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

**SITTING DAYS—2011**

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- **MELBOURNE** 1026AM
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FORTY-THIRD PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

Senate Office holders

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

Senate Party Leaders and Whips

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

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

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<th>State or Territory</th>
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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.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

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

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

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

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

<table>
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<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Hon. Tony Abbott MP</td>
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<tr>
<td>Deputy Leader of the Opposition and Shadow Minister for</td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td>Foreign Affairs and Shadow Minister for Trade</td>
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<tr>
<td>Leader of the Nationals and Shadow Minister for Infrastructure</td>
<td>Hon. Warren Truss MP</td>
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<td>and Transport</td>
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<tr>
<td>Leader of the Opposition in the Senate and Shadow Minister for</td>
<td>Senator Hon. Eric Abetz</td>
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<td>Employment and Workplace Relations</td>
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<tr>
<td>Deputy Leader of the Opposition in the Senate and Shadow</td>
<td>Senator Hon. George Brandis SC</td>
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<td>Shadow Treasurer</td>
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<tr>
<td>Shadow Minister for Education, Apprenticeships and Training and</td>
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<td>Manager of Opposition Business in the House</td>
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<td>Shadow Minister for Indigenous Affairs and Deputy Leader of the</td>
<td>Senator Hon. Nigel Scullion</td>
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<td>Shadow Minister for Regional Development, Local Government and</td>
<td>Senator Barnaby Joyce</td>
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<tr>
<td>Water and Leader of the Nationals in the Senate</td>
<td>Hon. Andrew Robb AO, MP</td>
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<td>Shadow Minister for Finance, Deregulation and Debt Reduction and</td>
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<td>Chairman, Coalition Policy Development Committee</td>
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<td>Shadow Minister for Energy and Resources</td>
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<td>Senator Hon. David Johnston</td>
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<td>Shadow Minister for Health and Ageing</td>
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<td>Shadow Minister for Families, Housing and Human Services</td>
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<td>Shadow Minister for Climate Action, Environment and Heritage</td>
<td>Hon. Greg Hunt MP</td>
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<tr>
<td>Shadow Minister for Productivity and Population and Shadow Minister</td>
<td>Mr Scott Morrison MP</td>
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Thursday, 22 September 2011

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9:30, read prayers and made an acknowledgement of country.

BUSINESS
Rearrangement
Senator ARBIB: I move:
That general business order of the day no. 3 (Commonwealth Commissioner for Children and Young People Bill 2010) be postponed till after consideration of general business order of the day no. 66 (Landholders' Right to Refuse (Coal Seam Gas) Bill 2011).

Question agreed to.

BILLS
Landholders' Right to Refuse (Coal Seam Gas) Bill 2011
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (09:31): I rise to support the Landholders' Right to Refuse (Coal Seam Gas) Bill 2011. This is a bill which has been brought forward by Senator Larissa Waters on behalf of the Greens and I am delighted to stand here today supporting it. It is a bill which requires coal seam gas corporations to gain the written authorisation of farmers to enter their land to conduct coal seam gas activities. It provides that authorisation must contain independent advice about all the risks to food security and groundwater and also makes it clear that the farmer can refuse to sign. It provides that any corporation entering land without the permission of the farmer would incur a daily $55,000 fine, risk prosecution and be subject to the farmer's right to seek an injunction from the Federal Court which the corporation must pay for.

The bill applies to all land that has produced food at any time in the 10 years prior to the first proposed coal seam gas activity on the land, from commercial primary production through to urban vegetable gardens. The bill does not alter the ownership of the minerals and gas which remain vested in the states. The bill does not affect the ability of the federal and state governments to compulsorily acquire the land in order to access the resources, with appropriate compensation.

This goes absolutely to the heart of one of the most significant debates of this century: the issue of food security. The Greens have been very clear about this for some time. We are facing a global food insecurity crisis. With climate change accelerating, we are seeing extreme weather events around the world occurring with such frequency that the loss of agricultural production is impacting on the ability of countries to feed their own populations and to engage in trade. For example, we have had extreme weather events in Australia, Russia and the United States at similar times affecting the global grain harvest. Mr Putin banned the export of grain from Russia. That led to massive increases in the price of bread in the Middle East, and that was one of the main triggers of the riots in Tunisia that sparked the Arab Spring.

We are going to be facing this issue throughout this century and one of the critical things we as a parliament must do is protect agricultural land for agriculture. It is essential that we do that because Australia needs to maximise the amount of food it grows not only for itself but also for global circulation because that is going to be a major contribution not only to keeping people alive but also to global security.
Where you have food scarcity leading to famine, it leads to displacement of people and riots like we had through the Middle East and as we currently have in Africa. It is essential that we move in now and say that Australia must protect its food-producing land for food production.

The Greens have a very long history on this. In particular, this is how I began my political career, because I worked on behalf of the farmers in the Wesley Vale district, where my parents had a dairy farm, to oppose the North Broken Hill pulp mill proposal for a massive industrial development in the heart of first-class agricultural land in north-west Tasmania. It would have polluted Bass Strait to the detriment of the fisheries and it would have spread a toxic cloud around the farmlands which form best front country on the north-west coast with early seasonal crops. The farmers stood very strongly. The first sticker I ever produced said 'Save our soil, sea and sand, protect the land'. That is still a heartfelt responsibility I and the Greens have for the production of food. If you are going to maintain food security, both maximising food production in Australia and for export, you have to enable farmers to stay on the land. There are two sets of issues. One is the sustainability of food production and maintaining sustainable systems for food production and the other is a set of policies that will enable farmers to stay on the land. What we have here is absolutely at the heart of this: the conflict between what the mining and the gas companies want. They do not care about whether farmers stay on the land. All they care about is maximising their profits from the extraction of coal seam gas. That is all they care about. We now have the most appalling situation where 40,000 coal seam gas wells are expected to be rolled out across Queensland in the next few years and there is rapid expansion planned for New South Wales and Victoria as well. So now is the time for robust protection for our landholders and of course for the environment.

One of the very big unknowns with coal seam gas is the long-term consequences for our aquifers and our river systems. Already, a very substantial petition from the Myall Lakes has been submitted to the hearings and in that submission they say: 'It is a Ramsar ecosystem. It is protected for its significance.' Yet there is no protection if coal seam gas gets its way. There will be contamination of the river system that flows into those lakes and that will undermine the capacity for long-term sustainability. And we know full well that there has been no assessment of the impact of this kind of activity on the Great Artesian Basin. Nobody knows, not even the Coordinator-General in Queensland, who is the person in that state with the authority to approve and condition these particular licences for coal seam gas. So if the Queensland government and Queensland's own Coordinator-General cannot tell people what the long-term impacts are, how can a farmer have any confidence that at the end of the day they are not going to have their groundwater contaminated and the groundwater lowered because of the huge volumes of water required for this activity, or about the long-term impact on the Great Artesian Basin?

This is a reckless experiment by coal and gas companies to maximise their profits at the expense of farmers. Can the Wentworth Group answer the question: what will the impact be on the Great Artesian Basin? No, they cannot. Can the CSIRO? In their most recent report, they said they had serious concerns about long-term impacts. The National Water Commission have said that they are very concerned about long-term impacts. So that is what has been said by those bodies who look after water and the
serious environmental issues in our desert continent.

If you are going to have food security and food production, if you are going to maintain ecosystems into the future, you have to protect your river systems. You have to protect the Great Artesian Basin. None of those things are protected. There is no precautionary principle being engaged here. Governments are simply turning a blind eye. What is this parliament going to do? When it was put to the Leader of the Opposition on radio that landholders must have the last word surely on when anyone can enter their property, Mr Abbott, said:

... there is an old saying—an Englishman's home is his castle.

He went on to say:

... the thing is if, if you don't want something to happen on your land, you ought to have a right to say no.

I agree with Mr Abbott: you ought to have the right to say no. He went on:

... okay, under certain circumstances the Government ought to be able to resume your land but it has to be done at a fair price.

Yes, and that is about compulsory acquisition and this bill has nothing to do with compulsorily acquiring land. This bill says that a farmer has the right to say no, that they do not want coal seam gas activities on their property.

I have heard the government say, 'We've always had the situation where the minerals underneath the ground are collectively owned by the people and therefore not the preserve of the farmer at the surface.' This is an entirely different industry to all the things that have gone before in terms of extraction. This is a situation where not only are they coming on the land and disrupting the activities on the land, and adversely impacting the person carrying on agricultural activities but they are jeopardising the long-term capacity of the land to produce food because of the contamination of groundwater, the lowering of the groundwater, and the potential long-term impacts on the Great Artesian Basin. So if ever there was an argument for a farmer to say no, it is now.

I agree with the Leader of the Opposition. So what happened? I think he must not have remembered to write it down, because within days the opposition spokesperson was manoeuvring to clarify what his leader said. Mr Macfarlane had to clarify this issue and back off absolutely. Where are the Nationals on this? The National Party tell farmers they are out there protecting their interests. But all they are doing is talking to farmers about getting fair compensation. Compensation is fair if a farmer says, 'Okay, I am prepared to have coal seam gas.' It is appropriate then that there are appropriate levels of compensation. But that is a cop-out from the fundamental point: should a landholder have a right to say, 'No, you cannot come onto my property and you may not drill wells on my property for coal seam gas'? That is the point of this legislation and that is the challenge for the parliament here. It is very straightforward. Anyone who goes out to rural Queensland will be able to see the adverse impacts. Talk to the community groups—and I have cited the one from the Myall Lakes in New South Wales—and you will find people are putting in submissions all over the place. There is ample evidence of the adverse impacts.

It is now time to make decisions. It is no longer appropriate for people to say; 'It is not obvious yet. We are not sure about the long-term impacts. We'll just proceed regardless.' We should not be proceeding regardless because the question is: are you putting the profits of mining and gas companies ahead of the capacity of farmers to stay on the land and produce food, and to stay on the land
and produce food sustainably by maintaining access to uncontaminated water?
We all know that water becomes contaminated where there is fracking involved. Of the chemicals used in fracking, only six of around 60 chemicals that are used have even been assessed, so nobody actually knows what the long-term impact of these activities is going to be.

Yes, the New South Wales government panicked in the face of community uproar, especially as this has reached the suburbs of Sydney. I understand St Peters has become an area of exploration and people in the suburbs are now saying: 'For goodness sake! What is going on here? You are giving these companies the right to dig up suburbia as well as to dig all over the rural and regional areas.' But in New South Wales the moratorium is only against fracking; it is not against the ongoing rolling out of coal seam gas across New South Wales.

If the coalition and the government have a vision for Australia as being a quarry for miners—dig it up, cut it down, ship it away; dig it up, cut it down, pump out the gas as well—then let me put on the record that that means we will seriously reduce the capacity of this country to produce food and, furthermore, we will see more farmers driven off their land.

I note the submission from Doctors for the Environment Australia to the inquiry of the Rural Affairs and Transport References Committee into the management of the Murray-Darling Basin. They made a strong case that we are already seeing high rates of mental illness in rural and regional Australia because of the stresses associated with trying to stay on the land, with collapsing commodity prices and with the high dollar acting against them. Farmers are already under pressure as a result of extreme weather events like the drought we suffered through the Murray-Darling Basin and of course the floods that occurred more recently.

People in rural and regional Australia want to get on with the job of producing food and do not want to be harassed by companies they do not want on their land. That is the question here: when are we going to stand up and say, 'We are going to support farmers because we prioritise food security, ecologically sustainable agriculture and the right of farmers and farming communities to influence their own destiny'? Or are we going to say that the destiny of rural and regional Australia is in the hands of mining and gas companies—many of which are owned outside Australia and many of whose profits leave Australia—and leave rural communities absolutely devastated and destroyed by this industry. That is what we are actually seeing right now.

I am very interested in what the coalition is going to say, because in spite of Mr Macfarlane trying to reposition the coalition there is nothing clearer than what the Leader of the Opposition had to say originally—before he wrote it down. I do not know whether he has written down his backdown on this particular issue, but it is clear that the opposition no longer supports the right of a farmer in Australia to say no to coal seam gas exploration and drilling wells on their land. Well, the Greens do say no and the Greens are putting it to this parliament and inviting everyone in the parliament to either join us and say no or go out and tell people in rural and regional Australia why they should not have the right to say no.

I will conclude my remarks with a discussion of climate change. People are arguing you need coal seam gas in order to attack the accelerating impact of climate change. Let me get this straight: there is a lot of emerging evidence to say that coal seam gas, because it is methane, has a much, much
greater impact on global warming in the short term than carbon dioxide has. What you are going to do if you accelerate the mining of coal seam gas is put a blast of methane to the atmosphere in the short term and actually make the situation worse in the short term than it otherwise would have been. The short term matters, because global emissions have to peak and come down. The scientists agree that the date for that should have been 2015 but, because we are not going to meet 2015, they have now said it should be at least by 2020. We are not going to get global emissions to peak and come down by 2020 if we engage in this massive expansion of coal seam gas across the planet. We are seeing an acceleration of climate change, as I pointed out in here only a week ago, with record loss of Arctic ice. Once you lose that, of course, you get massive emissions to the atmosphere after the ice has melted, with impacts on the tundra et cetera. This is something Australia needs to take seriously. We need to have a strategic plan for food production in Australia in light of these issues, and that is why I am co-hosting a bill this afternoon, with Senator Xenophon, about protecting agricultural land in relation to foreign ownership. Not only are we seeing the loss of food production through extreme weather events; we are now seeing other countries moving in and buying up large tracts of agricultural land around the world to feed their own people—not to put into the trade but to feed their own people when other countries opt not to export. There has been a massive land grab around the world and it is happening with agricultural land in this country as well. Already 30 per cent of water licences in Western Australia are foreign owned or partially foreign owned, and 40 per cent of the Northern Territory's land area is already partially or fully foreign owned. Those things should be a matter of concern to this parliament.

If you are serious about sustainability, if you are serious about food security, if you are serious about keeping farmers on the land and taking the pressure and stress away from them then you will support this bill giving them the right to say no, they do not want coal seam gas explorers and their wells on their properties. There should be a very firm commitment from this parliament on push-back, or else this parliament will be giving a wink and a nod to this generation of profiteers to jeopardise the Great Artesian Basin. (Time expired)

Senator FURNER (Queensland) (09:51): I rise to make a contribution to this debate, which I have a strong interest in. The Landholders' Right to Refuse (Coal Seam Gas) Bill 2011 seeks to provide farmers with the opportunity to say no to coal seam gas mining on their properties without written consent. It would exercise powers to apply penalties on any constitutional corporation if it undertook any activity to explore or produce coal seam gas on food-producing land without the prior written authorisation of everyone who has an ownership interest in that land.

To date, mining and urban expansion has not threatened Australia's food security. Australia is food secure. We are sheltered from direct concerns about food shortages because we have a world-class agricultural sector and our farmers produce far more food than we consume. On 15 August 2011, the Minister for Resources, Energy and Tourism, Martin Ferguson, told ABC NewsRadio that 'it is constitutionally the states' responsibility, in association with the territories, to manage the development of our resources'. He also said that 'it would be inappropriate for the Commonwealth to start undermining the constitutional capacity of the states for short-term political gain'. Therefore we will not be supporting this bill.
Mineral resources belong to the Australian people. This bill would give veto rights to landholders and preventing access would mean that those assets belonged to the landowner—in other words, privatisation. This undermines the ownership of resources by the state government on behalf of the people. The Australian government believes that landholders and mining companies are able to work together and this position is shared by the National Farmers Federation. Vice-President and Chair of the NFF Mining and Coal Seam Gas Taskforce, Duncan Fraser, said:

Our position, and that of our members, is not about preventing mining and CSG exploration or extraction—but rather ensuring that agriculture, CSG and mining can coexist, so as to guarantee the long-term sustainability of our food and fibre production.

According to the Australian Petroleum Production and Exploration Association, APPEA, agriculture and gas industries have already coexisted for many years—we have seen gas extracted in Roma for half a century.

In my state of Queensland coal seam gas is prominent, with more than 90 per cent of the state's gas supply being CSG. CSG also constitutes one-third of eastern Australia's gas supplies. It powers a number of domestic electricity generation projects throughout Queensland, including the Origin Energy operated Darling Downs power station and the Braemar 2 power station. APPEA says that the CSG industry supports more than 5,000 jobs and expects this to boom to 18,000 jobs. They say the Queensland industry injects $850 million into the Queensland government through taxes, which means more funding for vital infrastructure.

CSG's continuous growth outlasted the global financial crisis, kept Australians in jobs and supplemented the fiscal and economic position of Australia. In 1997, the total output of the coal seam gas industry in Queensland was 3,652 petajoules. By the end of the 2009-2010 financial year, this figure had climbed to 27,992 petajoules, representing growth of more than 750 per cent over the past 13 years.

The international market, particularly the Asia-Pacific region, has experienced increased demand for liquefied natural gas. Coal seam gas will be fed through over 4,000 kilometres of already constructed pipeline and liquefied to produce LNG. The expected explosive demand for LNG will continue to encourage production of coal seam gas. In October last year, Treasurer Wayne Swan and resources minister Martin Ferguson welcomed an announcement by BG Group that it would invest US $15 billion to develop its coal seam gas and LNG operations to export gas from Gladstone. This funding will go towards construction and expansion of a 540-kilometre gas pipeline. It is estimated that the project will increase gross state product by up to $32 billion between 2010 and 2021 and add about $4 billion in value to our exports each year. The project also means 5,000 jobs and 1,000 prominent positions.

CSG is significant in both Queensland and New South Wales, with APPEA suggesting that these two states can produce and power a city of five million—just over what the population of Queensland is—for 1,000 years. APPEA also says that more than 1,400 land access agreements between landholders and the industry had been signed and that 'every single aspect of taking CSG to LNG for export has been examined through the public environmental impact assessment process. Both state and federal government environmental approvals have been granted, with conditions to further safeguard aquifers, landholders and the environment'.
Lock the Gate Alliance Inc, in which former Greens candidate Drew Hutton is involved, state on their website:

Coal seam gas (CSG) is a fossil fuel—a dirty energy source that adds to greenhouse pollution. According to APPEA, electricity generated using gas produces up to 70 per cent less in greenhouse gas emissions than some existing coal generation technology, meaning coal seam gas has a significant role to play in reducing greenhouse gas emissions. Gas is an important fuel for the transition to a low-carbon economy. LNG can produce the same amount of energy as coal with significantly lower carbon dioxide emissions. According to a study conducted by WorleyParsons, the greenhouse gas intensity of LNG over its life cycle is approximately 50 per cent lower than that of coal. The development of the CSG to LNG industry is providing the opportunity to develop the massive CSG resources of Queensland economically and to bring forward the development of CSG reserves in other states.

Lock the Gate put forward a submission to the inquiry of the Senate Standing Committee on Rural Affairs and Transport into the management of the Murray-Darling Basin. In a statement dated 21 September 2011, APPEA Chief Executive Belinda Robinson said that Lock the Gate's submission included content which was copied and pasted from a United States study, with the words 'coal seam gas' substituted for the words 'shale gas'. Ms Robinson said:

The study that this group has drawn its material from actually makes no mention of coal seam gas or the Australian industry.

APPEA stated in a media release on 18 August 2011 that some people have insinuated that greenhouse gas emissions of CSG are worse than those of natural gas. APPEA refutes this. It said that any leakage from CSG is monitored and the emissions are lower by up to 70 per cent from gas-fired electricity. It said:

Since the passage of the National Greenhouse and Energy Reporting Act 2007 every major gas company in Australia—CSG or otherwise—has been legally required to monitor, measure or estimate, and report all emissions associated with its operations to the Department of Climate Change and Energy Efficiency; including fugitive emissions and emissions associated with venting, combustion, and flaring. No emissions are undisclosed.

In July, I launched the Gas Industry Social and Environmental Research Alliance, GISERA, in Brisbane on behalf of Minister Kim Carr. The launch was at a marvellous new structure where the old Boggo Road jail used to be. To see the construction alone you would more or less comply with the belief that this is an environmentally friendly building so no doubt the release was prominent and it was appropriate to do so in a building that houses CSIRO and groups of other scientists that are paving the way and certainly making steps as to the way that we look at our environment and move to a sustainable greenhouse and protected environment for our future. The Gas Industry Social and Environmental Research Alliance is a partnership that was founded by the CSIRO and Australia Pacific LNG Pty Ltd, who have invested $4 million and $10 million respectively to investigate the socioeconomic and environmental impacts of the natural gas industry over the next five years.

I had the opportunity to question some of the people involved in this launch and get some reasonable feedback about the appropriateness of this sort of injection into this particular area. As I indicated earlier, it is not a new area and it has been happening in my home state of Queensland for many decades. The alliance is to establish research,
to establish fair consultation with and feedback from people in particular areas where this mining is happening to make sure concerns are allayed. The alliance will help fill the knowledge gaps of this vast energy resource and it is a chance to increase the evidence-based understanding of what we are dealing with. Regulators, developers, landowners and the broader community will have a common basis to negotiate approaches which balance both the challenges and the opportunities.

I can really appreciate there being some confusion out there from the public and also some members of parliament about the effects of coal seam gas. It was not that long ago, while on a plane trip down from Brisbane, that the member for Wright and I were discussing this particular area. I think at that particular stage that member, being a member of the National Party, had some views and some concerns about the effect on farmers and about compensation and I think we were having a reasonable discussion. I think most of those issues have now been dismissed and I am sure that those people on the opposition side from the Nationals understand the value of this particular area for the industry and also for farmers in general.

Issues which will be explored by GISERA include groundwater and surface water, biodiversity, land management, the marine environment and also the socioeconomic impacts. The research will enable us to predict the consequences of decisions. It means we can assess how certain courses of action will affect the economy, the environment and the community. The results of these findings will be made available for the public. I think that is appropriate to make sure that the public is fully aware of any likely concern that is raised as a result of the research that the CSIRO and the partnership with GISERA will certainly establish and which will be available to the public.

In October last year the Queensland government's new laws in relation to land access came into effect. A document released by the Queensland Department of Employment, Economic Development and Innovation states:

The new land access laws are vital to achieving a balanced approach to private land access and compensation. They recognise and clarify the Government’s expectations and rights of tenement...authority holders and landholders relating to how resource activities must be undertaken on private land.

DEEDI states the key features of this legislation as:

...a requirement that all resource authority holders must comply with a single Land Access Code; an entry notice requirement for 'preliminary activities', for example, those that will have no or only a minor impact on landholders; a requirement that a conduct and compensation agreement be negotiated before a resource authority holder comes onto a landholder's property to undertake 'advanced activities', for example, those likely to have a significant impact on a landholder's business or land use; a graduated process for negotiation and resolving disputes about agreements which ensures matters are only referred to the Land Court as a last resort; stronger compliance and enforcement powers for government agencies where breaches of the Land Access Code occur.

As you can see, Mr Acting Deputy President, there is a series of steps already to work through a process to identify any concern landholders might have as a result of coal seam gas exploration on their particular land, a process that has been implemented by the Queensland Labor government to assure people that they have no concerns over risk as to what might be occurring on their particular space on the land.

In April this year the state government announced that gas and petroleum
companies must provide 10 business days notice to landholders of any drilling, fracking or certain exploration taking place as well as 10 business days notice of work completion. The Queensland Minister for Employment, Skills and Mining, Stirling Hinchliffe, said:

These new laws are designed to make sure landholders know exactly what is happening on their land and when it is happening. They apply to all activities including hydraulic fracturing used in producing Coal Seam Gas, drilling, completing or abandoning a well or bore as well as seismic and other surveys associated with exploration or production. This will also help the government monitor the use of chemicals in the extraction of Coal Seam Gas in Queensland.

Just last week the Bligh government announced that it would expand its AgForward Coal Seam Gas Landholder Support Initiative into the Galilee and Bowen basins, which is an area I know quite well through my travels in the state of Queensland. It is a beautiful part of Far North Queensland. The $1.4 million injection is to assist landholders by providing them with the education and tools to properly negotiate with mining companies. The state Minister for Agriculture, Food and Regional Economies Tim Mulherin said:

We want landholders to have the knowledge and the information they need to negotiate the best agreement possible with CSG companies. Landholders and CSG companies will be working together for years to come, so it is important that the relationship is based on a firm foundation.

The minister said that this program had already been rolled out in the Surat region with four pilot sessions and 32 FarmShed workshops where the training is delivered to the 875 people taking part. The funding injection means another 20 workshops in the Galilee and Bowen basins can take place. These training sessions will assist landholders in being able to successfully negotiate with a coal seam gas company before exploration or production takes place. Minister Mulherin said:

The aim of delivering mutually acceptable agreements is to minimise disruption to the landholder's enterprise, wherever possible, and to set out appropriate arrangements for land access and financial compensation. This is a key step in establishing a successful coexistence of the coal seam gas industry and the agriculture sector.

The state government has also introduced a strategic cropping land policy framework. This aims to produce a balance between protecting prime agricultural land while allowing for the development of the CSG industry. The Queensland Premier has also announced that CSG and mining activities will not be permitted within two kilometres of population centres over 1,000 people. These announcements from the state government prove that it is committed to ensuring that Queensland landholders are protected as well as enabling our mining industry to survive.

Investment decisions in Queensland's CSG to LNG industry taken since October 2010 total more than $45 billion. This industry will create jobs, particularly in regional communities, boost the economy at both a state and federal level and deliver billions in government revenue. It will lift Australia's export income and provide states and the Commonwealth government with a significant source of royalty and PRRT revenue. As a cleaner alternative to coal-fired power LNG is an essential part of the global solution to reduce greenhouse gas emissions and provides many jobs and opportunities in regional Australia. APPEA states that the CSG land-use footprint is much smaller than other energy sources and the land can be returned to its original use.

I took the opportunity some weeks ago, when APPEA was in the building, to have a presentation done by them and saw the before-and-after slides of what the effects of
land management are as a result of them using this particular mining on properties. Virtually the end result is negligible. There is little or no impact on the particular land, certainly as seen from the photographs that were supplied. I made the point earlier that, in my travels to Roma on numerous occasions over the years, I have seen that firsthand.

The state government already has effective legislation in place ensuring protection for our landholders. They have introduced training programs so that landholders can effectively negotiate with coal seam gas companies before entering into agreements. They have introduced legislation to protect prime agricultural land under a strategic cropping land framework while allowing the gas industry to continue. We believe the right way forward is for the gas industry and landholders to effectively work together for the benefit of everyone.

This bill represents far too ready a solution to a problem which is, in fact, a complex one, which deserves case-by-case consideration in many instances and is one which state governments are generally grappling with with varying degrees of success. We need to remind ourselves that this is, indeed, a state responsibility. The use of land is a primary responsibility of our states and territories, and for the Greens to enter into this space in this way with a simplistic solution again calls into question their commitment, a commitment that has been restated many times in this place, that they have a strong regard for the rights of states and territories to legislate within their own areas of responsibility. This was exhibited only a few weeks ago in this very place, but I will come back to that issue in a moment.

The coalition does not see any merit in this bill. As I said, this is an issue for state governments, who have accountability to their electors to issue licences for exploration and the subsequent exploitation of resources. The fact is that resource companies cannot enter a landowner's property to exploit the minerals and resources on that property without a negotiated or, in the worst case, a Land Court arbitrated agreement with that landowner.

The coalition, and particularly the Leader of the Opposition, Tony Abbott, has made it perfectly clear that within that framework the federal opposition's view is that prime agricultural land must be protected. We will work with state governments to ensure that that objective is reached. There is clear evidence in Queensland that many landholders are able to come together sensibly to reach mutually satisfactory arrangements for the future use of their land and that the coexistence of agricultural and resource industry activities is not only possible but is also, in fact, the norm. Both
the Premier of New South Wales, Barry O'Farrell, and the man who I think is widely expected to be the next Premier of Queensland, Campbell Newman, have addressed this issue very directly. They are both fully seized of the importance of protecting prime agricultural land and have committed to the objective of ensuring that there is a strong and direct response to the concerns raised by landholders about their land being properly used and its present owners being properly consulted about the way in which that occurs.

I had the opportunity a few months ago to visit the electorate of Flynn in Central Queensland—the electorate of Mr Ken O'Dowd, the LNP member, who is fully apprised of the concerns of local landowners about how their land is used and how prime agricultural land may be at risk. It is through representations such as his that the LNP in Queensland has come to address this issue directly. I will speak about that in a moment. At the federal level the coalition supports the expansion of the coal seam gas industry where that is in harmony with the rights of landholders and the protection of prime agricultural land for food production.

I emphasise again that we are not talking about a one or the other response—we are not saying we either exploit the resources or we exploit the land for its food production capability. It is possible to deliver a balanced approach, acknowledging the importance of the mining industry to Australia's future economic sustainability while also acknowledging that Australia has a tremendous asset in its agricultural land. The quality of farm products in Australia is enormously important to Australia's reputation as an exporter, and it is critical that we acknowledge and respect the rights of farmers.

The federal opposition supports the work of its state colleagues in delivering a more balanced approach than the approach offered by state Labor governments in recent years. In fact, it needs to be acknowledged very directly that the characterisation of this debate as an all-out war between farmers and miners grossly understates the extent of cooperation which has been occurring for a long time in regional and rural Australia. Mining companies by and large are well apprised of the values of the communities in which they work. They seek to add value as much as possible to those communities—there are exceptions, of course—and it is important that the potential for agreement making in these areas be enhanced by creating opportunities for those agreements without blanket decisions being imposed on parties by legislation introduced in the federal parliament.

The mining industry and the farming community have worked together in Australia in many areas and both sectors are prospering as a result. There are long-established systems in place which allow miners and farmers to negotiate land access, and there are very few cases where disagreements end up in court.

Senator Waters: Not anymore.

Senator HUMPHRIES: You will have your opportunity, Senator, to put an alternative point of view. We know how well embedded the Greens are in rural Australia, how popular they are there and how many people vote for them in those parts of Australia. I am sure you have very good connections that tell you what is going on there—

The ACTING DEPUTY PRESIDENT (Senator Cameron): Senator Humphries, please address your remarks through the chair.
Senator HUMPHRIES: Thank you, Mr Acting Deputy President. The Liberal Party and the National Party have a much better understanding of what goes on in rural and regional Australia. We have worked in those communities, we have represented those communities, for decades. We understand the pressures they are under and we are working at both the federal level and the state and territory level to solve these problems in a realistic fashion. I suspect there are many communities around Australia that will not thank the Greens for rushing forward to advise them on how they can solve their problems when the Greens have, as a party, very little connection with those parts of Australia—except when it comes to marching into the local forest to chain themselves to trees to prevent logging or to protest in some other way about activities going on in a rural industry of some sort or another.

As I said, there are numerous examples of farmers and mining companies working cooperatively and negotiating mutually beneficial outcomes. The development of the coal seam gas industry in Queensland is not some kind of rampant uncontrolled exercise which is resulting in the destruction of rural communities; it is a process which is highly regulated. In Queensland the industry is subject to more than 1,500 state and territory conditions. In fact, the coal seam gas industry is more regulated than the uranium mining industry. Coal seam gas companies operating in Queensland, and I include among those Queensland Gas Co. and Santos, have in fact shown that they are willing to work with local communities and to carry out the process of exploring and exploiting mineral and gas deposits in good faith. By way of an example, all of the Queensland Gas Co.'s work on private properties in Queensland has been done with the express permission of landholders. That might not be a fact that suits the case put forward by the Greens, but it is true. In fact, Queensland Gas Co. prefers voluntary agreements and now has more than 800 agreements following negotiations on land access with about 1,000 landholders across the state.

The coalition believe that there are some sections of productive land that are of such significance that they should be given additional safeguards. We acknowledge that is sometimes a necessary step to take, but we also acknowledge that, under our federal arrangements, state governments are responsible for both land use and mining. Therefore, we believe it is a matter for each state government to determine which areas are considered prime agricultural land and for each state to put in place protective measures where appropriate in consultation with farmers, rural communities and resource companies. We urge those parties to deal effectively with the issue of the protection of prime agricultural land and to do so as a matter of urgency.

I think it is fair to say that this is an area in which activity is happening in the right direction. We can see, not just in Queensland but also in New South Wales, that state governments are apprised of the need to take steps that make it clearer what are the respective responsibilities and rights of parties on both sides of this debate. The O'Farrell government in New South Wales have certainly taken steps to balance the needs of mining and agriculture in that state. The government there have put in place a moratorium and there are strategic land-use plans to identify and protect productive farmland. Those plans involve communities in local decision making, ensure a sustainable and healthy mining industry and encourage industry best practice. Obviously the O'Farrell government's arrangements have not been in place for very long and I
think it is quite unreasonable for the Greens to march forward and attempt to overturn the balance that has been struck there by virtue of the legislation that is before the Senate today. I might also add that the O'Farrell government are developing at the present time a system of stringent groundwater regulation. They are reviewing fracking standards and they are reviewing access arrangements. So this is very much a matter under close consideration by governments such as that.

I mentioned before that the Liberal National Party in Queensland had also taken steps to show that it is addressing this issue, even though it is not yet in government. It has published a discussion paper that notes the importance of gas to the Queensland economy but does raise a number of issues that have not been addressed by the Bligh Labor government, including the depletion of underground water, the issue of land access, the location of coal seam gas infrastructure close to dwellings and the increasing pressure on inadequate existing regional infrastructure. I think that, with steps such as that, the LNP is well placed to provide for the people of Queensland a much better, more balanced approach than has been achieved by the knee-jerk reaction of the Bligh government to this problem.

It is also necessary to put on the record that the Senate itself has a committee that is currently looking at the management of the Murray-Darling Basin, including the impact of mining coal seam gas. The Rural Affairs and Transport References Committee, chaired by Senator Heffernan, will report on 30 November. Waiting might not be in the genes of the Greens, but it would be a good idea in this case to do so. I note that committee will examine:

The economic, social and environmental impacts of mining coal seam gas on:

- the sustainability of water aquifers and future water licensing arrangements;
- the property rights and values of landholders;
- the sustainability of prime agricultural land and Australia’s food task;
- the social and economic benefits or otherwise for regional towns and the effective management of relationships between mining and other interests; and
- other related matters including health impacts.

I have been in this place long enough to be lectured plenty of times by the Greens about the need to pay close attention to what committees in this place do and to listen to what the committees are saying before making decisions, yet on this occasion it does not appear as if the Greens are prepared to follow their own advice.

I also take exception to the characterisation by the Greens of coal seam gas itself. At various stages some Greens have referred to it as dirty energy, when in fact coal seam gas is significantly cleaner in terms of greenhouse emissions than many other alternative fossil fuels. I note Senator Furner referred to it being 70 per cent less productive of emissions than other forms of fossil fuels and I have no reason to doubt that is the case.

With this legislation the Greens portray themselves once again as a beast that is strangely torn between adhering to the best science and being the 21st century's version of the Luddites. On areas such as global warming, they are prepared to trot out scientists ad nauseam to tell us how we need to change our ways and to improve our performance as a carbon-producing society. In areas like exploitation of natural resources and genetic modification of food the Greens seem to shy away from the best application of science. They seem to think that it is their preserve to pick and choose what science they believe and what science they do not. It
is possible to use technology to exploit coal seam gas in this country in a way which balances the needs of both mining and farming users of that land. For the Greens to characterise this in other ways is just dishonest.

I also cannot help but mention that once again we see the Greens shifting and changing on the question of the rights of states and territories. I think the last piece of legislation the Greens presented to this Senate, only a few weeks ago, was legislation to prevent federal governments from disallowing the laws of territory parliaments. Today, we have been presented with legislation which effectively tells state and territory governments how they deal with their most important single area of responsibility—the use of their land. State and territory governments probably have no more important responsibility than managing the land mass of those states and territories. That is their responsibility and they have a longstanding constitutional responsibility for dealing with mining leases and with agricultural issues. Everything contained in this bill effectively cuts across responsibilities of state and territory governments.

But that does not bother the Greens because the Greens do not have those sorts of concerns about being a supporter of one group one day and being a supporter of the enemies of that group the next day. They are perfectly capable of doing that. Senator, as you spend more time in this place, I think you will need to develop a better sense of what a mish-mash the Greens are with their policies and their causes. The fact is that the Greens are, above all, a populist party. They detect some concern about this issue and so they decide that they have a solution. They rush forward into the Senate with a solution to issues which are complex and which deserve careful, sober consideration almost on a case-by-case basis. The Senate therefore should soundly reject this half-baked proposal from the Greens today and allow other processes to deal with these complex but important issues.

Senator RHIANNON (New South Wales) (10:32): I am very pleased to speak to the Landholders’ Right to Refuse (Coal Seam Gas) Bill 2011 and I warmly congratulate Senator Larissa Waters on her initiative. The Greens bill will achieve a goal for which the Greens have campaigned for many years, and that has been clearly set out by Senator Waters. We are working with many farmers, environmentalists and the wider public to ensure that coal seam gas companies gain consent from farmers prior to entering their properties to carry out exploration activities for coal seam gas and to get a number of protections in place. We clearly need balance in how the mining industry operates in this country.

As I think all senators would be aware, more and more communities are becoming deeply troubled about the activities of the coal seam gas industry. In New South Wales, the industry’s hunger for new coal seam gas exploration areas has seen a push into both prime agricultural land and even Sydney suburbs. Landholders must have the right to say no and must be able to make informed choices about whether or not they want to risk the exploration of their land. For decades, Labor and the coalition parties when in government have failed to bring balance to how the mining industry operates. The Greens’ position as we have already heard in this debate, is often distorted by others. In no way are we talking about shutting down the mining industry. It is about bringing balance, and that is what Senator Waters’ bill will achieve if it is passed.

I will deal with some of the misinformation that has already been put
forward in this debate. We have had speakers from Labor and the coalition parties and already we see a whole series of arguments trotted out, put forward so that these parties can avoid doing the right thing by farming communities and the wider environment. One of the popular arguments—and I saw this when I was in the New South Wales parliament—is buck-passing between the federal and state governments. Here we have federal senators saying we should leave this up to the states.

The states are doing a bad job—I will come to that in detail—and that is very clear to see. Groundwater and food security clearly need to be national issues. This legislation provides the means for us to achieve the important protection that is needed. This bill is not a replacement for state regulation. It provides an additional tier of protection, and that is the essence of this argument that the senators from Labor and the coalition need to recognise before they come forward with their dishonest arguments.

Another area that needs to be addressed concerns climate change. We need independent Australian coal seam studies to determine the climate change implications. The government should not take the industry's word for it because at the moment the studies that have been trotted out are from industry. Another point where we see distortion in the arguments from the other parties is that this bill does not alter the ownership of the minerals and gas, which remain vested in the states. The bill does not affect the ability of the federal and state governments to compulsorily acquire the land with appropriate compensation. So I ask senators who are coming in on this debate to be accurate about the information that they put forward and not throw up smokescreens to try to justify why their party is not going to support this important legislation.

As I mentioned, this is a huge issue in New South Wales. Communities have become more informed and, as their awareness increases, their concerns certainly are growing. In New South Wales, the public opposition to coal seam gas mining, and particularly to the controversial method of fracking with its associated toxicity, has built to such a strong point that we are seeing wide collaboration between farming communities, environmentalists and urban communities. There is a recognition that the economic and health impacts are just not worth the risk. I understand that many people who are actively working in this campaign do support a total ban on coal seam gas mining in New South Wales. Local government is not embracing coal seam gas proposals. Motions supporting a moratorium have been passed by many affected councils. They have been left with little choice but to oppose this activity because they are not properly informed about the immediate risks of long-term impacts either by the government or the industry. Just yesterday the first day of a New South Wales state parliamentary inquiry was held at Alstonville. The Sydney Morning Herald describes the passionate opposition that was displayed there:

Passionate opposition to the industry's growth in the region united doctors, cattle farmers, activists, town residents and organic produce growers.

That is an interesting description from the Sydney Morning Herald and it certainly sums up my own experience working in rural New South Wales as the awareness about this problem has grown.

What we are seeing here too, and it was again reflected at yesterday's hearing, is this point I just mentioned about the growing concern amongst local councils. Richmond Valley, Kyogle, Liverpool City and Tweed Shire councils all gave evidence at the
inquiry. It was only the Richmond Valley which has seen any benefit in the coal seam gas production. All those other councils are standing with the majority of people in their communities and representing them effectively, raising their concerns. Let us remember the area that they cover. They cover an area where I know many of my colleagues in this place come from. It is a beautiful, rich area where we see beef and dairy cattle, sugarcane, nuts and coffee. It is such a rich area with those beautiful, fertile soils, which is all at risk if the hundreds, indeed thousands, of proposed well-heads go ahead. I congratulate those councils for the stand they have taken.

It is incredible that the New South Wales government, and indeed the government speakers in this debate, defend the right of mining companies to exploit our natural resources yet they will not defend border security for farmers who are trying to protect the long-term viability of their groundwater from mining damage. Groundwater cannot be separated from food security. In May this year the New South Wales Greens MP and mining spokesperson Jeremy Buckingham introduced a coal seam gas moratorium bill into the New South Wales parliament that will place a 12-month moratorium on the coal seam gas industry in the state and prohibit coal seam gas mining in its entirety in the Sydney metropolitan area. The moratorium would provide adequate time for an independent inquiry into the economic, social and environmental impacts. The call for a moratorium is justified because the industry has not demonstrated that it can operate safely. That is where I put it to my colleagues from the coalition parties and Labor that what they should be getting behind is a moratorium. That is a responsible position when there is so much concern in the community and the safety impacts are so serious.

Senator Waters' legislation before the Senate will be a test for the coalition and the federal government on where they stand on food security and the longevity of our rural communities. I want to repeat that: this is a test for these parties. I have seen this play out in New South Wales, and I will go through that in some detail because it was informative how the other parties responded. Despite what Senator Humphries said about the Greens rushing into this and offering simplistic solutions, I and my colleagues have been working with rural communities for many years. It was on the back of our work with farmers in Liverpool Plains, in the area of Gloucester and in the upper Hunter that I introduced a bill into the New South Wales parliament to stop mining on prime agricultural land and to ensure that the water resources are protected.

How the campaign was built up to ensure the legislation was passed is most informative. First off we did not get any support from the coalition or the Labor Party. The farmers rallied. They campaigned hard and then the National Party said that they would support the legislation. The Liberals came on board. The New South Wales Farmers Association spoke at a rally attended by about 300 farmers from many parts of New South Wales who bused in for the day. They brought their produce. It was one of the most moving days I had in state parliament with the produce all lined up at the parliamentary gates and the farmers protesting and then they came into the gallery. So we got the coalition on board. For the first time they broke ranks with the mining industry. Some of the comments of the farmers were interesting, and I understand this is why the Nationals changed their position. They said, 'How come the Greens are moving this bill? Why didn't the Nationals, who have been in the parliament much longer, put forward this legislation?"
Unfortunately the bill was defeated by one vote, on the combined vote of the Labor government with the Shooters Party and Reverend Fred Nile from the Christian Democrats. But it was informative in terms of the attitude from the other parties and the public pressure which pushed the Nationals to vote the right way.

In 2008 Senator Bob Brown, together with Tony Windsor, the member for New England, built on this campaign when they called on the federal National Party to amend the Water Act to protect the farmers of the Liverpool Plains from mining threats. At the time the Greens in New South Wales also called for our bill to be reintroduced by the Nationals and to include a moratorium on coal seam gas mining and exploration on prime agricultural land. This work with communities from Gloucester, from the upper Hunter and from the Liverpool Plains has been rolling out for many years in the community and the Greens have taken this work into parliament. I am pleased that my colleague in the New South Wales parliament Jeremy Buckingham has taken up this important work for the Greens with such gusto.

I would also like to take this opportunity to pay tribute to some of the communities that I worked with in the early days of this campaign. I recently met Rosemary Nankivell again at the coal seam gas inquiry committee hearing in Narrabri, where she gave expert testimony on the impacts of coal seam gas in her region. Rosemary is one of the people who have put this issue on the map. She was instrumental in getting one of the first stories into the Sydney Morning Herald. It was when it was very hard to get coverage of this issue. Rosemary was a strong voice for the community. She invited me to a packed community meeting she organised to object to the coal seam gas exploration works being carried out by Santos. This was quite a few years ago. Rosemary was part of the Caroona Coal Action Group, which has done so much excellent community based work in that region to oppose coal exploration by BHP Billiton and China's Shenhua, as well as coal seam gas mining by Santos.

In July 2009 there was a meeting at Mullaley on the Liverpool Plains to call for an end to coal seam gas exploration and extraction on the best food-producing land in the Gunnedah Basin. Mining for coal seam gas, as we know, should have no place in the fertile food-producing lands in this area. Back then we gave an opportunity to the government to quarantine the area from both exploration and drilling. We were arguing that, in the context of climate change and ongoing drought, the profits of the big gas companies should not be allowed to take precedence over the protection of critical water supplies that feed our prime agricultural lands.

My colleague Senator Christine Milne has laid out very clearly the climate change impacts of this industry and how serious they are. There are also many local environmental impacts in various areas. This is particularly so in the Pilliga area in western New South Wales, where Eastern Star Gas has started extracting gas in an area known as the Pilliga Scrub in what is called a pilot project. The company Santos has taken over from Eastern Star Gas.

I congratulate the locals there, particularly Tony Pickard and his many colleagues, other local farmers and the various environment groups: the Northern Inland Council for the Environment, the Wilderness Society and the Nature Conservation Council of New South Wales. They produced a report titled Under the radar, which I commend strongly. They have identified that the activities being undertaken by Eastern Star Gas in the Pilliga
Forest are being done without seeking federal assessment on matters of national environmental significance. The report has found that coal seam gas operations in this area have cleared more than 150 hectares and fragmented 1,700 hectares of bushland. They have drilled 92 coal seam gas wells, constructed more than 56 kilometres of pipeline and operated 35 production wells without seeking approval under the federal EPBC Act. These activities have occurred in habitat for federally listed threatened species, such as the south-eastern long-eared bat. Pepe Clarke, the CEO of the Nature Conservation Council of New South Wales, has said:

Under Commonwealth legislation, any potential impacts on nationally-threatened species must be referred to the environment department for approval. Eastern Star Gas has been flying under the radar to avoid this process in the Pilliga. I have visited this area with local farmer Tony Pickard and many of his colleagues. I was alarmed at what is called a pilot project, at how extensive the damage occurring in this area is. The measures put in place by Eastern Star Gas to avoid or mitigate impacts are totally inadequate for preventing such impacts, and their effectiveness is uncertain and not scientifically established. A visit to this area quickly establishes that. You see leaking pipes, unprotected areas where gas is coming out and an industry that looks very dodgy from all angles.

Farmers deserve the right to refuse entry to their land where they are concerned about the long-term risks posed to their land and water resources. I am aware that some farmers have been very badly treated by mining companies, and it is vital that this problem be addressed. It is another reminder of the failure of the National Party to stand up for their constituency. Urban communities also deserve the right to say no to coal seam gas operations that are moving into the suburbs.

The movement against the unbridled expansion of the coal seam gas industry in New South Wales is very broad based; it is extremely diverse and includes farmers, environmentalists, inner city people and retirees on the coast. People are coming together from very diverse sections of the public. From the comments made by speakers from the Labor and coalition parties there is every indication they will join forces to prevent this bill from becoming law. But we can assure you that the movement will bring some sanity to this to protect farming land, to bring in environmental protections and to ensure that another fossil fuel industry that will add to greenhouse gas emissions will not open up. Just last Sunday more than 1,000 people walked down the centre of King Street, Newtown, one of the busiest thoroughfares in Sydney, to express their opposition to this industry. It is quite unique for people in Sydney to develop that understanding about the mining industry. Again, it shows the fantastic work the farming community has done to alert people across this state and across this country.

