drinking, cleaning, cooking and hygiene. Sadly, this is a reality for many Palestinians.

One might think that in a dry, Middle Eastern landscape there simply is not enough water to go around. But the reality is that an accident of birth determines your access to life-saving water. For example, while many Palestinians regularly have their water supply reduced by the Israeli national water company, Mekorot, Israelis on illegal settlements in the West Bank face no such restrictions. Indeed, EWASH estimates that some settlements use 20 times as much water as their Bedouin neighbours. One such settlement, R'oi, uses 431 litres of water per person per day whilst the neighbouring Bedouin village of A-Jadida is only able to use 20, only just above the minimum amount that the World Health Organisation estimates...
is needed to sustain a life. Some, such as a report from the French parliament's foreign affairs committee in January this year, call this 'water apartheid'.

A recent report from the MA'AN Development Center in Ramada, entitled Parallel realities, explores the depressing water politics in the Jordan Valley, where Israeli settlers receive subsidised water, which ends up encouraging waste. The pictures of the full swimming pools and lush green gardens of the settlement of Masua within a parched landscape illustrate those water politics. An EWASH report notes that:

Due to the Israeli-imposed blockade on Gaza, restrictions on import to the Gaza Strip of materials and equipment necessary for development and repair of infrastructure have led the water and sanitation situation to reach crisis point. Poor maintenance of the sewage treatment plants (as well as restrictions on entry of fuel and electricity) has resulted in 60-80 millions litres of untreated or partially treated sewage flowing daily into the sea and contaminating the underground aquifer. During Operation Cast Lead, over 30 km of water networks were damaged or destroyed by the Israeli military in addition to 11 wells operated by the water authorities in Gaza.

The problem of water, a vital and strategically important commodity, runs even deeper. EWASH continues:

Israel retains control of all underground and surface water resources in the West Bank. Due to allocations of transboundary water resources agreed upon under the Interim Agreement on the West Bank and the Gaza Strip (1995), Palestinians are only allowed to abstract 20 percent of the “estimated potential” of the Mountain aquifer under the West Bank, Israel abstracts the balance (80 percent) plus overdraws its sustainable yield often by more than 50 percent. Palestinians need Israeli permits to develop their water resources and infrastructure and are severely restricted on what they can do through the Joint Water Committee (JWC).

EWASH goes on:

Whilst both Israelis and Palestinians sit on this committee, Israel has veto power and final say on decisions. A number of essential projects for Palestinians have been denied permits or delayed as a result.

I do encourage the Minister for Foreign Affairs, Senator Bob Carr, to raise the issue with the Israeli government to help ensure that Palestinians are not left thirsting for justice and that aid dollars allocated to Palestine are not wasted in the selfish water politics in the region.

I congratulate EWASH for their advocacy campaign and encourage Australians to get involved with their work to highlight the everyday injustices that the Palestinians face simply for being Palestinians and simply because of where they were born.

National Stroke Week

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (19:19): I rise tonight to speak on the issue of National Stroke Week.

I am wearing a badge that I was given this morning when I attended breakfast with the Parliamentary Heart Foundation and Stroke Foundation Friendship Group. It was great to speak with representatives of the foundation and to get an update on the very important work that it does. I have wanted to speak about stroke for a while now, because a friend of mine, John Mitchell, is himself a stroke survivor. John has been a great help to me in preparing this speech, and before I begin I would just like to thank him for that.

A stroke occurs when the blood supply to the brain is interrupted. When brain cells do not get blood, and the oxygen and nutrients it contains, they die. So a stroke is always a medical emergency, because it can cause brain damage or, worse, death. Emergency treatment can save lives and reduce the likelihood of permanent brain damage. Anybody can suffer a stroke, so it is
important that people know what the signs of stroke are and what to do if they, or someone they know, is showing those signs.

At the National Stroke Foundation event this morning I met Karen Bayly, who had a stroke at home in 2008 when she was 44 years of age. Fortunately, her partner recognised the signs of stroke and immediately called an ambulance. A quick transfer to hospital meant that her stroke was promptly confirmed and a life-saving clot-busting treatment was administered. Karen was told that she was lucky to be alive and that she was not likely to walk again or return to work. That would surprise you if you saw her this morning. Following extensive rehabilitation she is walking, caring for her two children, and in fact she has returned to work. Karen's story illustrates the importance of the National Stroke Foundation's information and advertising campaign about stroke and how deadly it can be. I mentioned Mr John Mitchell before. He was a very talented and dedicated journalist, so it was very sad to see what effect the stroke that he suffered had on him, but it was pleasing that he was able to recover and he now lives closer to his children in Victoria.

One of the foundation's graphic television commercials, which some of you may have seen, depicts stroke as 'fire in the brain'. The damage caused by fire can be limited if quick action is taken, and the same is true of stroke. The sooner an ambulance is called, the greater the chance of saving the person's life and avoiding long-term disability. The foundation's latest TV commercial, officially launched this week, shows stroke as a deadly 'silent killer' that can strike us at any time and any age and without any warning.