In New South Wales alone there are currently 100 wells, with proposals to move to 1,500. That is what is on the books. The opposition is considerable and it will build. People feel deeply concerned about it. I call on senators to look into their own hearts for what they will allow to happen to the communities they come from if they do not take a stance. It is not about being against the mining industry; it is about being in balance with how our society works: where we take our energy from, how we ensure we have food security for future generations and how we protect the water resources that are so essential to food security.
Senator MARK BISHOP (Western Australia) (10:51): At the outset it is a very useful thing to identify the purpose of the Landholders' Right to Refuse (Coal Seam Gas) Bill 2011, which I will now do. The bill seeks to make the recovery of coal seam gas unlawful on food-producing land without the prior written authorisation of all who have any legal interest in that land. From that definition, which is contained in the explanatory memorandum to the bill, I believe, necessarily, that the bill needs to be considered in the context of two other bills either currently before the chamber or about to be introduced into the chamber: firstly, the government's clean energy package of bills and, secondly, the government's proposed Minerals Resource Rent Tax Bill. Both of those sets of bills, as I understand it, are strongly supported by the proponents and advocates of this bill for good, sound and cogent reasons. Their reasons have been well articulated and well established on the public record. Indeed, in passing on rates in respect of the mineral resources rent tax, the Greens have publicly identified that they seek to increase the rent tax imposed by the Commonwealth for access to minerals below the ground. The context of those two sets of bills, therefore, and their relevancy and connection to this bill are important. I will return to that issue later in my remarks.

Let us now consider a range of matters or propositions contained in the bill before the chair. Firstly, the bill exercises Commonwealth power to apply penalties on any constitutional corporation if it, the constitutional corporation, undertakes any activity to explore or produce coal seam gas on food-producing land without the prior written authorisation of everyone who has an ownership interest in that land. Let us think about that critically important proposition. The bill defines 'coal seam gas mining activity' and 'food-producing land' extraordinarily widely. Coal seam gas mining activity is defined as any activity undertaken for exploration—we should note that—or production of coal seam gas. Let us stop here.

Exploration is the first phase of exploration of a mineral or mineral-like deposit. It is the stage only where a potential deposit is identified. Issues like the scope, breadth or depth of the deposit come later. Issues of content come later. Issues relating to purity come later. Issues relating to commerciality come later. Issues relating to access come later, and issues relating to cost and accessibility must come much later in the process of development.

But the process of raising capital in incremental amounts as potential deposits are valued and revalued is vital to all stages but particularly the exploration stage. Essentially, miners raise debt or equity by selling future rights to producers from a site during all phases of development, including post exploration. Yet this bill would stop such a process from the beginning because it requires the written authorisation of everyone who has an ownership interest in the land. It is the most perfect vehicle ever devised to prevent the proving up of likely deposits of coal seam gas.

Let us now turn to the second unlikely phrase used in the bill—that of 'food-producing land'. At the outset I observed that such a phrase is also extraordinarily wide in application. What does 'food-producing land' mean? It is clearly not just arable land, fertile land, developed land, marginal land, grazing land, crop-growing land or irrigated land. If it were, it would be so defined in the bill. No, I suggest it is arguably and clearly intended to mean any land capable of producing food. Let us think about that for a moment. Let us think about technology and science. Let us
think about the ingenuity of humankind. Let us think about desert land recovered across Australia and around the world for wheat production. Frankly, there is not any land anywhere in Australia that, with the correct application of science, technology, finance and endeavour, is not capable of producing food.

Let us go back to the post-war years—post the First World War and post the Second World War—and look at land areas that have been sequentially developed in this country. I refer in particular to the river lands of South Australia and Victoria, to the marginal wheat belt territories in the south of Western Australia, to the Ord River lands in Western Australia and to the rich, fruit growing areas of Carnarvon in the northwest of Western Australia. All of those land areas over time have been developed and exploited with a combination of those matters—technology, science, finance and human endeavour. The bill, in that context, seeks to prohibit any coal seam gas activity from the beginning of exploration in any land anywhere in Australia which is or has been capable of producing food. Again, in that context, food is not defined.

In stopping that process, the bill expressly identifies at the outset how that end is to be achieved. The bill, if enacted, would not transfer the ownership of coal seam gas deposits from the Crown; it would transfer control of those resources and probably also any coal deposits requiring the draining of methane from the Crown to the holders of surface rights on food-producing land. Such a change would enable the owners of any surface rights to extract economic rents in exchange for authorising exploration and production of gas of which they have no ownership, thus depriving the community of its right to maximise its return from assets commonly held. Let us break up that proposition into its parts so that it is clearly understood. Firstly, ownership of minerals for hundreds of years has vested in the Crown. Secondly, the Crown has received income via taxation or royalties or excise for permitting lawful exploitation. Thirdly, the Crown uses that revenue for the everyday purpose of government. Fourthly, because mineral rights were vested in the Crown, the value of exploration is never included in the price of land. Fifthly, and finally, the bill proposes to pass that value, that unpriced value, to the current and temporary owner of the land without payment of any consideration—truly a most remarkable proposition. But it gets even worse.

The government has had a clear position on the Minerals Resource Rent Tax Bill for at least the last 15 or 18 months. The government's position is to increase royalties on major companies who seek to develop mineral deposits around Australia. There has been criticism of that position from the opposition. They are opposed to it. There has also been criticism of that position from the Greens party—not that we are doing it, but they say that our rate, our levy, is manifestly inadequate and should be increased. Senator Brown has repeatedly said that he and his party will move amendments in this chamber to the MRRT Bill when it is introduced to increase the rate. So, for every other mineral, the Greens want to increase the take to the Commonwealth for the purpose of everyday government, but with the bill before the house the Greens want to transfer that benefit to the current titleholders, however temporary, without payment of any consideration at all. Such a transfer of wealth or potential wealth is totally unprecedented, totally unwarranted, unfair and totally devoid of any equity at all.

Senator Waters interjecting—

The ACTING DEPUTY PRESIDENT (Senator Cameron): Senator Bishop,
ignore the interjections and address your remarks through the chair, please.

Senator MARK BISHOP: I will indeed, Mr Acting Deputy President. I will say it again. Such a transfer of wealth is unprecedented, totally unwarranted, unfair and devoid of even a scintilla of equity at all.

Earlier I referred to the authorisation process contained in the bill. The bill requires that such authorisation must include details of an independent assessment of the current and future risks associated with the proposed coal seam gas mining activity on or affecting the food-producing land and any associated groundwater systems. It is unclear whether this assessment would mean an environmental impact statement, an EIS. If so, it clearly would impose a significant impost on landholders. What does this mean? It means this: the bill is seeking to deal with environmental issues by privatising assets owned by the community and setting up a further but protracted environmental process which will not produce improved environmental outcomes, since the existing Commonwealth EPBC Act and state environmental processes will continue to apply.

In that context, let me turn to the work that has been done on the package of clean energy bills for the last nine months. We all know there has been nine months of exhausting committee work. We know that the Greens accepted an invitation from the government to provide the deputy chair to that committee. We know also that it has concluded its deliberations and that its policy recommendations have been examined and accepted by government. We now know that the work of that committee on the clean energy bills has been referred to a parliamentary committee for some six, seven or eight days of exhaustive examination. We know and we hope that that package of bills will be passed in this chamber prior to Christmas. And we know that that package of bills is about carbon reduction, carbon abatement and a clean energy future.

In that context, the carbon pricing package contains more than $10 billion to promote renewable energy, but early emissions reductions are expected to be driven by the carbon price forming a switch from coal-fired electricity generation to gas-fired generation, which of course has significantly lower emissions. There have been numerous repeated and respected scientific inquiries and findings from universities all around the world that say that the output of carbon emissions from the gas production and gas use process in manufacturing energy is something in the order of 50 to 70 per cent below that of coal. So efforts by the Greens in this bill to prevent the development of gas in this country are totally inconsistent with the transition to a lower carbon future. It is manifestly clear that gas-fired electricity generation is more reliable than renewables at present. The coal seam methane industry is a stunning example, a great example, of our success as a nation and a government at state and Commonwealth level in attracting investment. Three years ago this industry was not even thought about. Now, we have got a $45 billion investment. If the Greens want to reduce CO₂ emissions, they must understand that gas is going to make a huge contribution to that because it is clean energy, it is plentiful, it is cost-effective and it is reliable.

I might be tempted to say what the opposition would say of this bill. They might say it is green extremism. They might say it is absurd bureaucratic process. They might say it is a misuse of policy to achieve an adverse predetermined outcome. But I do not say those things. The opposition might say them in due course, but I do not say them. What I do say of this bill is that it is an
example of poor thinking, confused thinking, woolly thinking and silly thinking. It seeks to achieve sound environmental outcomes by absurd bureaucratic processes.

As I said at the outset, the bill effectively provides an absolute veto of coal seam gas activities by the owners of food-producing land, which is broadly defined in the bill. The bill seeks to overturn state laws which seek to properly balance—

**Senator Heffernan:** Madam Acting Deputy President, on a point of order: could I just point out to the chamber the incorrectness of some of the logic in this debate. Santos has already agreed—

**The ACTING DEPUTY PRESIDENT (Senator Pratt):** There is no point of order. You cannot take frivolous points of order. Senator Bishop, please continue.

**Senator MARK BISHOP:** Thank you, Madam Acting Deputy President. The bill seeks to overturn state laws which seek to properly balance the competing interests of the owners of surface rights to land as granted by a particular state with the rights granted by the same state to explore for and produce coal seam gas. It does this by ensuring that, at a minimum, surface owners are fully compensated for any economic loss or inconvenience as determined through a proper process. Such a change in this bill would enable the owners of any surface right to extract economic rents in exchange for authorising exploration for and production of gas of which they have no ownership, never had any ownership and never wanted any ownership, thus depriving the wider community—all of us—of its right to maximise its return from assets commonly held. This has been the case since European settlement of this continent in the 18th century and it has been the case in right of the Crown since the 12th century in Great Britain. This bill seeks to overturn that right of common ownership, common value and common return to the government—to the people—by the Crown through the provision of common services.

The excuse for overturning these long-established state systems is concern about the alleged environmental impacts of coal seam gas projects. But the bill itself does not do one thing for the environment. It simply transfers control of assets owned by us—or by us through the state—to owners of any interest no matter how remote in terms of surface rights. The bill proposes no change to environmental regulation, because it does not need to. Where matters of national economic significance are involved, the EPBC Act comes into play, as it did with all current Queensland CSG projects—projects which the Minister for Sustainability, Environment, Water, Population and Communities, Mr Burke, on behalf of this government—

**Senator Heffernan:** It's all lies.

**The ACTING DEPUTY PRESIDENT:** Senator Heffernan, come to order.

**Senator MARK BISHOP:** All these CSG projects are fully subject to state environmental regulation. In any event, the bill, if passed, would undermine efforts by the Australian government to assist the states to develop a harmonised, regulatory and best practice framework for CSG activity work currently being undertaken cooperatively by all interested jurisdictions, including the New South Wales government—Senator Heffernan's own colleagues down the road. That the bill is a crude political exercise is shown by the fact that it will not affect arrangements with respect to petroleum not found in coal seam or minerals not found in association with gas, even when there might be analogous environmental or regulatory issues. Again, as I said at the outset, the bill is so broadly drafted that any competent
person could drive a bull and dray through it.

(Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (11:12):

There are so many things that the previous speaker, Senator Bishop, said on the Landholders’ Right To Refuse (Coal Seam Gas) Bill that I would like to deal with—I could spend the rest of my time on them—but let me start with the Greens. The Greens, who apparently want to put themselves up as the champions of coal seam gas by reason of the protection of property rights, are the same Greens who were quite at one with divesting the landholder of their rights for the ownership of the trees and the vegetation on their place. They never put up a bill to hand that property right back to the farmers. They never cared about that—shutting down the land by basically divesting the person of their vegetation rights. They are also the same Greens that want to take 7,600 gigalitres out of the Murray-Darling Basin to shut it down. They never put up a bill saying they do not believe in shutting down the Murray-Darling Basin. They are quite happy to do that. So they will take the vegetation rights off you, they will take irrigation rights off you, they will absolutely tie you up like Franz Kafka in red tape and down the Great Barrier Reef with environmental regulations, and then we are supposed to believe them when they come in here to talk about their views on coal seam gas and the property rights of farmers. We know exactly what they are doing: they are creating a wedge. That is their right, but they should be upfront about it.

There are so many people back where I live who would love the opportunity to speak in this chamber about something that is so pertinent to their lives. Yes, their issues must be addressed, but let us start at the beginning. We have an inquiry that is afoot. The extension of the terms of that inquiry—my name was put to it on the website because you were attacking the National Party—were put up by the National Party. You now sit on that inquiry with the National Party to try to bring about a resolution. That committee will report in mid-November. Senator Heffernan, who is in here; is chairing it. We in the National Party have been driving this agenda. We are happy that we have taken it. But we will want to collect the votes around this chamber to come up with a constructive outcome. There are four issues that need to be dealt with. First and foremost, we must make sure that the aquifers are protected and not destroyed. We acknowledge that there are serious questions as to whether anyone knows what is going on. Prime agricultural land must be protected. Tony Abbott has stated that, and I am happy he has done so. That is movement we have never got from Kevin Rudd, Julia Gillard or anybody else, but now we have—from Tony Abbott. We have moved the agenda for the protection of prime agricultural land, and it was essential we did so. I would say that the people east of the Condamine are precisely on prime agricultural land. Anna Bligh moved for the buffer zone around residential areas, yes, but wasn’t it funny that that happened after we got this inquiry afoot? We do not want people’s quiet enjoyment being disturbed by the intrusion into their lives of a problem that they did not buy when they bought their house. That issue has to be addressed. If you tick the boxes—not destroying the aquifers, not destroying prime agricultural land, not destroying the quiet enjoyment of a residential estate—then there must be a proper pecuniary return delivered to the farmer. Currently they are getting less then 75c for every $1,000 that is earned by the miner.

It is very important to go through the history here, because some of the things that
were said by Senator Bishop, although well meaning, were just not correct. He went right back and talked about what happened in 1200. Magna Carta was actually 1215, without trying to sound too eccentric. If we go right back to that, we find that the Latin maxim at that point in time was cuius est solum eius est usque ad coelum et ad inferos: you owned from the heavens above to the infernal regions. In the 16th century, that was changed—the crown took from them gold and silver, fair enough. But there is still the contention that these rights have been displaced for hundreds of years; Bill Shorten, Craig Emerson and other people have said it, but they are just incorrect. Certainly the Crown in Australia had prospecting rights—it still does, and it should—but it did not have extracting rights; those had to be negotiated with the landholder. Over time, by reason of national crises, those rights have been taken from the farmer. A very good dissertation on that was given by Neville Wran in his second reading speech on the New South Wales Coal Acquisition Bill of 1981. Queensland's Petroleum Act of 1915 says:

… it is hereby declared that petroleum on or below the surface of all land in Queensland, whether alienated in fee simple or not so alienated from the Crown, and if so alienated whenssoever alienated, is and always has been the property of the Crown.

This is where in 1915 the Queensland government took those assets, the coal and the oil, from the farmer by reason of the First World War. It could see the calamity unfolding in Europe and wanted to ensure the security of their hydrocarbon material. The war finished, but the asset was never handed back. That legislation is obviously imbalanced, because all the rights—the presumption of ownership rights—that were held by the farmer were taken from the farmer, but there was no legislation to compensate in any way or to give any form of security right to the farmer. In South Australia, similar legislation was introduced in 1971. In the territories it was 1953. There were other, related, acts during the 1930s—I think 1935 or 1938, although 1938 may have been New Zealand. In New South Wales the final removal of this asset that was owned by the farmer happened in 1981. So it is not correct to say that farmers never had this asset; they did. It is an asset which historically they owned and that was extracted from their land. That is why frustration and absolute anger are permeating through farmers. They are finding that someone has a superior right of ownership because of a transaction they have never been a party to, involving people they have never met, in a room they have never been to. In Western Australia—Colin Barnett stated this the other day—people still have the right of veto on freehold land. I note that the majority of Western Australia is leasehold land, but this is where you see the imbalance.

The other problem is that the states are compromised. The states are the second-biggest beneficiary from mining, after the miners. The landholder sits there with no parity in the bargaining process. This is why we are conducting the inquiry. We need to be able to collect the numbers in such a way as to bring some sort of outcome. The Greens jump in with a little wedge bill once other people have done the hard work—they always do it. They put it in the middle of the process and then say, 'We provided a solution but you wouldn't take it.' No, because you have to go through the process. We are taking this extremely seriously. I think Senator Heffernan is taking it very seriously, Senator Shaun Edwards is taking it very seriously and no doubt the Greens are taking it very seriously. But, if you are serious on this, there has to be consistency
on other things such as handing back to farmers their vegetation rights, making sure you do not compromise the irrigation rights of farmers, making sure you do not tie up farmers with environmental laws that completely ipso facto remove their sovereign right of ownership. You have to be consistent on this, and we will hold the Greens to it.

This is absolutely a core issue. The core of my involvement in the National Party is property rights—it is one of the key issues. What is the point of going to work and working for something if you find out later on that you do not actually own it? What is the point of going through the privations, of going without, if someone has a superior right of ownership to you? I have to declare my interest. I bought a place when I came into parliament. I sold my accountancy practice, got a little bit of money and jammed it into a property. I grew up on the land and I like the land. I will be going down there next week to do the cattle work. About six months ago my neighbour Bruce McConaghy rang up and said, 'Eastern Star Gas is here, and they're going to do exploratory work on your place.' So there it is: I declare my interest. I bought a place when I came into parliament. I sold my accountancy practice, got a little bit of money and jammed it into a property. I grew up on the land and I like the land. I will be going down there next week to do the cattle work. About six months ago my neighbour Bruce McConaghy rang up and said, 'Eastern Star Gas is here, and they're going to do exploratory work on your place.' So there it is: I declare my interest. But it is like saying that someone who is thrown in the sea has an interest in swimming. I have an interest in making sure we get this right, and I think the people who live around me are absolutely focused on making sure there is a bit of mustard on my tail, because it makes me work very hard for a just outcome.

There is this idea that people can go to court over this. That is a load of rubbish. This is how it works: if a person comes on to my place in Queensland, he has to negotiate an access agreement with me. He has 50 days to do that. If, after 50 days, we have not negotiated an access agreement, he might just say, 'I like to go where I want, whenever I want, and I want to put a gravel road in to get there, and I want bore heads here, here and here.' If we cannot come to an agreement within 50 days because I say, 'Mate, I think you're absolutely destroying the whole complexion of my place,' then we go to the land court. However, once we go to the land court he is right; he can start work. And he gives me—the farmer—maybe $400 or $500 to deal with that. That is all I would get to try to deal with a mining company that has multiple billions of dollars worth of backing.

The disparity in the bargaining positions of the landowners and the companies is absurd. This is something that people from the Labor Party, who understand Work Choices, should understand. The disparity in the bargaining positions is outrageous. We have to try to make sure we help those who are weak against those who are strong and get a sense of equivalence. I know you people agree with that. So this is absurd.

The next part, of course, is that he—and I say 'he' because they are generally blokes—can pay what he wants. The companies can pay you what they want. You might say: 'You've completely compromised my asset here. I can't get on to my cultivation. Basically the place I purchased is not my own anymore, and nobody wants to buy it off me.' It is a case of 'Is that a drilling rig on your place, or are you just happy to see me?' Nobody wants your place once they see that you have a coal seam gas factory, basically, situated on the area where years ago you had your barley crop or your wheat crop.

They can pay you anything they want. In some instances we have heard of people getting a slab of beer as payment. Some of these wells are earning $1 million a day. And the company says: 'But we gave you $1,500 a year. You're so much better off now.' Then they put a confidentiality agreement on it so you cannot talk to anybody. You cannot talk to your fellow workers and find out what
they are being paid. No, you are not allowed to do that.

I know that in the Labor Party there will be some essence—some little seed down in your soul—that would say: 'I don't think I agree with that sort of concept of how you bargain. I think there should be transparency in collective bargaining against a stronger party.' You have to be philosophically consistent and work out how you are going to deal with this issue. The committee is afoot, and we will want to see exactly how you participate in that process.

And then there is this argument that somehow private ownership is anathema to the progression of commerce. I did not think it was. I thought private ownership was something we actually believed in. I thought we believed in the right of the individual to be commensurate with their capacity not only to improve their own position but to improve the position of the community around them. Not only do I think that, but apparently so does Henry Ergas, who said, in relation to coal seam gas, in his Catallaxy Files:

Shifting the rights to farmers will not affect the extent of development; rather, it will affect who gains the rents from development.

I do not think they have had any problems in Texas, as far as development goes. They might have had problems environmentally; I acknowledge the visual interjections of other senators. But you cannot say Texas has stayed behind as far as mineral development goes. It is privately owned. They are doing all right. I do not want Texas in Baradine.

Senator Heffernan: The Wild West!

Senator JOYCE: I do not want that. But we have to debunk the argument that we can believe in private ownership and commerce but not believe in the rights of farmers to be greater masters of their destiny. We acknowledge the financial predicament Australia has got itself into with debt—both the debt of the states, who are going to be $250 billion in gross debt by 2014-15, and the position we are in federally, with $205 billion in gross debt. We know that means that if we do not have mining we do not have money, and if we do not have money we have a big, big problem. But this cannot come at the expense of the fundamental injustice we are now seeing in so many areas. If we ignore this issue, it will not go away.

The Armstrongs and the Brimblecombes, the people around Cecil Plains and the multigenerational farmers from down in the Lockyer, up into the Downs and out west are an extremely collegiate group. They are and will continue to be on the phone to one another, surveying the horizon and saying, 'Are we going to get a form of justice, and who is going to give us that justice?' They will be having discussions with people in northern New South Wales—with whom, as I have explained, I have some involvement. These people will then be talking to the people on the coast and to people everywhere else. They are our shareholders. The voters are our shareholders. They are the most important people to us. They are the people we are here to serve. We are their servants first and foremost, before allegiances to any other group, party, body or corporation. So there is that expectation. There is a Senate inquiry on foot. My belief is that that Senate inquiry will report and, from that, we will have the capacity to try and start to move this agenda. We must acknowledge that for the vast majority of this issue you must follow the money: who makes the money out of the royalties? It is the states. So the vast majority of the ownership of this problem rests with the states. That is not saying for one moment that we do not also have a role in this, because as far as the shareholder—the
individual, the Australian citizen, the farmer—goes we are the closest thing they are ever going to get to an independent party, because the states are the second-biggest earners after the mining companies. But we cannot just quietly walk away from this. Likewise, we cannot have these sundry pieces of legislation that are slipped in prior to the conclusion of a process that is on foot, which is to bring about some sort of resolution, which has moved the agenda from the middle pages to the front pages and which has been at the forefront of keeping pressure on state Labor governments, such as in Queensland, to now bring about a two-kilometre buffer. These are the issues which have been brought about by the actions thus far, but it has not yet finished.

First of all, this issue has been brought up by Senator Waters. I have to say she is doing most of the work on this, although she is not going to get a chance to speak today. If they are consistent, we will see them working in an effective manner towards resolutions at the end of the inquiry. We will also see, in later times, when we bring up other things that may happen—when we reinstall the vegetation rights and so hand back farmers another asset that was stolen from them in the middle of the night without any compensation—we will get the same sort of emphatic support that they apparently have for the coal seam gas issue. And, when they later on tell us that we are going to lose 7,600 gigs from the Murray-Darling Basin, obviously that will change now—because they are worried about farmers now, so they will obviously change their views on that as well; otherwise, someone might just get a sniff of hypocrisy from a party that believes in stealing your trees, shutting down the Murray-Darling Basin, shutting down the live cattle trade, tying up legislation in caveats and imposts—but apparently does believe in coal-seam gas— (Time expired)

Senator DI NATALE (Victoria) (11:32): I am very pleased to rise in support of the Landholders' Right to Refuse (Coal Seam Gas) Bill 2011 today. I support the bill because it is good policy, it is prudent policy and it also happens to be popular with the vast majority of the Australian community. The bill gives farmers the right to refuse a miner permission to extract coal seam gas on their properties. As it stands, farmers who grow the food we eat, and export food, do not have this right. When it comes to facing down the miners who want to move in, dig up their properties and extract what is underneath, farmers hardly have any rights at all. We do think that they should have the right to preserve the lands under their care from a potentially devastating industry. It is true that the minerals under their properties are public property. This bill does not change that fact. It does not seek to create a precedent.

In our mad scramble to exploit the supposed riches of coal seam gas, we are taking some very dangerous risks with one of our country’s most precious resources: this nation’s farmlands. If things are left to the mining industry, the methane under our farmlands will be extracted and sold as quickly as possible. Preserving our most fertile land for the future will be less than an afterthought. Given what we know about the risks of coal seam gas extraction, this is reckless and premature. This bill does nothing more than add a note of caution to the debate.

In terms of our food production, this bill is aimed at protecting agricultural land and our environment; in particular it is aimed at preserving our best quality farming land. Farming is important in terms of Australia’s economy, but it is also important in terms of the Australian tradition. Despite this being a highly urbanised country, our farmers rightly hold a special place in the Australian
consciousness. This nation was built on the back of our farmers and our agricultural resources. Agriculture remains an important sector of the economy and an important part of our national identity. We are extremely lucky in this country to have access to such a bounty of high-quality fresh food. Over 90 per cent of what we eat is grown here. We have food security. Food security has had a bit of press recently, and we do take it for granted, but it is becoming an issue of increasing urgency. Only a tiny proportion of this country is made up of high-quality farmland. We do not have any farmland to spare, so no populist campaign of dam-building is going to change that. Therefore, our best land should not be foolishly used for short-term gain.

Unlike what Senator Bishop was suggesting, this bill only applies to land that has been used in the last 10 years for producing food that Australians eat and that we export to the rest of the world. With the UN now projecting that global food production needs to rise by about 70 per cent by the middle of next century, safeguarding food-producing land should be one of our highest priorities. Coal seam gas extraction uses billions of litres of water, it competes with agriculture for this precious resource and we have not had the debate that says that mining should win out in this current argument.

Mining is, of course, very important for our country and for our economic prosperity. We are not an anti-mining party. We understand that the world needs our resources and that Australia can provide them. But the Greens are the party of long-term thinking. You can only dig up minerals or extract gas once. What happens then? What does the future look like? This is particularly important when it comes to the coal seam gas industry. Once we have extracted and sold the gas, once the miners have left our properties, what does the land look like? Is it still fit for growing food?

We have not done a complete analysis of the risks associated with this industry. Let me name a few here. Of course, there is the significant risk of groundwater contamination. We know that some coal seams connect with the watertable. We know that the associated water that is produced as a by-product is often polluted with some dangerous chemicals, some of which I will refer to shortly. We know that this by-product often lies in evaporation ponds and risks leaking into rivers and becoming part of our potable water supply. We know that there are some real concerns about whether this industry is in fact helping us to make the transition away from high-emissions industries, particularly when one considers the potent nature of methane as a greenhouse gas, and that the footprint of this industry has been largely understated when we take a full life cycle analysis into account. We know that there are problems with leakage with compression for export. We need more independent analysis. We need to see Australian studies on this industry, independent of industry propaganda.

And coal seam gas is unnecessary. We do not need it now, especially from prime agricultural land. We know that there are alternative sources of energy.

As a medical professional, I want to spend a moment or two to focus on the health impacts of this industry. Most people would, of course, be very protective against any industry that might cause the potential health impacts associated with the mining of coal seam gas. We do not know enough about what those impacts are at the moment. We know that only four of the 60 fracking chemicals have been assessed as safe by NICNAS, the national chemicals regulator,
but we know that there is very good reason to think that some of those chemicals will have very serious health impacts.

When we look at the hundreds of different chemicals used in the extraction process, in particular there has been some focus on the BTEX group of chemicals: benzene, toluene, ethylbenzene and xylenes. These are the same products that are found in cigarette smoke. They are the same products that are found in exhaust pollution from motor vehicles. We know that they cause a range of health impacts. We know that some of them are potent carcinogens. We know that they affect a number of the body's systems, including our nervous system and circulatory system. So there are some real concerns about the impacts of the chemicals used in this process.

We know that these chemicals leave a lasting legacy. They have the potential to contaminate billions of litres of water through the process. I am really concerned that we do not have enough information to be able to say that this industry is safe and that we can safeguard against the potential health impacts on the Australian community. The potential for these chemicals to get into drinking and irrigation water supplies is significant, and we simply do not understand their impact on human health.

We need in this instance to use the precautionary principle. Until the toxicity profiles of all of these chemicals—in particular, the BTEX group of chemicals—are clearly understood, why on earth would we take a chance with one of our most precious resources, our groundwater?

Of course, there is a risk that the chemicals from the coal seams themselves—that is, the chemicals that lie dormant within these seams—will in fact be brought to the surface and into the water supply and our food chain. We know that there are a number of volatile organic compounds that exist within these coal seams and that they have the potential to cause cancer and other teratogenic effects. We also know that the underground channels by which a coal seam might link to an aquifer are complex. We need to make sure that we get more evidence and that we have a greater understanding of the impacts of these chemicals and their use before we jump headlong into the coal seam gas gold rush.

Given the potential for damage to human health, we think that one of the things that has been lacking in this debate has been the involvement of the public health community and public health experts as part of this process. I refer to publications in the Medical Journal of Australia which indicate some of the concerns expressed by the medical community when it comes to coal seam gas. It is important that, when we plan for proposals such as this, no proposal should go ahead without a complete consideration of the public health ramifications of this industry, and none should operate without strict and rigorous monitoring of the full impacts of the industry. Prevention is much, much more sensible than cure. Let us apply that principle not just to our health system but to this debate around coal seam gas mining.

I would like to say a few things about my home state of Victoria. While this debate has largely focused on the states of Queensland and New South Wales, Victoria is now the next target in the coal seam gas battle. In Victoria over 30 applications have been received for exploration for coal seam gas mining, and a number of these are exclusively for coal seam gas. It is of great concern to me and to many Victorians.

We in Victoria have some of the nation's most productive farmland. For example, Victoria produces two-thirds of this country's
milk. We have a dairy industry that is worth approximately $2 billion in exports. The Victorian public is now very, very alarmed by the coal seam gas gold rush.

It is clear that in my own local community in the region of Colac and south of Colac there is growing anxiety about an exploration permit that has been granted now to ECI International. At a community meeting that was held in the town of Forrest last Friday, in the wonderful Otway Ranges, my own place of residence, we saw almost 100 residents attend a community meeting who were particularly concerned about the impact of coal seam gas mining on groundwater.

We have seen issues in other areas such as the Ovens and King valleys, which were very strongly opposed to the possibility of coal seam gas exploration licences. In fact, the city of Wangaratta also expressed that view. An exploration licence for an area near the town of Warrnambool was withdrawn after significant community opposition.

We know that that story is consistent with what is happening right across the country. A Galaxy poll indicated that 68 per cent of Australians do support a moratorium on coal seam gas until the full health and environmental impacts are understood. We know that is how the Australian community feels. In fact this bill does not even go that far. All it says is that farmers should have a say. Disappointingly, this was not reflected by the other parties, who voted down the Greens motion for a moratorium on coal seam gas just last week. Their position is out of step with that of the majority of the Australian community.

The passage of Senator Waters' bill is nothing more than a nod to caution and good sense. It does not ban coal seam gas mining. It simply taps on the brakes and says: 'Look, we don't know enough about this industry, its impact on agriculture and its impact on human health. Let's make sure we get a much fuller picture around what those impacts are before we rush headlong into this industry.' I proudly stand here in support of the bill. I think that, if we do not support it, we do risk damaging human health and we do risk long-term damage to our groundwater and to our farmland. For those reasons I very proudly stand here in support of this bill.

Senator CORMANN (Western Australia) (11:46): The coalition supports the expansion of the coal seam gas industry, in harmony with the rights of landholders and the protection of prime agricultural land for food production. Issues related to land use are, of course, primarily a matter for the states. It is important that we take a balanced approach that acknowledges the importance of the mining industry to Australia's economic future while protecting prime agricultural land and respecting the rights of farmers.

The coalition supports the work done by our state colleagues in delivering a more balanced approach than that currently being offered by state Labor governments. The mining industry and the farming community have a long history of working together in Australia, which has allowed both sectors to prosper. There are long-established systems in place that allow miners and farmers to negotiate land access and very few cases end up in court. There are numerous examples of farmers and mining companies who have been working cooperatively and who have negotiated mutually beneficial outcomes.

It is also important to note that the development of the coal seam gas industry in Queensland is subject to more than 1,500 state and federal conditions, making it more regulated than the uranium industry. The coal seam gas companies operating in Queensland, such as the Queensland Gas Co. and Santos, have shown they are willing to
carry out the process in good faith. By way of example, all the Queensland Gas Co. work on private properties has been done with the express permission of landholders. The Queensland Gas Co. prefers voluntary agreements and now has more than 800 agreements, following negotiations on land access with about 1,000 landholders.

The coalition believes there are some sections of productive land that are of such significance that they should be given additional safeguards. Under the Constitution, it is state governments that are responsible for land use and mining. Therefore, in our view, it is a matter for each state government to determine which areas are considered prime agricultural land and for each state to put in place protective measures where appropriate in consultation with farmers, rural communities and resources companies. We urge those resources companies to deal effectively with the issue of protection of prime agricultural land. That is of course a matter that state governments need to continue to pursue as a matter of priority.

Positive steps have been taken, for example, by the O’Farrell government in New South Wales to balance the needs of mining and agriculture. The O’Farrell government has put in place a moratorium and strategic land use plans which will identify and protect productive farmland, involve communities in local decision making, ensure a sustainable and healthy mining industry and encourage industry best practice. The O’Farrell government is also developing a stringent groundwater regulation, reviewing fracking standards and reviewing access arrangements. The Liberal-National Party in Queensland has shown how seriously it takes the issue of safeguarding prime agricultural land with the publication of a discussion paper noting the importance of gas to the Queensland economy and raising a number of issues that have not been addressed by the Bligh Labor government. These include the depletion of underground water, land access, the location of coal seam gas infrastructure close to dwellings and the increased pressure on inadequate existing regional infrastructure.

The Senate Rural Affairs and Transport References Committee, chaired by my colleague Senator Heffernan, is currently inquiring into the management of the Murray-Darling Basin, including the impact of mining coal seam gas, and will report on 30 November 2011. That committee is examining the economic, social and environmental impacts of mining coal seam gas on the sustainability of water aquifers and future water licensing arrangements; the property rights and values of landholders; the sustainability of prime agricultural land and Australia’s food task; the social and economic benefits or otherwise for regional towns; the effective management of relationships between mining and other interests; and various other matters.

The federal coalition will continue to work with the coalition in New South Wales, with the LNP in Queensland and with other state parties to ensure the rights of farmers are always respected in this context. Mr President, I seek your guidance as to whether I can continue my remarks now or whether I need to seek leave to continue my remarks at a later stage.

**The PRESIDENT:** Order! Time for the debate has expired.

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (11:52): by leave—We have a general agreement in the Senate that private members’ time, because it is short, will be organised so that the primary piece of legislation being brought on each week for discussion will be brought to a
vote. What we have just seen is that fail to happen.

**Senator Cormann:** Are you saying that I am not allowed to speak?

**Senator BOB BROWN:** Yes, I am. Senator Cormann, you are interjecting against the standing orders. I am saying you should organise, within the ambit of a commitment from your side as well as everybody else's, to have an orderly arrangement whereby a vote is taken in private members' time. What you are otherwise saying, Senator Cormann, is that you do not want opposition bills coming to a vote in the chamber. If that is your position, that is new. Let us know about it. The same goes for the government.

**Senator Cormann:** My position is that, if want to speak, I should be allowed to speak.

**Senator BOB BROWN:** Your position is that you do not want any action, Senator Cormann. It is obvious from the contribution you were giving why that is the case. I am just saying to the government and the opposition that this is a breach of spirit by both sides and it ought to be brought back into order. Otherwise private members' time goes back to being of no significance—government bills get through; private members' bills do not get through. That is not proper in this place.

**Senator FIFIELD** (Victoria—Manager of Opposition Business in the Senate) (11:53): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator FIFIELD:** There was no agreement that this particular piece of legislation would come to a vote today. There are on occasion informal arrangements reached between the parties, but there was not one with this particular piece of legislation. Senator Cormann is only part-way through his contribution. On the circulated speakers list there is still Senator Xenophon and Senator Williams to speak. So I do not see what has happened today as being in any way controversial or out of the ordinary. It is a piece of legislation that is being appropriately debated.

**Senator McEWEN** (South Australia—Government Whip in the Senate) (11:54): Mr President, I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for two minutes.

**Senator McEWEN:** I would have to concur on this occasion with the comments made by Senator Fifield. There has been no agreement by the parties to take this particular piece of legislation to a vote. As we know, on past occasions in private senators' time, some bills have been taken to a vote. But there was no agreement. It has been discussed numerous times at whips meetings. It has also been discussed on occasion by the Procedure Committee, where there was also no agreement reached. The government's view is that each piece of legislation that comes to this chamber should be treated with respect and, as Senator Fifield noted, there are other speakers on the list. So we believe the process this morning has been in accordance with generally agreed principles in the Senate.

**PETITIONS**

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

**Kimberley Coast**

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

The petition of the undersigned shows:

The site on the Kimberley coast known as The Horizontal Falls, a world class feature and natural
phenomenon, a place of special significance to
the people of the Kimberley and an attraction to
overseas visitors, is under threat from a proposal
to mine copper there, and we the undersigned
object strongly to any mining and associated
activities near this area which would threaten the
environment and tourism in this region.

Your petitioners therefore request that the
Senate:

Ensures that mining does not take place near
the Horizontal Falls, and that action is taken by
the Commonwealth to ensure the area is protected
into the future.

by Senator Siewert (from 194 citizens)

NOTICES

Presentation

Senator HANSON-YOUNG: To move:

That the Senate—

(a) notes the current dismal state of debate
on asylum seeker policy in Australia with:

(i) the Prime Minister (Ms Gillard)
calling the Leader of the Opposition (Mr Abbott)
hypocritical, and

(ii) the Leader of the Opposition (Mr Abbott) calling the Prime Minister (Ms Gillard)
hypocritical; and

(b) calls for Australia’s international
refugee obligations to be respected.

Senator CAROL BROWN: To move:

That the Joint Standing Committee on
Electoral Matters be authorised to hold a public
meeting during the sitting of the Senate on
Wednesday, 12 October 2011, from 9.30 am to 11
am, to take evidence for the committee’s inquiry
into the funding of political parties and election
campaigns.

Senator BOB BROWN: To move
(contingent on any senator being refused
leave to move an amendment to a motion
discovered during formal business) on the
next day of sitting:

That so much of the standing orders be
suspended as would prevent that senator moving
the amendment to the motion.

Senator MOORE: To move:

That the Community Affairs 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 Tuesday, 11 October 2011, from 4 pm.

Senator SIEWERT: To move:

That the Community Affairs References
Committee be authorised to hold a private
meeting otherwise than in accordance with
standing order 33(1) during the sitting of the
Senate on Wednesday, 12 October 2011, from 4
pm.

Senator WRIGHT:

Senator MOORE: To move:

That the Senate—

(a) notes that:

(i) 10 October was World Mental Health
Day which aims to raise public awareness about
mental health issues worldwide,

(ii) this event promotes open discussions
on illnesses, as well as investments in prevention
and treatment services,

(iii) Mental Health Day falls within Mental
Health Week which in 2011 will be celebrated
from 9 October to 15 October 2011,

(iv) 1 in 5 of us in 2011 will experience a
mental illness and at any given time more than
600 000 Australians are affected by severe mental
illness,

(v) ready access to services can
dramatically reduce long term disability resulting
from mental illness, and

(vi) all Australians share a responsibility to
minimise the discrimination faced by people
affected by mental illness;

(b) recognises that:

(i) mental illness is experienced across a
lifespan and most illnesses emerge before the age
of 25,

(ii) most people affected by mental illness
can recover a good quality of life with the right
supports and community acceptance,

(iii) services responding to mental illness
should not be confined to health care and
community based services have an important role
to play,

(iv) services must recognise and respond
to the impact of mental illness on families and
carers, and

(v) in the Australian context better integration of Commonwealth and state services is essential to deliver the holistic care required by people experiencing mental illness as well as their families and friends; and

(c) calls on the Government to:

(i) collaborate effectively across all tiers of
government and across the full range of health,
community, housing, employment and education
services to ensure properly integrated responses
to mental illness,

(ii) recognise that the health system’s response to mental illness must address the poor physical health status of people affected by mental illness, including higher rates of most major diseases and reduced life expectancy, and

(iii) recognise that the burden of mental illness ranks among the most serious health problems faced by Australians and continue to build the capacity of the mental health system to reflect this.

Senator BOB BROWN: To move:

That the Senate—

(a) notes the asseveration of the Prime
Minister (Ms Gillard) that, in the issue of
relations between Palestine and Israel, ‘direct
negotiation is the only true path to peace’;

(b) recognises that negotiations are most
likely to succeed if they are between equals; and

(c) backs the United Nations initiative for
recognition of Palestine as a member state.

Senator BOB BROWN: To move:

That the first bill listed for private senators’
business each week shall be brought to a vote.

COMMITTEES

Selection of Bills Committee

Report

Senator McEWEN (South Australia—
Government Whip in the Senate) (11:56): I

present the 13th report of 2011 of the
Selection of Bills Committee. I seek leave to
have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 13 OF 2011

1. The committee met in private session on
Wednesday, 21 September 2011 at 6.58 pm.

2. The committee resolved to recommend—

That the provisions of the Consumer Credit and
Corporations Legislation Amendment (Enhance-
ments) Bill 2011 be referred immediately to the
Economics Legislation Committee for inquiry
and report by 23 November 2011 (see appendix 1
for a statement of reasons for referral).

3. The committee resolved to recommend—

That the following bills not be referred to
committees:

 Banking Amendment (Covered Bonds) Bill
2011
 Landholders’ Right to Refuse (Coal Seam Gas)
Bill 2011
 Migration Amendment (Declared Countries)
Bill (No. 2) 2011
 Migration Legislation Amendment (Offshore
Processing and Other Measures) Bill 2011.

The committee recommends accordingly.

4. The committee considered proposals to refer
the provisions of the following bills to each of the
Senate legislation committees, but was unable to
reach agreement on whether the bills should
be referred (see appendices 2 to 9 for statements
of reasons for referral to each committee):

• Clean Energy Bill 2011
• Clean Energy (Consequential Amendments) Bill
2011
• Clean Energy (Income Tax Rates Amendments)
Bill 2011
• Clean Energy (Household Assistance
Amendments) Bill 2011
• Clean Energy (Tax Laws Amendments) Bill 2011
• Clean Energy (Tax Laws Amendments) Bill 2011
• Clean Energy (Fuel Tax Legislation Amendment)
Bill 2011

CHAMBER
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011

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

- Auditor-General Amendment Bill 2011
- Coal Mining Industry (Long Service Leave) Legislation Amendment Bill 2011
- Higher Education Support Amendment Bill (No. 2) 2011
- Offshore Petroleum and Greenhouse Gas Storage Amendment (Significant Incident Directions) Bill 2011
- Social Security Amendment (Student Income Support Reforms) Bill 2011
- Social Security Legislation Amendment (Family Participation Measures) Bill 2011
- Tax Laws Amendment (2011 Measures No. 7) Bill 2011
- Telecommunications Amendment (Mobile Phone Towers) Bill 2011.

Anne McEwen
Chair
22 September 2011

Appendix 1

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill: Consumer Credit and Corporations Legislation Amendment (Enhancements) Bill 2011

Reasons for referral/principal issues for consideration:

To determine whether the proposed protections for consumers who enter into small amount credit contracts (including a cap on the maximum amount credit providers can charge under these contracts) are adequate.

Possible submissions or evidence from:

- Consumer Action Law Centre
- CHOICE
- Australian Council of Social Service (ACOSS)
- The Centre for Credit and Consumer Law
- Queensland Consumers Health Forum
- Consumer Utilities Advocacy Centre Ltd
- Financial and Consumer Rights Council Inc
- Not Good Enough
- Public Interest Advocacy Centre Ltd

Committee to which bill is to be referred:

Economics Legislation Committee

Possible hearing date(s):

December 2011 / January 2012

Possible reporting date:

3rd sitting day of 2012

(signed)

Senator Siewert

Selection of Bills Committee member

Appendix 2

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

Name of bill:

- Clean Energy Bill 2011
- Clean Energy (Charges—Customs) Bill 2011
- Clean Energy (Charges—Excise) Bill 2011
- Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on families and other households, carers, not-for-profit volunteer organisations and the charitable sector, including but not limited to the adequacy or otherwise of compensation measures

Possible submissions or evidence from:
Department of Families, Housing, Community Services and Indigenous Affairs, Australian Council of Social Service, Australian Federation of Disability Organisations, Australian Healthcare and Hospitals Association, Australian Taxation Office, Federation of Ethnic Communities' Councils of Australia, National Disability Services, Uniting Justice Australia

Committee to which bill is to be referred:
Senate Standing Committee on Community Affairs

Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) BM 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on the Australian economy, including but not limited to its impacts on Australia’s competitiveness with reference to emissions activities and emissions reduction measures being taken by Australia’s trade competitors, as well as energy security and costs and transport and other infrastructure costs

Possible submissions or evidence from:
Department of the Treasury, Association of Mining and Exploration Companies, Australian Chamber of Commerce and Industry, Australian Industry Group, Energy Supply Association of Australia, National Generators Forum

Committee to which bill is to be referred:
Senate Standing Committee on Economics

Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011

Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on employment and jobs, including but not limited to impacts related to energy security and costs, transport and other infrastructure costs and also Australia's competitiveness with trade competitors

Possible submissions or evidence from:
Department of Education, Employment and Workplace Relations, Australian Chamber of Commerce and Industry, Australian Council of Trade Unions, Business Council of Australia, Minerals Council of Australia

Committee to which bill is to be referred:
Senate Standing Committee on Education, Employment and Workplace Relations
Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
The effectiveness or otherwise of the legislative package in achieving claimed environmental outcomes, including its contribution towards meeting Australia’s stated emissions reduction targets.

Possible submissions or evidence from:
Department of Climate Change and Energy Efficiency, Australian Conservation Foundation, Australian Industry Greenhouse Network, Clean Energy Council, Climate Institute, Sustainable Business Australia

Committee to which bill is to be referred:
Senate Standing Committee on Environment and Communications

Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
The effectiveness or otherwise of the legislative package in achieving claimed environmental outcomes, including its contribution towards meeting Australia’s stated emissions reduction targets.

Possible submissions or evidence from:
Department of Climate Change and Energy Efficiency, Australian Conservation Foundation, Australian Industry Greenhouse Network, Clean Energy Council, Climate Institute, Sustainable Business Australia

Committee to which bill is to be referred:
Senate Standing Committee on Environment and Communications

Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on Australian trade and international relations, including but not limited to implications arising from the treatment of emissions activities and emissions reduction measures in other major economies and Australia's trading competitors, as well as the status of international agreements and the operation of the international carbon market

Possible submissions or evidence from:
Department of Foreign Affairs and Trade, Australian Financial Markets Association, Carbon Farming and Trading Association, Centre for Independent Studies, Institute of Public Affairs, Minerals Council of Australia, National Farmers' Federation

Committee to which bill is to be referred:
Senate Standing Committee on Foreign Affairs, Defence and Trade

Possible hearing date(s):
October, November, December 2011 & January 2012
Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Budgetary implications, both short- and long-term, of measures within the legislative package
Possible submissions or evidence from:
Department of the Treasury, Department of Finance and Deregulation, Australian National Audit Office, state governments
Committee to which bill is to be referred:
Senate Standing Committee on Finance and Public Administration
Possible hearing date(s):
October, November, December 2011 & January 2012
Possible reporting date:
Second sitting day of 2012
(signed)
Senator Fifield
Selection of Bills Committee member

Appendix 8
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Clean Energy Bill 2011
Clean Energy (Charges—Customs) Bill 2011
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on property rights, customs duties and related matters
Possible submissions or evidence from:
Attorney-General’s Department, Australian Trade Commission, state governments, Law Council of Australia
Committee to which bill is to be referred:
Senate Standing Committee on Legal and Constitutional Affairs
Possible hearing date(s):
October, November, December 2011 & January 2012
Possible reporting date:
Second sitting day in 2012
(signed)
Senator Fifield
Selection of Bills Committee member
Clean Energy (Charges—Excise) Bill 2011
Clean Energy (Consequential Amendments) Bill 2011
Clean Energy (International Unit Surrender Charge) Bill 2011
Clean Energy (Unit Issue Charge—Auctions) Bill 2011
Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
Clean Energy (Unit Shortfall Charge—General) Bill 2011
Clean Energy Regulator Bill 2011
Climate Change Authority Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
Steel Transformation Plan Bill 2011
Clean Energy (Customs Tariff Amendment) Bill 2011
Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
Clean Energy (Income Tax Rates Amendments) Bill 2011
Clean Energy (Tax Laws Amendments) Bill 2011
Clean Energy (Household Assistance Amendments) Bill 2011

Reasons for referral/principal issues for consideration:
Impacts of the legislative package on the transport sector, including but not limited to impacts on fuel costs, and on rural and regional Australia, including but not limited to impacts on the tourism sector

Possible submissions or evidence from:
Department of Infrastructure and Transport, Department of Regional Australia, Regional Development and Local Government, Australian Automobile Association, Australian Livestock and Rural Transport Association, Australian Road Transport Industrial Organisation, National Farmers' Federation, Shipping Australia, Tourism and Transport Forum, Tourism Australia

Committee to which bill is to be referred:
Senate Standing Committee on Rural Affairs and Transport

Possible hearing date(s):
October, November, December 2011 & January 2012

Possible reporting date:
Second sitting day of 2012

Signed)
Senator Fifield
Selection of Bills Committee member

Senator McEWEN: I move:
That the report be adopted.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:56): I move an amendment to the motion that the report be adopted:
That the provisions of the:
a. Clean Energy Bill 2011
b. Clean Energy (Charges—Customs) Bill 2011
c. Clean Energy (Charges—Excise) Bill 2011
d. Clean Energy (Consequential Amendments) Bill 2011
e. Clean Energy (International Unit Surrender Charge) Bill 2011
f. Clean Energy (Unit Issue Charge—Auctions) Bill 2011
g. Clean Energy (Unit Issue Charge—Fixed Charge) Bill 2011
h. Clean Energy (Unit Shortfall Charge—General) Bill 2011
i. Clean Energy Regulator Bill 2011
j. Climate Change Authority Bill 2011
k. Ozone Protection and Synthetic Greenhouse Gas (Import Levy) Amendment Bill 2011
l. Ozone Protection and Synthetic Greenhouse Gas (Manufacture Levy) Amendment Bill 2011
m. Steel Transformation Plan Bill 2011
n. Clean Energy (Customs Tariff Amendment) Bill 2011
o. Clean Energy (Excise Tariff Legislation Amendment) Bill 2011
p. Clean Energy (Fuel Tax Legislation Amendment) Bill 2011
q. Clean Energy (Income Tax Rates Amendments) Bill 2011
r. Clean Energy (Tax Laws Amendments) Bill 2011
s. Clean Energy (Household Assistance Amendments) Bill 2011

to be referred to the following committees:
Community Affairs Legislation Committee
Economics Legislation Committee
Education, Employment and Workplace Relations Legislation Committee
Environment and Communications Legislation Committee
Finance and Public Administration Legislation Committee
Foreign Affairs, Defence and Trade Legislation Committee
Legal and Constitutional Affairs Legislation Committee
Rural Affairs and Transport Legislation Committee

for inquiry and report by the second sitting day in 2012. The reasons for the referral of each these bills is set out in the section entitled “Reasons for referral”, contained in the appendices of the Selection of Bills Report 13 of 2011.

It is with a great sense of disappointment that I rise to my feet and find myself in the position of having to move an amendment to the motion to take note of the report of the Selection of Bills Committee. One of the great strengths of the Australian Senate is its committees that put partisanship aside and work cooperatively in a spirit of consensus. Those committees are the Scrutiny of Bills Committee, the Privileges Committee, the Senators Interests' Committee, the Regulations and Ordinances Committee and the committee in question today, the Selection of Bills committee, all of which have traditionally operated in a consensual fashion.

The Selection of Bills Committee, as my colleagues know, operates as the clearing house for bills in this place. It ensures that, where colleagues have legitimate reason for recommending that bills be examined by a committee, this happens. Debate about time frames certainly happens within that committee. Debate about which schedules might be referred certainly happens. Debate about which committee is best placed to examine a particular piece of legislation also occurs in that committee. There is give and take, but consensus is achieved. We are very proud that the Senate runs its own race. Whether or not there are House committees or joint committees addressing the same legislation, the Senate reserves its right as an independent chamber, as a house of review, and as a result there are often concurrent inquiries.

In my time on the Selection of Bills Committee there has never been an outright no to a committee reference. In my view the committee, in facing probably its greatest test since I have been in the parliament, has failed. It failed because the Australian Labor Party and the Australian Greens elected to put partisanship and party ahead of supporting the Senate's role of review. I am not entirely surprised by the Australian Labor Party's behaviour, but I am gob-smacked that those great champions of the Senate committee processes, the Australian Greens, sought to deny the opportunity for Senate committees to do their job. This is something that the Australian Democrats never would have supported.

This amendment provides the opportunity for the Australian Greens and the Australian Labor Party to think again. This amendment
provides the opportunity for the Senate to set things right, to see the Senate provide the sort of scrutiny that the carbon tax bills warrant and that the Senate is duty bound to provide. Rather than have 19 bills corralled in one stacked joint committee with unreasonable time frames, the coalition's proposal is for all bills to be referred to the eight Senate legislation committees to consider those provisions which are relevant for each committee's jurisdiction. The coalition proposal is also for a reasonable time frame, that committees are to report back by the second sitting day of 2012. There are eight pages of detailed reasoning, which were submitted to the committee to support our proposition.

The Prime Minister, we know, essentially committed electoral fraud with her statement before the last election that there would be no carbon tax under a government she leads. She may end up being technically correct because the carbon tax is not due to take effect until the middle of next year, and it may well be that she is no longer the Prime Minister at that time. So she may end up being technically correct.

Senator Arbib: Mr Acting Deputy President, I rise on a point of order. Senator Fifield has raised a term in relation to the Prime Minister which is unparliamentary, certainly in this chamber. He should withdraw.

Senator Fifield: On the point of order, I said the Prime Minister had committed electoral fraud. I do not mean that in a technical sense of breaching legislation but just in a moral sense.

The ACTING DEPUTY PRESIDENT (Senator Furner): Senator Fifield, in that case you should withdraw.

Senator Fifield: I have used that phrase many times in this place, but I will withdraw that part which you find objectionable.

The ACTING DEPUTY PRESIDENT: You may proceed.

Senator Fifield: Thank you, Mr Acting Deputy President. The Prime Minister should not have fibbed—let's put it that way—but her day of reckoning will come. Her day of accountability will be at the next election but the place where the government is accountable between elections is in this chamber and in the committees of the Senate. The first step for those opposite to seek to regain some dignity and some honour for their government is for it to submit this package of legislation to the Australian Senate and to the full processes of scrutiny of this chamber. That is what the government should do. We on this side are giving it this opportunity to set things right, to correct the error that I believe it made in the Selection of Bills Committee last night. I commend this amendment to the chamber.

Senator Arbib (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (12:02): Senator Fifield said at the start of his speech that he was disappointed. I am also disappointed, at the attitude and the approach that, once again, the Liberal and National Party senators are taking in this chamber to try to delay and to stall action on climate change. I speak to support the Selection of Bills Committee's report. It is a sensible, reasonable and responsible approach to the bills and to the debate.

The opposition has spoken to amend the report so that the bills of the clean energy package are referred to various legislation committees for inquiries that would not conclude until next year. This is simply an attempt by the opposition senators to delay
consideration of the legislation. They are hiding behind the rhetoric of scrutiny of legislation to delay these bills in the Senate when the cost of delay is so great to our economy and environment. It is worth reiterating just how much parliamentary scrutiny these bills have had in the past 12 months and how much consideration has been given to the issue of a price on carbon. It has been considered by parliamentary inquiries over the past 20 years. I will repeat that: the parliament has been considering the issue of climate change and our response to climate change for 20 years. During that time there have been no fewer than 36 parliamentary committee inquiries looking into the issue of climate change and the policy responses. This number increases to 37 inquiries if we include the current joint parliamentary inquiry looking into the clean energy package of legislation.

These inquiries have led to a vast accumulation of facts and all inquiries have led to the same conclusion—that a price on carbon is the best way of addressing climate change. Putting a price on carbon is at the heart of the clean energy package. In the past 12 months, a parliamentary committee has developed the proposals containing the clean energy package. Exposure drafts of the legislation were available many months ago.

**Senator ARBIB:** Thank you, Mr Acting Deputy President. Exposure drafts of the legislation were available for many months. There is a current joint select committee examining these bills, not to mention a Senate select committee examining the issue. The legislation has been scrutinised. The parliamentary committee process is already at work on these bills. I should also add that coalition members of parliament were given the opportunity of contributing and being part of the Multi-Party Climate Change Committee, given an opportunity to be part of drafting, given an opportunity to be involved in framing and debating, and they rejected it. They boycotted it and decided they wanted no part of it. We understand why. They do not believe in climate change or taking action on climate change, so they have boycotted the process.

Let us be clear about that. They have tried to stall it at every step of the way. We know that during the debate on the bills to enact the CPRS coalition senators time and time again attempted to filibuster the debate for days and days on end. We know where that ended. This has been the tactic of the Liberal Party and the Nationals. Once again, they come into this chamber with one tactic and one tactic alone—to delay the bills. They are not trying to delay the bills; they are trying to kill the bills because they do not believe in climate change.

We know that that is where the Liberal Party stands on this. This is a stalling tactic. There have been 36 parliamentary committee inquiries that have looked at this issue, have looked at the issue of climate change, have looked at what credible steps a government can take to fight climate change. And the stakes are high. We know the economic cost, we know the environmental cost, and at the same time as that the Australian people want the government to take action on climate change. They do not want stalling; they want
action. That is exactly what these bills do. It is exactly why the government brought these bills to the chamber and it is exactly why we should support the report from the Selection of Bills Committee.

Senator CORMANN (Western Australia) (12:08): The Australian Labor Party are deeply embarrassed by this carbon tax which was imposed on them by the Greens political party. It is true that in the last parliament between 2007 and 2010 when the current foreign minister, Mr Rudd, was Prime Minister we did have a series of parliamentary committees scrutinising what was then the Carbon Pollution Reduction Scheme. I pause here for a moment to observe that at least the former Prime Minister, Kevin Rudd, was not worried about parliamentary scrutiny. But what was the conclusion of that process of parliamentary scrutiny? What did the Senate do at the end of that parliamentary scrutiny? We voted the Carbon Pollution Reduction Scheme down because the Senate realised that the Rudd government's Carbon Pollution Reduction Scheme was all economic pain for no environmental gain.

The Australian people were entitled to believe that the current Prime Minister, Julia Gillard, in 2010 had reached the same conclusion. Why otherwise would she have gone to Mr Rudd and said, 'Let's kill this Carbon Pollution Reduction Scheme'? Why otherwise would she have looked down the barrel of that camera and said, 'There will be no carbon tax under a government I lead'?

After all the debate in this parliament over the last three years, given the failure of Copenhagen, given that there is no appropriately comprehensive global agreement, given that putting a price on carbon in Australia when China, the US, India and others are not will shift emissions, shift jobs and shift manufacturing to other parts of the world, people were entitled to believe that the current Prime Minister, Julia Gillard, had realised that that was not effective action on climate change but just an irresponsible and reckless act of economic self-harm. So when the Prime Minister changed her mind after the prodding by Senator Brown, after she went into the courtyard on 24 February 2011 and announced that there would be a carbon tax, we were told, 'Don't you worry. You are going to like it once you see the detail.' But guess what: once they saw the detail the Australian people still did not like it. Then she was going to wear out her shoe leather. The more she wore out her shoe leather the less people liked it.

After all the inquiries that we have had, I asked some basic questions of Senator Wong last week and earlier this week. Remember the question that goes to the core of this whole issue. I asked Senator Wong, 'What will be the net reduction in global emissions as a result of a carbon tax here in Australia?'

She was unable to answer. The reason she was unable to answer is that she does not know what increases in emissions this Australian carbon tax would cause in other parts of the world as a result of making overseas manufacturers more competitive than manufacturers here in Australia, as a result of having overseas emitters who are less environmentally efficient than the equivalent businesses in Australia take market share away from businesses here in Australia. We now have revelations that even the climate change department itself is about to rent headquarters built with Chinese aluminium, which is cheaper, which just happens to be produced through a more emissions intensive process. It is already starting.

This government has got no answers. This is a government which tells us this carbon tax will not have any impact on jobs, yet when you look at the fine detail it looks like they have included that as an assumption in
the Treasury modelling. But they continue to dishonestly claim that this carbon tax will not have any impact on jobs. These are the sorts of issues that the Senate committee process has a responsibility to the Australian people to properly explore and properly scrutinise. We should not send this to this sham inquiry which Senator Birmingham and I are both on, which will have three hearings at present, two in Canberra and one in Melbourne, not a single meeting in Western Australia or other parts of Australia where there are particular issues. It is one week for submissions, three or four days for hearings and a report by 7 October. This is 1,100 pages of legislation, 19 bills—on something we were promised we would not get.

If the Senate supports the recommendation from the Selection of Bills Committee we would be abrogating our responsibility to apply proper scrutiny to a fundamental economic change that this government wants to impose on the Australian people. Given the government's bad track record when it comes to implementing change, this Senate should make it its business to apply proper scrutiny. (Time expired)

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (12:13): I rise to indicate that the last speaker's contribution to this debate indicates why, no matter how many hearings we had, it would appear that the coalition is incapable of grasping the detail of the bills. I just heard Senator Cormann challenge the government to say what the net reduction of global greenhouse gas emissions of the clean energy package is. I put to him: what is the net reduction of global greenhouse gas emissions of the coalition's direct action plan? What is the global net reduction in emissions?

Senator Cormann interjecting—

Senator MILNE: This is the complete nonsense—

Opposition senators interjecting—

Senator Bob Brown: Mr Acting Deputy President, I raise a point of order. Once again the opposition was heard in silence but now are yelling out across the chamber and interrupting Senator Milne's speech. That is against the standing orders and they should desist.

Senator Cormann: On the point of order, when referring to my contribution in this chamber, Senator Milne directly challenged me to provide a particular piece of information, so I was responding to the senator's explicit invitation to provide information, which clearly she does not want to listen to.

The ACTING DEPUTY PRESIDENT (Senator Furner): There is no point of order. Senators are reminded that interjections are disorderly. I expect speakers to be heard in silence.

Senator MILNE: What we heard in Senator Cormann's contribution a moment ago was in fact a very good example of what has happened. The coalition have been running a Senate committee process around the country on these bills for some time. But the point at issue is that they have not actually engaged with the substance of the debate. They have used the Senate committee process to run a campaign to spread quite a substantial amount of misinformation concerning not only climate change but indeed the clean energy package.

I remind the Senate that the coalition were invited, with two places being made available on the Multi-Party Climate Change Committee, to engage this issue. But it was a requirement that members of the committee actually believe in climate change and
believe in pricing greenhouse gas emissions, consistent with market mechanisms. At that point the coalition said they did not believe in market mechanisms. They believe in the old Eastern European model of a centralised state, collecting taxes and paying out at twice the cost to the Australian economy of a market mechanism, as the Treasury officials and climate change officials pointed out yesterday.

So it would not matter how many Senate inquiries you had into this. They have an ideological view that opposes market mechanisms, which is quite an extraordinary thing for the coalition, who for years have tried to suggest they were economic rationalists. Now they have gone to the old Eastern European model. They do not believe in market mechanisms, and they are going to vote against this, anyway.

The Leader of the Opposition has said he will repeal every single climate bill. We know that that is a falsehood, because already they have said they will not repeal the Carbon Farming Initiative, which is in the package of bills, and the very first one that went through. They spent hours in this place opposing it and then stood up in the third reading and said they would not repeal it. That is going to be the fate of all of these bills, because the coalition do not have a policy on climate change that stands up.

Increasingly, business is now saying: 'Sorry, your plan is going to cost us twice as much. We actually don't support it, either.' Mr Abbott, the leader of the coalition, is going to have to stand up very soon and acknowledge that he is not going to repeal all of the climate bills, after having told a convoy here and any number of people around the country that they will repeal the bills.

What is interesting about the inquiry into the bills—a joint house committee inquiry has been passed by the parliament—is that the coalition senators yesterday were much more inclined to grandstanding and shouting rather than getting to the actual substance of the bills. In fact, I would suggest that most of the coalition members did not even read the bills before going to the inquiry. They are not interested in testing the detail of the bill. This is all a sham. Talk about honour and dignity. Honour and dignity is about respecting the processes of the place. The parliament has agreed to this. Also, I note that the coalition now spends its time at every opportunity denying people leave to present amendments and points of view. So let's not have this self-righteous honour and process. Some of us were here when the Howard government had control of both houses. There was no honour and no process. There was abuse of Senate process day in, day out. We are now seeing the coalition exhibit the same abuse of process at every turn.

**Senator McEWEN** (South Australia—Government Whip in the Senate) (12:19): I, too, would like to contribute to this debate and I indicate that I oppose the motion moved by Senator Fifield to amend the Selection of Bills Committee report. The reason I oppose the amendment is that once again this is just a delaying tactic by the opposition. They want to delay parliamentary consideration of a package of bills because, as we know, they are determined to do only one thing, and that is to never take any action on damaging climate change.

So that people understand it, the proposal here from the opposition is that the clean energy bills be referred to no fewer than eight Senate committees. The proposal is that those eight Senate committees would all be looking at the same legislation. It is a ridiculous proposition because the same legislation is currently under consideration.
by a jointselect committee established, as Senator Milne said, by both houses of the parliament. Indeed, as we have heard, Senator Birmingham and Senator Cormann are on that committee and have an opportunity there to participate meaningfully in the debate on these bills. But they have chosen not to participate in—

Senator Cormann interjecting—

The ACTING DEPUTY PRESIDENT (Senator Furner): Order! Senator McEwen, resume your seat. I call Senator Cormann to order.

Senator McEwen: As I was saying, there is already a process in place to examine this legislation. It is entirely appropriate that a significant select committee was set up by both houses of parliament to do that. It is not necessary to refer these bills to further Senate committees. That is just a delaying tactic on the part of the opposition.

As well as the bills already being considered by another committee of the parliament, we should also acknowledge that the debate about carbon emissions, carbon policy and policies to address climate change is hardly new to this parliament. It is also worth nothing that, although it may not be entirely apparent to most people, there is consensus in this parliament that we do need to do something about our carbon emissions. Both of the major parties and indeed the minor parties are signed up to reducing our carbon emissions. However, you would hardly know that from the kind of rhetoric we hear from those opposite because, of course, they do not believe in human induced climate change. They think they know better than the world's most prominent scientists in this regard and they choose to prosecute the case for, 'Steady as she goes; do absolutely nothing.' They put forward ridiculous proposals called 'direct action' which will be massively expensive for ordinary Australians and will deliver no benefits in terms of reducing carbon emissions.

The government's legislation will, once and for all, address the fact that polluters in this country should pay for the damaging carbon pollution they put into the atmosphere. The government's position reflects what the majority of well-regarded scientists but, more importantly, well-regarded economists say—that if you want to stop a bad behaviour the best way to do it is to put a price on it. Indeed, former Prime Minister John Howard also had that view, as has been acknowledged many times in this parliament. Any sensible person would have that view as well—that, if you want to stop a behaviour, you put a price on it. The government's legislation does that.

It also includes the compensatory mechanisms that the government has worked on with the assistance of the Multi-Party Climate Change Committee to ensure Australians are compensated if necessary for the effects of a price on carbon. The government are very proud of this legislation. We are not embarrassed by it, Senator Cormann. We are proud of it. Those opposite are the ones who should be embarrassed because, like a bunch of troglodytes, they come in here every time there is any debate about anything to do with climate change and oppose doing anything.

I would just like to confirm that the government will be opposing this amendment to the Selection of Bills Committee report. We want to get on with examining this legislation in the parliament. It has been subject to numerous inquiries. It has been subject to a lot of debate in the community, as we know. It is time to get on with it. The government, as I said, will oppose the amendment. (Time expired)

Senator Birmingham (South Australia) (12:24): I want to read a few
words into *Hansard*. They are a couple of statements, a couple of quotes. The first one says:

It is outrageous that only one week was allowed for the committee to receive submissions …

The second one says:

To make matters worse, hearings were scheduled in the week following the closing date for submissions, which did not allow enough time for the committee to properly consider the more than 5000 submissions received.

The third quote says:

In placing an unreasonable limit on the time for this inquiry, the Government has shown its disregard for the important scrutiny role performed by the Senate and its committees. It has shown no interest in taking this inquiry to the people and involving them in the work of the committee.

These are not my words; these are words from the opposition senators' dissenting report on the Work Choices legislation. These are the words of Senator Marshall, Senator Sterle and Senator Wong. You know what? Those words were right then, I am willing to say, and those words are right today as well.

The opposition, this side, understand that we made some mistakes and, for those mistakes, we were criticised and punished at the ballot box. What we see today, though, is the government repeating those mistakes that we made and that they promised never to repeat. They said they would not repeat those mistakes. They attacked those mistakes on the record in a report tabled in this parliament. These were words from people opposite, including Senator Wong. Senator Wong, who comes in here and defends the process that this government is trying to undertake at present, actually helped author these words. She put her name to these words, saying that there was an unreasonable limit on the time for that inquiry and that the government was showing disregard for the important scrutiny role performed by the Senate and its committees. Well, this government shows a disregard for the important scrutiny role performed by the Senate and its committees. This government shows a complete disregard.

The Work Choices legislation was, of course, one bill. This is a package of 19 bills. This package of 19 bills, totalling more than 1,100 pages, is far more comparable to what happened when the GST legislation was considered by this place. You know what happened with the GST legislation? We had multiple references running concurrently to multiple committees to ensure thorough analysis of those bills. Those references went to committees that were chaired either by Labor or Democrats senators with non-government majorities. That is not even what Senator Fifield is asking for here. Senator Fifield is simply asking that the standard process of a legislation committee inquiry occur in regard to these bills, that proper process is followed and that the precedent is followed for such a sweeping reform.

Those opposite tell us this is a sweeping reform. They all come in here and tell us that this is fundamental reform of the Australian economy and yet they will not let it be scrutinised in the same proper way that tax reform of the Australian economy was scrutinised. The hypocrisy of those opposite, who complained bitterly when the Senate was denied the opportunity to scrutinise legislation properly under the previous government, is that they are now coming here and repeating the mistakes themselves. That is just an astounding position that they have taken.

They are denying the proper role of the *Selection of Bills Committee*, which the Senate's own website says:

… considers all bills before the Senate to identify any which are complex or controversial or which
senators have indicated warrant further examination by a standing committee.

It says:

Bills are usually referred to a legislative and general purpose standing committee which has responsibility for that particular portfolio area.

All Senator Fifield's motion seeks to do is follow this practice. These bills are certainly complex. They are certainly controversial. They certainly warrant further examination, and that is exactly what should happen. That is what this motion will ensure does happen, and it is astounding that those opposite would wish to oppose such basic, relevant scrutiny by the Senate of their own legislation.

Question put:

That the amendment (Senator Fifield's) be agreed to.

The Senate divided. [12:34]

(The President—Senator Hogg)

Ayes.................30
Noes......................34

Majority..............4

AYES
Abetz, E
Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Parry, S
Ryan, SM
Williams, JR

Adams, J
Bernardi, C
Boswell, RLD
Bushby, DC
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
McKenzie, B
McKenzie, B
Rendallson, M
Scullion, NG
Xenophon, N

NOES
Arbib, MV
Bishop, TM
Brown, RJ
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

Furner, ML
Hanson-Young, SC
Ludlam, S
McEwen, A (teller)
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

PAIRS
Brandis, GH
Eggleston, A
Fisher, M
Nash, F
Payne, MA

Carr, KJ
Lundy, KA
Evans, C
Ludwig, JW
McLucas, J

Senator Wong did not vote, to compensate for the vacancy caused by the resignation of Senator Coonan.

Question negatived.

Original question agreed to.

BUSINESS

Consideration of Legislation

Senator ARBIB: I move:

That government business be interrupted at 1 pm to allow consideration of the following bills, till not later than 2 pm today:

- Tax Laws Amendment (2011 Measures No. 6) Bill 2011
- Customs Amendment (Anti-dumping Measures) Bill 2011 and a related bill
- National Residue Survey (Excise) Levy Amendment (Deer) Bill 2011
- Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oils in the Antarctic Area) Bill 2011

Question agreed to.
Senator ARBIB: I move:

That the order of general business for consideration today be as follows:

(a) general business order of the day no. 46—Foreign Acquisitions Amendment (Agricultural Land) Bill 2010; and

(b) orders of the day relating to government documents.

Question agreed to.

NOTICES
Withdrawal


Leave granted.

Senator ABETZ: I thank the Senate. On behalf of Senator Sue Boyce, Alex Somlyay MHR, George Christensen MHR, Jane Prentice MHR and Fiona Simpson MLA, who have worked with me on this issue, and the office of the Minister for Tertiary Education and Skills, Jobs and Workplace Relations, Senator Chris Evans, I thank the minister for accepting that there are issues in relation to this regulation that require its withdrawal. That has been recognised graciously by the minister in two letters to me bearing the date of 22 September 2011. I seek leave to table those letters and also have them incorporated in Hansard because they provide the explanation for the withdrawal.

Leave granted.

The letters read as follows—
Office of Senator Chris Evans
Leader of the Government in the Senate
Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Senator the Hon Eric Abetz
Leader of the Opposition in the Senate
Parliament House
Canberra ACT 2600
Dear Senator Abetz

As you are aware the Government made the Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulations 2011 (No. 1) (the Regulations) in good faith to ensure that employees in the social and community services (SACS) sector in Queensland receive and/or continue to receive the benefit of the 2009 Queensland Industrial Relations Commission pay equity decision.

The Regulations were made on 4 August 2011 and would otherwise commence on 1 October 2011.

As a consequence of matters raised with the Government, including concerns about the employers named and the impact of the Regulation on some providers, I intend to make the attached statement.

Thank you for your cooperation in this matter.
I have copied this letter to the Senator Brown Leader of the Australian Greens, Senator Xenophon and Senator Madigan.

Yours sincerely
(Signed)
CHRIS EVANS
22 September 2011

MINISTER FOR JOBS, SKILLS AND WORKPLACE RELATIONS

The Queensland Pay Equity Regulations were issued on 4 August 2011 to meet an agreement with the Queensland Government at the time of referring their industrial relations powers, that
SACS workers in Queensland would receive the benefit of the QIRC pay equity decision. The Regulations include a schedule of employers who received additional funding from the Queensland Government following the state pay equity decision. The list was provided by the Queensland Government and confirmed by the Australian Services Union (Queensland Branch). The Government is aware of concerns by some of those employers and peak organisations in the community services sector about the impact of the Regulations on some providers. Specifically:

- the accuracy of the list of employers; and
- the ability of some employers to meet the back pay requirements.

The Government is prepared, on a without prejudice basis, to consider those concerns and the impact of the back pay obligations.

The Government will commence a process to engage with the representatives of Queensland SACS providers, the Queensland Government and the ASU over the next few weeks to address these concerns.

To facilitate this, it is necessary that the current Queensland Pay Equity Regulations be repealed and replaced. The Government will withdraw the regulation.

SACS providers and employers in Queensland should be aware that it is the Government's intention to ensure that the current Queensland pay equity rates are paid to SACS workers from the 1 October 2011 as previously advised. This will be reflected in the replacement regulation.

CANBERRA

22 SEPTEMBER 2011

Senator Chris Evans
Leader of the Government in the Senate
Minister for Tertiary Education, Skills, Jobs and Workplace Relations

Senator the Hon Eric Abetz
Leader of the Opposition in the Senate Parliament House
Canberra ACT 2600
Dear Senator Abetz
I understand you require additional information.

The repeal of the Fair Work (Transitional Provisions and Consequential Amendments) Amendments Regulations 2011 (No 1) (the regulations) will be done by regulation. I intend to lodge the relevant documents with the Executive Council for consideration by the Governor General on the next available occasion.

The repeal regulations will commence on the date of their registration on the Federal Register of Legislative Instruments. The Office of Legislative Drafting and Publishing will ensure that the repeal regulations are registered on 30 September 2011, ahead of the 1 October 2011 commencement date of the existing regulations.

Yours sincerely
(Signed)
CHRIS EVANS
22 September 2011

Senator ABETZ: I thank the Senate. In the circumstances, I indicate that what we were seeking to do was protect a lot of the not-for-profit sector organisations in Queensland. I also provide an invitation to Senator Furner to withdraw the accusations that he made during the adjournment debate about my motivation and that of the coalition in seeking the disallowance of this regulation, given that the government has now seen sense itself. The inappropriate motives that were attributed to us on this side are now shown to be without foundation. There was a genuine issue at stake here. To all those who joined with the coalition in achieving this outcome, I say thankyou. I also say thankyou to the minister for addressing the problem in the manner that he did.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (12:41): by leave—I think it will help if I elaborate on some of the background to this matter for the Senate. In 2009, the Queensland Industrial Relations Commission made a pay equity decision that increased
wages for employees in the Queensland social and community services sector. The purpose of the Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulations 2011 (No. 1) was to require Queensland social and community service employers, who received funding from the Queensland government following this decision and who would have returned to the Queensland system in the absence of the Queensland referral of workplace relations powers to the Commonwealth, to pay employees in accordance with that decision. The Australian government agreed to this request from the Queensland government and made the regulation using a list of employers that was provided by the Queensland government, we understand, in consultation with the ASU.

The government became aware of concerns of the Queensland social and community services sector about the accuracy of the list of employers and the ability of some employers to meet backpay requirements. After careful consideration, the government has acted on these concerns and will repeal the regulations before they commence on 1 October 2011. The government will commence a process to engage with representatives of Queensland social and community service providers, the Queensland government and the Australian Services Union over the next few weeks to clarify who are the employers required to pay employees in accordance with the Queensland decision and to determine the appropriate point in time from which those obligations should commence. To facilitate this, it is necessary that the current regulations be repealed and replaced. The government will repeal the regulations before they commence. Social and community service providers and employers in Queensland, however, should be aware that it is the government's intention to ensure that the current Queensland pay equity rates are paid to social and community service workers from 1 October 2011, as previously advised. This will be reflected in the replacement regulations.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:43): by leave—The Greens have been on the record for a long time supporting the pay equity case for community sector workers, believing very strongly that those workers are an essential part of our community. They deliver absolutely essential services. We have been strongly supportive of that case. We are also strongly supportive of the not-for-profit sector in general. We are concerned about any unintended consequences for not-for-profit organisations. So we want to make sure there are no adverse consequences, while supporting pay equity for the workers, which we believe is essential. We are aware there are some problems with this regulation. The list, in particular, is of concern—the issues around which organisations have received funding from the state government. We are aware the state government has put in $414 million to help with that. So the issue is how to fix the situation, which I am convinced everybody knows and wants to get fixed.

The key part of the announcement here is that workers will be paid as if this regulation took effect from 1 October. In other words, workers will not be disadvantaged by repealing this instrument and then fixing it. Workers will essentially be back paid from whenever this new instrument takes effect. Workers will receive back pay as if this regulation came into effect from 1 October. That is particularly important—in other words, workers are not being disadvantaged by some of the unfortunate errors that have occurred with this regulation.
MOTIONS

Petition

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (12:46): At the request of Senator Chris Evans, I move:

That the sum of $100, deposited by Mr John Mulholland in relation to a petition, expressed to be a petition pursuant to standing order 207, be returned to him.

I seek leave to make a short statement.

The PRESIDENT: There being no objection, leave is granted for two minutes.

Senator ARBIB: I understand it is the wish of all senators that this action concludes consideration of this matter.

Question agreed to.

Indigenous Health

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:47): I move:

That the Senate—

(a) notes that:
   (i) a group of experts from the health and education sector, community representatives and business met in Parliament to discuss high incidences of poor hearing health in Aboriginal and Torres Strait Islander communities, and
   (ii) this group:
       (a) identified otitis media (glue ear) and its social, educational and community impacts as a key issue in 'Closing the Gap',
       (b) believes it is essential that a holistic, sustained, cross-disciplinary approach be taken in addressing this issue and its effects; and
       (b) calls on state and federal governments to commit to working collaboratively on a holistic, sustained, cross-disciplinary approach to addressing this issue and its effects.

Question agreed to.

Polio Eradication

Senator CROSSIN (Northern Territory) (12:47): I, and also on behalf Senators Moore, Boyce and Di Natale, move:

That the Senate—

(a) commends the efforts of successive Australian Governments, working with multilateral, non-government organisations such as Rotary International and other national governments, in wiping out polio in the Pacific and reducing the total number of polio cases worldwide by 99 per cent since 1988;

(b) congratulates the Australian Government for existing polio eradication efforts through its contribution to the Global Alliance for Vaccines and Immunisation, the Afghanistan Polio Eradication Initiative and the United Nations Children's Fund [UNICEF];

(c) notes that polio remains endemic in four countries, Afghanistan, Nigeria, India and Pakistan, three of which are Commonwealth nations;

(d) recognises that in 2010, there were only 1 290 cases of polio worldwide, down from 350 000 cases in 1988, indicating the unprecedented opportunity the world has to eradicate polio once and for all;

(e) notes that the Global Polio Eradication Initiative currently faces a significant funding shortfall; and

(f) calls on the Australian Government to support efforts to deliver a polio-free world and to advocate for greater support for polio eradication efforts, including at the Commonwealth Heads of Government Meeting.

Question agreed to.

National Police Remembrance Day

Senator PARRY (Tasmania—Deputy President of the Senate and Chairman of Committees) (12:48): I move:

That the Senate—

(a) notes:
   (i) that 29 September 2011 is National Police Remembrance Day,
(ii) that 2011 marks the 23rd commemorative anniversary of National Police Remembrance Day, and

(iii) the hard work and dedication of police officers throughout Australia and the South West Pacific;

(b) particularly notes that:

(i) 750 police officers have died in Australia since 1803 whilst serving their communities, and

(ii) families and communities have endured this tragic lost;

(c) pays tribute to the families and friends of those police officers who have died in the line of duty; and

(d) acknowledges the support of all families and communities of serving police officers.

Question agreed to.

COMMITTEES

Migration Committee

Meeting

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

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 12 October 2011, from 10:30 am.

Question agreed to.

Rural Affairs and Transport References Committee

Meeting

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

That the Rural Affairs and Transport References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 22 September 2011, from 4.30 pm, in relation to its inquiry on the management of the Murray-Darling Basin.

Question agreed to.

MOTIONS

Madrid Protocol

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:49): I move:

That the Senate—

(a) notes the 20th anniversary on 4 October 2011 of the Madrid Protocol, which notably banned mining in Antarctica; and

(b) affirms its support for the Madrid Protocol and for the continuation of Antarctica as a 'natural reserve devoted to peace and science'.

Question agreed to.

Refugees

Senator HANSON-YOUNG (South Australia) (12:50): I move:

That the Senate calls on the Government and the Opposition to uphold our obligations to the 1951 Convention relating to the Status of Refugees.

Senator CASH (Western Australia) (12:50): I seek leave to move an amendment to the motion.

Leave granted.

Senator CASH: I move:

That the motion be amended by omitting the words 'the Government and the Opposition' and substituting the words 'all parties'.

A copy of this amendment has been circulated in the chamber.

Senator HANSON-YOUNG (South Australia) (12:50): I accept the amendment of Senator Cash. I think it is a good one.

Question agreed to.

Senator HANSON-YOUNG (South Australia) (12:50): I move the motion as amended:

That the Senate calls on all parties to uphold our obligations to the 1951 Convention relating to the Status of Refugees.

Question agreed to.
Forestry

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:51): I ask that general business notice of motion No. 458, which condemns the coalition for seeking to deny Tasmania $270 million of assistance for forestry transition, be taken as formal.

The PRESIDENT: Is there any objection to this motion being taken as formal?

Senator Fierravanti-Wells: Yes.

The PRESIDENT: There is an objection.

Suspension of Standing Orders

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:51): Pursuant to contingent notice, I move:

That so much of the standing orders be suspended as would prevent Senator Bob Brown moving a motion relating to the conduct of the business of this Senate, namely a motion to give precedence to general business notice of motion no. 458.

I do that in the wake of some procedural differences with the opposition. We have just seen the Greens agree to an amendment from Senator Cash to a Greens motion, after a series of amendments put by the Greens were blocked by the opposition during the week. We have a motion on forestry up for formality, which responds to a motion by the opposition which was given formality and the opposition again block it. We have here a very precious opposition, which want to be able to put motions up expressing their view of the world but become quite dictatorial in the reverse way—they do not like an alternative viewpoint being put forward.

This motion states that the Senate condemns the coalition for seeking to deny Tasmania $270 million of assistance following the agreement between the Gillard government and that of Premier Giddings in Tasmania for forestry transition. Mr President, you will know that last year the forest industry in Tasmania was in collapse, with hundreds of jobs lost and all three export woodchip mills closed because of predicted market forces coming to bear. The industry sought talks with the conservation movement. Out of those talks came an agreement—and that agreement did not involve the Greens—and a subsequent agreement a couple of months ago between the Premier of Tasmania and the Prime Minister that will see an estimated $270 million flow to Tasmania to help move the logging industry operatives who can no longer operate into other productive pursuits.

This follows the billion dollars put into this failed industry in Tasmania over the last 25 years, not least $240 million under the Howard government as a result of the 2004 election. That was overseen by the then forest minister, Senator Abetz, who leads the coalition here and who has done a complete reversal. He put that money into Tasmania, and goodness knows where it went because it failed to produce the result in terms of ending the haemorrhage of jobs and small sawmills from the industry.

Now there is a proposal to actually get results to aid industry operatives and the opposition want to block it and have been crying blue murder. No wonder Senator Abetz is not in the chamber, because the coalition senators are saying: 'We don't want this money coming to Tasmania. Let it stay with Treasury and be used for some other purpose. Let's deny those Tasmanian contractors and small businesses, including small sawmills, who cannot see viability in front of them, their opportunity to get out of the industry and move to other productive forms of contribution to the Tasmanian economy.'
Up comes this proposal and the coalition say: ‘No. Block the money going to Tasmania. Block assistance to the industry. Block the proposal for 430,000 hectares—and it should be 578,000 hectares of high-conservation value forest—to be protected.’ It is no to everything from the Abbott-Abetz front—no to Tasmania being given assistance; no to helping an industry in perilous trouble; no to recognising the Tarkine, the Great Western Tiers, the great valleys of the southern region, Bruny Island, the north-east highlands and Wielangta, to name just a few. The proposal forms part of the suite of being productive, job-creative, small-business rich and investment-attracting. In Tasmania, the tourism industry employs 35,000 people while the logging industry is below 2,000 and dropping rapidly. What a curmudgeonly negative attitude towards Tasmania from the coalition senators. It is quite extraordinary. Let them go to Tasmania and explain that to the voters of Tasmania. They will get a very negative reception in return, I would think.

**Senator COLBECK** (Tasmania) (12:56):
The reason the coalition have denied formality for this motion is that we would like the opportunity to debate it. There is no urgency to deal with this motion now, as Senator Brown has put on the table. It is not urgent that we effectively debate a motion right now, or pass a motion right now to condemn the opposition. The opposition's position on forestry in Tasmania is very, very clear and very well understood by the community in Tasmania. In fact, that has been well and truly communicated to us. So there is no urgency to suspend standing orders to deal with this now. This matter can quite sensibly be placed on the Notice Paper and debated at an appropriate time.

We see Senator Brown continue to dishonestly misrepresent the situation in relation to forestry in Tasmania. Small sawmills were not in crisis. Small sawmills were not losing market share in Tasmania prior to the commencement of these negotiations in Tasmania. One big operator was having problems which caused other issues to flow through to the logging contractors in particular. The rest of the industry were not doing too badly, but they are in real strife now because the Greens and their ENGO colleagues want to close down the industry. That will be the impact of closing down 430,000 or 572,000 hectares of Tasmanian forests. It will close down the industry and it will create a crisis for small sawmillers and small family businesses in Tasmania.

For Senator Brown to suggest that we do not want to see the contractors assisted in this matter is completely and utterly dishonest. The coalition actually led the way in respect of supporting contractors in Tasmania. We put $20 million on the table at the last election to assist contractors. We put the money up first. The Labor Party had no intention of putting any money on the table. The Greens did not put any money on the table. Within two hours of announcing we would put up $20 million, Minister Burke came out and said, 'We will match the opposition's policy.' That is what Minister Burke said. So do not try that one on us, Senator Polley. You were well and truly behind the eight ball. You did not want to be left behind by the coalition being proactive in support of contractors, and then you screwed up the process of allocating funding. Senator Brown's motion to suspend standing orders at this point in time is certainly not urgent and it should not be passed. But the dishonest misrepresentation of the Tasmanian forest industry is quite profound.

Senator Brown is trying to climb to the high moral ground about process in this place when he has just voted with the Labor Party to deny this chamber the opportunity to
properly scrutinise 19 pieces of legislation in the way that the Senate usually works. Senator Brown comes in here and accuses the opposition of trying to deny process, yet he has just voted with the government to stop the Senate, through its committee process, properly scrutinising 19 pieces of legislation. He sidled up to the government and they sent it off to a joint committee, which he has been quite happy for his party to take the deputy chair of, with a government chair. He makes these accusations, yet only 10 or 15 minutes ago in this place he voted against allowing the Senate's committee process to do what it is described as doing on the Senate's website. The hypocrisy surrounding this is just extraordinary.

Senator Brown complains about the money that has gone into the Tasmanian forest sector—he mentioned it just a minute ago—and now tries to condemn the opposition for trying to stop this really dodgy agreement that has been struck by the Prime Minister and the Tasmanian Premier. If you do not close an industry down, you do not need to compensate it—that is the bottom line. We support funding going to the contractors. We have said that since day one. As I have said, we led the process. But if you do not cut a $1.4 billion industry in half, which is what is happening here—they are carving about $700 million a year out of the Tasmanian economy through this process—you do not have to put any money for compensation on the table. What is being offered to Tasmania is $7 million a year for 15 years in compensation for $700 million a year of economic activity. There is no urgency to deal with this right now. (Time expired)

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (13:02): Can I firstly indicate that it was the government's position that we would support the motion standing in the name of Senator Bob Brown. I would also like to make the point that it is unusual for formality to be denied in the manner that it was, and certainly to be denied without any warning. I think all senators in this place comprehend that there is a network of conventions and understandings that ensure this chamber is able to work and work effectively and I make the point that denying formality on this occasion and in this manner does, to my mind, go against those formalities and make the management of this place more difficult rather than assisting it. Having made that point, I conclude by saying the government will not support a suspension of standing orders.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (13:03): I rise to support the motion for the suspension of standing orders so that this matter can take precedence. I note that Senator Colbeck from the coalition moved a motion on Tasmanian forestry but two days ago, considering it was urgent. When the coalition want to talk about Tasmanian forestry matters, it is urgent, it comes on in this context and formality is granted. But when anybody else wants to discuss the Tasmanian forests and the intergovernmental agreement, suddenly it is not urgent and it does not need debating. What is more, the coalition at that point denied leave to amend the motion. Not only did they deny that; they are now here denying a motion formality in exactly the context they raised theirs a matter of days ago.

I want to put on the record a number of things in relation to this. This motion basically points out that the coalition is denying any money to Tasmania to facilitate a transition out of native forest logging, which the industry wants. That is the point: the industry wants the transition out of native forest logging.

Senator Colbeck: No they don't.
Senator Abetz: They do not.

Senator MILNE: It may interest Senators Abetz and Colbeck to know that the woodchip mills were closed in Tasmania—gates were locked; trucks stopped moving—well before the logging industry approached the conservation movement to say: 'We need to end this. We need to come to an agreement. There is no future for this logging industry in the way that it is operating.'

Senator Colbeck proudly says that before the election he put $20 million on the table and the government matched it. Yes, and where did the $20 million go? It went to the contractors to keep the wheels turning and the chainsaws going for another few months and then stop. The money went to subsidise ongoing work, but only for a few months because it was not enough. If you are going to do this properly you have to sit down and negotiate an outcome, which is what has been happening over the last few months. For Tasmania to make this transition there needs to be money spent in rural and regional economies to build some resilience, to build an alternative future. The money which the coalition is objecting to being spent in Tasmania will be overseen by Minister Crean, looking at rural and regional development in Tasmania to provide alternative jobs, alternative futures, in those communities.

I am very pleased it is on the record that the coalition do not want the money spent in rural and regional Tasmania creating new jobs and new opportunities long term. They want to spend another however much—if anything at all—to keep an industry going when there is no market for it. There is no market for native forest woodchips. It has collapsed.

In terms of sawn timber, in 1993-94 softwood and plantation timbers overtook native forests in sawmill industries in Australia. There was and is no future in this industry at that scale. Senator Abetz oversaw expenditure of $240 million between 2005 and 2010—he was the minister in the initial stages—and in five years the $240 million was gone and the industry was in chaos, and the upper house today is saying Forestry Tasmania is insolvent. It would be insolvent if it were a private company but it is not; it is a government business enterprise. What this process is going to do is prop up an organisation which has so badly mismanaged Tasmania's forests over such a long period of time. If the coalition want to assist Tasmania, they should support this Commonwealth money going into Tasmania because it would help to reposition the regions. Those communities are crying out for the money and they will be very interested to know that Senator Abetz and Senator Colbeck do not want money spent in rural and regional Tasmania to build an alternative future for people—to help them to get out of an industry which has no market for its products.

The Triabunna woodchip mill is locked, shut, gone—after spending $240 million, the gates are locked. You have to ask how much incompetence there is here when the Commonwealth fails to see the writing on the wall for the native forest industry around the world. When are you going to get real about the fact that just because you have an ideological commitment to destroying native forest that does not mean the rest of the world wants to buy the product? And when are you going to get real about the fact that, if the world does not want to buy the product, you have to assist people in making the transition? That is the sensible thing to do for the future. That is where this money is being directed. (Time expired)

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (13:08): We
are discussing whether or not there ought to be a suspension of standing orders in relation to this issue. The simple fact is that Senator Colbeck did have a motion earlier this week relating to payment, as I understand it, going from Commonwealth coffers to contractors rather than to Forestry Tasmania. That was a matter of urgency. Can the Greens explain why it is a matter of urgency to try to ram a motion through this place which will do nothing for the forest industry, only condemn the coalition? That is all that the Greens motion says. Even your most ardent supporters back in Tasmania would say, 'This is taking it too far.' It is, yet again, Senators Brown and Milne overreaching in circumstances where they have sullied themselves with a $1.6 million donation—the biggest donation ever in Australian political history. They have become soiled and involved in what is occurring in the Tasmanian forest industry.