Stroke is a killer. It is the second biggest cause of death in Australia and a leading cause of disability, with about 60,000 strokes suffered by Australians each year. The statistics are pretty horrifying. One in six people will have a stroke in their lifetime. A stroke will occur every 10 minutes. Stroke kills more women than breast cancer and more men than prostate cancer. About 20 per cent of strokes happen to people under the age of 55. Most stroke victims will require hospital care, and more than one-third of those admitted to hospital will move to rehabilitation services after acute care. The cost burden of strokes in Australia is estimated to be in excess of $2 billion each year.

The National Stroke Foundation leads the way in educating people about stroke and has branches in most states and territories. The foundation is a national not-for-profit organisation that works with stroke survivors, carers, health professionals, governments and the public to reduce the impact of strokes on all Australians. It is the voice of stroke in Australia and its mission is to stop stroke, save lives and end suffering. The foundation believes it will achieve its mission by educating the public about the risk factors, signs of stroke and healthy lifestyles, which of course it was doing at breakfast this morning; working with stakeholders to develop and implement stroke prevention and management policy; encouraging the development of comprehensive, coordinated services for stroke survivors and their families; and, finally, encouraging and facilitating stroke research.

The foundation's vision is of a world free from disability and suffering caused by stroke. Its campaigns focus on raising public awareness about the signs of stroke and what the foundation calls the FAST test. The test is an easy way to remember and recognise the signs of stroke. FAST stands for face, arms, speech and time, and is described in this way. Face: check the victim's face. Has his or her mouth drooped? Arms: can he or
she lift both arms? Speech: is his or her speech slurred? Can the victim understand you? Finally, T is time. Time is critical. If you see any of these signs, call 000 immediately. The signs of stroke may occur alone or in combination and can last a few seconds or up to 24 hours and then disappear.

Rehabilitation methods for stroke victims vary but generally start with acute care in hospital, involving speech therapy, physiotherapy and occupational therapy. Stroke survivors live with the prospect of suffering additional strokes. Having had a stroke is a risk factor in further stroke, and this is a big fear for many survivors and their carers. Many stroke prevention methods are common-sense precautions such as eating healthily, keeping a healthy weight, not smoking, exercising regularly, keeping alcohol consumption to a minimum and keeping blood pressure down.

The foundation offers more extensive information on its very comprehensive website. The website provides an extremely valuable online forum called StrokeConnect for survivors and carers. StrokeConnect includes online ‘rooms’ for survivors, under-35s and carers; discussions about the latest therapies, treatments, and neuroplasticity; volunteering information; and the most up-to-date news on strokes. Issues discussed range from shared stroke survival stories to advice on relationships, holidays, stroke equipment and things to do to stay well, happy and healthy. In my home state of South Australia, I am aware of at least three stroke-related research programmes investigating issues including the impact of fitness programs on stroke survivors, the effect of shoulder injections on alleviating shoulder pain brought on by a stroke, and whether rehabilitation outcomes for stroke survivors can be improved by additional exercises for three hours a day or when rehabilitation is provided on weekends.

The National Stroke Foundation is helping stroke survivors fight back and is assisting all Australians to reduce their risk of stroke. Ten years ago, there were 34 stroke units in Australian hospitals; today there are 77. Ten years ago only 47 per cent of stroke patients arrived at hospital within three hours, but today that figure is 65 per cent. Ten years ago 49 per cent of Australians were able to identify one sign of stroke; in 2011 that had dramatically improved to 83 per cent. The National Stroke Foundation is doing an outstanding job, particularly through its excellent public education program. But we all must do what we can to help the foundation stop the ‘silent killer’ and extinguish the ‘fire in the brain’.

Senate adjourned at 19:28

DOCUMENTS

Tabling

The following document was tabled by the Clerk:


Tabling

The following government documents were tabled:

Airservices Australia—Corporate plan 1 July 2012 to 30 June 2017.

Australian Human Rights Commission—Reports—

No. 52—Mr SD v Commonwealth of Australia (Department of Immigration and Citizenship).

No. 53—Miss Judy Tuifangaloka v Commonwealth of Australia (Department of Immigration and Citizenship).
No. 54—Pak family v Commonwealth of Australia (Department of Immigration and Citizenship).

Department of Health and Ageing—Report to Parliament on the second meeting of the Pharmaceutical Industry Discussion Group (PIDG) to identify and examine potential unintended consequences of the 2010-11 Budget Measure Further Pharmaceutical Benefits Scheme (PBS) Pricing Reform, dated September 2012.

**Indexed Lists of Files**

**Tabling**

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2012—Statements of compliance—

Australian Taxation Office.

Broadband, Communications and the Digital Economy portfolio.

Department of the Prime Minister and Cabinet.

Official Secretary to the Governor-General.

Regional Australia, Local Government, Arts and Sports portfolio.

**Departmental and Agency Contracts**

**Tabling**

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2011-12—Letter of advice—Cancer Australia.