Apart from the Greens' acceptance of that donation, which has sullied them and leaves them without clean hands, there are other issues at stake. We do not want this money spent in Tasmania, because the timber industry does not want this money being spent for what would be, in effect, their own funeral. It would be their funeral because they have been killed by the policies of the Greens-Labor governments in Hobart and Canberra. The people in Tasmania want our environmentally sustainable, jobs-rich, wealth-creating industry to continue.

Senator Milne: There is no market—1,300 jobs gone.

Senator ABETZ: Senator Milne thinks that by mere repetition she can make a falsehood into a truth. That does not work. You can keep on repeating that there is no market for native forest woodchips, but why is it that Eden in New South Wales is expanding and selling more and more native forest woodchips? What the Greens assert is completely false, but they think if they repeat it often enough it will become accepted within the community. As long as the coalition is in this place, we will ensure that those falsehoods are exposed on every possible occasion.

Senator Bob Brown: You have not run out of puff, have you?

Senator ABETZ: No, in fact I am reading a very good note from Senator Ian Macdonald, who is suggesting to me—and I will make this suggestion—that we are happy to debate the Greens in relation to these matters at any time in this place. What the Greens are promoting for and on behalf of their donor, the biggest donor ever in Australian history—$1.6 million—is the lock-up of 500,000 hectares of Tasmania. They want to lock up not only its forest values, but its mineral values and its tourism values. These are to be denied to future generations for the mere sum of $270 million. Work out what that is per hectare. Where else could you buy land at that price—just the land value, not even including the timber wealth, the mineral wealth and the tourism wealth and potential? That is why Senator Doug Cameron's union in Tasmania, the AMWU, and the Australian Workers Union are in lockstep with the coalition on this—and it is very rare for them to be in lockstep with us—because the workers of Tasmania know, the contractors of Tasmania know—

Senator Cameron interjecting—

Senator ABETZ: When Senator Cameron and I are in heated agreement, it must be a rare day and the stars must be aligned. I am not sure, though, that Senator Cameron still looks after the workers' interests as he used to. But that is a debate for another day.
We are a country with a lot of land—millions of hectares. We have a lot of land with a lot of timber and the Greens continually want to lock it up. It is a good natural resource—renewable, recyclable and biodegradable. The Greens say, 'Do not harvest our own.' But do we still need wood products? Of course we do. Where do they come from? As Senator Colbeck said, they come from the Solomon Islands, from Indonesia, from South-East Asia. Because of Greens policies, we have seen a 50 per cent increase in those sorts of imports while they try to close down our industry. It is not economic sense; it is not environmental sense.

Senator IAN MACDONALD (Queensland) (13:13): This is only a personal view—I cannot speak for the coalition—but I am inclined to think that the coalition should support Senator Brown and that we should put this on as a priority and immediately have the debate. I urge my colleagues to seriously consider that—there is such a lot which should be said about the Greens political party and the way they have destroyed a sustainable industry in the state of Tasmania. It was a state that used to have a very good industry. It created a hell of a lot of employment, it attracted tourists there and it was a way of keeping forest fires at bay—the forestry tracks helped ensure that when a fire started it could be put out. What the Greens want you to do is to get rid of all forestry tracks. So when fires start there is no way of putting them out and the fires will then destroy 10 times as many trees as the forestry industry might have ever harvested. So these things I think do need to be debated and it is the Greens-Labor alliance that is proposing that we set aside standing orders and set aside the regular order of business and have this debate now. They seem to think it is urgent and I think it is probably urgent that a lot of Australians listen to a serious debate on the forestry industry.

I would like to challenge the Greens—and hopefully if the debate goes ahead we could do this—on just how many jobs they have lost. I would like to challenge the Greens to tell me how many of these native forest trees have been destroyed by fire over the years as compared with those that have been sustainably harvested by the forestry industry. That is a statistic I would love to know.

I would also like to hear from the Greens why they believe that Australia should import logs that are unsustainably harvested from elsewhere in the world, from places that have real environmental problems, in lieu of harvesting from what was recognised worldwide as one of the best forestry management systems anywhere—Australia, which has a very proud reputation in forestry and in forestry management. We have some magnificent timbers. Have a look around this building, Mr President, and you will see mainly Tasmanian forestry wood. But if the Greens have their way they will shut it down.

Mr President, I can tell you, because I was right at the forefront of this at one period in my career, that the Greens ask for something, you negotiate it, they come back, you stop there, you think that is the end of it and we are over it. But they get that little concession and then—as soon as everyone has gone back to sleep, as soon as peace has settled on it—they start again. And they will keep going until they shut down the whole forestry industry in Tasmania and the forestry industry in Victoria—or what is left of it—and the forestry industry in my state of Queensland—or what is left of it. It is an incremental thing to destroy this country and destroy a very significant industry in this country.
Mr President, I would like very much to have this debate. I am speaking as a private senator and I do not know what arrangements there are for business today. I understood the Labor Party wanted to deal with some bills but their partners, the Greens, think that this motion is far more important. On this occasion—and heaven forbid that I should ever agree with anything that the Greens political party says—I would be inclined to support them. I know my colleagues and those who manage business on this side have other matters to consider and, of course, I will go along with whatever they say. But I certainly hope that sometime we can have this debate and it seems to me that now would be as good a time as any. So, Mr President, to me it is a good idea but I leave it, of course, to those who are in charge of running this place to make the final decision. 

(Time expired)

Question put:
That the motion (Senator Brown's) be agreed to.

The Senate divided. [13:23]
(The President—Senator Hogg)

Ayes.......................9
Noes.......................36
Majority...................27

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

NOES
Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ

Question negatived.

COMMITTEES
Clean Energy Future Legislation Committee
Membership
Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (13:25): I, and also on behalf of Senator Macdonald, move:
That the Senate—
(a) regrets the Government's decision, in the context of the Joint Select Committee on Australia's Clean Energy Future Legislation, to depart from the historical convention which provides that the chair of a committee is a government nominee and the deputy chair of a committee is an Opposition nominee; and
(b) expresses concern regarding:
(i) the implication this committee membership structure has on the independence of the inquiry and its deliberations,
(ii) the short timeframe of 5 working days given for public submissions to the inquiry,
(iii) the limitations that this timeframe imposes on the members of the public to provide proper and considered preparations, and
(iv) the capacity of the committee to consider submissions and hold sufficient public hearings throughout metropolitan, regional and rural Australia, with an opportunity to engage Australians across all states.

Question put.
The Senate divided. [13:30]
(The President—Senator JJ Hogg)

Ayes.......................30
Noes.......................34
Majority..................4

AYES
Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Fawcett, DJ
Fisher, M
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Parry, S
Ryan, SM
Williams, JR

Back, CJ
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Ronaldson, M
Scullion, NG
Xenophon, N

NOES
Arbib, MV
Bishop, TM
Brown, RJ
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

Bilyk, CL
Brown, CL
Cameron, DN
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
McEwen, A (teller)
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

PAIRS
Adams, J
Eggleston, A
Fifield, MP
Nash, F
Payne, MA

Carr, KJ
Lundy, KA
Evans, C
McLucas, J
Ludwig, JW

Senator Wong did not vote, to compensate for the vacancy caused by the resignation of Senator Coonan.

Question negatived.

MOTIONS

Sri Lanka

Senator RHIANNON (New South Wales) (13:31): I move:
That the Senate—
(a) notes:
(i) a roundtable meeting held in Federal Parliament supported a call for Sri Lanka to be suspended from the Councils of the Commonwealth because it has:
(a) refused to hold an independent investigation into alleged war crimes committed in Sri Lanka during the final stages of the civil war in 2009, and
(b) breached its commitment to uphold the 'rule of law' in the Commonwealth's values and principles, as set out in the Millbrook Commonwealth Action Program,
(ii) a precedent was set for temporarily suspending a country from the Councils of the Commonwealth when Pakistan was suspended in 1999 and Fiji was suspended in 2000 and 2006, and
(iii) the Sri Lankan President is planning to attend the Commonwealth Heads of Government Meeting in Perth in October 2011; and
(b) calls on the Australian Government to support calls for Sri Lanka to be suspended from the Councils of the Commonwealth until the Government of Sri Lanka:
(i) agrees to an international independent investigation into war crimes,
(ii) restores human rights and the rule of law, and

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)
(11:21): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator FEENEY: The government does not support dealing with complex foreign policy motions through simple Senate resolutions. That has been longstanding practice for the parliamentary Labor Party. Therefore, the government cannot support this motion.

Australia and like-minded countries nonetheless continue to urge Sri Lanka to address serious allegations of violations of international humanitarian and human rights law by both sides during the final stages of the Sri Lankan conflict. In particular, the government has asked Sri Lanka to test the findings of the UN Secretary-General's advisory panel's report against the work of its Lessons Learnt and Reconciliation Commission as well as to take further steps to ensure that the LLRC's work conforms to international standards. Australia will closely examine the LLRC report, due in November 2011, as will the international community, before considering whether further options should be pursued, including in the UN Human Rights Council.

Question put:
That the motion (Senator Rhiannon's) be agreed to.

The Senate divided. [13:35]

The President—Senator JJ Hogg

Ayes......................9
Noes........................39
Majority...............30

AYES

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

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ

NOES

Back, CJ
Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Collins, JMA
Edwards, S
Faulkner, J
Feeney, D
Furner, ML
Hogg, JJ
Kroger, H (teller)
Marshall, GM
McKenzie, B
Parry, S
Pratt, LC
Scullion, NG
Stephens, U
Thistlethwaite, M
Xenophon, N

Bernardi, C
Birmingham, SJ
Boswell, RLD
Bushby, DC
Colbeck, R
Cormann, M
Farrell, D
Fawcett, DJ
Fifield, MP
Gallacher, AM
Johnston, D
Madigan, JJ
McEwen, A
Moore, CM
Polley, H
Ronalson, M
Singh, LM
Sterle, G
Urquhart, AE

Question negatived.

Libya

Senator CAMERON (New South Wales) (13:39): I move:
That the Senate—
(a) notes:
(i) the courage, determination and sacrifice of the Libyan people since February 2011 in their pursuit of freedom and justice,
(ii) the Australian Government's commitment to the Libyan people throughout the conflict,
(iii) Australia is the third largest donor to the humanitarian effort in Libya, and
(iv) that with this assistance, humanitarian agencies will provide urgent medical, food and water assistance in conflict-affected areas of Libya; and
(b) calls on the Government to work with the National Transitional Council to assist Libya's transition.

Question agreed to.
Passports for Sex and Gender Diverse People

Senator PRATT (Western Australia) (13:39): I move:

That the Senate notes:

(a) the new guidelines announced by the Government that make it easier for sex and gender diverse people to get a passport in their preferred gender;

(b) that this policy will significantly reduce the administrative burden and inconvenience caused to sex and gender diverse people who require a passport that reflects their gender and physical appearance; and

(c) that the initiative is in line with the Australian Government's commitment to remove discrimination on the grounds of gender identity and sexual orientation.

Question agreed to.

Finance Minister of the Year Award

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (13:39): I move:

That the Senate congratulates the Treasurer (Mr Swan) on winning Euromoney's Finance Minister of the Year award for his stewardship, backed by measures negotiated in the Australian Senate, of the Australian economy through the global financial crisis.

Senator CORMANN (Western Australia) (13:40): Mr President, I seek leave to make a short statement.

The PRESIDENT: There being no objection, leave is granted for no more than two minutes.

Senator CORMANN: I thank the Senate. The coalition will not support this motion because we do not believe the award has any credibility. It is true that Mr Swan has achieved a number of Australian records. He achieved four budget deficits in a row, including the biggest Australian budget deficit, of $54.8 billion, in 2009-10; a record $159 billion in accumulated deficits over the four years he has been Treasurer; 19 new or increased taxes to collect more than $45 billion in additional revenue; and a national record net debt, heading for $110 billion. He made a complete mess of the mining tax, becoming another Labor Treasurer causing a Prime Minister to lose his job. He has resisted tax reform like the plague. He had to be dragged kicking and screaming to a tax summit in October after he successfully had it downgraded to a forum.

That is the record Euromoney has recognised with its award. No wonder Peter Costello was never in the running; he was clearly unable to reach these low depths of achievement. Despite the Asian economic crisis, a one-in-100-year drought, Cyclone Larry, floods, 9-11, the Bali bombings, the war on terror and a massive tsunami in the region in 2004 and despite inheriting a massive budget deficit and record debt from the Keating government, Peter Costello was the Treasurer who delivered record budget surpluses, paid off $96 billion of Labor debt, delivered successive tax cuts, set up the Future Fund and left Australia debt free. He was the Treasurer who achieved genuine tax reform in the face of strident opposition from the Australian Labor Party and whose outstanding contribution bulletproofed Australia from the worst elements of the global economic downturn.

Euromoney never thought Peter Costello was worthy of its award, but Wayne Swan apparently is. Just look at Euromoney's track record for picking winners. In 2006 they gave Lehman Brothers the world's best investment bank award. In 2008 Lehman Brothers went bust. In 2006 Euromoney gave Bear Stearns the world's best risk managers award. In 2008 Bear Stearns went bust. Lehman Brothers, Bear Stearns, Mr Swan. It is time for our current high-spending, high-taxing, big-debt and big-deficit Treasurer to move on before he has any chance to take
Australia to the levels of debt reached across too much of the euro zone. *Time expired*

Honourable senators interjecting—

The President: Although I am not going to read it out, I advise all senators to read a most recent report from the Procedure Committee on these matters. It would help the conduct of business during this part of the day.


The President: There being no objection, leave is granted for two minutes.

Senator Bob Brown: What a small-minded, humourless and grim response that is. Whatever we might think about each other, on occasion there comes an international accolade. I do not think it does us any harm as a community of elected representatives to say, when that happens, 'congratulations' to the person involved. We learnt at school that if somebody gets an award you congratulate them. That is what this motion is about, and I think the opposition has failed to step up to an average, decent standard of behaviour towards a fellow politician—who, I might say, has been very humble in his response to that accolade and has passed it on as a tribute to the Australian people. The coalition should have been a little bit more positive on this occasion.

Question agreed to.

NOTICES

Presentation

Senator Hanson-Young: To move:

That the Senate—

(a) notes the recent motion passed by the Tasmanian Parliament regarding same sex marriage that stated that the House:

(i) supports marriage equality, and
(ii) calls on the Parliament of the Commonwealth of Australia to amend the Commonwealth Marriage Act 1961 to provide for marriage equality; and

(b) accepts the call for marriage equality.

COMMITTEES

Publications Committee

Senator Carol Brown (Tasmania—Deputy Government Whip in the Senate) (13:45): I present the 9th report of the publications committee.

Ordered that the report be adopted.

BUDGET

Consideration by Estimates Committees

Senator McEwen (South Australia—Government Whip in the Senate) (13:45): I present additional information received by committees relating to the following estimates:

Additional estimates 2010-11—

Economics Legislation Committee—Additional information received between 25 August and 21 September 2011—Treasury portfolio.

1560 No. 56—22 September 2011

Finance and Public Administration Legislation Committee—Additional information received between 25 August and 21 September 2011—Prime Minister and Cabinet portfolio.

Budget estimates 2011-12—

Community Affairs Legislation Committee—Additional information received between 8 June and 21 September 2011—

Families, Housing, Community Services and Indigenous Affairs portfolio. Health and Ageing portfolio.

Human Services portfolio.

Indigenous issues across portfolios:

Department of Education, Employment and Workplace Relations.
At the request of the Chair of the Foreign Affairs, Defence and Trade References Committee, I present the second report of the Foreign Affairs, Defence and Trade References Committee on equity and diversity health checks in the Royal Australian Navy.

Ordered that the report be printed.

Senator STEPHENS: I move:

That the Senate take note of the report.

During the HMAS Success's deployment between March and May 2009, the commanding officer of the ship became aware of reports of a number of incidents of unacceptable behaviour that eventually caused him to contact fleet headquarters for support and advice. The response from fleet command set in motion a series of events that eventually culminated in the landing of three senior sailors in Singapore on 9 May 2009. Rather than resolve the problems, this action attracted widespread and sensational publicity, damaged the good standing and character of certain crew members, cast doubt on the reputation of the ship's company and more broadly damaged Navy's image.

In part 1 of its report the committee looked at the circumstances that caused the CO to seek outside help to deal with the problems that had been brought to his attention. It considered the equity and diversity team that was sent to assist the CO, the veracity of its damning report and the conduct of some crew members and the subsequent landing of three senior sailors in Singapore.

In the second part of its report the committee focuses on the administrative and disciplinary processes that followed the removal of the sailors from Success. The committee finds that both processes were deficient.

Senator JOHNSTON (Western Australia) (13:47): by leave—In speaking to this report tabling today—this was a very
important inquiry—I want to begin by saying that, in my nine years as a senator, with all of those years spent on the Senate Foreign Affairs, Defence and Trade Committee and the past three years as the shadow minister for defence, I have never been so frustrated, disappointed and angry as I have been with the way that Navy, Defence, its political leaders and sections of the media have treated the three sailors landed from HMAS Success in May 2009. I am standing here more than two years after these men were landed and they still have not been cleared or charged with anything after countless reviews, inquiries, investigations—some 11, I believe—and then the Gyles reports parts 1 and 2 and now the tabling of this Senate report, and these three men are none the wiser about what will happen to their careers.

I put it to every senator to imagine for a moment that someone in their family was stood down from their job, without being told why—asked to put their career on hold for two years and have unfounded, hurtful and completely untruthful allegations reported in the national and international media, unchallenged by anyone. How would we all cope with that? There would be an absolute outcry, I guarantee. These sailors, who have a combined 40 years of service to the Navy, have had their reputations irrevocably smeared, and their families have gone through this nightmare along with them. We are talking about Navy families here—families that we ask as a nation to move around the country for us, uprooting their kids from school; to send their loved ones overseas for months on end, sometimes on short notice; to miss birthdays and other family events. They are already made of strong stuff, but I know the anguish they have gone through during this whole sorry saga. It has had a dreadful effect on their physical and mental wellbeing and there has been little or no support from Navy or from this government.

What most people most remember when you mention HMAS Success is a 'sex scandal' or a 'sex ledger' and media articles with headlines spouting, 'Navy sex ship of shame'. The word 'sex' is mentioned and it is on for young and old—and don't let the boring truth get in the way of a good story. This story went around the world. The then Prime Minister, Kevin Rudd, said that the alleged behaviours were 'disturbing'. His deputy at the time, now our Prime Minister, said she feared that such alleged behaviour would stop women joining the Navy. And so on and so forth.

The Gyles report was rightly damning of the Navy for its inept management of these claims. The Gyles report, which was an independent report, said in its recommendations that an ex gratia payment to compensate these three petty officers should be paid. To this point in time, the minister has done nothing and the Navy has done nothing—this is a disgraceful episode in the annals of what is a very proud and heroic institution in Australia: the Royal Australian Navy.

I do not have enough time to continue my remarks, but I should say the minister has an opportunity to put a U-turn into what has unfolded with respect to these three men. It is unique. It is absolutely astounding that we have three sailors who have been recommended to be compensated for their treatment and nothing is happening. The minister has an opportunity to rectify and repair this unholy mess, this unjust, unfair treatment of these three men—and I think he should do something urgently.

Senator MARK BISHOP (Western Australia) (13:52): The ADF, but Navy in particular, has been the subject of numerous inquiries, reviews and investigations
reaching back to 1994 and the inquiry into HMAS Swan and sexual harassment in the ADF. Since then there has been a steady stream of other significant parliamentary, coronial and quasi-judicial inquiries into matters relating to unacceptable behaviour in the ADF. All have produced recommendations that the ADF, by and large, has accepted and then pledged to implement. Despite the efforts of successive service chiefs to make lasting reforms, nothing seems to change. This seemingly endless cycle of reports of incidents of unacceptable behaviour followed by inquiry followed by reform programs must stop.

The overriding message coming out of this most recent Senate Foreign Affairs, Defence and Trade References Committee inquiry is that Defence must take responsibility for identifying its problems and managing them. The ADF prides itself on producing leaders, and rightly so. However, it is an important part of leadership to step forward and take responsibility. Nevertheless, in part 1 of its report, the committee found that the management of unacceptable behaviour aboard Success demonstrated an absence of leadership; serious errors of judgment, starting with a lack of proper attention given to early warning signals of alcohol abuse in Darwin; a failure to exercise duty of care, especially towards young female sailors, who did not receive the protection or mentoring that was required; and scant regard for, or, at best, ignorance of, Defence's legal procedures. The committee was firmly of the view that, although evident at all levels through the chain of command, those in the position of highest authority must accept that their inattention, poor judgment and lack of courage meant that the safety and wellbeing of those under their charge was put at risk. The committee found this situation intolerable.

It also noted that in HMAS Success things started to go wrong from the moment an incident occurred. Rather than minimise any initial damage, each measure taken or not taken on board the ship appeared to compound the problem. In the second part of its report, the committee found that the mistakes and shortcomings in procedures continued in both the disciplinary and the administrative systems. Major problems were identified in the investigations undertaken by the Australian Defence Force Investigative Service. Overwhelming evidence from the investigator on the ground through to the director of operations showed that the investigations were unsatisfactory. Indeed, the director of operations referred to them as 'an aberration in terms of how the service should be doing business'. A subsequent inquiry into the performance of the investigative service in respect of HMAS Success revealed a raft of significant deficiencies. These ranged from serious allegations not being investigated or not properly investigated—for example, important witnesses were not interviewed, key documents were not considered, and signed statements were not taken—to inadequate documentation, in some cases an absence of records, and a breakdown in communication.

The committee notes that for a number of years it has raised concerns about the standard of investigations undertaken by the investigative service. The recent revelation about shortcomings in this investigative service is most disturbing. The committee suggests to ADFIS that the problems identified in the investigations that took place relating to incidents on board Success in 2009 should not be treated as an aberration. Indeed, they should be considered in the light of the committee's 2005 findings and ADFIS's continuing attempts to improve its investigations. The committee found in
2005 that the ADF had proven itself manifestly incapable of adequately performing its investigatory function. The committee has requested that the investigative service incorporate in its next report to the committee an account of the lessons to be learned from its performance in respect of HMAS Success.

There were also major flaws in the management of the three sailors removed from the ship in Singapore following allegations of unacceptable conduct. Two matters in particular should be mentioned. Firstly, for many months after their landing in Singapore, the sailors were left completely in the dark about the reasons for their removal from Success. There is no satisfactory explanation for this prolonged and unnecessary suspension of procedural fairness.

Secondly, Navy failed to correct errors and highly sensational media reports. The reports publicly pilloried the sailors for doing something that they did not do—that is, their involvement in the so-called 'sex ledger'. Those in Defence managing the media reports at that time should have made it their business at the very least to acquaint themselves with the facts as best they could. The responsibility for correcting the errors also resided with those who knew the reports were incorrect. Apparently no-one bothered. The detachment from and lack of concern for the sailors' wellbeing in the glare of adverse publicity was a continuation of the attitude shown toward them during their removal from Success and return to Sydney. Even after the distress caused by the false reports of their involvement in a sex scandal, they still, despite repeated requests, could not obtain information on why they were landed and returned to Sydney.

The inquiries and investigations into the allegations levelled against them and their treatment for many months after their landing are a sorry example of what can go wrong when things are not properly managed. There has been huge expenditure of resources on the myriad inquiries and investigations, but it is clear that the damage inflicted on the reputation of Navy and some of its personnel might have been avoided or contained if close attention had been paid to proper process and to the advice and guidance provided in the relevant manuals.

In the light of the multiple breakdowns in procedure and breaches of standard practice in the management of reports of unacceptable behaviour at Success through the mishandling of media reports, the committee recommended that Defence look carefully at its internal control mechanisms, including those for handling media requests and reports. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Environment and Communications References Committee

Report

Senator CAMERON (New South Wales) (13:58): I present the final report of the Environment and Communications References Committee The koala—saving our national icon, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator CAMERON: by leave—I present petitioning documents relating to the committee's inquiry, and I move:

That the Senate take note of the report.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (13:59): This is an excellent report. It has a suite of actions to head off the decline of koala populations across Australia, which I hope both the government and the authorities
involved at state and local government level will take on board to protect this icon of this nation.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (13:59): I inform the Senate that Senator Ludwig, the Minister for Agriculture, Fisheries and Forestry, will be absent from question time today. Senator Ludwig's question time representative responsibilities will be divided among three ministers: Senator Arbib will answer questions relating to the Health and Ageing portfolio, Senator Sherry will take any questions relating to the Agriculture, Fisheries and Forestry portfolio, and Senator Wong will represent on the portfolios of the Attorney-General and of the Minister for Home Affairs and Minister for Justice.

QUESTIONS WITHOUT NOTICE

Asylum Seekers

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:00): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. The day before the 2007 election the then Labor leader, Mr Rudd, told the Australian people that if Labor won government he would turn back boats carrying asylum seekers to Australia. I ask the minister: if it was right for Labor to turn back boats in 2007, is it still right to turn back boats in 2011? If not, why not?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:01): I thank Senator Abetz for his question. What I can say with absolute certainty is that turning back boats on the high seas is reckless and dangerous for all those involved. That is the position of the Liberal Party, which would tell us that, when it comes to inconsistencies, they know no equal. When it comes to inconsistencies we have to look no further than the amendments that the Liberal Party has proposed in the House—

The PRESIDENT: Senator Carr, I draw your attention to the question. You have one minute and 32 seconds.

Senator CARR: Mr President, we are discussing the question of towing boats back to sea, which I say is a reckless position, which is the position of the Liberal Party, which has been reaffirmed by the Liberal Party. If we look to the amendments the Liberal Party have themselves moved in the House of Representatives, we know they say that no-one should be sent to any country unless it is a signatory to the human rights convention. Of course, their proposal is to send boats back to Indonesia, a country that is not a signatory to the human rights convention. We know that, as recently as Tuesday of this week—

Senator Abetz: Mr President, I raise a point of order in relation to relevance. Clearly the minister is not being directly relevant as sessional orders require. The question was very simply in relation to Labor's promise in 2007 and if the position has changed why it has changed.

The PRESIDENT: Senator Carr, you have 51 seconds remaining. I draw your attention to the question, as I did before.

Senator CARR: I appreciate that, Mr President. When it comes to the refugee conventions I think it is important that the Liberal Party are in fact consistent. We do look to them as they obviously believe they have a monopoly when it comes to the question of moral indignation on human rights, despite their record!
Senator Carr, I draw your attention to the question. You have 34 seconds remaining.

Senator Carr: Thank you, Mr President. The Liberal Party's attitude here is one of saying that they have a moral monopoly when it comes to the question of human rights, despite their appalling record.

The President: Senator Carr. I do draw your attention to the question. You have 24 seconds remaining.

Senator Carr: The Liberal Party really have, as I said before, more front than Myer when it comes to the question of human rights. Their alleged concern for human rights is a newfound discovery.

Honourable senators interjecting—

The President: Order on both sides! Senator Carr, I draw your attention to the question again. You have five seconds remaining.

Senator Carr: As far as the questions of the human rights conventions and the towing of boats back to sea, it is absolutely—(Time expired)

Senator Abetz (Tasmania—Leader of the Opposition in the Senate) (14:04): Mr President, I ask a supplementary question. Noting the fact that Labor leaders Rudd and Gillard both promised one thing before an election and did another thing afterwards on border protection, I ask: is it a fact that the dismantling of the former coalition government's effective border protection policy was begun under Labor leader Rudd and continued under Labor leader Gillard, with disastrous consequences for asylum seekers who have drowned and taxpayers who now foot the billion dollar annual bill, not to mention Labor's credibility?

Senator Carr (Victoria—Minister for Innovation, Industry, Science and Research) (14:05): The government's position is that the human rights provisions in terms of the refugee conventions have to be upheld. That is very much what this government is about. Our position in regard to Malaysia is that the protections are built into the agreement with the Malaysian government and that there is a provision for the UNHCR to be actively engaged in the processes involved, to an extent that is beyond anything that ever occurred before this agreement had been entered into. On the other hand, we have the Liberal Party suddenly discovering these issues of human rights and proposing a policy to actually send the boats back to Indonesia, to send the boats back on the high seas, despite the incredible dangers involved, to a country that is not a signatory to the human rights conventions or the refugee conventions. That is clearly a major contradiction in the way in which the Liberal Party has approached this issue.

Senator Abetz (Tasmania—Leader of the Opposition in the Senate) (14:06): Mr President, I ask a further supplementary question. Noting the fact that Labor leaders Rudd and Gillard both promised one thing before an election and did another thing afterwards on border protection, I ask: is it a fact that the dismantling of the former coalition government's effective border protection policy was begun under Labor leader Rudd and continued under Labor leader Gillard, with disastrous consequences for asylum seekers who have drowned and taxpayers who now foot the billion dollar annual bill, not to mention Labor's credibility?
So our position was essentially that the policy did not work. It was incredibly expensive and it mistreated people terribly. As a consequence of that, the government moved to end the Pacific solution. We have said that the arrangements in regard to Malaysia are substantially different. Under these agreements there is genuine protection for refugees so that they will not be returned to a country from which they have fled and they will have appropriate access to refugee assessment. This is a much stronger process. 

(Time expired)

Superannuation

Senator URQUHART (Tasmania) (14:08): Mr President, my question is to the Minister representing the Minister for Financial Services and Superannuation, Senator Sherry. Can the minister outline to the Senate how the Gillard government is ensuring a better deal for Australia's superannuation fund members? How will the Gillard Labor government's policies make superannuation transactions easier, cheaper and faster for members? How will these far-sighted reforms improve oversight of the industry?

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (14:08): Thank you, Senator Urquhart, for your question. It is a very important issue, Australia's superannuation. The Gillard government is delivering on the promises it took to the last election and delivering better superannuation reforms and stronger superannuation reforms. My colleague the minister for superannuation, Mr Shorten, has announced the key elements of the Stronger Super reforms. They include creating a MySuper product, which is simple, low-cost default superannuation without commissions. The regulators will be given stronger tools to improve their oversight of our superannuation system and there will be improvements in the administration and the management of super accounts through what is known as SuperStream, which will use technologies to reduce costs and improve efficiencies.

What do these reforms mean for members? It is estimated that the reforms could reduce the fees paid by members by up to 40 per cent, a very significant saving in fees if you compound those savings over the long term. I will give you an example: a 30-year-old worker on a full-time average wage can expect to save up to $40,000 more in retirement after these reforms are implemented. As I have said, there will be commission-free superannuation for the first time. That is a very important reform.

These reforms come on top of other reforms that we have announced. We have announced the increase in the superannuation guarantee from nine to 12 per cent. We have also announced the effective abolition of the 15 per cent contributions tax on the savings of some 3½ million Australians. These particular savings will result in an increase in a member's superannuation balance on average of $110,000. So with these two sets of reforms we have savings of $110,000 and $40,000 over the long term. (Time expired)

Senator URQUHART (Tasmania) (14:10): Mr President, I ask a supplementary question. How do these reforms make it easier for members to locate and consolidate multiple and lost accounts?

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (14:10): As senators know, I have spoken about lost accounts quite frequently in this place and I am very pleased to announce that the Labor government—
Senator Abetz: And lost policies!

Senator SHERRY: This is one policy, Senator Abetz, that I certainly welcome because of the interest I have taken in it. Today we have $18.8 billion in lost accounts—$18.8 billion spread across 5.8 million accounts. Importantly, when figures were first published back in 1999, there were just 2.6 million accounts containing $3 billion. So we have seen an extraordinary increase in lost accounts, both the number and balance. What is disappointing for millions of Australians is that they never receive this money. So Labor is presenting a very important reform involving the use of TFNs, tax file numbers, and what is known as autoconsolidation. I would point out that those opposite were in government for almost 12 years and they did nothing about enabling Australians to find their lost accounts.

Senator URQUHART (Tasmania) (14:12): Mr President, I ask a further supplementary question. Is the minister aware of any alternative policies and do those alternative policies pose obstacles or risks to the Gillard government's historic reforms of the superannuation system?

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (14:12): Thank you for that question. It is very important. I have just highlighted lost accounts. The former Liberal government had almost 12 years to find an effective solution and they did nothing. That theme has continued and I will continue to highlight it. A large part of the proceeds from the mining tax, which this government will be proudly presenting to this parliament and which the Liberal Party have said they are going to repeal, will be going to supporting the increase in the superannuation guarantee, which will result in an increase in the retirement savings on average of $110,000. Part of the mining tax proceeds will be going to effectively remove the contributions tax from 3½ million Australians. What are the Liberal Party going to do? They are going to give the mining tax revenue back to the mining companies, who actually want to pay it to the government, and at the same time increase the contributions tax on 3½ million Australians' superannuation. (Time expired)

Asylum Seekers

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:13): Mr President, my question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. Can the minister confirm to the Senate that the Department of Immigration and Citizenship received advice from the Office of International Law within the Attorney-General's Department in relation to the government's proposed amendments to the Migration Act? Is it not the case that that advice raised concerns that the proposed amendments are inconsistent with Australia's obligations under the UN refugee convention?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:14): I do not have any advice on what particular parts of the immigration department received advice from other parts of the government. All I can do to assist the Senate is to take the question on notice.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:14): I do not have any advice on what particular parts of the immigration department received advice from other parts of the government. All I can do to assist the Senate is to take the question on notice.
the removal of asylum seekers to Malaysia, Australia might also be in breach of its obligations under the convention against torture?

Opposition senators interjecting—

The PRESIDENT: Order! On both sides, if you wish to debate it, three o'clock is the time to do so.

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:15): I have nothing further to add to my previous answer on the same topic.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:15): I have a further supplementary question, Mr President. Will the minister confirm that he is taking the first supplementary question on notice? Does the minister agree with the opinion of his colleague, Senator Faulkner, that Australia must not undermine, overtly or covertly, its obligations under the refugee convention? Why has the minister become so morally compromised on asylum seeker policy and so willingly—

Senator Conroy: You are a rank hypocrite!

The PRESIDENT: Senator Conroy, you have got to withdraw that.

Senator Conroy: I withdraw.

Senator BRANDIS: Why has the minister become so morally compromised on asylum seeker policy and so willingly accepted the government's pitiless plan for offshore dumping—(Time expired)

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:16): The government's position is that we are acting consistently with our human rights obligations. As to whether or not you think the minister that I am here representing is morally compromised, I think that that frankly is something that you ought to have a really good look at yourself, Senator, given your actions as a person who claims to uphold the basic principles of jurisprudence in this country and yet have sought to ring police ministers in complete defiance of the principles of the separation of powers. For you to make an assertion about others in this parliament being morally compromised is, frankly, hypocritical beyond belief.

Coal Seam Gas

Senator WATERS (Queensland) (14:17): My question is to the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, Senator Conroy. In relation to Minister Burke's approval of three massive coal seam gas projects, with several more across the country awaiting his approval, what is the minister's response to the growing chorus of government agencies, including the CSIRO and the National Water Commission, who have concerns about the potential long-term and cumulative impacts of coal seam gas on underground water resources, in particular the Great Artesian Basin, on which much of our agriculture relies? If the government will not listen to the community's concerns, will it at least listen to its own agencies?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:18): Coal seam gas extraction is regulated by state governments. The Australian government has a role only in regulating coal seam gas proposals that impact on matters protected by national environmental law. Projects that are likely to have a significant impact on such matters must be assessed and a decision made whether to approve them. The assessment process under the Environment Protection and Biodiversity Conservation Act 1999 is...
rigorous and includes opportunity for public input.

Senator Waters: Mr President, I have a point of order. My question was not about how the EPBC Act works, which is something that I am very familiar with; it was about whether the government will respond to valid concerns expressed by its own agencies.

The President: The minister is answering the question. The minister has one minute and 22 seconds remaining.

Senator Conroy: Three coal seam gas projects in Southern Queensland have been approved under the EPBC Act. These projects are covered by comprehensive and stringent conditions which include requirements for detailed water management and monitoring plans. These plans cover the treatment and management of coal seam gas, water and related waste to ensure no adverse impacts occur.

Senator Waters (Queensland) (14:20): Mr President, I have a supplementary question. I thank the minister for half an answer. Given the minister's view that the regulation of coal seam gas mining on farmland is primarily a state—

Honourable senators interjecting—

The President: Order! I cannot hear your question. Start again, but there is no need for the preliminary statement, just the question.

Senator Waters: Given the minister's view that the regulation of coal seam gas mining is primarily a matter for state governments, is the minister alarmed at admissions made by the Queensland government's head of LNG enforcement last week that the coal seam gas industry will have aquifer and regional scale impacts, and that the Queensland government is only monitoring 10 per cent of coal seam gas wells for leaking methane and aquifer connectivity?

Senator Conroy (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:20): I thank the senator for her question. I am not aware of the comments that the senator is referring to, so I will take that on notice and see if there is any further information that the minister would like to supply.

Senator Waters (Queensland) (14:21): Mr President, I have a further supplementary question. Given the mounting scientific and community concern, and the inadequate state regulation of coal seam gas, will the government now adequately resource departmental monitoring and enforcement of those federal conditions, reconsider its refusal to add a water trigger to our environmental laws, and reconsider its refusal to impose a moratorium until the full impacts of coal seam gas are understood?

Senator Conroy (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:21): I am not sure I accept the premise of the question in terms of accusations about resourcing by the state government. I am not in a position to accept that as a given, and I am certainly not going to accept the premise of the question that there is underresourcing at the Commonwealth level. If there is anything further that the minister would like to add I will take that part of the question on notice and get you further information.

Asylum Seekers

Senator Cash (Western Australia) (14:22): My question is to the Minister
representing the Minister for Immigration and Citizenship, Senator Carr. I refer the
minister to the report by Amnesty International entitled A blow to humanity: torture by judicial caning in Malaysia, which
states:

Across Malaysia, government officials regularly tear into the flesh of prisoners with rattan canes travelling up to 160 kilometres per hour. The cane shreds the victim’s naked skin, turns the fatty tissue into pulp, and leaves permanent scars that extend all the way to muscle fibres. Blood and flesh splash off the victim’s body, often accompanied by urine and faeces. This gruesome spectacle is kept hidden from public view.

Given that the Malaysia-Australia transfer agreement is not legally binding, can the minister provide the Senate with an ironclad guarantee that asylum seekers sent by Australia to Malaysia will not under any circumstances at all be caned?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:23): As the minister has indicated on numerous occasions, that is in fact the nature of the agreement.

Opposition senators interjecting—

The PRESIDENT: If those on my left wish to debate it, the time is at three o’clock.

Senator CARR: If the opposition were serious about humanitarian outcomes, surely they would also recognise that the agreement with Malaysia offers the chance for the resettlement of 4,000 refugees who are currently in Malaysia. Those 4,000 under the UNHCR require protection and are awaiting resettlement. I think it is a very disturbing undercurrent in the opposition views about Malaysia that in regard to its commitment to this agreement—

Honourable senators interjecting—

The PRESIDENT: Senator Carr, please resume your seat. Motions to take note of answers and debate take place at three o’clock.

Senator CARR: What we do know is that there are 4,000 refugees in Malaysia who would under the terms of this agreement be able to be moved to Australia. So on the simple question of whether people that are sent to Malaysia will be caned, the answer is no. They will be treated with dignity and with respect in accordance with human rights standards. That clearly means there will be no caning. That is what the agreement makes very clear. It is important to note that the transferees will have legal authority to remain in Malaysia and be able to work. On the other hand, the proposal that the Liberal Party are advancing is to suggest—

Honourable senators interjecting—

The PRESIDENT: When there is silence we will proceed. I remind senators on both sides that this sort of debate across the chamber does not help the dignity of the chamber one iota—not one iota.

Senator CARR: The Malaysian Minister for Home Affairs made it very clear in his view. He asked:

Are you telling me Malaysia is so bad that we are worse than the human Traffickers?
That is clearly what the opposition are now implying, that Malaysia is such a terrible place that it would be better to put these people in the hands of the people smugglers. You ask yourself what level of hypocrisy senators opposite will sink to, and there is clearly no bottom to the pit in which you will fall.

Senator CASH (Western Australia) (14:27): Mr President, I have a supplementary question. Can the minister explain why the government is prepared to send men, women and children to a country that regularly subjects unlawful entrants to the punishment of caning, is not a signatory to the UN refugee convention and does not
meet the standards envisaged by section 198A of the Migration Act? Does the government consider that exposing people to the risk of brutal torture is a humane asylum seeker policy?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:28): I come back to the simple point that the agreement makes it very clear that people will not be caned. That is the nature of the agreement. On the other hand, the other part of the agreement, which actually allows for 4,000 refugees who are in Malaysia to be transferred to Australia, is ignored by the opposition. They now want to take it one step further and suggest to us, with extraordinary gall, that their record on human rights—their record in regard to Dr Mohamed Haneef, their record in regard to Cornelia Rau, their actions during their time in administration and the mistreatment of refugees and mistreatment of other people's human rights, their constant abuse of Australian law by the deportation of Australians citizens—ought be compared to an agreement which is actually about trying to improve the lot of 4,000 people who are declared refugees and have the opportunity to come to Australia. (Time expired)

Senator CASH (Western Australia) (14:29): Mr President, I ask a further supplementary question. After more than three years of cascading failures on border protection, isn't the government now embarking on a policy that inflicts brutal punishment on men, women and children and more failed policy on the Australian people?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:29): The answer is no. The simple proposition that they would have this parliament accept is that their record on human rights is so pristine, so pure, despite their habit of locking up Australian citizens, of deporting Australian citizens, of treating refugees with absolute contempt and as a political football, and of vilifying refugees in this country throughout their time in office. You want to cast aspersions? Given your actions and the way in which you treated Dr Haneef and Cornelia Rau and your actions in regard to the children overboard affair, you cannot sit there and seriously claim that you are morally superior to anybody.

Pensions and Benefits

Senator BILYK (Tasmania) (14:30): My question is to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, Senator Arbib. Can the minister please update the Senate on how the government is helping pensioners face cost of living pressures?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:31): I thank Senator Bilyk for the question and her interest in this issue. I am proud as a member of the Labor government to inform the Senate that this week the government delivered the fourth increase to pensions since we have been in government.

Following the government's historic pension reforms age pensioners, disability pensioners, carers and veterans income support recipients have received increases to better reflect the actual costs for pensioner households. From this week single pensioners are receiving almost $20 extra a fortnight. Pensioner couples on the maximum rate, combined, will receive almost $30 a fortnight to help them meet increased household costs. Since coming to office this government has delivered pension increases of about $148 per fortnight to the maximum pension for singles and $146 per
fortnight for couples, combined. It is something the Labor government is extremely proud of. All up, 3.4 million pensioners across Australia will receive an increase in their payments.

This government recognises the enormous contribution pensioners have made and continue to make to our nation. That is why it took a Labor government to act and a Labor government to ensure these increases went through. The government's reforms have delivered not only pension increases but also a new pension supplement, a pension work bonus and a new indexation system. These reforms to the pension have been absolutely critical for Australian pensioners, who for years were neglected by those opposite, who ignored the fact that pension increases were not keeping pace with the cost of living. We as a Labor government understand that. We understood it at the time, and when we came to office we acted. Since Labor came to office pensioners are now $148 per fortnight better off—(Time expired)

Senator BILYK (Tasmania) (14:33): Mr President, I ask a supplementary question. Can the minister update the Senate on how the government is helping older Australians, including pensioners, who want to work extra hours or stay in the workforce?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:33): We understand the importance of employment and the dignity of work. Many senior Australians want to work and continue in the workforce and play an active part. The pension increases delivered by the Labor government recognise that. But at the same time we introduced the seniors work bonus to make sure that pensioners benefit and are not penalised for contributing more to the Australian economy and to the workforce. This means that pensioners can keep more of their pension when they take on some part-time work. For example, if they decide to work during the Christmas sales season or to help out during the census, one of which recently took place, eligible age pensioners can now earn up to $250 per fortnight without it being taken into account as income. Over a year this could be worth up to $6,500. Almost 80,000 age pensioners with employment income stand to benefit from the work bonus. So again Labor is acting for pensioners, making sure that they can financially meet their obligations. The coalition is opposing—(Time expired)

Senator BILYK (Tasmania) (14:34): Mr President, I ask a further supplementary question. Given that addressing cost-of-living pressures is critical to the health and life quality of millions of Australian pensioners, are there any future challenges or risks that may arise and what can be done to avoid these risks?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:35): We know the risk; it is the $70 billion black hole that those on the other side of the chamber have in place through the faulty economic management of the Liberal Party in the other place. There is a $70 billion black hole. It has already been put in place and it has already been agreed by Mr Robb, who has already shown that it is there.

Let's talk about the attitude of those on the other side in the Liberal Party. Senators and members in the previous cabinet refused an increase for pensioners. They let the pension slip further and further behind without acting for an increase. We know this is the case, because the then minister, Mr Brough, said
that he had taken it to the cabinet and asked them to increase the pension. But, no, it was opposed. In relation to the $70 billion worth of cuts, on The 7.30 Report Mr Hockey said, 'I'm not saying necessarily we will cut the pensions.' There you go. (Time expired)

Asylum Seekers

Senator BACK (Western Australia) (14:37): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. I refer the minister to the government's proposal to allow offshore processing in a location to be determined by the government of the day, regardless of its status as a signatory to the UN convention. Does the minister agree that the Labor government has totally abrogated and walked away from its obligations under the UNHCR convention?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:37): The government's very, very clear view is that the arrangements that we have entered into are consistent with our international obligations under the refugee convention. They are entirely appropriate to the government's longstanding respect for human rights. These are actions which are about—

Honourable senators interjecting—

The PRESIDENT: Senator Carr, just resume your seat. If people want to chew up question time with interjections that are disorderly then that is their choice.

Senator CARR: The arrangements that the government has entered into with the government of Malaysia are about sending a very clear message to the people-smuggling syndicates. This is about stopping the boats by encouraging people to understand precisely what Australia's attitude is in regard to the treatment of people who are using this trade, which we think is very dangerous. When you talk about human rights, encouraging people to get on these boats is totally inconsistent with that. Australia is actually increasing its humanitarian intake as a result of these arrangements. It is about improving the treatment of refugees throughout the region. It is, in the government's view, a contribution to a regional solution to ensure that we are able to deal effectively with the question of refugees.

On the other hand, the opposition's position is to use Nauru, which is a very expensive option that has a demonstrated record of failure. In regard to their attitude on TPVs, it saw a situation where they actually encouraged people to get on rickety boats and risk their lives. It failed as a policy. So the government is clear in its view that, in regard to our human rights obligations, the Malaysian proposition is one that ought to be supported.

Senator BACK (Western Australia) (14:40): Mr President, I ask a supplementary question. I refer to the government's statement that their proposed amendments to the Migration Act deliver on the basic tenets of the UN convention and, when coupled with the transfer agreement between Australia and Malaysia, provide ample protection for the rights of asylum seekers. As clause 16 of the transfer agreement expressly declares it to not be legally binding, upon what basis does the government make these claims?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:40): The basis on which the government makes the claims is that it is an agreement with the government of Malaysia. That agreement is quite explicit about the—

Honourable senators interjecting—

The PRESIDENT: Senator Carr, just resume your seat. If senators want to chew up question time with interjections then that
is the way we will proceed. If you wish to debate the issue, debate it after three o'clock.

Senator CARR: This is an agreement that the Australian government—

Senator Brandis interjecting—

The PRESIDENT: Senator Carr, just resume your seat. This is one way to chew up question time.

Senator CARR: This is an agreement the Australian government has entered into with the government of Malaysia. I find it extraordinary that the opposition are seeking to denigrate the government of Malaysia and the people of Malaysia with this constant harping on propositions which they know are totally inconsistent with the terms of the agreement itself. We have the UNHCR being directly involved in the implementation of these arrangements and are providing an opportunity for an additional 4,000 resettlement places in Australia. The UNHCR has been actively engaged in this process and sees it as a very positive improvement on the position prior to which the agreement was struck. (Time expired)

Senator BACK (Western Australia) (14:42): Mr President, I ask a further supplementary question. Given that the Prime Minister has categorically stated that she would rule out anywhere that is not a signatory to the refugee convention, doesn't the government's proposed amendments to the Migration Act violate the Prime Minister's own commitment? Minister, why does the Prime Minister want a legislative excuse to break yet another promise?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:42): The answer to that proposition is no. This is an arrangement whereby, in the Prime Minister's view, we are able to implement our commitments to human rights under the refugee convention. The Prime Minister has made it very clear on numerous occasions that the transfer arrangement is a bilateral agreement between the Australian and Malaysian governments and is about ensuring the opportunity for an increased 4,000 resettlement places in Australia. This agreement sets out quite clearly the obligations of both countries and it is consistent with our undertakings to the human rights and refugee conventions.

Carbon Pricing

Senator MADIGAN (Victoria) (14:43): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Minister, in light of Professor Ross Garnaut's statement that the Latrobe Valley was likely to be the hardest hit area in the country, can the government explain why the Australian people should believe Treasury figures used to form its carbon tax policy when vitally important socioeconomic impact studies, such as the one the government should be commissioning for the Latrobe Valley after consistent local community protests, have been ignored and the detrimental impacts on industry and the communities have not been considered in its modelling?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:44): I thank the senator for his question. I am asked about, essentially, why people should believe the Treasury modelling. The government absolutely stands by the Treasury modelling. These are the finest modellers in the country. Despite the denigration that has occurred of Treasury by those opposite and in the other place—which I have to say was a new low in
the debate in the other place earlier this week—these are the people who advised Prime Minister Howard, these are the people who advised Treasurer Costello and these are the people whose advice was taken by former Prime Minister Howard when he put in place a policy to impose a price on carbon.

The modelling that was originally done in 2008 was updated by the Treasury. It was one of if not the most extensive, robust and thorough exercises in economic modelling ever performed in Australia. It has stood up to scrutiny from various sources and remains one of the most well-documented, transparent and credible modelling exercises undertaken, which puts it, if I may say, in stark contrast with the Victorian state modelling which was previously released and misconstrued by the state Treasurer and the Premier, who formerly supported a price on carbon. In terms of jobs, I would remind—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, resume your set. There is only 14 minutes left before you need to descend into debate, so if you can hold off that long—

Senator Abetz: Ascend.

The PRESIDENT: I said descend into debate. This is not uplifting at all during question time. The minister is entitled to be heard in silence and Senator Madigan is entitled to hear the answer.

Senator WONG: The Commonwealth Treasury modelling demonstrates that we can continue to grow our economy, we can continue to grow jobs, including in Victoria, with some additional 400,000 jobs in Victoria as part of the 1.6 million to be created by 2020. (Time expired)

Senator MADIGAN (Victoria) (14:47): Mr President, I ask a supplementary question. With recent media reports on the likely closure of Hazelwood power station, TRUenergy Yallourn and Energy Brix Morwell, at a loss of possibly 1,000-plus jobs, and the long-held basis that each power industry job has a multiplying effect of at least 2.6 other regional jobs, how does the government justify implementing a tax that could lead to the loss of over 4,000 jobs in the Latrobe Valley alone, when necessary socio-impact studies have yet to be considered?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:47): It is true that reducing emissions by 2020 will require transformation of the energy sector. What I would say to the senator is that both parties acknowledge that. In fact, Mr Hunt, for those opposite, after the last election, pointed out that, were they in government, they would be negotiating the conversion of both Hazelwood and Yallourn from brown coal to gas. That would have an impact on electricity prices and that would have an impact as well, obviously, on the nature of those plants. Both parties are committed to reducing emissions. In response to your question, we would justify implementing the reduction in emissions through a price on carbon for a very simple reason: it will cost Australians less. It will cost taxpayers less, it will cost Australian families less and it will cost Australian business less.

Senator MADIGAN (Victoria) (14:48): Mr President, I ask a further supplementary question. If the impact studies in the Latrobe Valley and other areas confirm a greater effect on these communities and industry than those assumed by Treasury in its modelling, will the government commit to reducing its figure of $23 a tonne to reverse the devastation caused to Australian manufacturing communities such as the Latrobe Valley?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:49): Unsurprisingly, I do not accept the senator’s proposition about devastation. I would point to the evidence which shows we can continue to grow the economy as well as grow jobs whilst putting a price on carbon. I would also point the senator to the very significant set of assistance that the government is providing through various parts of the clean energy package, which are about supporting jobs and communities. They include the Energy Security Fund, the regional structural adjustment assistance package and a range of other measures, including in the $9-plus billion Jobs and Competitiveness package.

The government is very conscious of the importance of supporting industries and communities through the transition, but I again say that the coalition also wishes to reduce emissions by the same amount as the government; the difference is their policy will cost Australian families more. It will cost families more, it will cost taxpayers more and it will cost Australian business more, and that is what the Australian Treasury has said. (Time expired)

Carbon Pricing

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:50): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to the fact that this morning $21 billion has been wiped off the Australian Stock Exchange as concerns grow over the handling of the sovereign debt crisis in Europe and the United States. I also refer to the warnings made by the chief economist at the International Monetary Fund yesterday that the global economy has entered a dangerous new phase. Given that the overseas economic environment is fragile and could worsen further, are there any circumstances under which the government would reconsider its commitment to introduce a carbon tax on 1 July next year?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:51): I am acutely aware of the risks, particularly in the global economy, and I spoke about some of those yesterday. If the senator with an interest in this matter has taken the time to read the various IMF documents which have come out in the last couple of days, he would see that one of the things that is spoken of consistently by the IMF is the importance of a sound and transparent fiscal strategy. I would have hoped that the senator who was once in this portfolio in the opposition would care about the fact that his colleagues have no fiscal strategy, have a $70 billion black hole, went to the last election refusing to disclose to the Australian people what their policies cost—

Senator Abetz: Nonsense! Repeating falsehoods doesn't make them true.

Senator WONG: I will take that interjection.

The PRESIDENT: Senator Wong, ignore interjections; they are disorderly.

Senator Joyce: Mr President—Honourable senators interjecting—

The PRESIDENT: Senator Joyce, as is the practice, I will give you the call when there is silence.

Senator Joyce: Mr President, a point of order on relevance: the question was whether there are any economic circumstances under
which the government would reconsider its commitment to introduce a carbon tax. I do know whether she is about to say yes or no, or what she is actually saying.

The PRESIDENT: There is no point of order. Senator Wong, you have 51 seconds remaining to answer the question.

Senator WONG: I am making the point: if the senator cares so much about the fragility of the global economy, and how we ensure we respond to it, he would actually care about whether or not those opposite could cost their policies, because so far under this economic team the opposition have not once been able to cost their policies. They have not yet once got their numbers right—and numbers that matter. What they have is a $70 billion black hole.

Senator Joyce: Mr President, on a point of order which once more is on relevance: are we to take it that her discussions on the coalition’s position mean that she would consider her commitment to introduce a carbon tax by 1 July next year or that she would not consider the introduction of a carbon tax? Which one is it to be?

The PRESIDENT: There is no point of order. The minister has 13 seconds remaining.

Senator WONG: I am simply pointing out the hypocrisy of putting to the government that we should worry about the global economy when one is part of an opposition that has a $70 billion black hole at a time when we need certainty around fiscal policy—a $70 billion black hole. (Time expired)

Senator Sherry interjecting—

Senator Cormann interjecting—

The PRESIDENT: To those two senators who seem very anxious to debate the issue: there is five minutes to go and then you can debate it.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:54): Mr President, I ask a supplementary question. I refer the minister to a media release she released as Minister for Climate Change and Water on 4 May 2009 in which she said:

We have listened to calls from the business community for a later, more gradual start to the Carbon Pollution Reduction Scheme and additional assistance to help manage the impacts of the global recession.

If the Rudd government felt it necessary to calibrate its climate change settings to global economic circumstances, why won’t the Gillard government do the same or are we just waiting for the Rudd government to come back later in the week?

Honourable senators interjecting—

The PRESIDENT: When there is silence on both sides we will proceed.

Honourable senators interjecting—

The PRESIDENT: Senator Cormann! Order! Senators on both sides! Order!

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:56): I am asked about additional assistance. That additional assistance to which I referred at that time is included in the clean energy package. I am asked about delay. We are beyond the date that the Carbon Pollution Reduction Scheme would have started, and that is a matter of record. In relation to the IMF, I make this point for the edification of Senator Joyce: The IMF have said:

We support the proposed introduction of a carbon price as part of a transition to a permits trading system to mitigate greenhouse gas emissions.

This appears in Australia 2011 Article IV Consultation Concluding Statement, 1 August 2011.

Earlier this year the IMF also said:
Broad based taxes on greenhouse gas emissions are the most natural policy instrument as they exploit all possible behavioural responses for reducing emissions throughout the economy. If the senator cares about the cost to the Australian economy of pricing carbon, he should care doubly about the cost of his policy, which would double the cost for Australian businesses. *(Time expired)*

**Senator Joyce** (Queensland—Leader of The Nationals in the Senate) (14:57): Mr President, I ask a further supplementary question. At the time the Rudd government version 1 delayed the CPRS, the Leader of the Greens, Senator Brown, said that the decision could hardly be more disappointing. Isn't the government's refusal—both version 1 and version 2—to consider the delay more to do with their reliance on the Greens to stay in power than their ever-shifting belief in a carbon tax and their ever-shifting belief in who their leader should be?

**Senator Joyce** (Queensland—Leader of The Nationals in the Senate) (14:57): Mr President, I ask a further supplementary question. At the time the Rudd government version 1 delayed the CPRS, the Leader of the Greens, Senator Brown, said that the decision could hardly be more disappointing. Isn't the government's refusal—both version 1 and version 2—to consider the delay more to do with their reliance on the Greens to stay in power than their ever-shifting belief in a carbon tax and their ever-shifting belief in who their leader should be?

**Senator Wong** (South Australia—Minister for Finance and Deregulation) (14:58): I do not think that is a serious question. It really is not a serious question. I am happy in this place to answer questions of policy. That is a piece of political diatribe. There is nothing further.

**Senator Brandis**: Mr President, on a point of order: if the minister wants to take a point of order she is at liberty to do so. She has not done so. It is no answer to a question for the minister, in a condescending way, to say, 'That is not a serious question.' The questioner is entitled to an answer, and if she wants to challenge it there is a way to do so.

**The President**: There is no point of order. Minister, have you anything further to answer?

**Senator Wong**: A little irony to be accused of being condescending by Senator Brandis. He is good at that.

**Senator Sherry**: QC.

**Senator WONG**: I am sorry, Senator Brandis QC, aka Lord Brandis. I have outlined the reasons for the government's intent to price carbon, I have explained the reasons for it and I have nothing further to add to my previous answer.

**Broadband**

**Senator FURNER** (Queensland) (15:00): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister provide an update to the Senate on the progress of the Regional Backbone Blackspots Program in the Mount Isa region and on how this will benefit local residents?

**Senator Conroy** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:00): I thank Senator Furner for his question. The Gillard government remains committed to rural and regional Australia, as we continue to deliver the $250 million Regional Backbone Blackspots Program. This program is investing significant amounts in improving telecommunication infrastructure for those in regional and rural Australia, who have for so long experienced second-rate telecommunications infrastructure. The RBBP continues to see some 6,000 kilometres of fibre backbone rolled out across regional Australia. We have already laid 5,600 kilometres, or nearly 95 per cent. This will connect 100 regional locations and positively impact 400,000 people across six states and territories.

Back in February 2010, the RBBP was officially launched in Mount Isa. I am pleased to update the chamber with news that the fibre-optic backbone link between Darwin and Toowoomba, a 3,800-kilometre stretch that passes right through Mount Isa,
is within months of completion, having already had 3,685 kilometres of fibre-optic cable deployed on this link alone. For regional communities such as Mount Isa, connection to the RBBP means rapid improvements in retail broadband services and better value broadband plans for customers. Instead of the Nationals supporting the drive to provide equivalence of services, they have turned— (Time expired)

Senator FURNER (Queensland) (15:02): Mr President, I ask a supplementary question. Can the minister please inform the Senate of any recent statements of support to increase telecommunication infrastructure for Mount Isa?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:03): I am delighted to inform the Senate today that, two weeks ago, the North West Star in Mount Isa ran a report calling for rural and remote communities to have the same access to medical and telecommunications services as their city and coastal counterparts. This push was made by none other than the Leader of the Opposition, Mr Abbott, who said:

… Mount Isa should have access to fibre optic cable as soon as possible …

"It would significantly improve broadband and mobile phone coverage in the region," he said.

"It's the sort of thing we could get cracking on straight away."

I am happy to advise that, under the Gillard government's NBN rollout, Mount Isa, with a population of more than 22,000 people, will receive fibre to the premises under our world-class NBN, whilst under the coalition's own policies even large regional centres like Mount Isa would miss out on fibre altogether. (Time expired)

Senator FURNER (Queensland) (15:04): Mr President, I ask a further supplementary question. Can the Minister further advise the Senate on additional plans for the National Broadband Network rollout in Mount Isa?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:05): It is clear that Mr Abbott is well aware of the Australian public's support for our world-class NBN. His own backbenchers have told them so, and they continue to write to me demanding that their communities get connected sooner. So, whilst Mr Abbott is now saying one thing to the residents of Mount Isa about the virtues of a fibre rollout, Mr Turnbull was deriding the NBN as science fiction at the Australian Communications Consumer Action Network conference in Sydney recently. My fear for the people of Mount Isa and other regional communities around Australia is that Mr Abbott is simply telling them what they want to hear—that he supports the NBN—when really he wants to demolish it and treat them as second-class citizens. He wants to give vouchers—vouchers is what your side is up to. What a disgrace! (Time expired)

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Asylum Seekers

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (15:06): Further to a question asked of me by Senator Brandis, I wish to advise the
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Senator that the office of the Minister for Immigration and Citizenship, Mr Bowen, has informed me that the Office of International Law, through the Attorney-General's Department, was closely consulted and has confirmed that the government's amendments are consistent with Australia's international obligation. The government's amendments are designed to make parliament's intention clear and have been informed by extensive legal advice.

**Container Deposit Scheme**

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (15:07): I seek leave to incorporate answers to questions taken on notice from Senator Ludlam earlier this week regarding the Northern Territory's container deposit scheme.

Leave granted.

The answers read as follows—

The Minister for Sustainability, Environment Water, Population and Communities has provided the following answer to the honourable Senator's questions.

**Question 1:**
A spokesperson for Coca-Cola Amatil has reportedly claimed that the Northern Territory container deposits law breaches the Commonwealth Mutual Recognition Act and the company is reportedly planning legal action against the Territory's scheme. Has the Commonwealth government received any legal advice on the matter? If not, will the government seek legal advice on this matter?

**Question 2:**
To what extent has Coca-Cola Amatil made representations to the government on this matter?

**Question 3:**
Has the company made any threats of legal action during the EPHC process or any of the RISs or any of the other stultifying series of processes that this thing has been subjected to?

**Question 4:**
At any time has Coca-Cola Amatil made direct representations to the government?

**ANSWERS**

**Question 1:** The government has not received legal advice on this matter and is not planning to seek advice at this stage. The Commonwealth Mutual Recognition Act 1992 and the Trans-Tasman Mutual Recognition Act 1997 set out a process for their operation. Further information on the Mutual Recognition Agreement and the Trans-Tasman Mutual Recognition Arrangement and their operation is available on the Council of Australian Governments website at: [www.coag.gov.au/mutual_recognition/index.cfm](http://www.coag.gov.au/mutual_recognition/index.cfm).

**Question 2:** Coca-Cola Amatil has not made any representations to the government on the reported planned legal action against the Territory's scheme.

**Question 3:** No.

**Question 4:** Coca-Cola Amatil is a stakeholder in the current process of developing a Consultation Regulation Impact Statement to examine options for addressing the environmental impacts of packaging, including national container deposit legislation. Like other key stakeholders, it has made representations to government throughout this process.

**QUESTIONS WITHOUT NOTICE:**

**TAKE NOTE OF ANSWERS**

**Asylum Seekers**

**Senator SCULLION** (Northern Territory—Deputy Leader of The Nationals) (15:07): I move:

That the Senate take note of the answers given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to questions without notice asked today.
Since Labor abolished the Howard government's Pacific solution we have had 12,000 people come on 241 boats, and not one single one of them has been processed offshore.

Senator Conroy: Every single boat that comes now is yours. Start your engines.

The DEPUTY PRESIDENT: Order!

Senator Scullion: It really is interesting. We have Senator Conroy barking from the other side. For those who can see him from here, he seems a little blurry on the outside because he is, like most members of this government, a virtual minister. He is a virtual minister who is part of a virtual government that has virtual policies. The problem, as Senator Conroy escapes out of his virtual door, is that if you have virtual policies and you do not have a consistent approach to these issues then of course you end up with a complete mess, which is what our border protection is at the moment.

We have had a number of significant changes in policy, and it is really useful to have a look at some of the Prime Minister's statements. I can recall the time when she actually supported the turning back of boats: The navy has turned back four boats to Indonesia. They were in seaworthy shape and arrived in Indonesia. It has made a very big difference to people-smuggling that that happened.

She went on to say that 'turning the boats back not only has made a significant difference' but also 'fits in with our policy'. More recently, in 2010, she said:

I speak of the claim often made by opposition politicians that they will, and I quote: 'turn the boats back'. This needs to be seen for what it is. It's a shallow slogan.

Of course, that was all a bit of a mishmash, and somebody might have mentioned that to the Prime Minister. Now she has come back to 'virtually' turning back the boats:

They believe they are coming to Australia, but they end up somewhere else. It is a virtual turnaround of boats.

Again, this is classically in the line of developing a virtual policy from virtual governments.

The next process was temporary protection visas. In 2002, the now Prime Minister, Julia Gillard, said:

The proposal in this document—Labor's policy—is that an unauthorised arrival who does not have a genuine refugee claim would in the first instance get a short temporary protection visa.

That's right: today's Prime Minister said in 2002 that her policy was temporary protection visas. But of course later, in an address to the Sydney Institute in 2010, Chris Evans said:

The Rudd government is proud of its reforms in abolishing temporary protection visas, closing the so-called Pacific Solution.

Where are they on this? They are absolutely everywhere, and this is the problem with having a virtual policy. It is a bit like watching a very old television set that is a bit broken and does not even stay on the same channel. You have a policy that goes from one channel to the other and back again, and all the channels are a little bit fuzzy.

We have been hearing recently about the so-called Malaysia solution, which of course followed the Timor solution. 'Solution' is a terrible word to throw around during such a debacle. Again, at a time when Prime Minister Gillard said that she would never go to a country that has not signed the refugee convention, in 2010, she said:

In terms of my plan for a regional framework and a regional processing centre, we want to deal with the countries that are signatory to the refugee convention.

She said that absolutely categorically. You could not say that was out of context. They are the people she wants to deal with. She
went on later in 2010 to talk about her policy—and she said 'my policy’, not a virtual policy—as follows:
The policy that I have announced is I want to see a regional processing centre that is a signatory to the United Nations Convention on Refugees, and East Timor is a signatory.

She then went on to say, a little later, on 6PR:
I would rule out anywhere that is not a signatory to the Refugee Convention.
From the UNHCR website, if she was not familiar with it, we could have put this to the Prime Minister:
Malaysia is not party to the 1951 Refugee Convention or its Protocol.…
By law, refugees are … vulnerable to arrest for immigration offences and may be subject to detention, prosecution, whipping and deportation. One would think that was absolutely clear.

This is the problem when we have a virtual government with virtual ministers and virtual processes: at the end of the day, we are going to end up with a virtual border. Let me tell you: real ships with real people-smugglers ignore virtual borders, which is why this public should reject—* (Time expired)

**Senator Jacinta Collins**
(Victoria—Parliamentary Secretary for School Education and Workplace Relations) (15:12): In taking note of the answers given by Senator Carr and reflecting on the comments Senator Scullion has just contributed to this debate, I cannot help but pause and reflect on this 'virtual policy' characterisation, because it is a very selective policy characterisation. I would like to remind senators, and indeed Australians, of who made the most significant change with respect to asylum seekers arriving in Australia by boat. Of course, that was Mr John Howard, in caretaker mode in the lead-up to the election on which Senator Scullion reflects.

The coalition had several policy changes after that period, but let us remember the circumstances of the first. The first was a deliberate decision by this coalition to demonise and politicise this debate and demonise asylum seekers. I will, in a moment, reflect on several other examples. But I want to remind the Senate that the most important point here is that it is very clear that the government's intention is to act consistently with our refugee convention obligations—unlike the former coalition government. It is very difficult to characterise what occurred on Nauru as consistent at all. The coalition claims that it delivered effective border protection, but let us remember another issue as we hear all this moralising. This is the principle that you cannot try and achieve deterrence, or deal with people-smugglers, without mistreating people or persecuting people. There are serious moral issues with that approach. This is the issue that dogged a former coalition minister when the coalition introduced this approach to try and deal with deterrence. I should run through the aspects of that approach quickly. Temporary protection visas: what that was really about was harming and mistreating the people who were stuck in Australia under those visas. I remember many examples during those years of people highlighting the persecution and the effect of TPVs. That is why we abolished them. I remember people drowning when left in the water or disembarking boats that had been turned back to Indonesia. I remember a Human Rights Watch report that highlighted that safety was not necessarily being adhered to in those arrangements.

But Nauru is possibly the best example. I am proud that this government released those people who had been left on Nauru for many, many years, rotting. We know the mental
health effects of the coalition's approach in Nauru. But what we also know is that our arrangements in Malaysia are very different to what the former government set up in Nauru. The Malaysia agreement is about promoting regional processing of asylum claims and resettlement whilst treating people with dignity. It is about avoiding incarceration. This did not apply in Nauru. It is about providing access to appropriate housing, health care, education and employment. This did not happen in Nauru. It is about the participation of the UNHCR. This did not happen in Nauru. Instead, we have the coalition denigrating Malaysia.

I came across a young boy last week who is studying in Australia. He was deeply troubled with the way this debate is demonising his home country. He is concerned that this coalition is using Malaysia as a scapegoat, as it tries to continue to politicise the issue and demonise asylum seekers. The Malaysian government has made it clear that it is addressing its standing on human rights issues. I spent about a year and a half in my youth living in Malaysia. I did not see evidence of the sorts of things that Senator Cash was raising in question time today. No doubt there are circumstances where some inappropriate behaviour occurs. That can sometimes occur in any country, including Australia—we heard in question time today the example of Cornelia Rau. So I do not think we have the luxury of the approach the coalition is taking in this debate. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (15:17): I too rise to take note of answers given by Senator Carr to questions asked by Senators Abetz, Brandis and Cash. Senator Carr, with his usual bumbling sort of attitude, comes in here today and there is this sort of serial amnesia that the government now suffers from, conveniently forgetting—this is their modus operandi—what they promise before elections and what they do after elections. He was asked a question deliberately about what Kevin Rudd had said before the 2007 election. Minister Carr just conveniently wants to airbrush that out of history. But I would like to remind him of the sorts of promises that they made to the Australian public to con them into voting for them. The public did vote for them, and the Labor Party promised that they would do something. Back in 2007 they did not keep their promises, just as Prime Minister Gillard has not kept her promise about the carbon tax, but we will not go there today.

An article in the *Australian* of 23 November 2008 was headed, 'Kevin Rudd has taken a tough line on border security'. It said:

Mr Rudd said Labor would take asylum-seekers who had been rescued from leaky boats to Christmas Island, would turn back seaworthy vessels containing such people on the high seas, and would not lift the current intake of African refugees.

"You'd turn them back," he said …

He then mentioned an 'orderly immigration system' enforced by deterrence. The article continued:

You cannot have anything that is orderly if you allow people who do not have a lawful visa in this country to roam free," he said. "That's why you need a detention system. I know that's politically contentious, but one follows from the other.

"Deterrence is effective through the detention system but also your preparedness to take appropriate action as the vessels approach Australian waters on the high seas."

And, might I remind those on the opposite side, it was the Australian Labor Party that introduced mandatory detention into this country. Why do I know? Because as a lawyer with the Australian Government Solicitor's office I did my fair share of immigration work. So don't you come into
this place, Senator Collins, and moralise about the coalition. You look back at your own history in relation to immigration matters. You look back at your first reading speeches and at your conduct on immigration over those years, and don't come into this place and moralise about the coalition.

Yes, the coalition, through the years, did stop the boats. Yes, we did have an orderly immigration process. And you ask those millions of people who have come to this country, who came in through the front door, how they feel about what is going on, about what has now become the chaos, the mess, the debacle that is this government's immigration and border protection system. You ask them about what happened after August 2008, under then Minister Evans. He comes in here pontificating and trying to dictate to us. He systematically started the dismantling of this system. He sat there in estimates and detailed a program change here, a program change there—no wonder the people smugglers rubbed their hands together: because they knew that they were well and truly back in business. What have the government done? They have effectively dismantled it, bit by bit. And what have we now seen? We have seen a cost blow-out of $3 billion. When the coalition were in government, it was a program that cost less than $100 million. That was under the Howard government. Just over three years ago, under the Rudd government, it cost more than $1 billion. You have had cost blow-outs.

I say to those opposite: you talk about people being in detention. That is the object of a temporary protection visa, because ultimately you have to give assurances to the Australian people that the people are who they say they are, and that is why it is vitally important that you have proper security. That is not a guarantee that I think this government can give the Australian public. *(Time expired)*

**Senator FURNER** (Queensland) (15:22): Once again we have heard today in the commentary from the opposition and others in the coalition cheap political lines like 'virtual' and so on. Back before the last election, in 2010, the Leader of the Opposition, Mr Tony Abbott, used the same 'virtual' statements and cheap political statements like, 'We will stop the boats.' Close to the time of those sorts of comments and that campaign by the opposition starting, I had the opportunity of actually being on a boat. I was up there on the HMAS *Bathurst*, on a parliamentary Defence program. In fact, there was an opposition member from the House of Representatives, the member for Dickson, asking the same question of our Defence personnel: 'What will happen if we stop the boats?' Anyone could have worked out what the answer would be. The Defence personnel turned around and said: 'Well, if we stop the boats there will be mayhem. There will be refugees smashing holes into the hull, smashing the engine, doing anything—anything possible to be rescued.' And that is the issue with making those statements. That is the issue with having the policy of turning the boats around. They are going to turn them around to Indonesia, are they?

We have built a healthy relationship with the Indonesian government. I go back to about 18 months ago when the President of Indonesia came into this house and there was a joint sitting over there. He spoke about the changes that they are making to prosecute people smugglers. This is an example of the changes that have been occurring that the good relationship between the Australian government and the Indonesian government fosters. Yet, if we go sending boats back to Indonesia as the opposition proposes, no doubt that good, genuine relationship will
dissipate forthwith. That is a main reason why we cannot go down a path of entertaining that sort of proposition.

If we go to the Nauru solution, which the opposition appear to be favouring—it appears to be their only opportunity of creating a solution to the refugee issues that we have in this country—history tells us that, of those refugees who went to Nauru, who in many cases were put in camps and allowed to rot in the sun in that terrible position, 95 per cent of them ended up in Australia or New Zealand. So we know as a result of history that that solution will not work.

The Malaysian outcome or agreement that we have been able to negotiate is the only position that we are able to entertain. It is a position that the opposition should be accepting with both hands because it provides a balance. It provides a balance of at least another 4,000 genuine refugees to come to our country, and I think that is a good move. It provides a balance where a future 4,000 refugees will come to this country to call Australia home. We cannot afford to allow this posturing and these political stunts of denying the opportunity for people like that to come to our country.

The UNHCR have also made it clear that the Nauru solution does not work. They have condemned it by saying it is just a dumping ground and a problem in a small Pacific island. When you go back and do your research on what occurred as a result of the Nauru Pacific island solution, you will ascertain that that is the case. That is what happened to those people.

I want to focus in closing on our good, hardworking Defence men and women who are involved in the Border Protection Command. I will be up there on Monday next week—as you know, Deputy President—as Chair of the Defence Subcommittee of the Parliamentary Joint Committee on Foreign Affairs, Defence and Trade, and we will be meeting with them once again, as I did last year. I am sure they will agree with the committee—no doubt this subject might arise—that we cannot deny their health and safety in situations where there is trouble on the high seas. If we have policies like ‘We will turn the boats back’ or ‘We will stop the boats,’ we know the dangerous situation that those good men and women will be put in on the high seas as a result. That is why we cannot afford to allow the opposition to continue down the path of believing that that is the right alternative in dealing with our refugee problems. *(Time expired)*

**Senator BUSHBY** (Tasmania—Deputy Opposition Whip in the Senate) *(15:27)*: I am always amazed when I hear government senators get up and try and defend the indefensible. The fact is that history will record Labor’s approach to asylum seekers coming to Australia over the past 10 years as one of the most hypocritical, most inconsistent and most politically opportunistic gaggle of positions on a policy issue that has ever been seen in this country. Indeed, I will not be surprised if future political science courses devote a large chunk of their classes to the flip-flopping changes in position that the Labor Party has taken on this particular issue over the last 10 years.

Senator Collins spent most of her speech attacking the coalition on our policy, saying that we deliberately sought to demonise asylum seekers and that it was we who started that. That is not at all true. The demonising started with Labor when the boats started coming in the late 1990s. I believe, in fact, that it may even have been the now Prime Minister, Ms Gillard, who started that demonising, by attacking the Howard government over the boats that were coming and claiming that Labor would turn them back. Our approach, of course—
Senator Wong interjecting—

Senator BUSHBY: That is a separate issue. Our approach was to fix the problem, so we put in place a suite of measures that were designed to actually stop the boats from coming and ensure that people had no incentive to hop on a leaky boat, risking their lives and the lives of their families by crossing the open seas on a journey to a country they had no surety they would ever reach.

Senator Collins also raised temporary protection visas, but she made no case against them whatsoever. She just damned them openly without explaining at all why she thought there was a problem with them or why they did not work. I have yet to hear from a senator on that side of the chamber any information at all about why temporary protection visas are not a valid approach to take in tackling this issue.

In relation to Nauru, Senator Collins said that arrangements in Malaysia were very different. The arrangements in Malaysia are very different. They will be very different, particularly for those people who are sent there compared with those who were sent to Nauru or who could be sent to Nauru. Those who end up in Malaysia will be subject to Malaysian justice. They will be subject to their rules, their laws and their ways of dealing with asylum seekers when they reach there. The fact is that Malaysia has laws that allow asylum seekers to be physically punished. There are nowhere near the controls that Australia had over their treatment when people in similar positions were sent to Nauru or to Papua New Guinea—control that was exercised directly at that time.

Senator Furner talked about the failings of turning around the boats, as if this were the crux of our policy. Indeed, he focused on the fact that turning around boats came with some risks. Indeed it does, but that is not the crux of our policy. The mainstays of our program have been proven to work—just look at the numbers. You just have to look at how many people were coming in the early 2000s. Yet two or three years later, after we had put in place our measures, they had slowed to a trickle and almost to a stop. The crux of our program is offshore processing on Nauru and in other nations that have signed up to the UNHCR convention, and the temporary protection visas. Turning around boats is something that we would do only on those very rare occasions when it is both safe and possible to do so. By definition, if it is safe and possible to do so, those issues raised by Senator Furner are irrelevant.

Labor's policies over this have flip-flopped, as I mentioned, all over the place over the last 10 years. They have gone from setting up onshore detention, as Senator Fierravanti-Wells mentioned—in fact the Keating government was the first government to set up mandatory detention—to attacking the former Howard government over the problem in the late 1990s. As I mentioned, Prime Minister Gillard played a key role in attacking us in regard to boats that were arriving and our lack of action over it. She told us how they would stop the boats and then totally opposed the measures which the Howard government implemented to do just that and which, contrary to Minister Carr's claims today, totally and demonstrably worked by turning the annual numbers around so absolutely that, by the time this government took over in 2007, there were only a handful of people left in detention and the boats had almost completely stopped arriving.

So what did they do then? Having achieved the treasury bench they wound back all measures implemented during the Howard years. It worked so well, with the
consequence that we have now seen over 12,000 illegal arrivals and over 241 boats. *(Time expired)*

Question agreed to.

**Coal Seam Gas**

**Senator WATERS** (Queensland) *(15:33)*: I move:

That the Senate take note of the answer given by the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities (Senator Conroy) to a question without notice asked by Senator Waters today relating to the concerns of government agencies over coal seam gas and the inadequacy of state regulation on these matters.

Unfortunately, the minister was not able to shed an awful lot of light on the questions that I posed to him. The first issues I raised in my question were the concerns that various government agencies, including CSIRO and the National Water Commission, have recently had and publicly stated about the long-term impacts of coal seam gas and the cumulative impacts, which are not being looked at. It is not just those bodies that hold those concerns; the Queensland government itself in its recommendation report to the minister through its Coordinator-General, which is effectively the approving body for these matters, admits that it does not know the long-term impacts on the Great Artesian Basin.

So there is a massive amount of uncertainty here about what this industry is going to do to our groundwater, on which much of our farming relies and on which all of us rely for our three square meals a day. The minister said: 'Don't worry about it. The federal conditions cover that. They require a stage 1 coal seam gas water monitoring and management plan.' I am aware of that, and those plans should now have been prepared. The companies had six months to do that. I would now like the minister to release those plans. They have not been publicly available. They are not subject to public scrutiny and they should be. I would like to see a copy of those plans, which are meant to contain programs and schedules for aquifer connectivity studies. It makes no sense to me that an approval would be granted without the information in those aquifer connectivity studies. Surely before the minister could be satisfied that it was okay to approve coal seam gas mining he should have done such aquifer connectivity studies, or at least be in possession of them. Unfortunately, it seems that the precautionary principle has once again gone out the window.

I next asked the minister about some alarming admissions made by the Queensland government, through the head of their LNG enforcement body, at a conference broadcast on Radio National Breakfast last Thursday. That fellow said that coal seam gas wells would have aquifer and regional scale impacts. Not only that; he said that the Queensland government is monitoring only 10 per cent of the coal seam gas wells for leaks or for aquifer connectivity. I am afraid that Minister Conroy, and through him Minister Burke, says that they are not aware of those comments. You cannot have your cake and eat it too. If they are saying that state regulation is adequate, surely they need to inform themselves of the various positions of the states, in particular that of Queensland, where this industry is most advanced, and the fact that these impacts are acknowledged as being likely to occur. On the issue of whether regulation should be left to the states, we are not proposing that it be taken off the states. What we are proposing is an additional tier of regulation and additional protection in the form of federal regulation, because groundwater and food security are national issues and should be dealt with by this parliament.
In my final question to the minister I raised the mounting scientific and community concern about coal seam gas and the inadequate state regulation of coal seam gas, and the minister said that he did not accept that premise. I am afraid it is a bit tricky to say that he is not across what the states say but then not accept that it is inadequate. If he is not apprised of information about the states how can he be confident that there is an adequate regime?

That did not add up to me. I pressed him on whether or not he would adequately resource the department's monitoring and enforcement section to monitor the various federal conditions that Minister Burke has imposed. Unfortunately, he did not give a response to that. I certainly hope Minister Burke follows up with some more detail about resourcing for those important public servants, who do a critical job and deserve more support and more numbers.

I also raised the need for a water trigger in our environmental laws and asked whether the government would reconsider its refusal to back a moratorium until we have better information about long-term impacts. Unfortunately, the minister did not address either of those two points, and they really go to the nub of this industry. The federal government is not properly regulating the industry because it lacks the power to do so. It has no water trigger under our environmental laws and that should be rectified. We will be moving for just that in this place shortly.

Lastly, it was a great shame and embarrassment that last week every single party bar the Greens voted against my motion for a moratorium on coal seam gas mining until we have better information about its impacts. I do not see what is wrong with getting full information, or at least better information, before one makes a decision with significant consequences. Do the old parties not want better information about long-term impacts? Do they not care about long-term impacts? Are they simply blinded by the royalties that they are receiving from this industry? It would appear so. The Greens will not vacate this space. We will be pushing for better laws and better regulation of coal seam gas mining because that is what these communities deserve and that is what our environment needs.

Question agreed to.

COMMITTEES
Economics References Committee
Reporting Date

Senator KROGER: by leave—I move:
That the time for the presentation of the report of the Economics References Committee on impacts of supermarket price decisions on the dairy industry be extended to 1 November 2011.

Question agreed to.

BILLS
Auditor-General Amendment Bill 2011
First Reading

Bill received from the House of Representatives.

Senator MARK BISHOP: I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator MARK BISHOP (Western Australia) (15:40): I table a revised explanatory memorandum relating to the bill and move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—

The Auditor-General Amendment Bill 2011 is intended to implement various recommendations in report 419 of the Joint Committee of Public Accounts and Audit (JCPAA) following its inquiry into the Auditor-General Act 1997.

In its unanimous report, the JCPAA noted that there is a ‘glaring gap’ in accountability of Commonwealth grants to states and territories and supported changes to the Auditor-General Act 1997 to enable the Auditor-General to access information and records relating to the use of Commonwealth funds under National Partnership payments and SPPs and auditing of that information under certain circumstances.

The JCPAA also recognised that there is an increasing use of contractors to implement government programs and services. While the JCPAA acknowledged that this practice has benefits for service delivery, it expressed concern that it has the potential to undermine Ministerial responsibility and Parliamentary oversight. The JCPAA wanted to see more accountability in this area and for the Auditor-General to have the power to audit external entities including contractors delivering government programs and services.

The bill was originally introduced by the Member for Lyne and Chair of the Committee, Mr Rob Oakeshott MP. The Member for Petrie and Deputy Chair of the JCPAA, Ms Yvette D’Ath MP moved amendments to the bill on 12 September 2011, which were agreed by the House of Representatives.

The bill, with one exception, implements the recommendations of the JCPAA report as intended by the Bill introduced by the Member for Lyne. That exception relates to the performance auditing arrangements for Government Business Enterprises.

The Auditor-General Act currently provides that GBEs can only be audited by the Auditor-General at the request of the JCPAA, the minister responsible for the GBE or the Finance Minister. The JCPAA report recommended that the Act should be amended to give Auditor-General the authority to initiate audits of GBEs.

Successive governments have taken the view that the Auditor-General should not have the ability to audit GBEs of his on motion. GBEs are subject to competitive pressures and disciplines that do not apply to other Commonwealth bodies and, to the greatest extent possible, they should be subject to the same audit arrangements as their competitors.

The Government considers that audits of GBEs should be requested by the Parliament in response to genuine public interest concerns about aspects of their operations, rather than as an incidental part of an annual work program. The JCPAA, which comprises members from across the political spectrum and can conduct hearings in private, is the appropriate body to consider whether a particular GBE should be audited.

Accordingly, the bill would allow the JCPAA alone to request an audit of a GBE by the Auditor-General. As is currently the case, the Auditor-General could ask the JCPAA to request an audit of a particular GBE.

The most important change that would flow from the implementation of the JCPAA’ s recommendations will result in the Auditor-General having the power to ‘follow the money’. That is, the Auditor-General would be able to undertake audits of Commonwealth partners—private sector and state and or territory entities that receive Australian Government funds to implement an Australian Government program.

The Auditor-General’s powers are limited at present to an assessment of the way that Australian Government bodies implement government programs. This means that the Auditor-General is unable to assess the extent to which the individuals or entities that receive Australian Government funds achieve the purpose for which those funds were provided.

The amendments implement that unanimous recommendation of the JCPAA report that the Auditor-General be given the authority to undertake audits of Commonwealth partners, whether they are state or territory entities or other individuals or bodies.

The Bill as amended contains appropriate restrictions on the extent of these powers, particularly in relation to state and territory
entities, and the Government anticipates that they will be used sparingly. For example, the Auditor-General will be able to assess the operations of a state or territory entity only after a request by the JCPAA or the responsible minister and only to the extent that they relate to achieving the purpose for which the funds were provided.

The provisions of this bill will ensure that the Auditor-General has the tools to respond to today's auditing challenges.

The remaining measures would make relatively minor changes to clarify the way that the Act operates. They would, for example, provide clear authority for the Auditor-General to undertake assurance reviews and audits of performance indicators audits, which are currently carried out as audits by agreement under section 20 of the Act; and clarify that the Auditor-General's powers to require the production of documents that are the subject of legal professional privilege.

In conclusion, I would like to thank the members of the JCPAA for their report and the Member for Lyne, who originally introduced the Bill, for his cooperation in the development of the Government amendments to ensure that the amendments to the Auditor-General Act 1997 contained in this bill would operate as intended.

I commend the bill to the Senate.

Senator MARK BISHOP: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Navigation Amendment Bill 2011

First Reading

Bill received from the House of Representatives.

Senator WONG: I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator WONG (South Australia—Minister for Finance and Deregulation)

(15:40): by leave—I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Shipping carries 99% of Australia's trade by volume and Australia's shipping task makes up 10% of the entire world's seaborne trade.

If cargo is to be transported efficiently by ships, it is essential to ensure that accidents which lead to pollution, injury or death are minimised. This cannot be achieved only by ensuring that ships are seaworthy. It is also necessary to ensure that ships entering and leaving Australian ports are manned by well qualified crews who have decent working conditions.

We cannot reasonably expect seafarers who are subject to third world living and working conditions to provide first world shipping services. Recognising the importance of seafarers to the world economy, the International Labour Organization (ILO), in 2006, adopted the Maritime Labour Convention (MLC).

The MLC is considered to be the fourth pillar of the international shipping regime complementing major Conventions of the International Maritime Organization on environmental protection, ship safety and ship security.

The MLC is intended to provide decent working conditions for seafarers by setting minimum requirements for seafarers to work on a ship. Matters addressed by the MLC include conditions of employment, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection.

I am pleased to be able to say that implementation of the MLC in Australia is strongly supported by the maritime industry, unions and employer associations. Indeed, the tripartite Australian delegation, which participated in meetings leading up to the adoption of the MLC and in the conference which adopted it, included representatives of the Maritime Union of
Australia and the Australian Shipowners Association as well as Australian Government officials. The composition of the Australian delegation reflected the unique arrangements for ILO meetings which bring together representatives of governments, employers and workers to jointly shape policies and programs.

The MLC will apply in Australia to ships of 200 gross tons and over, whether engaged on domestic or international voyages. However, the MLC requirement for ships to carry documentation as evidence of compliance applies only to ships of 500 gross tons and over engaged in voyages to or from ports outside their country of registration.

The Navigation Amendment Bill which is being introduced today provides for the implementation of the MLC in Australia. It amends the Navigation Act 1912 to ensure that there is consistency between that Act and the MLC.

The most significant amendments contained in the Bill are the amendments to Part IV of the Navigation Act to establish the inspection and certification requirements to ensure that ships actually comply with the MLC.

In accordance with the MLC, Australian ships of 500 gross tons and over trading to or from overseas ports will be required to be issued with two documents – a declaration of maritime labour compliance and a maritime labour certificate.

The declaration of maritime labour compliance will list the requirements that must be met by a particular ship to meet the standards set out in the MLC and will list the proposed measures that will be taken by the shipowner for initial and on-going compliance with the MLC.

The maritime labour certificate will be issued after a ship has been inspected and has been found to meet the requirements of the MLC. A maritime labour certificate will be subject to periodic validation based on intermediate, renewal or additional inspections as required. Such a certificate will be valid for a maximum period of five years before it must be renewed.

Surveyors from the Australian Maritime Safety Authority will inspect foreign ships at Australian ports during routine port State control inspections to ensure that those ships comply with the requirements of the MLC. The carriage on board of a declaration of maritime labour compliance and a maritime labour certificate will usually be accepted as prima facie evidence of compliance with the MLC and will mean that a full inspection is not required. Australian ships will be subject to similar inspections at foreign ports in countries that are Parties to the MLC.

While it is only ships of 500 gross tons and over trading internationally that will be required to carry certificates, it is expected that the owners of many other ships will apply for the issue of certificates for their ships. This will be an easy way for such ships to demonstrate their compliance with the MLC and will avoid the potentially costly delays that may occur if a ship is detained for a full inspection to ensure its compliance with the MLC. This Bill provides for the issue of a declaration of maritime labour compliance and a maritime labour certificate to any ship which seeks them and which, after inspection, is found to comply with the MLC.

As well as amendments relating to the MLC, this Bill also makes two minor amendments to the Navigation Act to facilitate the reporting of the positions of ships. The Bill will amend the definition of "vessel traffic service" in subsection 411(3) and will widen the regulation-making power to allow for the making of regulations relating to vessel traffic services.

These two amendments will help provide full legal backing for the extension, from 1 July 2011, of the current vessel traffic services to the southern part of the Great Barrier Reef. The amendments are part of the government response to the grounding of the Shen Neng 1 in the Great Barrier Reef in April 2010 and are intended to help ensure the protection of this wonderful part of the Australian environment.

Debate adjourned.

COMMITTEES
Privileges Committee
Report
Senator JOHNSTON (Western Australia) (15:41): I present the 147th report of the Committee of Privileges entitled
**Person referred to in the Senate – Reverend Monsignor Ian Dempsey.**

Ordered that the report be printed.

**Senator JOHNSTON:** by leave—I move:

That the report be adopted.

This report is the 61st in a series of reports recommending that a right of reply be afforded to persons who claim to have been adversely affected by being referred to in the Senate, either by name or in such a way as to be readily identified. On 21 September 2011 the President received a submission from Reverend Monsignor Ian Dempsey relating to comments made by Senator Xenophon during the adjournment debate in the Senate on 12 and 13 September 2011. The President referred the submission to the committee under privilege resolution 5.

The committee considered the submission earlier today and recommends that the proposed response be incorporated in *Hansard*. The committee reminds the Senate that in matters of this nature it does not judge the truth or otherwise of statements made by honourable senators or the persons referred to. Rather, it ensures that these persons’ submissions, and ultimately the responses it recommends, accord with the criteria set out in privilege resolution 5. I commend the motion to the Senate.

Question agreed to.

The response read as follows—

**Appendix**

**Response by Reverend Monsignor Ian Dempsey**

**Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988**

**Reply to comments by Senator Nick Xenophon in the Senate**

(12 and 13 September 2011)

Senator Nick Xenophon,

You have shot the wounded. I am the priest whom you named in Parliament under privilege.

You state your reason for doing so was the frustration you had with the lack of progress John Hepworth has in his false complaint about me to the Adelaide Archdiocese.

I was, and am, in no position to influence the timing and course of action in this matter by the Archdiocese. You have chosen to shame me publicly in order to address a matter which I have no way of influencing. Why?

I am also a victim of process. Hepworth wrote to Monsignor Cappo on 23 February 2011 (note this year)—to make a formal complaint against me. I received written notification of this complaint from the church lawyers on 3 March 2011.

For over forty years I have served with integrity and honour as a Catholic priest. I have been a parish priest, Director General of Navy Chaplains, for which service I received the award of Officer in the Order of Australia, a Vicar General in both the Military Ordinariate and Adelaide Dioceses—at 2121 last Tuesday night you irreparably smeared and denigrated my reputation. You have acted on the information of one person whom you state is credible. Time will give a different picture.

Despite your attack on my character, the people who know me whether they be family, parishioners, Navy personnel, priests, and friends around Australia, know I am incapable of perpetrating the false accusations made against me. I am innocent of these allegations which you used parliamentary privilege to name me. I have emails from Navy personnel whom I served with since 1972 affirming me as an honourable and trustworthy chaplain. Hardly the accolades an alleged serial rapist would receive.

This has not prevented those who have grudges against the church to send me hate mail. This has greatly disturbed the parish staff. You say you had a restless night—I have had many thanks to you.

I have not been charged with any offence, there is no police investigation, the Archbishop has not stood me down, I have not been interviewed by the Archbishop’s lawyers, I have a reputation of honesty and integrity. You did not even bother to find out about any matter relevant
Senator KROGER: by leave—I move:
That Senator Nash be granted leave of absence for 22 September 2011, for personal reasons.
Question agreed to.

MINISTERIAL STATEMENTS

Antidumping Reforms

Tax Reform and Our Patchwork Economy

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:44): I present two ministerial statements relating to streamlining Australia’s antidumping system and tax reform.

COMMITTEES

Economics References Committee
Environment and Communications References Committee
Intelligence and Security Committee
Treaties Committee

Government Response to Report

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:44): I present four government responses to committee reports as listed on today’s Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

GOVERNMENT RESPONSE TO SENATE ECONOMICS COMMITTEE INQUIRY INTO THE GROCERYCHOICE WEBSITE

Committee Recommendation 1
The committee recommends that the Commonwealth Auditor General investigate the tender process undertaken by the Australian Competition and Consumer Commission in relation to the data collection contract for the GROCERYchoice website.

Noted
The Auditor-General has discretion to exercise his powers and is not subject to direction in relation to whether or not a particular audit is to be conducted. The Auditor General considered this matter and determined that further investigation was not warranted.

Committee Recommendation 2
The committee recommends that the Australian Competition and Consumer Commission take more care in the future to monitor and assess the performance of contractors that undertake data collection on its behalf.

Noted
The Australian Competition and Consumer Commission (ACCC) is an independent statutory authority. The Government has confidence in the ACCC’s ability to manage its contractor arrangements in accordance with the Financial Management and Accountability Act 1997 and the Commonwealth Procurement Guidelines.

Committee Recommendation 3
The committee recommends that the Government reveal its plans for an industry-operated grocery price data website.

Noted
The Government does not intend to mandate an industry-run website which compares grocery prices.

The Government notes that there has been an increase in the provision of online grocery price...
content by major supermarkets. The Government welcomes this move and encourages industry to continue to improve access to accurate, up-to-date information to assist consumers to make better informed purchasing decisions.

**Committee Recommendation 4**

The committee recommends that the Government note the unfair manner in which its contractual arrangements with CHOICE were prematurely terminated by the Minister for Competition Policy and Consumer Affairs, the Hon. Dr Craig Emerson MP, without affording CHOICE a right of reply, and ensure that such unprofessional and discourteous conduct does not occur again.

**Not accepted**

The Government met with all relevant parties, including CHOICE, prior to making its decision to terminate the Grocerychoice website. Following these consultations, the Government determined that it was not feasible to implement the originally envisaged Grocerychoice proposal.

**Committee Recommendation 5**

The committee recommends that both the Government and the Australian Competition and Consumer Commission note that the operation of the GROCERYchoice website was prejudicial and unfair to independent retailers.

**Not accepted**

The Grocerychoice website was designed to improve transparency in the grocery market and to help consumers locate the cheapest overall grocery prices and supermarket chain in their area.

The selection of supermarkets for the Grocerychoice survey was generally restricted to those with a total floor area of greater than 1,000 square metres. However, a small number of exceptions to this were required where a sufficient number of supermarkets of this size did not exist. The survey was designed carefully to exclude 'express' or 'convenience' stores.

**Committee Recommendation 6**

Additionally and specifically, the committee recommends that the Australian Competition and Consumer Commission apologise to Tasmanian Independent Retailers for unfairly comparing small independent retailers to major chain supermarkets in its price surveys for the GROCERYchoice website, thereby disadvantaging smaller operators and contributing to undeserved negative press in the Mercury on 7 August 2008.

**Noted**

The ACCC is an independent statutory authority. The Government trusts that the ACCC will make its own decisions with respect to this matter.

**Committee Recommendation 7**

The committee recommends that the Australian Competition and Consumer Commission investigate any potential breaches of the Trade Practices Act 1974 in relation to the role played by the Australian National Retailers Association in negotiations with CHOICE on the GROCERYchoice website.

**Noted**

The ACCC is an independent statutory authority established under the Competition and Consumer Act 2010 (CCA, previously the Trade Practices Act 1974). The ACCC is tasked with the enforcement of the CCA including the prohibitions on anti-competitive conduct set out in Part IV of the CCA.

The Minister is specifically prohibited by the CCA from giving the ACCC a direction regarding its performance or the exercise of its powers under the anti-competitive conduct provisions of the CCA.

Whether anti-competitive conduct concerns arise in the context of trade associations advocating on behalf of their members will depend on the facts of each case. The Government understands that the ACCC has not identified any concerns under the competition provisions in the CCA with regard to the conduct of any party in relation to the Grocerychoice website.

**Committee Recommendation 8**

The committee recommends that the Government learn from this episode of waste and mismanagement and ensure that such inappropriate and careless spending does not occur again in the future, noting that now, more
than ever, value for money for the taxpayer should be a top priority.

**Noted**

The Government has confidence in the framework provided by the Financial Management and Accountability Act 1997 (FMA Act), which establishes a positive and personal obligation on every agency Chief Executive to manage the affairs of their agency in a way that promotes the ‘proper use’ of Commonwealth resources.

Proper use is defined in section 44 of the FMA Act as the efficient, effective, economical and ethical use of Commonwealth resources that is not inconsistent with the policies of the Commonwealth. Although the concepts of efficient and effective already encompassed the concept of economical, the Government inserted the term ‘economical’, with effect from 1 March 2011, to emphasise the requirement to avoid waste and increase the focus on the level of resources that the Commonwealth applies to achieve outcomes.

**Senator Xenophon Recommendation 1**

That the government improves competition in the groceries sector by requiring supermarkets to provide full price transparency to enable and empower consumers with pricing information before they shop, enabling greater entry to the market by independents and small retailers; and by addressing geographic price discrimination, predatory pricing and other anti competitive practices.

**Noted**

The Government is committed to encouraging competition in the groceries sector and has undertaken a range of measures to increase opportunities for entrants and promote competition. To date, the Government has:

- changed the foreign investment policy to extend the timeframe for the development of vacant commercial land;
- clarified the predatory pricing provisions in the Competition and Consumer Act 2010 (CCA);
- provided information about the Australian retail grocery industry in international trade forums to attract new entrants into the Australian market; and
- introduced a mandatory, nationally-consistent unit pricing regime to enable consumers to easily compare different brands or product sizes.

In addition, on 16 June 2011, the Government introduced the Competition and Consumer Legislation Amendment Bill 2011. This Bill includes proposed amendments to clarify the operation of the mergers and acquisitions provisions of the CCA in relation to ‘creeping acquisitions’. These amendments were previously introduced in 2010, but lapsed at the time of the 2010 Election.

The Government is also working with the States and Territories, through the Council of Australian Governments, to ensure that any unnecessary or unjustifiable planning and zoning restrictions that protect existing businesses from new and innovative competitors are eliminated. To assist in this process, in April 2010, the Government requested that the Productivity Commission undertake a study of the operations of the states and territories’ planning and zoning systems. The Productivity Commission released its report, Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments, on 16 May 2011. The report identifies best practice approaches to support competition in land use markets.

Further, the ACCC has announced agreements with major supermarket operators to phase out restrictive provisions in supermarket leases. Coles, Woolworths, ALDI, Franklins, SPAR, Foodworks, Metcash and Supabarn have all agreed with the ACCC that they will not include restrictive provisions in any new supermarket leases. For existing supermarket leases, the supermarket operators have also agreed that they will not enforce any restrictive provisions beyond five years after the commencement of trading.

The Government notes that a prohibition on geographic price discrimination was considered and rejected by the Senate Standing Committee on Economics in its inquiry into the Trade Practices Amendment (Guaranteed Lowest Prices – Blacktown Amendment) Bill 2009, which proposed to amend the CCA.
Senator Xenophon Recommendation 2
That the system of dealing with tenders by the ACCC be improved and more transparent given the curious and unsatisfactory explanation given for why Informed Sources was not awarded this tender on the basis of cost and its prior work with the ACCC.

Noted
The ACCC is an independent statutory authority. The Government has confidence in the ACCC’s ability to manage its contractor arrangements in accordance with the Financial Management and Accountability Act 1997 and the Commonwealth Procurement Guidelines.

Senator Xenophon Recommendation 3
That prior to any government-run or government funded price comparison website being established in the future, significant time be allocated towards planning, modelling and consultation so to ensure effectiveness, relevance and requirements of such a website.

Noted
The Government does not intend to re-establish a government-run website which compares grocery prices.

Senator Xenophon Recommendation 4
That companies providing bids for government projects identify any potential conflict of interest and that they be required to provide detailed information on how confidentiality and integrity of the project will be adhered to. Further, that an ongoing audit of their work be carried out at random intervals throughout the project, regardless of whether an incident has first arisen to cause suspicion.

Noted
The Government is confident that the Commonwealth Procurement Guidelines and Fraud Control Guidelines under the Financial Management and Accountability Act 1997 provide agencies with the appropriate framework to effectively manage their contractor arrangements, including conflicts of interests.

Senator Xenophon Recommendation 5
That the Trade Practices Amendment (Guaranteed Lowest Prices – Blacktown Amendment) Bill 2009 is enacted, to deal effectively with the anti-competitive practice of geographic price discrimination.

Noted
As noted in the Government's response to Senator Xenophon Recommendation 1, a prohibition on geographic price discrimination was considered and rejected by the Senate Standing Committee on Economics in its inquiry into the Trade Practices Amendment (Guaranteed Lowest Prices – Blacktown Amendment) Bill 2009.
1999 (the Review Report) have taken into account the recommendations of the Senate Inquiry. The Australian Government Response to the Senate Inquiry is based on the Australian Government Response to the Review Report.

The Australian Government Response to the Review Report has been released and can be found at:

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<th>Senate Inquiry Recommendation</th>
<th>Australian Government Response</th>
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| 1. The committee recommends that the objects of the Act be amended to remove the words ‘to provide for’ from section 3(1)(a) and 3(1)(ca). | Not agreed
The Australian Government does not agree to amend the objects of the Act. The government view is that the objects of the EPBC Act are already sufficiently clear and that there is no need to change them at the present time.
See also the response to Recommendations 1 and 3 of the Review Report. |
| 2. The committee recommends that the appropriateness of a greenhouse trigger under the Act and the nature of any such trigger, should it be required, be carefully considered in light of the findings of the independent review and in the context of the government's overall response to climate change, in particular the CPRS. | Noted
See the government response to Recommendation 10 of the Review Report. |
| 3. The committee recommends that, having regard to the conclusions of the review of the National Framework for the Management and Monitoring of Australia's Native Vegetation currently underway, and in light of advice from the Threatened Species Scientific Committee, the government should consider including a land clearing trigger in the Act. | Noted
The Review Report, after careful consideration, did not recommend a land clearing trigger due to difficulties in defining significant impact and the existence of land clearance controls at state and territory level. The Australian Government agrees with the Review Report and does not support the inclusion of a land clearing trigger in the EPBC Act. The government notes that the EPBC Act already regulates land clearing which will have, has had or is likely to have a significant impact on a matter of national environmental significance (NES), for example where the vegetation proposed to be cleared is a significant area of habitat for a threatened species. The government proposes to include 'ecosystems of national significance' as a new matter of NES within the amended Act. This will further improve protection of native vegetation: see also the government response to Recommendation 8 of the Review Report. |
| 4. The committee recommends that the government give urgent consideration to increasing the resources available to the department in the areas of assessment, monitoring, complaint investigation, compliance, auditing projects approved under Part 3, and enforcement action. | Noted
The Australian Government's response to Recommendation 62 of the Review Report states that it will explore options for recovering some or all of the costs of administering the Act, and that the pace and scale of implementation of the reform package will be directly determined by cost recovery. Appropriate cost recovery arrangements can more equitably share the costs of protecting the environment between the community and those who derive a private benefit and a social licence from an activity that is
5. The committee recommends that the department undertake regular evaluation of the long-term environmental outcomes of decisions made under the Act, and that the government ensure agency resources are adequate to undertake this new activity.

Agreed in principle
The Australian Government agrees to:
- Further investigate a system for National Environmental Accounts (see the response to Recommendation 24);
- Establish a broad compliance and performance audit power (see the response to Recommendation 61).

Together, these initiatives will significantly increase the capacity of the department to evaluate outcomes.

6. The committee recommends that the Independent Review of the EPBC Act and / or the ANAO examine the effect of existing bilateral agreements on the quality of environmental assessments of matters of national environmental significance. The committee suggests

Agreed In-Principle
In responding to the Review Report, the Australian Government has agreed to the establishment of a single list of nationally threatened species and ecological communities.

The Government will be working with state and territory governments to establish a harmonised listing process. The government is committed to the principle of equivalent protection: that is, any State and Territory legislation that is accredited should deliver an equivalent level of environment protection and due process, to that which would otherwise apply under the EPBC Act. See also the government response to Recommendation 4 of the Review Report.

5. The committee recommends that the government review the interaction between the EPBC Act and the Fisheries Management Act in relation to the conservation of fish species and relevant assessment processes.

Agreed In-Principle
The government will be undertaking a further review of the Fisheries Management Act 1991 to address potential duplication with the EPBC Act. The government will also improve the interaction between the EPBC Act and the Fisheries Management Act by linking the Commonwealth Fisheries Harvest Strategy Policy framework with the threatened species listing process for marine fish under the EPBC Act. The government will be committed to the principle of equivalent protection.

The Australian Government has agreed to publicly release the nomination and listing of threatened species or ecological communities be amended to improve transparency, rigour and timeliness. Changes that should be considered include:
- Either requiring publication of the Scientific Committee's proposed priority assessment list or reducing ministerial significance. While these standards have yet to be developed, the government is committed to the principle of equivalent protection: that is, any State and Territory legislation that is accredited should deliver an equivalent level of environment protection and due process, to that which would otherwise apply under the EPBC Act.

Noted
The findings of the Review Report support the continuation of bilateral agreements. In its response to the Review Report, the Australian Government has committed to the development of national standards for environmental impact assessment and for accrediting decisions by states in relation to matters of national environmental
discretion to revise the priority list under section 194K, and reducing the maximum period allowed for an assessment under section 194P(3).

9. The committee recommends that government policy regarding the use of ‘offsets’ for habitat conservation state that the use of offsets is a last resort; must deliver a net environmental gain; and should not be accepted as a mitigating mechanism in instances where other policies or legislation (such as state vegetation protection laws) are already protecting the habitat proposed for use as an offset.

10. The committee recommends that consideration be given to expanding the scope for merits review in relation to ministerial decisions under the Act, particularly in relation to: whether an action is a controlled action, assessment decisions; and decisions on whether a species or ecological community is to be listed under the Act. The committee recommends that the independent review examine this possibility in the first instance, and that the process of consideration should include consultation with the Administrative Appeals Tribunal.

Agreed in part

See the Australian Government’s response to Recommendation 7 of the Review Report, which agrees to lead consideration by a suitable inter-jurisdictional forum of a national system or national standards to provide consistency across jurisdictions for biodiversity banking and the use of offsets. The Government will release a policy on environmental offsets to provide greater certainty for business and improve environmental outcomes.

Noted

The Australian Government regards controlled action, assessment decisions and listing decisions as inappropriate for merits review. The controlled action and assessment approach decisions are preliminary “filtering” decisions to determine whether the environmental impact assessment regime of the Act has been triggered, and if so, what level of assessment is appropriate. The short statutory timeframes for making such decisions reflect the Parliament’s desire for an efficient and timely process as set out in the Objects of the Act. The government considers that there is no environmental benefit to be gained by merits review of these preliminary decisions and there is considerable risk of frustrating an efficient and timely process. In reaching these conclusions the government notes that the Review Report stopped short of recommending a change. Indeed, the Review Report drew attention to the fact that merits review of these decisions could slow down the process. The Review Report also queried whether the nature of the controlled action decision makes it suitable for merits review. The government agrees with both these points: see also the government responses to Recommendations 48, 49 and 50 of the Review Report. The government also considers that decisions on whether to list a species or ecological community under the Act are inappropriate for merits review. As outlined in the government’s response to Recommendation 15 of the Review Report, the listing process is based on an independent and rigorous scientific assessment by the Threatened Species Scientific Committee. The government supports continuation of this process under the amended Act. The government agrees that there is scope to improve the transparency and quality of the decision-making process. This will be achieved through the implementation of the changes contained in the government’s responses to Recommendations 44–46. The government notes that the independent review process included consultation with the Administrative Appeals Tribunal.
Senate Inquiry Recommendation
Recommendation 1, Second Report: The committee notes that the Minister for Environment has formally asked the Independent Review of the EPBC Act to consider the findings and recommendations of this inquiry (see letter 13 March 2009). Accordingly the committee recommends that the Independent Review consider the findings in this report and recommend proposals for reform that would ensure that RFAs, in respect of matters within the scope of Part 3 of the EPBC Act, deliver environmental protection outcomes, appeal rights, and enforcement mechanisms no weaker than if the EPBC Act directly applied.

Australian Government Response

Parliamentary Joint Committee on Intelligence and Security

Review of Administration and Expenditure No. 8 - Australian Intelligence Agencies
Tabled 21 June 2010

Government’s Response to Committee's Recommendations

Recommendation 1: The Committee recommends that the Intelligence Services Act 2001 be amended to include AFP counter-terrorism elements in the list of organisations that the Committee reviews.

The Government does not support this recommendation. The Government has previously considered whether the PJCIS should extend its oversight to include Australian Federal Police (AFP) counter terrorism elements, and most recently advised the PJCIS in 2010 that the Government was not proposing to extend the mandate of the PJCIS to include oversight of the AFP’s counter terrorism functions. This is to avoid duplication with existing, extensive oversight mechanisms and to avoid placing an additional burden on the AFP requiring extra resources to meet PJCIS oversight requirements.

The AFP is not part of the Australian Intelligence Community (AIC) and, as a law enforcement agency (not a hybrid law enforcement and intelligence agency), is subject to different oversight mechanisms to the AIC. It is important that the PJCIS does not duplicate existing oversight mechanisms which already include a range of Parliamentary committees. The AFP is subject to statutory reporting on individual powers including telecommunications interception, controlled operations, control orders and surveillance devices. Significant external oversight of AFP activities is also provided by the legal system. In fact, oversight by the courts during prosecution and other processes is a key difference between the AFP and the AIC.

Specific parliamentary oversight is provided by the Parliamentary Joint Committee on Law Enforcement, which has the following functions concerning the AFP:

- to monitor and to review the performance by the AFP of its functions;
- to report to both Houses of the Parliament, with such comments as it thinks fit, upon any matter appertaining to the AFP or connected with the performance of its functions to which, in the opinion of the Committee, the attention of the Parliament should be directed;
- to examine each annual report on the AFP and report to the Parliament on any matter appearing in, or arising out of, any such annual report;
- to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of
the Australian Crime Commission (ACC) or
the AFP; and
• to inquire into any question in connection with
its functions which is referred to it by either
House of the Parliament, and to report to that
House upon that question.

As well, the AFP’s Professional Standards area
provides internal oversight and is responsible for
all organisational professional standards matters.
The Commonwealth Law Enforcement Ombuds-
man maintains an oversight role in relation to
conduct issues, public complaints and has the
power to initiate investigations into AFP practices
and procedures. Further, the Australian Com-
mission for Law Enforcement Integrity is an
independent and proactive agency established to
detect and prevent serious and systemic corrup-
tion by the AFP and the ACC. The Independent
National Security Legislation Monitor (INSLM)
will conduct independent reviews of Common-
wealth counter-terrorism and national security
legislation and provides another oversight
mechanism. The PJCIS may refer a matter to the
INSLM for it to consider as part of its functions.

Recommendation 2: The Committee
recommends that the Government agree to
amending the Intelligence Services Act 2001 to
eable specific material which does not affect
current operational activity to be provided to the
Committee. A small working group drawn
from relevant departments, agencies and the
Committee should be set up to prepare this
amendment for consideration by the
Government.

The Government does not support this
recommendation. The current accountability
framework supports the provision of candid and
impartial advice to government. Expanding the
role of the PJCIS by amending the Intelligence
Services Act 2001, as proposed, would create
ambiguity in accountability and oversight
arrangements as well as duplication between the
roles of the PJCIS and the Inspector-General of
Intelligence and Security (IGIS). The PJCIS and
the IGIS are the two primary, and
complementary, pillars of external accountability
arrangements for the AIC.

The Government believes the existing division
of labour between the Committee and IGIS
remains sound and do not want to alter this
longstanding and successful arrangement. The
IGIS role is to ensure that the agencies act legally
and with propriety, comply with ministerial
guidelines and directives and respect human
rights. IGIS provides independent assurance for
the Prime Minister, senior ministers and Parlia-
ment as to whether Australia’s intelligence and
security agencies act legally and with propriety
by inspecting, inquiring into and reporting on
their activities.

For more specific and operational issues, IGIS
is well positioned to oversee agencies’ activities.
The independence of the Office of the IGIS and
the scope of its powers ensure that operational
decisions, intelligence assessments and informa-
tion to aid government decision making are not
subject to public or partisan contention. The
Government notes that the importance of the IGIS
role is recognised in Recommendation 8,
concerning the resources for that Office.

Under the current arrangements, the PJCIS
notes that the AIC provides it with ‘significant
and meaningful information’ to support the
Committee’s review of the AIC’s administration
and expenditure in the Government’s view. The
current practices for briefing the PJCIS on
delicate matters work well to facilitate this.

Recommendation 3: The Committee
recommends that the Australian Government
monitor res
aources allocated to e-security to
ensure they are adequate.

The Government supports this
recommendation. The Government considers
cyber security to be one of Australia’s top
national security priorities, as recognised in the
2008 National Security Statement. Australia’s
ever increasing dependence on information and
communications technology means the Govern-
ment must remain vigilant to emerging online
threats. Cyber security threats pose a range of
challenges to Australian Internet users, business
and Government—and all systems connected to
the Internet are potential targets. Australia’s
national security, economic prosperity and social
wellbeing are critically dependent upon the
availability, integrity and confidentiality of a
range of information and communications
technology.
Australia’s security and intelligence agencies have stated publicly that they are experiencing increasingly sophisticated attacks on systems in the public and private sectors. As the quantity and value of information has increased so too have the efforts of malicious actors. For example, ASIO’s mandate includes working with domestic stakeholders in government and private enterprise to counter all aspects of foreign nation state espionage—including electronic espionage. ASIO has expressed concerns about the scale and reach of electronic espionage against Australian interests, both in government and commercial computer systems, as it presents resource challenges.

The Government has allocated resources for cyber security across portfolios and agrees it would be prudent to keep this matter under review. Any proposals brought forward for additional funding would need to comply with the Budget Process and Operational Rules. A number of relevant mechanisms have been initiated since the release of the Committee’s Review. These mechanisms are intended to ensure adequate consideration is given to resources aspects, including distribution among relevant agencies:

- The Department of the Prime Minister and Cabinet (PM&C) undertakes a Coordinated National Security Budget as part of the annual Budget cycle. This is informed annually by the Department of Finance and Deregulation’s National Security Funding Compendium, a self reporting stocktake of national security funding across the Commonwealth; and

- In addition to these annual processes, PM&C is developing a Cyber White Paper, scheduled for release in mid-2012, which will outline how government, industry and the community can work together to address the challenges and risks that arise from greater digital engagement. The White Paper will consider the entire spectrum of cyber issues including consumer protection, cyber safety, cyber crime, cyber security and cyber defence. Part of the White Paper process will be an analysis of the current rate of effort and resources allocated to cyber-related activities, which the Government believes will further assist in fulfilling the requirements of this recommendation.

Recommendation 4: The Committee recommends that the Australian Government review the medium and long term accommodation requirements of those members of the Australian Intelligence Community presently housed in multiple locations in Canberra. Where multiple locations for a single agency diminish operational effectiveness or efficiency, consideration should be given to planning alternative longer term accommodation at the one site.

The Government, in principle, supports this Recommendation, however, believes that many of the accommodation issues identified at the time of the report have now been resolved. This was achieved through the establishment of a dedicated ASIO building (due for completion in 2012), as well as provision for the leasing of a new building for ONA.

Recommendation 5: The Committee recommends that, should the proposal to amend the open access period of the Archives Act 1983 proceed, consideration should be given to special provisions for AIC documents to be exempted, on a case by case basis, from release at 20 years.

The Government notes this recommendation.

The ‘open access’ period in the Archives Act 1983 (Archives Act) has been amended since the release of the Committee’s Review by the Freedom of Information Amendment (Reform) Act 2010. These amendments reduced the open access period for most Commonwealth records from 30 years to 20 years. While the amendments do not contain special provision for AIC documents, there are exemptions in the Archives Act available for sensitive information which warrants protection from public disclosure, including exemptions for information concerning security, defence and international relations and information communicated in confidence. The changes to the open access period began on 1 January 2011 and will be phased in over a 10-year period.

An Access Examination Working Group formed in 2008 has supported ongoing formal and
informal consultation between the National Archives of Australia and agencies about the release of information concerning security, defence and international relations and information communicated in confidence. The working group is chaired by the National Archives and its membership is made up of representatives from the Department of the Prime Minister and Cabinet, Department of Defence, Department of Foreign Affairs and Trade, the Australian Federal Police and security agencies.

Recommendation 6: The Committee recommends that the Australian Government review the potential adverse effects of the efficiency dividend on the Australian Intelligence Community having particular regard to the Joint Committee of Public Accounts and Audit report The efficiency dividend and small agencies: Size does matter.

The Government does not support this recommendation. The efficiency dividend is an integral part of the devolved financial management framework where agencies are provided with the flexibility and autonomy to spend the funds appropriated directly to them by the Parliament. Successive governments have used the efficiency dividend as an effective mechanism to secure public service efficiencies, thus allowing the Australian taxpayer to share in these gains. It also important to recognise the significant funding growth in the AIC over the last decade, which materially outweighs the size of the efficiency dividend for these agencies.

In relation to the Joint Committee of Public Accounts and Audit report ‘The efficiency dividend and small agencies: Size does matter’, it should be noted that the Government did not agree to a blanket exemption for small agencies but, rather, stated that it continued to consider it appropriate that all Commonwealth entities continue to operate efficiently and make further productivity gains, irrespective of their size. It did accept that, from time to time, circumstances may arise in individual entities that magnify the impact of the efficiency dividend, and it concluded that such situations should be addressed individually on their merits by seeking additional funding through the budget process.

The subsequent review ‘Report of the Review of the Measures of Agency Efficiency’, which was commissioned by the Government to examine the best way of promoting efficiency in government on a continuing basis, was released in April 2011. In its response to this review, the Government agreed to allow flexibility in the application of the efficiency dividend by enabling Portfolio Ministers to reallocate the efficiency dividend between agencies within their portfolio with effect from the 2011-12 Budget.

Recommendation 7: The Committee recommends that the Intelligence Services Act 2001 be amended to include a provision requiring the ANAO to report to the Committee on its review of the AIC.

The Government does not support this recommendation. As the Committee will be aware, the Auditor-General Act 1997 sets out the responsibility of the Auditor-General to report to the Parliament. The Act also provides the Auditor-General with discretion in the conduct of his or her functions or powers (Section 8 of the Act refers). Successive Auditors-General have been responsive to requests by the Parliament and Parliamentary Committees, including to appear and discuss issues of importance to Committees. The Auditor-General supports the continuation of this practice.

Against this background, the Auditor-General would prefer the current arrangements, which involve the Auditor-General responding to a request from the Committee, remain in place in lieu of a legislative approach, for which there is no direct precedent. The Government agrees with the Auditor-General’s view.

Recommendation 8: The Committee recommends that, due to the increased activities of the Australian Intelligence Community and the additional functions required of the IGIS, the budget of the Office of the Inspector General of Intelligence and Security be increased.

The Government does not support this recommendation. The Inspector-General of Intelligence and Security, Dr Vivienne Thom, has advised that the resources (including staff) currently available to her are sufficient to ensure that her Office can provide effective oversight of
the activities of the AIC. She is able to prioritise and reallocate resources when inquiries arise.

The Inspector-General regularly reviews the resourcing of her office, especially as and when new inquiries are commenced. Supplementary funding may be requested if the Inspector General considers that any particular inquiry requires resources additional resources. Dr Thom has advised that, in her experience, when such supplementary funding is requested, the Government has made it available. For example, funding for the office was supplemented to the value of:

- $434,000 for the conduct of the inquiry into the actions of relevant Australian agencies in relation to the arrest and detention overseas of Mr Mamdouh Habib from 2001 to 2005, which commenced in January 2011; and
- $40,000 for the conduct of the inquiry into inappropriate vetting practices by the Defence Security Authority, which commenced in June 2011.

Joint Standing Committee on Treaties


Government Response

Recommendation 4

The Committee supports the Exchange of Letters implementing Amendments to Article 3, and to Annex G, of the Australia New Zealand Closer Economic Relations trade Agreement (ANZCERTA) and recommends binding treaty action be taken.

Recommendation 5

The Committee recommends the Minister of Innovation, Industry, Science and Research report to the Committee on the measures implemented to address the impact of "duty drawback" on Australia's structured apparel sector under the amendments to Article 3 and to Annex G of ANZCERTA, and monitor the ongoing effects on the sector after 2012.


The Department is pleased that JSCOT's Recommendation 4 of Item 6 supports the Exchange of Letters Constituting an Agreement between the Government of Australia and the Government of New Zealand to amend Annex G of the Australia New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) and recommends binding treaty action be taken. Action to amend ANZCERTA is at an advanced stage. The amendments will reduce the administrative burden on businesses, facilitate eligibility of duty-free entry of goods into both markets, and provide greater consistency between the ANZCERTA Rules of Origin and those of other trade agreements negotiated by Australia. It will ensure ANZCERTA remains the benchmark for Australia's free trade agreements.

In relation to JSCOT's Recommendation 5 of Item 6, the Department notes that it is the principle agency responsible for implementing Australia's obligations as a signatory to ANZCERTA. The Department notes that New Zealand and Australia both have duty drawback schemes. The Department of Innovation, Industry, Science and Research (Innovation) and the Treasury are the principle agencies responsible for policy oversight of Australia's Duty Drawback Scheme, which is administered by the Australian Customs and Border Protection Service (Customs and Border Protection). Duty drawback payments enable Australian exporters to obtain a refund of customs duty paid on imported goods where those goods will be treated, processed or incorporated in other goods for export; or are exported without being used or
consumed while in Australia. Innovation advises that Australian exporters are able to apply for duty refunds under duty drawback arrangements, including duty paid on imported inputs to goods exported to New Zealand under ANZCERTA.

The Department and Innovation have an ongoing commitment to monitoring the effects of ANZCERTA on all Australian industry and will continue to monitor the ongoing effects on Australia's structured apparel sector after 2012. Innovation advises that successive Governments have demonstrated their commitment to an internationally competitive Australian Textile, Clothing and Footwear (TCF) industry. The latest TCF innovation package is designed to provide incentives to promote innovation and associated investment to those sectors of the industry facing the greatest adjustment in the context of trade liberalisation. It is expected that this investment in innovation will lead to the development of a sustainable and internationally competitive Australian TCF industry, by supporting the development of new products and processes, particularly at the high-tech, high-value end of the market. Innovation continues to work with the TCF industry to facilitate the implementation of the TCF innovation package.

**Recommendation 10**

The Committee recommends that all future amendments to the International Convention for the Prevention of Pollution from Ships 1973 (MARPOL) be tabled in Parliament in sufficient time for the view of Parliament to be taken into consideration before the period for objections to the amendment ends.

**Noted.**

Most amendments to MARPOL enter into force automatically. These amendments are usually technical in nature and are aimed at improving or formalising international standards. There is no requirement for States Parties to MARPOL to ratify them or to otherwise do anything for the amendments to enter into force. Amendments to MARPOL are usually adopted at meetings of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) which are held three times in each biennium. States Parties usually have a period of about 12 months following adoption during which time they can lodge objections to the amendments with IMO. To date Australia has not seen the need to object to any amendments to MARPOL. Australia has been involved in the work to develop the amendments.

The Department of Infrastructure and Transport (the Department) acknowledges that the amendments to MARPOL considered at the Committee's hearing on 25 March 2011 were tabled after the period during which Australia could lodge an objection to the amendments had passed. The Department will endeavour to ensure that all amendments to MARPOL which are adopted at future MEPC meetings are tabled prior to the expiration of the period during which Australia could lodge an objection.

**Recommendation 11**

The Committee recommends that all future amendments to the Convention Establishing the Multilateral Investment Guarantee Agency and International Finance Corporation Articles of Agreement be tabled in Parliament in sufficient time for the view of Parliament to be taken into consideration before the amendments come into force.

The Government accepts this recommendation. The Government shares the Committee's desire to have amendments to these Acts considered by Parliament before they come into force. As noted in the Committee's report, there was insufficient time for the current amendments to receive parliamentary consideration due to the voting schedule at the World Bank and the 2010 Federal Election. As far as possible, future amendments will be provided to the Committee before they come into force.

**Recommendation 14**

The Committee recommends that the Attorney-General report to the Committee on any proposed amendments to the Commonwealth or State and Territory law in support of the Council of Europe Convention on Cybercrime.

**Done.**

The Attorney-General wrote to the Chair of JSCOT on 1 July 2011 reporting on the Cybercrime Legislation Amendment Bill 2011, which contains the measures necessary for
Australia’s accession to the Council of Europe Convention on Cybercrime.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT: I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period 1 July 2010 to 30 June 2011, and travel expenditure for the Department of the Senate during the same period.

AUDITOR-GENERAL’S REPORTS

Australian National Audit Office
Annual Report 2010-11

Report No. 7 of 2011-12

The DEPUTY PRESIDENT: In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General: Australian National Audit Office: annual report 2010-11—No. 7—Performance audit—Establishment, implementation and administration of the infrastructure employment projects stream of the jobs fund: Department of Infrastructure and Transport.

COMMITTEES

Economics References Committee
Report

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:45): I present the final report of the Economics References Committee on state government insurance and the flood levy bills, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator KROGER: by leave—I move:

That the Senate take note of the report.

Leave granted; debate adjourned.

DOCUMENTS

Tabling

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

COMMITTEES

Membership

The DEPUTY PRESIDENT: The President has received letters from party leaders requesting changes in the membership of various committees.

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:47): I move:

That senators be discharged from and appointed to committees as follows:

Economics References Committee—

Appointed—

Substitute member:

Senator Ryan to replace Senator Eggleston for the committee’s inquiry into the impacts of supermarket price decisions on the dairy industry on 6 October 2011

Participating member: Senator Eggleston

Legal and Constitutional Affairs References Committee—

Appointed—

Substitute member:

Senator Gallacher to replace Senator Furner on 23 September 2011

Participating member: Senator Furner

Scrutiny of New Taxes—Select Committee—

Discharged—

Senator Bushby on 23 September 2011, and Senator Boswell on 24 September 2011

Appointed—


Question agreed to.
(Quorum formed)

BILLS
Foreign Acquisitions Amendment (Agricultural Land) Bill 2010
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.

Senator XENOPHON (South Australia) (15:50): I introduced the Foreign Acquisitions Amendment (Agricultural land) Bill 2010 with my colleague Senator Milne, from the Australian Greens. I am very grateful for the work she has done with me on this bill. I am also grateful for the comments from my colleagues on both sides of the political fence, from both the government and the opposition, some of whom believe that we need significant reform in this area. I am hoping that that undercurrent for reform will eventually be reflected by legislative change in this field.

Australian farmers produce everything from wheat to wool, from bananas to beef, from pineapples to poultry and from milk to maize. Agriculture and closely related sectors earn $155 billion a year, which represents a 12 per cent share of the nation's GDP. According to the Australian Bureau of Statistics, the total area of agricultural land in Australia, as at 31 December last year, was 398 million hectares. But until the introduction of this bill, it was impossible to tell how much of Australia's agricultural land was owned by foreign entities. We now know that 11 per cent of Australia's agricultural land, some 45 million hectares, has some level of foreign ownership, with some 0.3 million hectares having an unknown ownership status. We also know that the state with the greatest proportion of land of foreign ownership is the Northern Territory, followed by South Australia. But I still cannot tell you what areas of land are owned by foreign entities or what sector they are relevant to. It is also not clear the extent to which either state owned enterprises or entities that have close links to state owned enterprises have ownership of our prime agricultural assets. There are a number of reasons why we simply do not know. Firstly, that data is not kept. Apparently it is not a function of the Foreign Investment Review Board to maintain this sort of information. How the Foreign Investment Review Board is supposed to assess investment proposals without this information I am not quite sure. And how the government is supposed to be able to identify policy reform needs without this insight is beyond me. Secondly, investments by foreign entities less than $231 million in value do not require an application to the Foreign Investment Review Board. That means that a business from, for example, the United Kingdom, China, India or Europe could buy a farm to the value of $230,999,000 and not be subject to review by the FIRB. If it is the United States it is over $1 billion by virtue of the free trade agreement.

But $231 million can buy a lot of prime agricultural land. It is an extremely high threshold and what it means is that many foreign investments are made without the government ever being made aware of such an investment. We may well be selling off prime agricultural land with no way of knowing to whom and what the long-term national interest implications are of that. Indeed, a foreign business could buy a number of farms up to $231 million in a piecemeal fashion and the government would never know.

According to the media reports, the buy-up of Australian agricultural assets has become more aggressive since the global food shortage of 2008. In December last year Hong Kong based company Nexus bought a 4,060-acre property in rural Queensland for
$25 million. Nexus also bought a 500-hectare property on the Sunshine Coast for $20 million last year. There have also been reports of Chinese companies with a question mark as to the extent of their involvement in or links with state owned enterprises in China acquiring dairy assets in Tasmania. A recent report named China, South Korea, Japan, India, Saudi Arabia and the Gulf States as the buyers who have become most aggressive in their purchases. This is not a criticism of those countries at all. In fact, I think those countries are showing long-term vision for their own national interests in terms of security of global food supply. These countries are looking to protect their own food security and they cannot be faulted for that. But we have to acknowledge that our poor foreign investment requirements put our own agricultural industry at risk, particularly in the longer term.

I should stress that foreign investment is by and large unambiguously a good thing for a small, open economy like Australia. It can provide a significant boost to our economy. But there must always be a focus on Australia's own agricultural security and long-term food security. For this there needs to be a way to monitor what foreign investments are being made to this unique and very important sector. This bill provides for that. It does not stop foreign investment in Australian agricultural land. All it does is lower the threshold from $231 million to enable greater awareness about who is buying what so that appropriate policy decisions can be made. That is a very important point that I must stress. This bill does not stop foreign investments in Australian agricultural land. What the bill does is ensure that foreign investments are properly assessed, information gathering is increased and transparency is improved, and that there must be a national interest test.

This bill, which I introduced with my colleague Senator Milne from the Australian Greens, is extensively based on the Overseas Investment Act of 2005 from New Zealand. For a number of years there has been an Overseas Investment Office in New Zealand to oversee foreign investments. It is similar to the Foreign Investment Review Board here in Australia but, dare I admit it, Mr Deputy President, especially during rugby World Cup time, I think we have a lot to learn from our neighbours across the Tasman. It pains me to say that. Under the New Zealand regime a foreign investor requires approval from the government for an investment in rural land if it exceeds five hectares. New Zealand recognises that rural land is special and therefore any applications by foreign entities to purchase it need to be subject to serious consideration. There are even tighter restrictions if the land is near a conservation reserve or adjoins a foreshore. This bill mirrors the legislation which operates well and effectively in New Zealand.

The evidence heard by the Economics Legislation Committee on this bill was quite instructive. The evidence from New Zealand's Overseas Investment Office indicates that they have national interest test criteria. That is something that this bill mirrors. In contrast, Australia's national interest tests are guidelines only. I think there is an issue there about the vagueness and the lack of transparency in the way the Foreign Investment Review Board currently does its work. That is not a criticism of the Foreign Investment Review Board per se but a criticism of the framework upon which it operates. Ms Toni Moyes, an analyst at the New Zealand Treasury, said during the inquiry hearing that the legislation is based on the guiding philosophy that foreign investment is welcome in New Zealand but it
is also a privilege. Ms Moyes told the committee:

New Zealand has a long history of regulating investment in farmland, which reflects the traditional view in New Zealand that land ownership should not be concentrated in the hands of a few but should be able to be widely dispersed amongst the population.

The New Zealand model is robust, it is transparent and it is effective. Furthermore, the Overseas Investment Office provides extensive detail about all applications received, whether approved or not. Contrast that with what happens here with the Foreign Investment Review Board. That is why I welcome the inquiry by the Rural Affairs and Transport References Committee into the Foreign Investment Review Board. This bill does not seek to deter foreign investment; rather it simply aims to enable greater scrutiny against the benchmark of the national interest. We have a working model across the Tasman where it is effective. It should also be noted that the 200 applications a year in New Zealand are dealt with effectively and efficiently. They are dealt with in a way that is fair and on the rare occasions that there has been a judicial review of those applications the evidence given by the Overseas Investment Office is that those cases were largely dismissed; in other words, the Overseas Investment Office's decisions were upheld.

As a result of the Senate committee inquiry it was noted that, given the difference in land size between Australian and New Zealand, five hectares is not an appropriate threshold. So an amendment to this bill has been circulated in consultation with my colleague Senator Milne. It will amend the bill so that the threshold is lowered from $231 million to $5 million. This is a monetary threshold rather than a spatial one. When the first Foreign Takeovers Act was introduced in 1975, the rural land threshold for scrutiny was $1 million.

I believe a lower threshold is important if Australia is to be truly able to make informed policy decisions about our agricultural future, and $5 million is an appropriate threshold. It is roughly in line with the original $1 million threshold, taking into account CPI increases and the like.

Farmland is not our only concern. International investors are becoming increasingly interested in the Australian water market. A recent ABS survey found that nine per cent of the water entitlements for agricultural purposes in Australia are owned by foreign businesses. But there is an issue about the nature of the survey. Whilst I welcome the survey and whilst it is an improvement on the level of information we have, I think there are some flaws in the survey. I emphasise that that is not a criticism of the Australian Bureau of Statistics. They were constrained by the instructions given to them by government. For instance, the survey may tell us what percentage of land is owned by foreign interests or in which land foreign interests have a share. For instance, the study found that 24 per cent of the Northern Territory's agricultural land is either partly or wholly foreign owned. But it does not tell us what the value of that land is in terms of its agricultural output.

That defect is even more pronounced with water entitlements. There is a global figure that nine per cent of water entitlements have a foreign investment component, but we do not know what those water entitlements are. Are they, for instance, general-security water? If you look at the Murray-Darling Basin there is a huge difference between high-security water and general-security water. Owning one per cent of Australia's high-security water is much more significant.
than owning five or 10 per cent of general-security water or low-security water. There is a very big difference in that. These are issues that are of real concern.

The ownership of water has real potential to distort our water market. Water entitlements are not something to be played with. In Western Australia—and I note that Senator Bishop has an interest in this matter—31 per cent of water entitlements for agricultural purposes are partly or wholly foreign owned, which is the highest for any state in the Commonwealth. This is a very serious issue for farmers, who are only now coming out of the worst drought this country has ever seen.

This legislation will prevent us from selling off our backyard before we realise what we have done and it is too late. This bill will also put into legislation a national interest test based on the New Zealand model. The government currently uses guidelines around national security, competition and other government policies, the impact on the economy and the community, and character of the investor. But the test needs to go further. This bill sets out detailed criteria by which the Treasurer needs to consider applications for foreign investment. Applying these to potential investments in Australia will enable greater scrutiny to be applied. There are specific matters to consider such as whether the foreign investment will have an impact on competition, global security and market outcomes; whether it is likely to result in the creation of new job opportunities; whether Australia's economic interests are adequately safeguarded and promoted, including looking at issues of aggregation and vertical integration; and whether the acquisition will result in increased processing in Australia of Australia's primary products.

The fact is that we do not know enough about the current level of foreign investment in Australia, particularly in agricultural land, and we do not have a mechanism to monitor it. This bill will require the online publication of applications for interests in Australian agricultural land and for the status of these to be updated as the applications proceed. If the Kiwis can do it, why can't we? This process will give us the information we need about the current state of play so that we can be informed to make good policy decisions for the future.

Again, this bill is not about saying no to foreign investment. This bill is about improving transparency and increasing the information we have access to about who owns our backyard. It is about strengthening the process and allowing more scrutiny, rather than letting things go too far, when it is too late to do anything about it. This legislative framework works well in New Zealand and will significantly benefit this government's information about who owns what, where and why so that we can have a sensible, informed policy debate about this.

Wouldn't it be useful to know at the click of a button whether or not a particular company has already bought two dairy farms in one town and is planning to buy another two dairy farms, considering the impact that could have on the local market? Wouldn't it be good to identify that this behaviour might be having a serious impact on local Australian dairy producers? Quite simply, without this bill we will never have all the information we need to make informed policy decisions when it comes to Australia's agricultural sector.

This legislation is important. It is important to overhaul the current rules. It is important to lower the current absurd threshold of $231 million before the Foreign Investment Review Board can even begin to
look at an investment. It is important to acknowledge that the recent ABS survey, whilst useful, begs more questions than it answers. That is why it is important and in the national interest, in the interests of our long-term food security, in the interests of our farmers and in the interests of preventing market distortions that this bill I introduced with my colleague Senator Milne be passed and supported by the Senate.

Senator MARK BISHOP (Western Australia) (16:05): I rise to make some comments on the Foreign Acquisitions Amendment (Agricultural Land) Bill 2010. Before turning to my more formal remarks, I just want to put on the record that twice over the past 24 hours I have taken the opportunity to read this report. It was drafted under the committee chairmanship of former Senator Hurley and the Senate Economics Legislation Committee secretariat. It is a most thorough report and it is well worth reading because it reduces to a small number of pages some of the difficult arguments that have been put around in this debate, notwithstanding the relatively small number of witnesses who chose to make a submission and give evidence. It is a most thorough report and I commend it to those who are interested in this particular discussion.

One of the features of the independence of the Senate is, of course, that it provides an open forum for senators to publicly express concerns on any matter, which often would otherwise not be heard. It is a fact enabled by the lack of a government majority, and we in government and those in opposition must tolerate it. The downside of it is that many of those concerns essentially are minor and may have little merit. In fact, they may simply be a waste of time. Often we find that due to a lack of discipline and focus the Senate can become hostage to narrow and ill-informed acts of populism. So it is with this private members' bill, I must say at the outset.

It is very easy, especially for an Independent or an opposition party, to represent any narrow, sectorial view on the basis of no care and no responsibility. Yet, when the populist view is exposed to analysis, we see that it often fails the critical policy test. That is not to say that the interest represented by Senator Xenophon and Senator Milne, the sponsors of the bill, is not genuine or that the interest is not widely noted and widely supported. But the problem with populism is that it is rarely well informed of all the facts, the context or the broader considerations at a national level. So we are constantly bombarded with a load of ideas about what the government should do or should not do. That is the greatest asset, in one sense, of a democracy but also the major cause of conflict in political debate where so often fact and analysis is challenged.

We also know that the great majority of government legislation passes through this chamber unaltered. Few pieces of legislation stumble and, then, only for political reasons when opposition parties for their own interests judge that there is a significant advantage in pandering to a particular populist view, regardless of fact and analysis. The list of examples is endless, ranging from new railways—fast or slow—to turning the rivers westward or stopping Vegemite and Weet-Bix being sold to foreigners. We do understand that out there in the community there will always be some ill-founded fear of foreigners to be used in political manipulation, and governments fail this test simply because they regularly fail to sway that populist sentiment.

Opposition, however, are clearly not always that fickle, as evidenced by the bulk of legislation passed without objection. Their own long-held and researched policy
position is often the same. This bill, however, is not in that class of policy, but Senator Xenophon will be able to return to his interest group and say he tried. I think his remarks foreshadowed further and different attempts. But having wasted our time he will claim his credit as well as a headline, which is the main game.

This bill seeks to seriously limit the amount of Australia's farmland which can be purchased by foreign investors. It seeks to completely change national policy and the rules which apply to all foreign investment, which have had longstanding, apolitical support. It proposes that any bid to buy interests in agricultural land of greater value than $5 million be subject to the application process of the Foreign Investment Review Board and the decision of the Treasurer. This is at least better than the original proposal to make the limit five hectares, as is the case, the report informs us, in New Zealand. Further, it requires that the Treasurer publish online the application of interest and update that information as the application proceeds. These arrangements are proposed to apply to both the acquisition of farm real estate and any interest in agricultural land, such as management rights, leases of more than five years and profit-sharing arrangements, which are common in the agricultural industry.

However, the bill, as I said in my introductory remarks, has been thoroughly examined by the Senate Economics Legislation Committee and totally rejected. The committee applied the following questions: whether the current screening arrangements were inappropriate, whether there was advantage in retaining the inherent flexibility associated with a national interest test that is not overly prescriptive, how this fits within the existing screening arrangements for other investments in Australia and how this would impact on Australia's international obligations under Australia's various free trade agreements. The Senate Economics Legislation Committee concluded that it was essential that Australia remain a country that welcomes foreign investment, that it should continue to be an attractive place to invest, that any changes to foreign investment policy or legislation should be considered in this light and that the proposed national interest test applying only to agricultural land would effectively create two separate national interest tests. The committee continues to hold the view that the current regulatory framework for assessing investment proposals is adequate or indeed, from reading the text, more than adequate.

The committee also identified the need to maintain consistency with Australia's FTA and OECD obligations, freely entered into and repeatedly endorsed by appropriate committees of this parliament—that is, the commitments Australia has made to screening thresholds for business acquisitions in its free trade agreements with Singapore, Thailand, the United States and Chile and, when in force, the recently signed investment protocol with New Zealand. The changes in the bill to screening thresholds would violate our commitments under these free trade agreements. If Australia were to adopt the proposals contained in the bill before the chair, our trading partners would be allowed to retaliate. This could be in highly sensitive areas for Australia, including in agricultural sectors such as beef and others where we engage in large volumes of and receive large dollars for exports. The FIRB—the Foreign Investment Review Board—already screens foreign governments or government related entities that attempt to acquire rural land. This bill will not change that.

Having said all of that, let me supply some of the detail concerning foreign investment which underpins the committee's
conclusion because the statistics that are publicly available and some of the additional materials that were supplied by Treasury to questions on notice are remarkable. Foreign investment is essential to Australia's continued economic growth and prosperity, including in the agriculture sector. In terms of the current debate and the matters raised by Senator Xenophon and Senator Milne, I think it is worth having a good look at where that investment goes.

Broadly speaking, about 30 per cent of FDI, foreign direct investment, goes to mining, around 20 per cent goes into manufacturing, 10 per cent flows to the wholesale and retail sectors, and around 15 per cent goes to the finance and insurance sectors. In 2010 dollars, these investments were worth around about $350 billion. The agricultural sector represents just 0.14 per cent of the total stock of foreign direct investment. To put it in another way, in 2010 it represented an investment of approximately $670 million out of $350 billion. Of course, this is not the full picture of foreign investment in agriculture or, more latterly, agribusiness. But on the surface it does look like the agricultural industry is mostly Australian owned—in fact, Australian dominated; the figures in the report are well in excess of 98 per cent.

So what are the known facts? Over 50 per cent of Australia's land area is used for agriculture. One-fifth of this area is attributed to the Murray-Darling Basin, which is responsible for almost 40 per cent of the value of agricultural production. Farmers produce more than 90 per cent of our domestic food supply. Australia exports approximately 60 per cent of its overall agricultural production volume and around about 75 per cent of its gross agricultural production value. On these figures, it is safe to assume that a great many rural and regional communities around Australia are reliant on agriculture and food production. But of course, there is more to agriculture than only farming. As well as primary producers there are wholesalers, processors and businesses that support food production. So, while farmers make up around 70 per cent of the sector, the value generated in revenue terms occurs amongst enterprises beyond the farm gate, where the value adding occurs, of course. As with other sectors, foreign investment makes a contribution. As with any investment, it provides opportunity and most importantly it provides jobs—large numbers of jobs. For that reason we should consider very carefully changes that discourage or make it difficult for investment dollars, FDI, to flow into this country.

Senator Xenophon in his second reading speech mentioned media reports of the buy-up of Australia's agricultural assets becoming more aggressive since the global food shortage of 2008. Those same reports suggest there is growing community concern about the level of foreign investment in agricultural land. I do not doubt for one moment the sincerity of the media reports of many people's views. However, again I would caution against accepting that populism.

There is no evidence the current law on foreign investment in Australia needs changing. We should not be pandering to simple xenophobia or disguised claims for protection. We have a market economy which farmers generally widely support, including of course the value of their land—and we had an instance of that discussion earlier today—and to which they have adjusted over recent decades of reform. In this discussion, we do need to look at both the big picture and the total picture. The government, in response to the requests for more information and accurate information, has commissioned comprehensive research
of foreign investment in agriculture that
looked at not only Australia's agriculture
land but also, importantly, water entitlements
and agribusiness. We have also asked the
ABS and the Rural Industries Research and
Development Corporation, along with
ABARES-BRS, to undertake a project that
will give us a better picture, a more detailed
picture, a fuller picture, an accurate picture,
of the foreign investment landscape.

That project, in response to concerns
generated over the last 18 months, has four
particular components: firstly, the role and
history of foreign investment in the
development of agriculture in Australia,
including assessing the impact which foreign
investment has had; secondly, the domestic
and international factors driving foreign
investment in Australian agriculture;
thirdly, the various ownership structures of
agribusiness firms for subsets of the
Australian agriculture industry, including
businesses such as meat processing, sugar
refining, dairy marketing, and other high-
profile sectors, and changes in those
structures over time; and, fourthly, measures
used in other countries for monitoring and
regulation of foreign investment in
agricultural land. We want to know, firstly,
the role and history; secondly, factors which
drive investment; thirdly, the various
ownership structures present in the
industries; and, finally, the value-adding that
occurs in industries and changes in those
structures over time.

This important work commenced in
November last year and, when completed,
will inform our thinking in this area. While
that is going on, the ABS Agricultural Land
and Water Ownership Survey, ALWOS, has
been completed. The data was released
earlier this month. Surprisingly, despite
media reports, the data shows that foreign
ownership levels in Australia's agriculture
sector are very modest. The overwhelming
majority of Australia's agricultural
businesses—99 per cent—are entirely
Australian owned. In terms of agricultural
land, 89 per cent is entirely Australian
owned. As far as water entitlements are
concerned, 91 per cent is in Australian
hands. The results of this survey reinforce
my view that this bill at this stage is simply
unnecessary and not warranted by the
available evidence. It does not make a
sufficient case for change; although, as the
government has conceded, we do need to
learn more about the impact of foreign
investment in the agricultural sector.

The overwhelming impression I have—and
one which has been informed by the
economics report behind this bill, is that we
should not yet take the easy solution of
jumping to conclusions. This type of
research has not been undertaken since 1984.
So it is important that we get the facts
straight about what is a very important
debate and what one suspects is going to
continue to be an important debate until the
facts are researched, published and
established in this area. As a country, we
have traditionally been reliant on foreign
capital to build and develop our businesses in
all parts of the economy. It would be foolish
indeed to ignore the significant risks for
Australia in making changes such as these
that could discourage or hinder foreign
investment.

Foreign investment—it goes almost
without saying, in my view—is critical to
ensuring our continued economic growth and
prosperity, including in the agricultural
sector and the value-adding industries
attached to that sector. Given the strategic
importance of the agricultural sector is likely
to increase in the future—and the level of
demand and the level of investment that is
coming in suggest that is the case—
Australia's foreign investment policy settings
need to be right.
This bill is pre-emptive. It does not address some serious issues that must be considered prior to any changes being made in this sector. We should also be mindful that foreign investment is only a minor matter—an important matter but nonetheless minor—in the broad policy sweep of primary production. It is a distraction with major implications for foreign investment policy and should be rejected. In due course, if this matter goes to a vote, the bill should also be rejected.

**Senator CORMANN** (Western Australia) (16:24): The coalition does not support the Foreign Acquisitions Amendment (Agricultural Land) Bill 2010 introduced by Senators Xenophon and Milne. I say at the outset that, with the exception of the gratuitous attacks on the opposition, I agree with much of what Senator Bishop has just said. Foreign investment is very important for Australia—it has been in the past and will continue to be in the future.

In terms of our economic development and our capacity to maximise our economic opportunities into the future, we are a large country with a lot of opportunities, we are sparsely populated and a lot of the important parts of our economy are capital intensive. Without being able to attract foreign investment we would not be able to properly develop all of the economic opportunities at our disposal. So I agree with much of what Senator Bishop has said. Where I disagree with him is that when public concerns are raised—and clearly in this whole area of foreign investment in agricultural land there is a level of public concern—to characterise an attempt to be responsive to those concerns as populism is, in my view, quite arrogant. One does not have to agree and one does not have to do what is asked by those sections of the community that express concern, but one should take those concerns seriously and one should constructively and positively engage in debate and not just dismiss any attempt to address those concerns as populism.

The coalition is not unsympathetic to the underlying issues that this bill has raised. Foreign investment in agricultural land—in fact, foreign investment in general—is a legitimate issue of public policy debate. I say again: foreign investment is important. It has been important in our past and it will be in the future. The current legislative and regulatory framework is adequate to ensure that any national interest considerations are properly taken into account—and that is where I also agree with Senator Bishop.

The report by the Senate Economics Legislation Committee—which was chaired by a former colleague Senator Annette Hurley and a great senator from Western Australia as deputy chair, Senator Alan Eggleston, whom I know Senator Bishop holds in very high regard—goes in some detail through all of the policy issues that are raised by this bill. Like Senator Bishop, I do commend this report to all senators as they are considering these issues.

The coalition takes these issues so seriously that we have established a working group to investigate options to strengthen the rules governing the sale of Australian agricultural land and agribusinesses to foreign entities. The working group is chaired by the Leader of the Nationals, the Hon. Warren Truss. Other members are senior shadow ministers Julie Bishop, Joe Hockey, John Cobb, Barnaby Joyce and Sophie Mirabella. The working group is currently in the process of examining the adequacy of policy settings and delivering positive outcomes for Australia from foreign investment. The coalition believes that foreign investment is integral to Australia’s economic future; however, our policy in this area must ensure that foreign acquisition of farming land is undertaken in Australia’s
national interest and that the food security of our nation is maintained into the future.

The coalition, as I have mentioned, will not support this legislation. We will continue to go through our internal policy process, and we will not support any initiative like this until we have finalised those processes. The coalition, in November 2010, called on the government to commission the Australian Bureau of Statistics to compile data on the foreign ownership of agricultural land, because one of the issues that has come up in this debate is that there is a complete inadequacy of information and data in this area. According to figures released by the ABS on 9 September, as at 31 December 2010, 99 per cent of agricultural businesses in Australia were entirely Australian owned, 89 per cent of agricultural land was entirely Australian owned and 91 per cent of water entitlements for agricultural purposes were entirely Australian owned.

It is important, as Senator Bishop observed, to have all of the facts before us as we are considering the issues around foreign acquisitions and foreign investment in agricultural land and other assets. All states showed high rates of Australian ownership of agricultural businesses, ranging from 99 per cent in Queensland to 96 per cent in Tasmania. So the problem is perhaps not as extensive as Senator Xenophon and Senator Milne might want us to believe. The state with the highest proportion of land held entirely by Australian owned businesses was Victoria, with 99 per cent of its 12 million hectares being Australian owned, while the Northern Territory had the lowest proportion, with 76 per cent of its 59 million hectares being Australian owned. According to the ABS, the survey results are broadly comparable with levels of foreign ownership collected in the agricultural census of 1983-84. So it would seem that, despite perceptions to the contrary, there has not been much movement in the level of foreign investment over the last 30 years.

Again, it would seem that the issues are perhaps not as acute as Senators Xenophon and Milne might want us to believe. However, it is true to say that the statistics are probably only part of the story. In particular, even if 99 per cent of agribusinesses are wholly Australian owned, it would be good to know if the one per cent that are partly or wholly foreign owned are the largest agribusinesses, what their share is by volume, not just by number, and whether this foreign ownership is concentrated in any particular type or part of agriculture. Hence, more data is needed.

The coalition has called for more work to be done on establishing a public register of foreign ownership of agricultural land and agribusinesses. We are interested in getting more data on the public record about foreign ownership of land. This process must involve the states, who are responsible for land titles. This all goes to making sure that we make decisions on the facts and the figures in front of us, rather than merely on emotion. We cannot entirely ignore emotion—we cannot ignore any level of concern—but we need to respond to it properly. It should be noted that Queensland has had such a register for around 30 years. The opposition has called on the government to task the Productivity Commission with reviewing this whole issue. In particular, the Productivity Commission should consider whether the government needs to lower the threshold for notification to the Foreign Investment Review Board of rural land and agribusiness acquisitions and whether anything needs to be done to safeguard the nation's food security. These are matters that are covered in the bill, but we have concerns about the thresholds proposed and the codification of the national interest.
The bill seeks to impose a low spatial threshold of five hectares. The Senate Economics Legislation Committee report, which we have talked about, questioned the appropriateness of a spatial threshold. That the Treasurer could be called upon to make a determination of national interest on an area as small as five hectares would be unwieldy, to say the least. While it is good to see that Senators Xenophon and Milne have sought to remedy this, it does not go to our position on the bill. The proper level of threshold does require further consideration.

There is a proposal in this bill to codify the national interest test by defining issues that the Treasurer must consider. We take the view that this would actually constrain the Treasurer's discretion. Codification of this sort could also lead to an increase in litigation on matters of foreign investment. The Foreign Investment Review Board has recently begun publishing broad guidelines on some of the considerations used in determining national interest. But these remain non-prescriptive, providing guidance to applicants without constraining the necessary and appropriate discretion granted to the Treasurer under the Foreign Acquisitions and Takeover Act 1975.

We think that the coalition's policy, through the working group and through the notice of motion that we have previously submitted, puts forward a more considered and comprehensive policy approach and will provide a better outcome. Senator Xenophon says he has the country's interests at heart, but there are some major areas which are not covered by this bill. For example, it does not address the impact of foreign ownership of agribusinesses, which we believe is a greater problem than the purchase of agricultural land. It does not provide the much-needed extra information, which is currently severely lacking, to make sure we can make informed decisions.

Land transfers are of course the responsibility of the states. Changes in this bill would require a major revamp of the state's databases at a cost of hundreds of millions of dollars—that is a preliminary estimate. The states would of course resist these changes and expect the Commonwealth to pay up. There would be significant ongoing costs to assess every acquisition of over five hectares with some level of foreign ownership. It would require a large increase in the bureaucracy to make these assessments. If these costs were passed on to the market through fees they would add significantly to the cost of purchase.

It is true that, in these sorts of debate, we have to tread very carefully. While we have to recognise and be responsive to public concern, we also have to make sure that we have a responsible debate that is based on facts. There are significant national interest issues at stake. There is absolutely no way that we would ever be part of any push that would seek to limit foreign investment to the extent that is proposed in this legislation. Senator Bishop raised some valid points in relation to international commitments. In its report, the economics committee raised some serious concerns that this bill might be inconsistent with some of Australia's international trade agreements. I am refer in particular to evidence given by Mr Mahony, who expressed this concern:

One thing is that, while I am not an international trade lawyer, it seems to me that there are questions about whether or not this kind of legislation is at least in the spirit of our international obligations and relationships, particularly our evolving investment protocol with New Zealand.

That is kind of a technical matter. The import of that is not just a technical or legal one, which I am not that concerned about. Obviously my concern is with the effect on innovation in the region and the effect on
agriculture and the Australian economy generally—its capacity to innovate.

There are various other concerns, of course. In answers to questions on notice, Treasury expanded on some of the requirements under Australia's free trade agreements. Australia has free trade agreements with ASEAN, New Zealand, Singapore, Thailand, the United States and Chile. Australia has made commitments relating to national treatment and its screening thresholds in relation to the business acquisitions in its free trade agreements with Singapore, Thailand, the United States, Chile and, when enforced, the recently signed investment protocol with New Zealand.

We also have OECD obligations. Again, Treasury expanded on how the changes proposed in this bill could impact on our obligations with the Organisation for Economic Cooperation and Development. As a member of the OECD, Australia is bound by the OECD Codes of Liberalisation of Capital Movements. The code seeks to promote open markets by providing a balanced framework for the gradual liberalisation of investment.

All these issues serve to bring the committee to the view that this bill may actually be in breach of national treatment obligations as part of Australia's free trade agreements. While there are some legitimate issues yet to be considered, we have to be very careful not to go beyond certain bounds. Ultimately, continuation of strong foreign investment in the Australian economy is in our national interest, subject to the appropriate national interest safeguards. There are well-established processes to assess the national interest. Let us consider very carefully how those processes can be improved, but let us not go beyond the line of what is responsible, and this bill is crossing the line.

I have touched on some of the provisions that we do not think meet the right-balance test, and there are others. This is not a piece of legislation that the coalition is in a position to support. In fact, we oppose it. In that sense, we share the views expressed by government senators who have participated in the debate so far. With those few words, I thank the Senate for its attention.

**Senator MILNE** (Tasmania—Deputy Leader of the Australian Greens) (16:40): I rise this afternoon to address the new geopolitics of food, and that is precisely what this bill, the Foreign Acquisitions Amendment (Agricultural Land) Bill 2010, is about. I am quite alarmed at the contribution of the government by way of Senator Bishop's remarks—accusing people who are very concerned about what is going on with the acquisition of agricultural land and water rights as being populist, as taking a narrow sectoral view, as being rarely well informed of the facts and as not confirming the facts and analysis. He even suggested that this is wasting the Senate's time.

Senator Bishop may wish to acquaint himself with some facts rather than maintaining the ideological position, which he outlined here today, of not wanting to actually address this and suggesting that we already have the facts. Oxfam released a report today saying that 'land grabs' are leaving poor families 'hungry and homeless'. The report says:

> Around the world, including in Australia, we are observing a mad scramble for land. A growing global economy and population, climate change, food insecurity and changing diets are driving governments and investors to acquire land outside their own borders for future food supplies.

That describes what is going on internationally, and Oxfam is raising it because of massive land grabs, mainly...
through Africa and in the poorer developing countries.

Those land grabs are being carried out by countries that profoundly changed their position as a result of the food riots and scarcity in 2007 and 2008. As a result of the extreme weather events of climate change and as a result of peak oil and rising oil prices, as well as the displacement of agricultural food crops with biofuel crops, we had a situation of massive food inflation. As a result, countries like Russia, Argentina and Vietnam limited or banned the export of wheat and rice so as to be able to feed their own people. That left those countries that import food short of food. They had plenty of money, but they had no food. That is precisely what triggered the Arab spring. Actually, the riots in Tunisia started because people could not afford to buy food, because Russia had banned grain exports and those countries in the Middle East are major importers of food.

The result was that countries that have outgrown their own land and water resources—such as China, India, Saudi Arabia, South Korea, Kuwait, the United Arab Emirates and Qatar—basically set out on a global land and water acquisition plan. That changed everything, because they intend to buy land and water from other countries from which to feed their own people at times of food insecurity. They will also send their own workers to those countries to produce the food and, if necessary, they will employ security forces to protect that food. For example, Pakistan has already advertised 400,000 hectares of land for sale, with a security force.

It is anticipated that we will be living on a planet that is suffering climate change, with a massive population increase. Countries now recognise that the trade system as it currently applies around the world is inappropriate. When we have food shortages as a result of extreme weather events, if countries then decide to ban exports of food then some countries will be unable to feed their own people. That is what I meant by the 'new geopolitics of food' when I stood up to speak. Australia has a big responsibility globally. We need to feed our own people but we also need to maximise our food production so that we control where that food can go—so we can put it onto the international market but also, if we choose to, we can direct it to humanitarian causes or we can respond to make sure that food is able to go where food is needed, not sell our land and water resources so that other countries, like Qatar, China, Saudi Arabia and so on, outsource food production for their own people using Australian land and water, and therefore take away from Australia's national security and sovereignty in terms of being able to make decisions about growing our own food and directing it onto international markets.

As to Senator Bishop saying that Senator Xenophon and I do not have the facts or analyses: the whole point of this bill is to get the facts—because, as Senator Xenophon said in his second reading speech, you cannot find out right now how much agricultural land and water is already in foreign ownership. That is something that the Greens highlighted at the last federal election. We called for a national food security plan for the protection of agricultural land, not only from foreign ownership but also from issues like encroachment from urban expansion. And we wanted to make sure, as I said this morning in relation to the expansion of coal seam gas, that we start protecting land for food production in Australia, because it is essential to us and to other countries.

That is where this bill is going. What it does is create a national interest test to be
applied against proposed acquisitions of agricultural land. New Zealand has a national interest test for the acquisition of agricultural land. Is anyone saying that people in New Zealand are populists with narrow, sectoral views and are xenophobic or whatever? No, they are not. Everybody accepts that New Zealanders have a national interest test. When anyone applies to buy land in that country they have a five-hectare limit and then it is assessed if it is greater than that. What Senator Xenophon and I are saying is that, in the Australian context, if the application for land is worth more than $5 million then it should be assessed, there should be a national interest test applied. Secondly, we are saying that any interest in Australian agricultural land greater than $5 million be subject to an application to the Treasurer and that the Treasurer be required to publish online the applications of interest in Australian agricultural land and the status of the applications as they proceed. So it is not saying anybody cannot acquire land or water rights; it is saying: let's actually get the data and see what is going on.

As a result of the concerns that have been raised by the Greens, by Senator Xenophon and by many people in the rural community, the government was put under the hammer here to actually start going out to find out what is going on around Australia—and that is why, in November last year, the government asked the Bureau of Statistics to look this up, having not done it since the early 1980s. What a disgrace it is that no-one was keeping any record in Australia of that.

Senator Bishop went on to talk about national averages and so on, but let me put some facts on the table. What that ABS report said was that already 9.4 million hectares in the Northern Territory are more than 50 per cent foreign owned. I will say that again: 9.4 million hectares. In Western Australia 3.1 million hectares are already more than 50 per cent foreign owned. And what is of considerable concern to me is that a third of water licences in Western Australia are foreign owned. You have to say to yourself: we are getting into a situation here where we need to look to the future, look to the security of growing food here and exporting food.

Let me give you an example of why countries are buying up water rights and agricultural land. The Saudis, for example, used to produce most of their own wheat. But they have overused their underground aquifer; it is currently drying up. So the Saudi Arabian wheat production fell by two-thirds and by 2012 it is estimated that wheat production in Saudi Arabia will cease altogether. So this is a crisis for developing countries. And this is a crisis for poor people in developing countries because those countries are recognising that they are going to have to get food from somewhere. That is why I say it is a new geopolitics. Food is going to drive national security concerns in this century, and the sooner this parliament gets on top of that, and recognises that the current trade arrangements, the current rules, do not actually provide for equity and justice and fair allocation, the better. That is why Oxfam is out there today saying, 'Look what is going on in these developing countries; we in the developed world have a responsibility to stand up in the FAO and in other international forums and start talking about these issues.'

As to the accusation that the committee report suggests that what Senator Xenophon and I are doing somehow contravenes the free trade agreement: there is no evidence of that whatsoever in the report. It is a lovely thing to stand up and say it, but there is no evidence for it. What it says is:

The committee is concerned that the bill may be in breach of ‘national treatment’ obligations as part of Australia’s Free Trade Agreements …
And then it goes on to talk about the threshold of five hectares. Senator Xenophon and I have changed the threshold of five hectares, so it no longer applies. Furthermore, it was the committee's view that it 'may' be in breach. It did not say it 'was' in breach, and there is no legal evidence to support the claim. So it is a view that it is in breach. If it is in breach in Australia, why isn't it in breach in New Zealand? Why is it that the New Zealanders can have a national interest test that applies perfectly well in New Zealand, and everybody accepts it there? It is clearly a national interest test and it does not contravene free trade agreements—and New Zealand is a party to exactly the same free trade agreements as we are. So I am very interested that that claim is being made. Also, as I indicated before, the general thrust of opposition in the committee's report is that further data gathering and research are required on foreign investment in the agricultural sector before any legislative policy changes are made. That is the whole point of the bill: to start actually getting the data by requiring that any interest in Australian land or water resources worth more than $5 million goes through this process and goes up online so that people can see what exactly is going on and so that there is a record of it.

As to the issue that we might end up with a national interest test that could be prescriptive and expose the Treasurer to judicial review, the evidence received by the committee in the case of New Zealand is that over the past five years there has been a judicial review of three decisions. In each case the decisions were upheld and in all cases third parties brought the proceedings. None of the proceedings related to a decision that was declined. So it seems to me that the New Zealand approach is working particularly well.

The next issue that was raised was that you cannot have two separate national interest tests—that somehow that is inappropriate. Well, no. Treasury said: … the Bill also imports into the FATA an elevated degree of sensitivity for rural land which would appear to surpass that applying currently to the most significant of business proposals.

Yes, that is correct, because that is the point of the bill: to settle out separately a sensitivity for rural land, and rural land includes water resources. That is precisely why we are doing this.

To me, the issue here is that the world has changed, and unfortunately there does not seem to be a recognition in this Senate that climate change, extreme weather events and increased population pressures have altered the whole issue of food security globally. That is the fact of the matter. The trade agreements we have around the world do not reflect those changes, nor do they reflect the fact that it is foreign governments, in many cases, that are out there behind companies that purport to be independent or private sector but are actually the face of foreign governments, so it is in Australia's national interest to collect the data.

I will go to one particular example. This is in Victoria. A large investment in prime Western District farmland by the Qatar government has already occurred. Qatar based Hassad Food, which is the agricultural arm of the Qatar government, paid $35 million for more than 8,000 hectares of sheep-grazing and cropping land in Victoria's Western District. The deal includes five homesteads near Ararat and is believed to be one of the largest acquisitions of Victorian pastoral land in recent history—that is from June this year. Local stock and station agents estimate the Qatar government paid a premium of up to 20 per cent in order to secure the controversial deal.
That is the point. It is going to distort land prices in rural and regional areas because, when foreign governments decide they need to outsource food production somewhere else and will pay a premium to get that land and water, local growers will not be able to buy land. Local young people trying to get on the land will be suffering from inflated prices. We have already been through this with managed investment schemes doing precisely the same thing. It is a distortion of the market, and that has already occurred.

If you add to that a recognition that Qatar has only about 65,000 hectares of arable land, that shows why it is so keen to buy land elsewhere. That decision in Victoria this year follows its purchase last year of 2,630 hectares about 330 kilometres west of Melbourne, and the company already holds a $100 million portfolio including 6,800 hectares in New South Wales and a 125,000-hectare holding in Queensland's Clover Downs, which it paid $18.5 million for. So there are already really substantial holdings.

The other thing that you are not seeing is where these companies which are the arms of foreign governments are coming and buying small lots of land. Individually they appear to be quite small, but you do not have a record across the country of what collectively or regionally is happening to land ownership.

I think it is in the national interest for Australians to know exactly what is going on but also to have in the back of their minds—it is far from xenophobic—Oxfam's concerns about land grabs globally and what it means for us in Australia to think that the most just and decent thing to do is to control our own land and water resources so that we can make sure that we maximise food production, make choices about where we grow food and put it onto the international market and are able to have control of that food. That is so that, where you have a food security crisis, you do not end up with large areas of land from which a whole lot of food is just directed back to a foreign government, essentially, leaving other vulnerable countries and vulnerable populations around the world starving.

This is why it is called the new geopolitics of food. It has now escalated to a national security issue. Right around the world, governments are thinking about this. New Zealand is one government sitting out there that has a perfectly reasonable system. Senator Xenophon and I are seeking to have this parliament move to just record data—to develop a national interest test and record data—and get the Treasurer to put that data up on the website. Then we can make decisions about whether we want to take further action to restrict or to change the current rules. But what we are proposing does not stop any foreign investment at this point; what it does is start to provide that information that the Australian community needs.

I say to Senator Bishop that he has made a very serious error and has demonstrated his own ignorance by suggesting that concerns such as this are populist and that they do not stand up to analysis. As Senator Xenophon and I are showing, they are forward-thinking concerns. We are anticipating the geopolitics of the next 50 years, influenced by climate change, population growth and peak oil, and what we are now seeing is a significant shift. We will have to put a lot more money not into armies and the military but into supporting people to adapt to climate change and increase productivity in agricultural land around the world so that we can feed people and avoid the conflicts which are inevitable unless we start to do as we are suggesting: look at the national interest and look at our own national sovereignty issues.
Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (17:00): The Foreign Acquisitions Amendment (Agricultural Land) Bill was presented by Senator Xenophon and Senator Milne in November last year. I notice that we have some young South Australians in the Senate gallery today who are here for a Young Labor conference. There is Dale Colbeck, who I do not think is any relation to Senator Colbeck, Guy Wilcock, Ben Rillo and Hannah MacLeod. Senator Xenophon, if I recall correctly, was a member of the Young Liberals at one time.

Senator Xenophon: We all make mistakes.

Senator FARRELL: Talking about mistakes, we have one right here—your bill. I guess we all learn things at university when we get involved in these organisations, but we hope not to repeat the mistakes that have been made in the past and in particular not to repeat the mistakes made in this bill. Currently, the threshold figure to trigger an inquiry by the Foreign Investment Review Board is $231 million. According to Senator Xenophon, that figure is too high and he would like to reduce it to $5 million.

Senator Xenophon: The threshold for foreign ownership in China is $1.

Senator FARRELL: Are you saying we should adopt the Chinese system? I notice you appear on this occasion to simply have adopted the New Zealand system, although I think it was pointed out in the course of the Economics Legislation Committee proceedings that that was not an appropriate way to go and you have modified your claim to a dollar amount.

Senator Milne: You are being ridiculous.

Senator FARRELL: It is not being ridiculous, Senator Milne.

Senator Milne: We have not modified it to a dollar.

Senator FARRELL: No, Senator Xenophon was suggesting that we modify it to a dollar—

Senator Xenophon: I rise on a point of order, Mr Acting Deputy President. Senator Farrell has suggested that we modify the figure in the bill to $1 as a threshold. I simply pointed out to Senator Farrell that the figure in China appears to be in the order of $1.

The ACTING DEPUTY PRESIDENT (Senator Furner): There is no point of order.

Senator Xenophon: He has misrepresented my position and I would be grateful if he could correct it.

Senator FARRELL: If I have incorrectly asserted that Senator Xenophon's proposal was to reduce the figure from $231 million to $1, I do withdraw that suggestion. I thought he was indicating that that was what China did, and Senator Milne appeared to suggest that I was proposing that to the Senate. But we have now clarified that point.

A number of important statistics released by the Australian Bureau of Statistics make clear the situation with foreign ownership in Australia. Senator Cormann referred to these figures earlier, in his contribution to this debate. The first of those important figures is that 99 per cent of all agricultural businesses in Australia are entirely Australian owned. So we are dealing with this bill in circumstances where 99 per cent of all agricultural businesses in Australia are currently Australian owned. Only 0.6 per cent have greater than 50 per cent foreign ownership—

Senator Heffernan: That is a complete horseshit report.
Senator FARRELL: That may be your view, Senator Heffernan—

Senator Heffernan: Someone has written the speech for you and you don't know what you're talking about.

Senator FARRELL: I do know what I am talking about. You may disagree, and you are free to disagree, and you may wish to support Senator Xenophon and Senator Milne, which you are entitled to do, but I think I am entitled to put the facts as I understand them on the table—and that is what I am proposing to do. I have indicated that the ABS reports that 99 per cent of agricultural businesses are currently entirely Australian owned, and only 0.6 per cent have greater than 50 per cent foreign ownership. More significantly, 88.6 per cent of agricultural land in Australia, by area, is entirely Australian owned. Also importantly, only 5.8 per cent of agricultural land in Australia was owned by businesses with more than 50 per cent foreign ownership.

So we are dealing with this piece of legislation that seeks to dramatically reduce the trigger point for foreign investment inquiries, but we have a set of statistics that I think make it very clear that the problem is not as great as Senator Xenophon is claiming. That is not to say we should not inquire into this issue. It is an issue that has been raised out there in the community and I am not saying we should not inquiere into it. In fact there are inquiries into the issue and I think we should allow them to complete in due course before we take this bill any further.

As I said before, Senator Xenophon's original bill, which he introduced with Senator Milne, simply picked up holus-bolus the system that operated in New Zealand. There are many things that you might want to adopt from New Zealand, but I do not think their system of foreign investment is one of them. There are plenty of reasons to distinguish the Australian circumstances from those of New Zealand. One obvious one is the size. Simply because the New Zealanders chose to use the figure of $5 million as the trigger point, it does not automatically follow that Australia, which is much larger and has quite a different agricultural history to New Zealand, should adopt that same process. I have indicated that there was a Senate inquiry into this where they looked at all of these issues. I think what we can say about Senator Xenophon's bill is that it does jump to some conclusions. Until all of the inquiries that are currently going on are completed, I do not believe it is appropriate to proceed with this legislation.

Australia does rely very heavily on foreign investment. That has been the history and the pattern of economic development in this country. Senator Xenophon believes that we should reduce the threshold for consideration by the Foreign Investment Review Board but it is also possible that, if we were to go down this track and introduce this new cut-off point, it might have an impact on how other countries see the opportunity to invest in this country and might have an adverse impact on the way other countries view foreign investment. We do not want to do anything at this point in time that might discourage contemplation of foreign investment. We have seen what has happened around the world in the course of the global economic crisis. We have seen what has happened in the United States and what has happened in Europe with the levels of unemployment. When people are getting very jittery about the prospects of another recession around the world, this is not the time to be raising issues that potentially discourage foreign investment.

Any decision that we do take to change our foreign investment legislation should be based on evidence. That is the way to do it. I
have already referred to what the Australian Bureau of Statistics has said are the circumstances with ownership at the moment. One of the things we are waiting for is a report that Senator Ludwig has requested. It is a report by both the Rural Industries Research and Development Corporation and ABARES, two very distinguished organisations. That report is due to be released by the end of the year. The purpose of that report is to deal with the role and the history of foreign ownership in the development of Australian agricultural land and the factors driving foreign investment in Australia. They are two very crucial and important issues to consider before you would even contemplate proceeding with legislation like this to dramatically change the trigger point for an inquiry into foreign investment. We have set up an inquiry. Senator Ludwig has chosen to do that. I think the most basic thing we ought to be doing is not proceeding with this legislation at this point in time but waiting for that report and seeing what it has to say.

There are a range of issues that I think we need to look at. I am sure that this inquiry that Senator Ludwig has set up will do that. Those issues include: are the current screening arrangements that are in place inappropriate? Are there advantages in retaining the inherent flexibility of the national interest test that is not overly prescriptive? How does this issue fit with the existing screening arrangements for other investments in Australia? The potential is that we end up with two systems of foreign investments, one in respect of the issues that are covered by this legislation—namely, agricultural land—and one in respect of all other investments in this country. If this legislation were to proceed and successfully pass the parliament with the support of Senator Heffernan, we would in fact have two sets of rules. There may be reasons why you would want to do that, but at this stage I think it would be indeed premature to suggest that we should proceed with this legislation without at least looking at what the impact of those two systems of financial regulation might be. Senator Milne was critical of the reference by my colleague Senator Bishop to the free trade agreements. We do have agreements in place. Those agreements have been struck with other countries based on our current foreign investment rules. We need to look at the impact that a change of the nature that Senator Xenophon and Senator Milne are proposing will have on any of the obligations that we have under our free trade agreements.

**Senator Heffernan interjecting—**

**Senator FARRELL:** Senator Heffernan, the reality is that the economic performance of this country has defied most of the other OECD countries. There are lots of reasons why you might say that has happened. One of them that we have just recently found out is that we have the world's best treasurer.

**Senator Cash:** You can't compare him with the Greek treasurer.

**Senator FARRELL:** Senator Cash, you may not like the fact that Mr Swan has been declared the world's best treasurer, but it is an indication of the things that have occurred in this country. We have not gone down the path of the conservatives. We tried to make the important decisions on behalf of this country that kept Australians in work at a time when we risked going into recession. You have only to look at what has happened in the United States and what is happening in Europe at the moment. Particularly in the United States, unemployment is continuing to be stubbornly high. Part of our ability to respond in the way we have and the recognition we now have as a country—and I
do not think Mr Swan would say it is all his own work; he would want to give credit to—

Senator Heffernan: Peter Costello and Paul Keating.

Senator FARRELL: I would certainly give credit to Paul Keating. I agree with you there, Senator Heffernan.

The ACTING DEPUTY PRESIDENT (Senator Furner): Senator Farrell, can I have you raise your commentary through the chair, please.

Senator FARRELL: Thank you for that helpful reminder, Mr Acting Deputy President. I will make all of my remarks through the chair. It is a little difficult with this constant flow of interjections, and I appreciate some assistance in protecting me from Senator Heffernan. But I do agree with him. Paul Keating was a great Treasurer and he has something in common with Treasurer Swan, of course. They both won that international award. I could be wrong about this, but I cannot recall Mr Costello ever winning such an award.

Senator Heffernan: He paid off the $90 billion of debt that Paul left us.

The ACTING DEPUTY PRESIDENT: Order, Senator Heffernan!

Senator FARRELL: The Hawke–Keating government reformed the Australian economy that made all of the subsequent improvements to the Australian economy possible. If Keating and Hawke had not opened up the Australian economy, we would not be in the position we are in.

Senator Cash interjecting—

Senator FARRELL: I cannot stop him from interjecting.

The ACTING DEPUTY PRESIDENT: I can.

Senator FARRELL: We have set up this report. We have gone off to investigate. I think Senator Xenophon should wait for that report to come down. There is no urgency about this issue. If he had a sensible approach to the issue, then he would wait for that report. That report will give us an indication about some of the factors that are currently driving foreign investment in this country.

We know foreign investment under a Labor government is booming in this country. We know other countries want to come and invest in our country. They want to create jobs and they want to build infrastructure. So we know they really do appreciate that Australia is a worthwhile place to invest, but let us examine exactly why they are coming to this country. One of the other things that this report will investigate is the economic impact of foreign investment in Australian agricultural industries and agribusiness. It will review the extent to which similar countries monitor and/or regulate foreign investment in agricultural land. So all of these things are important to the future of Australia’s investment climate and all of them should be looked at before we go any further with this bill.

Senator HEFFERNAN (New South Wales) (17:20): It is a very rare occasion that I rise in this place and I have noticed that most speeches made in this place are valued by the time they take up rather than their content. Thank you for that great contribution in time there, Senator Farrell. I have two words prepared here as my notes. The Foreign Acquisitions Amendment (Agricultural Land) Bill 2010 has great merit in that we are talking about agricultural acquisition by foreign interests. It puts it on the notice board. I am chairing an inquiry which will report next year on what is going on. It needs to be put into context. We can no longer take for granted what we have taken for granted over many years. That is to do
with the shrinking agricultural resources of the planet and the compounding population growth of the planet. To have the argument about how we manage that, we should get the bed stones down. By 2050, unless there is a global catastrophe of some sort, we are going to have nine billion people on the planet and, according to the science, 50 per cent of the world's population will be poor for water. All science has vagary, so obviously we will have to make allowance in any plan for that vagary. It is estimated that a billion people will be unable to feed themselves and 30 per cent of the productive land in Asia will have gone out of production. Two-thirds of the world's population will live in Asia.

The global food task will double by 2050 and 1.6 billion people on the planet could be displaced. Part of that displacement is already underway. Unless China engineers a water solution for the great northern plain, where 260 million people presently live—food production in that region uses water from the great northern aquifer—they will have to move. By 2050 the number living on the great northern plain will reach 400 million. China are engineering some water solutions. They are building a pipeline to move water which is over a thousand kilometres long, has 27 pipes laid side by side and is 4½ metres deep. They say if you have enough money, you can engineer anything. That is part of what they see as the solution. I guess one of the reasons they are hanging onto Tibet is that Tibet is a great water supply—it is more about that than anything else.

By 2070 the world will have 12 billion people, barring a catastrophe. China will have around 1.8 billion people. China is through the denial phase on their problem—unlike India that are still in denial and unlike Australia that do not even think about it. We only worry about where we are going to be in the paper tomorrow and at the next election. That prediction of 1.8 billion people in China will include a huge demographic of aged people. Based on their own estimations to feed their people, China have set aside 200 million hectares for prime agricultural production. You cannot buy land there. It is impossible to acquire freehold title in China if you are a foreigner—forget about it. But they know they have already lost 10 per cent in 10 years of that set aside agricultural production due to urbanisation and the problems of water. They are on the move globally to fix that problem as a sovereign solution to protect their sovereignty, control their destiny and control their food task.

They are on the march on the continent of Africa. A further part of the human displacement by 2050 will be about 260 million people who live across the northern part of the continent of Africa, which will become a desert according to the science predictions. The south-west portion of Western Australia is going to fall into the same category, according to the same science. The Murray-Darling Basin has 23,400 gigalitres of mean run-off. I hear people slagging off in this chamber trying to make cheap political points about the Murray-Darling Basin Plan. Bad luck, folks, Mother Earth is the referee of all this. The science is telling us that Mother Earth could remove somewhere between 3,500 and 11,000 gigalitres from the Murray-Darling’s run-off due to a two-degree increase in temperature. A 15 per cent decline in rainfall in the southern Murray-Darling Basin will relate to a decline in run-off of up to 35 per cent. In fact, the three years of snow previous to the last year did not actually melt, it evaporated.

The science says that by 2050 we may have under a fortnight of snow in the Snowy Mountains. Thirty-eight per cent of the run-off from the Murray-Darling Basin comes
from the two per cent of the landscape that is at the back of us here in Canberra—between here and northern Victoria. So what happens in that particular bit of the landscape quantifies what will happen to a lot of the Murray-Darling Basin. In fact, if the science on the changing weather for Australia is 40 per cent right, in most years there will be zero allocation for general purpose water in the southern rivers of the Murray-Darling.

These are all propositions, and here we are luxuriating in this chamber while trying to score political points on how to manage the Murray-Darling Basin. I do not have the time tonight to go into this because it takes me two hours to do the presentation on the planet’s water and Australia’s water, and what we should do about it. But we can actually fix the water problem by fixing the model for water entitlement. As the amount of water available falls, you do not have to have a sledgehammer that says, ‘We’re going to take between 3,500 and 7½ thousand gigalitres out of the system’—which would be the top of those variation years; you can have an entitlement system which we have now instead of a volumetric licence system. As the amount of water available in the system for that year falls disproportionately, the amount of water that has to go to the work and the freight of the river increases. You can actually model that, but no-one has bothered. They are too lazy. Every government of every persuasion, for all time, has buggered up the management of water.

The world is losing one per cent of its agricultural land every year for a number of reasons. Under the science that is predicted, some agricultural land that is unproductive now will come into production and that could include parts of the frozen continent to the north. It will certainly mean changed propositions in Northern Australia. You will have heard Stuart Blanch and Joey Ross and those people in recent days slagging the idea that somehow we can develop Northern Australia. If we are silly enough, as we appear to be, to say there are no development opportunities in other parts of Australia and the science is telling us there is going to be a decline in capacity in the south, and we all rest on our laurels, think of the past, retire to the coast, think agriculture is a mature industry and we only go to Coles, Woolies or Aldi, or wherever, to get our tucker because it is all there, we are dreaming.

By 2050, the food task is going to double. We are going to have to use everything from GM science to smarter technology for water. In Australia, we have a perfect model for efficient water use in Carnarvon in Western Australia. I congratulate Judith Adams for being in the chamber. Carnarvon farmers are 40 times more efficient with their water use than the Ord. They are 20 times more efficient than the Murray-Darling Basin. In 2006-07, they produced $69 million of income from 8½ gigalitres of water—and some of that went to the town supply. Their pressurised root zone irrigation system is based on Spanish and Israeli technology. In the same year, the Ord in stage 1 used 345 gigalitres of water to produce the same income. In the same year, the Murray-Darling was 20 times less efficient.

There is some efficiency that can be applied. That efficiency can be brought to bear in the Murray-Darling Basin. The episode with Cubby—and I think that is about to be fixed—was seriously inefficient. It was the model of a great idea built on the wrong scale in a river system, the Culgoa River, that has 1,200 gigalitres of mean annual flow and 845 per cent variability. They allowed them to build 1,500 gigalitres of on-farm storage, which is completely out of kilter with the capacity of the river system. That is just a little bit of detail on what agriculture is all about.
We produce 73 per cent of Australia’s farm income on agriculture in the Murray-Darling basin, which has 6.2 per cent of Australia’s run-off. The Timor catchment has 78,000 gigalitres of run-off, the Gulf catchment has 98,000 gigalitres of run-off and the north-east catchment in Queensland has 85,000 gigalitres of run-off—and here we are dreaming that we do not care who owns the place. If I have time I will come to the details of the farcical statistical evidence the ABS gave on ownership. It was a complete, drop-dead farce.

Here we are fantasising about locking up the north when we know that Bangladesh is half its size. Cape York Peninsula is 17½ million hectares. If you take out the coastal communities, there are approximately 14,000 people, 12,000 Indigenous, living in an area the size of Victoria. There are 800,000-odd feral pigs there, 20,000 to 30,000 untagged feral cattle and about 14 to 17 pastoral stations. The rest is either sit-down blackfella country—I can say that because they are all my mates; and I am a whitefella to them—or destined for World Heritage listing.

To his credit, Peter Beattie told me, when I was in the process of chairing the Traveston Dam inquiry—and, by the way, it was a shit of a site for a dam, and he knew it—

The ACTING DEPUTY PRESIDENT (Senator Furner): Senator Heffernan—

Senator HEFFERNAN: I retract whatever it is you want me to retract.

The ACTING DEPUTY PRESIDENT: You know what you said and I am asking you to retract it.

Senator HEFFERNAN: I retract it. I had better not say ‘bugger’. It was a ‘not a very nice’ site. He said, ‘Look, Bill, I’ve got to get the inner-city preferences’—this was two elections ago in Brisbane—‘so I’ve done a deal with the Wilderness Society to enact the wild rivers legislation.’ The wild rivers legislation locks up the first kilometre on either side of all those rivers all the way up Cape York Peninsula—17½ million hectares. The average annual wildfire there burns five million hectares. The biggest wildfire they have had burned 11 million hectares. It is a soft entry point into Australia for foot and mouth disease because of all those feral pigs. We are fantasising about locking it up. So the opportunity for Indigenous people up there will not be economic agricultural production for the first kilometre, which is just as good as any riverbed or floodplain down the Murrumbidgee. No, we are saying: ‘What we want your opportunity to be perhaps is tourism. You can get your picture taken standing on a stone with a spear for the tourists.’ That is what we are saying to our Indigenous people. And bear in mind that there are still approximately 7½ thousand kids in the Northern Territory who do not have a bloody high school to go to. What sort of a disgrace is that?

Go to Bangladesh and try to explain that to the people in Bangladesh. It is predicted that 1.6 billion people on the planet will be displaced by 2070. If the science is only 10 per cent right, that is 160 million people. Bangladesh has 160 million people who live in an area half the size of Cape York Peninsula. Fifty-seven rivers flow into Bangladesh, 54 of them out of India. India is mining the water that comes all the way along the Ganges—right down. India is still in denial. If the sea rises just under a metre and India continues to mine the groundwater which becomes the river water for Bangladesh, by 2050 those people are going to have to move because they are going to be inundated and lose their freshwater—and here we are fantasising about not developing anything in the north.

The CSIRO were not allowed to consider storing or damming water, but that was not
because they could not do it. Better than anyone in this chamber, I understand the science of what is happening up there. The bulk of the water falls to the bottom of the catchment, unlike the catchments down here where the water falls to the top of the catchment. It is an event based thing, but you can recharge sandbed aquifers—the Gilbert River west of Georgetown was pegged out for irrigation in 1957.

We have all said: 'Oh, no, it's too hot to go up there. And it's too far away from the market.' Where's the best place to be on a hot day? In the cab of a tractor. It is better than the airconditioning in the house. Why do we think we are too far from the market? Because we are looking in the wrong direction. Two-thirds of the world's population are just over the water. Two-thirds of the world's population are closer to Darwin than they are to Sydney.

So here we are thinking that somehow we are going to flog through with what we have got. No-one is listening to the science in this debate about agricultural land acquisition. We were briefed the other night by the ABS, and I took the trouble to ring them. As they will tell you, the game has changed. I have heard all these political speeches today—mostly prepared notes that someone else has written for them—but no-one is giving consideration to the seismic change that is occurring in the world through the loss of sovereignty through modern communication, transport, free trade agreements and all the rest of it. And that was my point to Senator Farrell on the free-trade agreements: we gave away a five per cent and a 15 per cent tariff in the American free-trade agreement and imposed a 45 per cent tariff. In 2004, when that was agreed to, we were at 67c to the US dollar. When it was enacted, in January 2005, we were at 70c. We now have a 45 per cent tariff against us on our terms of trade, yet we gave away a five per cent tariff. It is all stupid.

It is premature, this bill. I am sorry, Senator Xenophon, but it is premature. Let's get everyone educated as to what the problem is and let's have a strategic view in Australia of where we are going to be in 50 years time and in 80 years time. Let me give you some suggestions on that. There needs to be true definition of the difference between foreign sovereign acquisition—and the ABS will tell you this if you go and talk to them—and foreign capital. I do not care about foreign capital coming into agriculture because it has been coming in for yonks. Traditionally what happens with foreign capital is that they come in, invest, feel good about it and then strike the variability of our seasons and its impact on production. Next, all their directors want a bonus, overtime and all the rest of it and then they go broke and they pack up and leave. It always happens. They all do it. One of the great institutions of Australia, the family farm, keeps the job going because we do not pay ourselves overtime.

Why shouldn't we be thinking, 'Let's sell our production into the doubling of the world food task by 2050 rather than sell our means of production'? I am sorry to have to use a note at this stage, but I will just quote ABARES talking about who owns the place. This is from the report of the Senate Economics Legislation Committee's inquiry into this bill. First there are some comments from Alan Hill, the Director of Policy for the Western Australian Farmers Federation, then the report goes on:

ABARES also noted that there is currently no database of ownership of Australian agricultural land—this is only a few weeks ago—It informed the committee that Queensland is the only State that collects this type of information:
Senator HEFFERNAN—Firstly, would it be fair to say for your organisation—
this is ABARES; they advise the government—
that we really do not know who owns the agricultural land in Australia?
Mr Morris—Yes.
The ABS thing is a political cover. We were briefed on it.

You know what they did? They sent out 11,000 forms based on the ATO's ABN register of agricultural interests. They did not pick up Shenhua, who bought a big lump of country around their mine to shut all the cockies up. They did not pick up all the blind trusts through the Cayman Islands. They did not pick up the sovereign wealth funds where reporting is compulsory but not mandatory. Some of these sovereign funds have all sorts of blind operations. No, we do not know about the sovereign acquisitions.

The greatest threat to Australia's sovereignty, as Mick Kelty pointed out a few years ago—no-one took any notice—is the effect of climate change and human displacement. The greatest threat now—and if you dig down into ABS, they will tell you—is the concept of sovereignty being displaced because of sovereign wealth funds. The sovereign wealth funds of some countries are acquiring the sovereign wealth of other countries—and excluding those countries from access to their own wealth. That is going to happen—places like China, to their credit, are aware of the future food problem they are facing and they are busily doing this.

If you go back to the ABS thing, the database—guess what? They started with farms that had an income of $5,000. So farms with an income of only $5,000—that could be any of these toy farms around Canberra here—were included in the schedule as some sort of commercial agricultural production. You have to have income of between $30,000 and $50,000 to be able to get a GST return—$5,000 is meaningless. Yet, in the statistical database, the model includes anything that earns $5,000. This has the capacity to completely distort the figures. This is a phoney—I am sorry to have to say that, but it is—statistical, political tool. It is meaningless. Hopefully, when the inquiry that I am going to chair gets going, we will deal with the facts rather than the political fantasy involved behind protecting a government—whoever the government might be after the next election.

I am interested, and all of Australia's farmers are interested, in where we are going to be in 50 or 80 years time. We do not want to leave the farm to a foreign interest if we can avoid it. But you cannot blame the cocky who wants to get out—(Time expired)

Senator LUDLAM (Western Australia) (17:41): I was quite enjoying Senator Heffernan's speech. I acknowledge that he is one of the few people in this parliament who has direct experience in this field. He also, I think, provides an important analysis that is largely lacking in what we get from the rest of the chamber. The only strong disagreement I had with Senator Heffernan's speech was with his faith that, if we go after the north, we will not simply make the same mistakes we have been making for 100 years. I think that difference is probably fairly well understood.

The other thing that Senator Heffernan said was that this bill is premature. I thought what we just heard from Senator Heffernan was a ringing endorsement of exactly why this bill should be brought on today and I will be sorry to see him sitting on the other side of the chamber when we come to a vote, because, with a few exceptions such as Senator Heffernan, all we hear is the polar opposite point of view. We heard that polar
opposite view from our Western Australian colleague Senator Mark Bishop a little bit earlier on in the debate. He just waved his hands and said: 'This is all good. Sell off the country as rapidly as possible with as little consideration, as little oversight, as possible.' That is, perhaps, a rather brutal paraphrasing of Senator Bishop. There was nothing in that speech at all that paid regard to the concerns that we are bringing to the table. We see it in the mismanagement of the mining boom under successive governments and we see it in the way foreign acquisitions of agricultural land in Australia are handled.

I would like to congratulate Senators Milne and Xenophon for bringing this bill forward. It is not a barrier to free trade and it is not a barrier to foreign investment—that is not what we are proposing here. The bill seeks to implement some fairly common-sense changes to the legislative regime governing foreign acquisitions in this country—to strengthen protections of the national interest, to better define what we mean by that and to better equip legislators for decision making.

The major parties, apart from a few honourable exceptions, have not demonstrated any recognition at all of the challenges facing Australia with regard to investment by foreign entities or of the long-term problems that this parliament could face because other countries around the world are playing a longer game than us. The Chinese are playing a 100-year game. We are doing something completely different—we are governing in the interests of the next quarterly report or the next three-year electoral cycle. Other countries around the world are engaged in a deadly serious contest over resources, a contest to which Australia seems to simply insist on wearing a blindfold.

That is why it is important that we have the crossbenches, at least, putting some of these ideas into the public domain—there is precious little innovation coming from anywhere else. Foreign investment can have very positive economic effects, but with these come political consequences—they come with impacts on corporate governance, risks to competition and risks, perhaps most importantly, to food security. I think that each of these things should be strongly considered by the Foreign Investment Review Board before approvals for investments above a certain threshold are granted. Four per cent of our continent is considered good farming land and yet 45 million hectares of it has some level of foreign ownership. Eleven per cent of Australia's agricultural land has some level of foreign ownership and we cannot say where it is or what sectors it affects. One of the things that Senator Milne pointed out is that 31 per cent of Western Australia's water resources are foreign owned. I am simply raising something like that—a third of Western Australia's water resources, in the driest inhabited continent on the planet—to point out that perhaps we might want to introduce some kind of threshold test, some kind of mapping exercise, to work out who has bought it and where the ownership lies but we are accused of xenophobia. I find that counteraccusation absolutely offensive. This is not about xenophobia. It is about basic industry policy and good practice about knowing. If we are insisting on selling the farm, let us at least find out who we are selling it to.

The lack of information about the sectors affected is particularly problematic, because it opens up the possibility of a company or companies from one country completely dominating a particular section of Australian agriculture and cornering the market. Imagine if one foreign company or
companies from one country owned, for example, all of Australia's banana plantations or all of Australia's orange groves. Without information about which farming land and what sectors of Australian agriculture are foreign owned, how can FIRB properly assess new investment proposals? How can we in this place and policy makers at all levels of government respond to growing foreign ownership without knowing where it is and what it entails? These are quite serious questions.

At the moment I think FIRB needs to monitor in particular a country's interest in specific sectors to make sure that various markets are not being cornered, to ensure that creeping acquisitions are not taking place which would quite negatively impact on our economy and on the ability of Australian companies to do business and employ Australians. According to Treasury, and this is something that I have spent a bit of time working on not necessarily just in the agricultural context, Australia's Foreign Investment Policy states:

The Government's approach to foreign investment policy is to encourage foreign investment consistent with community interests.

And:

The Government determines what is 'contrary to the national interest' by having regard to the widely held community concerns of Australians.

In 2008, the Treasurer released a set of six principles that are considered by FIRB in determining, on a case by case basis, whether particular investments by foreign governments and their agencies are consistent with Australia's 'national interest'. I will sketch what they are. FIRB needs to consider the following:

- An investor is subject to and adheres to the law and observes common standards of business behaviour;
- An investment may hinder competition or lead to undue concentration or control in the industry or sectors concerned;
- An investment may impact on Australian Government revenue or other policies;
- An investment may impact on Australia's national security;
- An investment may impact on the operations and directions of an Australian business, as well as its contribution to the Australian economy and broader community.

They are so broadly framed that I think they leave an awful lot to be desired and they need to be stricter and more explanation needs to be given to each criterion to ensure that a sharper assessment is made of what we mean by Australia's 'national interest', rather than having this ideological assumption that all investment from anywhere at all is good without considering the strategic implications or some of the strategic plans that other countries who take a longer view of things are obviously putting into play.

Australian policy makers appear to have this innocent assumption that the market will provide and the market will look after us—and it will really won't. I think the guidelines should be incorporated into relevant legislation as to things like an investor's operations that are independent from the relevant foreign government. This is the issue that Senator Heffernan was speaking of: sovereign wealth funds or large industrial combines that are effectively owned and run by the Chinese government, to give just one example. They are playing a brand of capitalism different from what we play in Australia and from what we perhaps expect other countries to play.

The current threshold under which private foreign purchases of land in Australia need not be declared is an extraordinary $231
That is an enormous sum of money that can buy a vast amount of farming land. Until 1989 the threshold was $1 million. I know the cost of land has appreciated significantly since then, but not by 23,000 per cent. That has not been the increase. The threshold has, in fact, increased by 23,000 per cent if you take 1989 as your base year. That is an absurdly high threshold. It means we do not know what is going on. A foreign company or private citizen can purchase that much worth of farming land and then another and then another—ad nauseam—without the investments being declared or subject to a review by FIRB. So with these kinds of jigsaw acquisitions we are left in a position where enormous tracts of Australian farming land can be bought up.

Senator Milne pointed out, I think very strongly in her contribution to this debate, that this is not only an Australian problem necessarily; this is happening all over the world. Countries are looking just a little bit further down the kerb to see what food insecurity really means and are buying up farming land all over the world and essentially outsourcing their food-growing task. That is having serious implications on the food sovereignty of various countries around the world where access to decent food is simply not guaranteed. In Australia I think we do ourselves an enormous disservice by imagining that we should simply sit back and let this happen, as though we were some kind of Third World country with weak governance and no sense of strategy or industry policy. So I think one of the first things that we need is a lower cap on purchases not subject to declaration and review, to bring more of these acquisitions into question over some form of national interest test. We need data on foreign purchases of Australian farming land properly collated and retained and we need the weak guidelines to be strengthened and entrenched in law. New Zealand has a five-hectare threshold. Obviously, it is a smaller country but they have a five-hectare threshold and extensive data collation on foreign ownership of farm land. It has had no discernible detrimental impact on investment. That is the right thing for us to do now. It is the right thing to do for generations to come. This is not an anti-free-trade measure. This is a commonsense 'let's work out what's actually going on' measure. Our economic wellbeing and our food security absolutely depend on it.

**Senator GALLACHER** (South Australia) (17:51): I rise to speak against the private member's bill on foreign acquisitions of agricultural land sponsored by Senator Xenophon. From public discussion it is quite evident there are concerns from the community and, indeed, a level of apprehension about the level of foreign ownership and the level of foreign acquisitions of agricultural land. However, the government must remain responsible in their actions in dealing with this matter. As the Assistant Treasurer, the Hon. Bill Shorten, stated in the *Weekend Australian* on 10 September:

> It is vital we protect the national interest and continue to strike the right balance between attracting foreign investment and ensuring agricultural and food security.

I think this is an eminently sensible view from the Assistant Treasurer and this is something that all Australians would like to see as the right outcome in regards to foreign acquisitions of agricultural land. That is why the government should not jump the gun in making significant changes without an adequate picture of the current impact of foreign investment in Australian agricultural land.

The push for regulation seems to be merely based on concerns and not on substantive data, obviously because of the
limited data that has been available. The debate requires clear thinking for the government to get a full, historic and current picture of foreign investments in Australian agricultural land. It is greatly recognised that Australia has been able to benefit from foreign investments in all sectors of the economy, and making changes that potentially could discourage foreign investment would not be a smart move by any government. I know all Australians understand that foreign and domestic investment in Australia is vitally important to the economy. These investments support local jobs, economic growth and future prosperity. Any move that jumps the gun in this situation could lead to the discouragement of foreign investment and greatly impact on our already established free trade agreements.

That is why this government is taking this issue very seriously. We will continue to look into the issue meticulously so that we can better understand the situation at hand and have the adequate data needed to make any decisions necessary. The Labor government is committed to striking the balance that all Australians are seeking, which led the Assistant Treasurer and Minister for Financial Services and Superannuation the Hon. Bill Shorten and the Minister for Agriculture, Fisheries and Forestry the Hon. Joe Ludwig to commission the Australian Bureau of Statistics, along with the Rural Industries Research and Development Corporation and ABARES, to get a better picture of foreign investment in Australia's agriculture sector.

The Australian Bureau of Statistics research project was published on 9 September and showed that a very modest amount of Australia's agricultural industry is owned by foreign investors. The data was collected in March this year after the request was made in December last year. The results were quite surprising considering the level of perceived foreign or business ownership of agricultural land. The result of the publication showed that 99 per cent of agricultural businesses in Australia are entirely Australian owned. The other headline figure was that 89 per cent of agricultural land was entirely Australian owned and, finally, 91 per cent of water entitlements were also entirely Australian owned. The ABS issued a media release which said:

The businesses reporting they were not fully Australian owned may have been either partially or entirely foreign owned and, as such the survey provides information about business, land and water entitlements by the extent of their foreign ownership.

We can dive further into the statistics which showed that only 5.8 per cent of land was owned by foreign investors, while the other 5.5 per cent of land that was foreign owned came from a minority stake of investors having less than 50 per cent ownership. From a South Australian perspective 87.9 per cent of agricultural land is entirely Australian owned with only 0.7 per cent in foreign hands with more than a 50 per cent stake in ownership. The slightly higher levels of foreign investment in South Australia can be assumed to be investments in our sheep, beef and grain farms. The ABS later stated:

The survey results are broadly comparable with levels of foreign ownership of agricultural businesses and land collected in the Agricultural Census of 1983-84. The ABS has not previously collected data on foreign ownership of agricultural water entitlements.

Considering this is the first time a study like this has been conducted in over 20 years this information is going to be vital in the ongoing debate on this topic. Along with the other commissioned reports, it will provide the government with an adequate picture of
foreign acquisitions which this bill fails to consider.

The Senate Economics Committee report also made mention of the lack of data suitable for policy making decisions. When discussing the change to the threshold the committee commented:

… the current data gathering and research project should be completed before any adjustment to the threshold is made. Following the reporting of better data, the Foreign Investment Review Board figure should then be reviewed to allow for an appropriate threshold.

There must also be strong consideration given to the fact that Australia's foreign investment screening regime has continued along the path of a strong pro-investment stance. It is my understanding that most proposals are dealt with and approved within the first 30 days.

The government's policies are reflected to balance our interests and must remain balanced under commitments to free trade agreements and obligations to our trading partners. This government will continue to remain committed to ensuring our national interests are protected. That is why the government is waiting for the report to be completed by ABARES and RIRDC before the end of the year. These reports will look into the history and drivers of foreign investment in agriculture, and will also look into the impacts, drivers, structures and regulation of ownership in agriculture. The government feels this is the right course of action to take, especially when looking at the current situation of foreign ownership of agricultural businesses and land. Only after receiving these reports can the government be sure that any changes made will be consistent with a balanced approach. We on this side of the chamber feel and reiterate that the bill is jumping the gun, so to speak, by not taking into consideration many issues.

The Senate Economics Committee report into this bill also had additional issues that need to be addressed, which I am sure will continue to be brought up by this side of the chamber. These include: whether the current screening arrangements are actually inappropriate; that there is a significant advantage in retaining the inherent flexibility associated with a national interest test that is not overly prescriptive; how does this fit within the existing screening arrangements for the other investments into Australia. Creating a separate framework that applies exclusively to foreign acquisitions of agricultural land will create complexity and confusion both for Australian farmers and foreign investors; how will this impact on Australia's international obligations under Australia's free trade agreements; and all significant private as well as—

Debate interrupted.

**DOCUMENTS**

**Australian Meat and Live-Stock Industry Act 1997: Livestock Mortalities During Exports by Sea**

Debate resumed on the motion:

That the Senate take note of the document.

**Senator BACK** (Western Australia) (18:00): Just to remind the chamber, this is a biannual report that is given to the parliament from the Department of Agriculture, Fisheries and Forestry recording numbers of cattle, sheep, buffalos and camels that are moved by sea and recording both survivals and mortalities. I remind the chamber that the mortality rate for the six-month period for the cattle that were exported from Australia by ship was 0.1 per cent, one in 1,000 animals. For sheep, it was 0.6 of one per cent, an improvement in fact on previous years and very much below the sorts of levels that would otherwise cause there to be any inquiries.
People often ask what the mortality levels are for animals that remain at home on the farm. I would like to place on record that the figure for adult sheep and cattle in this country is two to three per cent and the figure for lambs and calves—younger animals—is somewhere between 10 and 15 per cent. The statistics show, very validly, that the mortality levels are incredibly low for stock which are moved by sea.

Interestingly, in my own experience and certainly in that of others, the actual gross weight of the consignment goes up during shipping because, in nearly all instances, adult sheep and cattle maintain body weight but younger animals, particularly, gain bodyweight. So the end customer actually gets more than 100 per cent of what they purchased.

The few minutes available to me enable me to actually reflect on the difficulty we are seeing in the north of Australia this year following the suspension of the live cattle trade. Estimates given to recent Senate inquiries are that somewhere between 80,000 and 160,000 cattle will now not leave Northern Australia. That number will be determined by, firstly, the onset of the wet season, at which time cattle very often cannot be moved off stations because the roads are not bitumen and, secondly, the capacity to get stock onto ships. It then raises the question: if those 80,000 to 160,000 cattle which normally would have gone up to the Indonesian market do not go, we are then faced with the prospect, unfortunately, of overstocking on the rangelands. This crop that would normally have gone or those that have gone are last year's calves. Their mothers are in the middle of calving or, in many instances, have now finished calving this year so, effectively, the animals that did not go will be competing with their mothers and their younger siblings, this year's calf crop, on the rangelands this year.

Those are problems we will have to face for a couple of reasons. Madam Acting Deputy President Crossin, you would know from your own experience in the Territory that there have been insufficient funds for many of the pastoralists to actually buy diesel fuel, needed for pumps that operate bores that supply water to stock. The second reason that we learnt of in one of the Senate inquiries was that the pastoralists, for example, did not have sufficient funds to purchase tarpaulins to cover the hay which would be used for supplementary feeding. So, as soon as the wet season starts, that hay will be spoilt and will be of no value.

This debate is, in some ways, relevant to the discussion we have just concluded on the Foreign Acquisitions Amendment (Agricultural Land) Bill 2010, because we are now seeing throughout the north of Australia that the average value of livestock has actually gone down by some 20 to 30 per cent, depending on whether they are steers or heifers. The actual value of the stock for the pastoralists has gone down. Added to that, nearly all of the land held across the north of Australia is leasehold land, not privately owned or titled land, as you would know, Madam Acting Deputy President Crossin. Therefore, we are facing a scenario in which the pastoralists have less equity in their stock and in their share of the land. This, unfortunately, opens up the entire market to overseas buyers to buy up both the unexpired portions of the leased stations and the cattle themselves at discounted prices. Much of the discussion earlier this afternoon was devoted to owned land or titled land, freehold land, in the south of Australia. We have heard discussion on the relevant merits or otherwise of the ABS statistics. A lot more work needs to be done on those. But here we have actually opened up the market for overseas buyers to come in and buy these
properties and the stock at discounted prices. (Time expired)

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (18:05): I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Consideration**

The following orders of the day relating to government documents were considered:

Acts Interpretation Act 1901—Statement pursuant to subsection 34C(7) relating to the delay in presentation of a report—Australian Meat and Livestock Industry Act 1997—Funding agreement 2010-14 between the Commonwealth of Australia and Australian Livestock Export Corporation Limited (Livecorp). Motion of Senator Macdonald to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Australian Meat and Live-stock Industry Act 1997—Funding agreement 2010-14 between the Commonwealth of Australia and Australian Livestock Export Corporation Limited (Livecorp). Motion of Senator Macdonald to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Crimes Act 1914—Witness identity protection certificates—Australian Commission for Law Enforcement Integrity—Report for 2010-11. Motion of Senator Macdonald to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.

Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Australian Commission for Law Enforcement Integrity—Report for 2010-11. Motion of Senator Macdonald to take note of document called on. On the motion of Senator Bushby the debate was adjourned till Thursday at general business.


**COMMITTEES**

Legal and Constitutional Affairs Legislation Committee

Report

Debate resumed on the motion:

That the Senate take note of the report.

Senator HEFFERNAN (New South Wales) (18:09): I will continue my remarks on this report. Just to put it into context, obviously this is a bill which has been brought on to focus not only Australia but the rest of the world—it is the first time it has been dealt with by a parliament in the way it has in the Australian parliament—on the 35 years of flawed interpretation of patent law which is being acknowledged in the American court system and is now working its way up through that system. It will cost not only public health dearly with lack of research because of the monopolisation but also the future capacity of governments to fund public health.

The Intellectual Property and Competition Review Committee said:

The committee considers that the goals underpinning the national competition policy are well served by a patent policy that rigorously distinguishes between discoveries that advance our understanding of the nature, structure and properties of matter and the inventions that apply this understanding to useful products and processes, and obviously commercialisation. Within such a policy only the latter should qualify for patent protection.

That is generally acknowledged by most people. There are one or two that do not and one or two who argue that the isolation of a
gene makes it patentable, but of course there is no material difference between the gene in isolation and the gene in situ. The committee also said:

The distinction is vitally important not only to the people of Australia and the scientists who work and strive to help develop new diagnostics, medicines, therapeutics and hopefully cures but to the integrity of Australia's patents system. As the US said on the issue, the extent to which basic discoveries in genetics have been patented is a question of great importance to the national economy, to medical science and to the public health.

And so it is to the Australian economy, to Australian science and the health of Australian people. It is only by chance that Australian women are not today facing the crisis facing women in the United States. Let me read a little from an article published last month in the New York Times:

In 2006, Professor King and colleagues published a paper showing that Myriad's test, known as the Comprehensive BRACAnalysis, actually failed to detect a significant number of genetic alterations in the two genes.

Myriad then developed a test for these alterations.

It did not fix the patent test it had.

But instead of incorporating it into its main product—

which cost $4,000 for the test because of the monopoly—

it offered it as a supplemental test at a price of $700. Many insurers do not pay for it, and therefore many women do not get it.

Myriad's data shows that for Latina women in particular, 20 per cent of all mutations found are detectable only by the supplemental test.

"The comprehensive testing they are advertising is not really comprehensive," said Ellen T. Matloff, director of cancer genetic counselling at Yale, who is also a plaintiff in the patent lawsuit. "This would not happen in a competitive market. It simply would be unacceptable."

More than 200 doctors, genetic counsellors and other health care professionals have signed an open letter to Myriad urging it to incorporate the supplemental testing into the main test.

Kathleen Maxian says that if that had been done earlier, she might not be fighting for her life against ovarian cancer.

Her sister developed breast cancer at age 40 about five years ago, but tested negative for mutations on Myriad's main test. She was not offered the supplemental test.

Two years ago, Ms Maxian developed ovarian cancer. It turned out that both she and her sister had genetic alterations that were detectable only by the supplemental test.

"If my sister had had that test and had gotten a positive result, I would have gone to a genetic counsellor and have been tested," said Ms Maxian, who is 49 and lives in Pendleton, NY, near Buffalo. She would then have had the option of having her ovaries removed to avoid getting ovarian cancer.

"I don’t want to see this happen to anyone else," she said. "Women should have this test."

Before I sit, I implore you to read and study the dissenting report and to remember that the Australian patent system is not there for the benefit of sectoral interests which have deep pockets and have armies of lawyers and patent attorneys only too willing to look after their own interest. Rather it is there, if this is to be of any relevance in the 21st century, to balance the rights and interests of all Australians.

I will point out to the chamber what happened when Gene Technologies Ltd first got the licence for Australia, just as an instance of this particular patenting problem. Clearly bankers, lawyers, IP Australia and the industry do not want anyone to draw the line between what you can patent on the inventive side and what you cannot patent on the discovery side. It is a 'don't ask, don't tell' sort of a proposition. The federal Department of Health and Ageing agrees with what we are saying, that we have got to learn to draw
this line. But the department of industry says, 'No, let's keep going—we are all going to get a big quid out of this.' When I rang the CEO of Genetic Technologies before we kicked this debate off—and I am eternally grateful to this parliament and to the Minister for Health and Ageing, Nicola Roxon, for letting us have this debate—he said to me, 'Bill, why are you doing this?' and I said, 'Because we should not have a patent on discoveries.' He said, 'We have offered our licence to Australia as a gift to the people of Australia, but you have just given a litigation lever to every public laboratory in Australia, putting them on notice to desist from testing for BRCA 1 and BRCA 2 mutations and surrender all their data to the laboratory in Melbourne, as a monopoly.' He then said, 'That is a good thing for Australia. Lucky that we discovered that Myriad in America was breaching one of our patents and as part of the legal settlement they allowed us to do the testing under this licence in Australia. Otherwise we would have had to send all the samples back to America to be tested, as Japan has to do.' He also said, 'But we are going broke and we have got to call up all our capacity to earn money, so we are putting them all on notice that they have to surrender all their testing to us.' This is in a situation where the law clearly states that you can patent an invention that is unique, has a commercial purpose and has an inventive step. It clearly states that discovery work cannot be patented.

What we have done—and I have got truckloads of patents in my office if anyone wants to see them—is include the gene in the patent. All these patents would still be valid under what is proposed in this bill. All the inventive work would still be patented and commercialised, but the gene would be taken out so that someone else—say, Senator Chris Back's laboratory—could get access and would be able to do research without having to go to the phoney political solution, which is an exemption for research. In the case of the BRCA 2 test, which is a flawed test, what a hide Myriad America has, not to fix a flawed patented test that is proven to be not working but to include an extra test you have to go through to see if the flawed test did not pick you up. What a disgrace that is.

The department of industry are now arguing that you will get a licence to do experimental work. But if I hold the licence and I give Senator Chris Back's laboratory an exemption to do the research and his laboratory is smarter than mine and beats me to the prize for the inventive step and the commercialisation, he can come back to me and say, 'Now, Bill, can I have an exemption so that I can commercialise the thing, including the gene that you hold the patent for?' If I say yes, what does that say about the patent system? Why have I got the patent in the first place if I am going to give it away? If I say no he makes the point that the exclusivity and the monopoly and cartel thinking in all this is absolutely adding billions of dollars to public health. One patent alone cost $1.9 billion in licence fees because it included the gene, besides the inventive work.

My absolute plea to the Australian parliament and to everyone in the Australian parliament is to look at the facts in all their starkness and have the courage to say: 'Well, for 35 years the US government said to the US courts, "We have made a mistake on the interpretation of patent law. Let's fix it so that we can fund public health in the future and look after the human race."

Senator BACK (Western Australia) (18:18): I rise to speak on this matter as my colleague Senator Heffernan has—and I would never deal with his laboratory in such a desultory way, I can assure him! I think it goes to an absolutely critically important
point, and that is that naturally occurring biological features or phenomena, such as genes or anything of that nature, should not be patentable. They are not an invention; they are a discovery, and I think it is absolutely critical that we go back to basics in this particular regard.

People will say, 'Well, where is the incentive for medical research?' We know that it is horrifically expensive, we know it is time consuming and we know that the proportion of chemicals tested that ever actually come to fruition is very low. But I want to make one point particularly strongly, in support of the comments made by the previous speaker, and that is that in the inventive side there is plenty of scope. I say again that the isolation of a gene, a gene sequence, chromosomes or whatever of themselves should not be patentable, because they are merely the discovery of a naturally occurring phenomenon. But the difference arises here: if a research organisation, a company, a group of researchers, a university or whoever were to modify that gene sequence, were to add value to it, were to establish a test to which those genes could be subjected to establish whether or not a member of a family, a person, an animal, a plant or whatever may have genes that are defective, of course that does constitute invention. It constitutes adding of value. It constitutes something upon which protection should be afforded to the research organisation or company.

Going further, if that group were to develop a vaccine that would allow for the control or even the prevention of that disease, it is patently obvious that it should be patentable, but not the original gene sequence itself. If that company, university, group or individual were to go to the expense of developing pharmaceuticals for the purpose of treating a disease that may arise as a result of those gene sequences, again you can see the logic of that. Surely that is where we as lawmakers should be directing our efforts here in Australia. Also, we should be encouraging those overseas, as indeed we are seeing in the United States and Japan and other jurisdictions, where they have come to realise that patents were handed out far too easily for what were actually discoveries of natural phenomena.

I do not want to speak for much longer on this, except to reflect on how far we have now come from the early days of medical research, where there was tremendous sharing of information. One can go back to Pierre and Marie Curie, when they first looked at and came to discover microscopic organisms. They were, of course, the subject of derision amongst the scientific community. But imagine if in those days they had gone and put a patent on the discovery of bacteria. Where would we be? Think of Fleming and his co-workers and the discovery of penicillin. The only reason it was discovered was that an agar plate was left out over the weekend. When Monday morning came along there was this unusual looking growth on it. They said, 'What is it? Let's throw it out. No, let's not throw it out; let's examine it.' The end result of that, of course, was the discovery of the antibiotic penicillin because someone discovered a bare area within all of the moss that was growing. That bare area was the substrate of that antibiotic. Let us imagine for a moment that, instead of sharing that with the world's scientific and medical community, Fleming and his co-workers had said, 'The best thing we can do here is put a patent on this and make sure that nobody else gets access to it.' If we go to polio and its vaccines, we are now so close to eradicating that in this world, including through the oral vaccine—the so-called Sabin vaccine.

My concern is for protecting the goodwill of the past that had such a profound effect on
human health and in getting on top of so many of those infectious diseases that killed so many people in the world. I remind people again that the influenza epidemic of 1918-19 killed more people than died during the course of the First World War from military related activity. So we must surely protect that and ensure that we do not move away from that international goodwill that has always existed, that international goodwill that has allowed the sharing of information around the world to allow scientific peers in other places of the world to replicate and validate the work done by other scientists for the good of humanity, whether in human disease, animal disease, plant disease or whatever. We are facing a crisis. The last thing we need is a sense of protectionism.

But, at the same time, I recognise, as everybody must, that the cost of research is horrifically expensive. The proportion of pharmaceuticals that ever get to the market and yield a return for their developers is very small. Whilst we must accept the commercial reality, we must continue to encourage research and researchers. We should not ever get to the stage where naturally occurring phenomena—genes, gene sequences, chromosomes et cetera—are the subject of a patent on behalf of any person because they or someone associated with them happened to discover it. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Law Enforcement Committee

Report

Debate resumed on the motion:

That the Senate take note of the reports.

Senator PARRY (Tasmania—Deputy President of the Senate and Chairman of Committees) (18:26): Being a member of the Joint Committee on Law Enforcement, I have been deeply involved with the examination of the Australian Federal Police and the Australian Crime Commission. It leads me to indicate to the Senate that next week is the annual National Police Remembrance Day. These documents certainly relate to police in Australia, although they go only to the federal agencies. The national day for remembering police officers who have fallen in the line of duty occurs on 29 September every year. We are now in the 23rd year of recognising fallen police officers.

The National Police Remembrance Day was instigated in April 1989 during the Conference of Commissioners of Police of Australasia and the South West Pacific Region. It was unanimously agreed at that particular meeting that the service would be held on 29 September. The reason that date was chosen is that it happens to be the feast day of the Archangel Saint Michael, who is the patron saint of police officers and law enforcement. On this day Australians and, I would like to think, others around the world pause and remember the lives of those police officers who have fallen in the line of duty or whilst they have been a serving police officer.

In 2006 Prime Minister John Howard officially dedicated the National Police Memorial in Kings Park, Canberra. It is now the key focal point for the national remembrance of police officers in this country. Each state has its own dedicated memorial, but this is the national memorial. When that memorial was opened it had the names of 719 police officers who had died whilst on duty inscribed on brass touchstone plates with the dates and places of their deaths recorded. These were distributed randomly across the wall. The memorial honours all police killed on duty since the advent of policing in Australia, harking back to the very first officer, Constable Joseph Luker, killed in Sydney in 1803. Tragically,
since the opening of the memorial and those 719 fallen officers' names were placed there, there have been 31 names added to that list.

Again, sadly, since the commemoration of National Police Remembrance Day last year, two further officers have been killed in the line of duty. I am sure it would not be strange for senators here to have known of both of those officers, as their deaths were highly publicised at the time. The first was Sergeant Daniel Arthur Stiller, who served from 1997 to 2010. The second was Detective Senior Constable Damian Leeding, who was a police officer for eight years. The first officer, from the Queensland Police Service, Sergeant Daniel Stiller, died instantly when a jackknifing truck collided with him head-on whilst he was on escort duties for that oversized load. The second officer, Detective Leeding, was viciously killed when attending an armed robbery at a Gold Coast tavern, which was highly publicised in May this year. They are the two latest police officers to have been killed on duty. It is always terrible to add names to a list, but it is so fitting that we as a society remember those officers.

It may interest the Senate to note the break-up across Australia of the 750 names of officers on the list who have died whilst on duty since 1803: 11 from the Australian Federal Police, 264 from New South Wales, eight from the Northern Territory, 139 from Queensland, 61 from South Australia, 28 from my home state of Tasmania, 157 from Victoria and 82 from Western Australia. Sadly, of those 750 officers, 157 were murdered; that is a horrific statistic. There were 112 deaths from motor vehicle accidents and 94 deaths from motorcycle accidents. Forty-three officers drowned. Forty-two officers died as a result of a horse accident or incident, which I suppose is something that does not often happen today. Twenty-nine officers died in World War I. Sixteen died from a heart attack. Fourteen died during the arrest of an offender. Some died in plane or train crashes or in bushfires or from injuries sustained whilst training. In any respect, 750 people have died whilst protecting and serving their communities in the course of their duties.

Each year I try to attend the memorial service on 29 September, as I will again this year. Each police jurisdiction holds its own particular memorial service. They are all sombre events. They are attended by families of those fallen officers as well as comrades and a mixture of police and community members. It is fitting to see that this takes place each year and that police officers who have died in the course of their duties have been recognised appropriately.

I would encourage senators to remember 29 September when it falls next week. Parliament will not be sitting. If an opportunity arises to participate in the events in their respective states, I would encourage senators to do so. I think it is a very fitting thing that we do as a nation, as a community, remembering those who have fallen in the line of duty in what is generally a more difficult and more dangerous occupation. I am proud to be part of the community that recognises our fallen police. I seek leave to table a document which I have shown to the government whip. It is a list of the 750 police officers who have died whilst on duty since 1803.

Leave granted.

Senator **LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (18:33): I rise to associate myself with the remarks of Senator Parry; I think they were well said. I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**Consideration**

The following orders of the day relating to committee reports and government responses were considered:


- Finance and Public Administration References Committee—Report: Government advertising and accountability—Government response. Motion of Senator Macdonald to take note of document called on. On the motion of Senator Bushby the debate was adjourned till the next day of sitting.

- National Broadband Network—Joint Standing Committee—First report—Review of the rollout of the National Broadband Network. Motion of Senator Macdonald to take note of report called on. On the motion of Senator Bushby the debate was adjourned till the next day of sitting.

- Foreign Affairs, Defence and Trade References Committee—Final report—Defence's request for tender for aviation contracts. Motion of Senator Johnston to take note of report agreed to.

**AUDITOR-GENERAL'S REPORTS**

Consideration

Orders of the day nos 1 to 5 relating to reports of the Auditor-General were called on but no motion was moved.

**ADJOURNMENT**

*The ACTING DEPUTY PRESIDENT (Senator Crossin):* Order! There being no further consideration of committee reports, government responses and Auditor-General's reports, I propose the question:

That the Senate do now adjourn.

**LBW Trust**

*Senator FAULKNER* (New South Wales) (18:36): This evening I would like to speak about the work of the LBW Trust. Anyone with a cursory knowledge of cricket knows that LBW stands for leg before wicket. While the LBW Trust has been established by cricket lovers and is doing great work in cricket-playing developing countries, as far as the LBW Trust is concerned the letters LBW stand for Learning for a Better World. The LBW Trust was established in 2006. Its mission statement says:

Our aim is to assist poor students from cricket-playing countries to complete their tertiary education. Our hope is that these young men and women will play their part in the upliftment of their countries.

Many international cricketers who have toured the subcontinent or Africa have become aware of and concerned about the more limited educational opportunities that students from nations such as India, Pakistan and Zimbabwe have. And we are all aware of the importance of education in achieving positive change in the lives of individuals and communities.

It was John F. Kennedy who said: Our progress as a nation can be no swifter than our progress in education. … The human mind is our fundamental resource.

The LBW Trust believes education is the way to a better future, not just for the young people the trust sponsors but also for their families and the communities that they live in. The trust plays its part by supporting students in developing countries who otherwise would not have the opportunity of receiving tertiary education. It is worthy of note that the LBW Trust is unusual in that it has no operating expenses or overheads whatsoever; it is run entirely by volunteers, and the money it raises goes directly to help educate the students it supports.

The trust is currently supporting 261 students, and it acts in partnership with local NGOs in those countries where it operates: Uganda, India, Pakistan and South Africa.
Students supported by the trust study everything from bricklaying and motor mechanics to teaching, nursing and the law. LBW Trust supported students in South Africa come mainly from Zimbabwe. There are many success stories to tell, including one student who is now doing postgraduate work in Canada. A number of LBW students have returned to work in Zimbabwe. One is starting a small farm, another is working in cricket and yet another is involved in a chicken business. Currently, the LBW Trust has scholars at Durham University and Oklahoma university, and two of its students have qualified as lawyers.

In Pakistan, the trust is assisting the students of Namal College—set up by Pakistani cricketing great Imran Khan—where particular emphasis is given to supporting the tertiary education of girls. The LBW Trust has also collaborated with the Sustainable Peace and Development Organisation, known to some as SPADO, to further the education in Peshawar of five young women who come from the troubled Swat valley in Pakistan. In Pakistan, the LBW Trust is helping to educate, in total, over 25 students—most of them girls.

In Uganda, the trust is working with an impressive Australian based NGO called One Village, set up by a young woman from Adelaide called Nikki Lovell. There it is helping to educate 25 young men and women. In India, the LBW Trust has about 150 students, a majority of them girls, and it is working through two NGOs: Prerana Nurture Merit and the Vikash Educational and Charitable Trust. These students come from desperately poor family backgrounds, and an education is essential for them to have any real chance of building a better life.

The trust's board boasts an impressive batting order of corporate players, major accounting firm partners, solicitors, journalists, trainers and farmers. They include Malcolm Alder, Tom Bowes, Mike Coward, Ron Holmes, Harley Medcalf, Kelsey Munro, Lyn O'Brien, Peter Strain, David Vaux and the indefatigable chairman of the trust, Mr Darshak Mehta, who has been such a driving force behind its work.

The patrons of the organisation also have a few runs on the board. Three of the trust's patrons have 25,455 test match runs between them: the former Australian captains Greg Chappell and Adam Gilchrist, and the current Indian test batsman Rahul Dravid—the second highest run scorer in test cricket history. Other patrons include Sir William Deane, Malcolm Fraser, General Peter Cosgrove, Ian MacFarlane, Rodney Cavalier, Basil Sellers, Malcolm Speed and Maurice Newman. I am a former director of the trust but I too now have the honour of serving as a patron.

It is important also to acknowledge that, at annual dinners and other LBW Trust events, a number of noted Australian and international cricket captains have volunteered their time and support: Ian Chappell, Greg Chappell, Steve Waugh, Bill Lawry, Adam Gilchrist, David Gower, Sir Ian Botham and Sir Richard Hadlee. Theirs has been a most generous and important contribution to the work of the LBW Trust.

Cricket is a game played by rich nations and poor nations. It is a game where kids from Indian slums or Caribbean ghettos can play alongside against those from immeasurably more privileged backgrounds, those who have had all of the advantages and opportunities we in Australia sometimes take for granted. Through the work of the LBW Trust, Australians, and particularly Australian cricket lovers, can play their part in helping others in much less fortunate circumstances achieve their potential. Tonight, I want to take the opportunity to
congratulate all those who have worked so hard to establish the LBW Trust, who have been so committed to seeing its important work around the world become a reality.

Prime Minister Commemoration of Bombing of Darwin

Senator RONALDSON (Victoria) (18:45): I rise to condemn the inappropriate behaviour of the Prime Minister, who now considers it fair game to bully the employers of journalists who dare criticise her. On Saturday, 27 August, Ms Gillard reportedly attempted to influence the free press after she read the blog of media commentator Andrew Bolt. Mr Bolt had posted the following:

On Monday, I'm tipping, a witness with a statutory declaration will come forward and implicate Julia Gillard directly in another scandal involving the misuse of union funds. I suspect a friend of mine in the media will be authorised to release it first.

The Prime Minister believed that the friend Mr Bolt was referring to was his MTR colleague Steve Price. Ms Gillard personally picked up the phone and telephoned John Hartigan, the CEO of News Ltd. She sought assurances from Mr Hartigan that neither Mr Bolt nor Mr Price would publish the allegations. After Mr Hartigan made inquiries of both Mr Bolt and Mr Price, Ms Gillard received the assurances she was seeking. Mr Hartigan did not contact Glenn Milne or anyone at the Australian, however, so Ms Gillard's intervention did not stop Mr Milne's article from going to print on Monday, 29 August. Glenn Milne's article is mostly a repeat of material already in the public domain. It contained some factual errors and, to be fair to her, Ms Gillard was right to be upset about those. But her reaction to the Milne article in the Australian was inexcusable. Ms Gillard reportedly went 'ballistic' and 'nuclear'. She made repeated calls to News CEO John Hartigan and also to the editor of the Australian, Chris Mitchell.

If Ms Gillard believed she had been wronged in the article—and I am not saying that she had been or that she had not been—there was a process to follow. Firstly, she should have sought legal advice. Secondly, if the advice she received was that she had been wronged, she should have instructed her lawyers to contact the Australian and negotiate a resolution. Instead, Ms Gillard used her position as Prime Minister to obtain immediate, direct access to the management of News Ltd to stop the publication of material she thought might further damage her. That she believed this to be appropriate in the first place is astounding, but Ms Gillard's appallingly bad behaviour is amplified by the fact that she did so with the threat of a media inquiry hanging over News Ltd's head.

The Australian responded to Ms Gillard's phone call by removing the whole Glenn Milne column from its website, at Ms Gillard's insistence. As Andrew Bolt said, in defence of the company he works for, in his column on 31 August 2011:

You may blame News Limited for being weak, but never has it felt so politically vulnerable. Gillard had for weeks exploited Britain's News of the World phone hacking scandal to threaten News Limited with inquiries that might force it to sell some of its papers or address what the Greens called its "bias".

Whether Gillard specifically mentioned the threat of an inquiry in her "multiple" calls to News Limited executives I do not know.

But I do know that she should have been aware of its potential impact.

This, then, is how news can be kept from the public.

Something else bizarre happened a few days later to Glenn Milne. On Saturday, 3 September, Mr Milne, one of the few
relatively conservative commentators on the ABC, was sacked from the *Insiders* show. He had been a regular panellist up until then but he will not be appearing on the show for the rest of the year. That begs the important question: if the Prime Minister made repeated calls to John Hartigan and Chris Mitchell, who is to say that she also did not also improperly pressure ABC Managing Director Mark Scott to sack Mr Milne from *Insiders*?

The Prime Minister needs to come clean and say whether or not either she, or any person from her office, had any discussions with ABC management over whether or not Glenn Milne should continue as a panellist on *Insiders*. The Prime Minister also needs to come clean on whether or not she or anyone from her office has spoken to Fairfax CEO Greg Hywood or anyone else from Fairfax management about Michael Smith. As a conservative commentator working at a Fairfax radio station, Michael Smith has held the Gillard government to account from behind the latte curtain. His effective cross-examination of the member for Dobell, Craig Thomson, has done more to expose Mr Thomson's web of lies than any other piece of journalism this year. The admissions Smith was able to extract in his interview with Mr Thomson showed beyond doubt that the allegations previously made in the Fairfax press were entirely accurate. Mr Thomson's interview by Mr Smith and his failure to prosecute his defamation action put beyond doubt the facts of this remarkable and ongoing matter, a matter in which the Prime Minister is displaying deliberate and wilful blindness by continuing to protect Mr Thomson.

Michael Smith pre-recorded an interview with Bob Kernohan, the former AWU Victoria Branch President. In the interview, Mr Kernohan is believed to refer to conversations that were had within the AWU about the Gillard-Wilson allegations. The interview has not gone to air but, for wanting to play the interview, Mr Smith has himself been off the air since 6 September. Now Fairfax wants to sack him and he is being forced to go to court just to keep his job. In yesterday's *Australian* online, Mr Smith said:

This country's pretty screwed up if decent, working people can't turn to a free and open media to have their say.

That is the point Ms Gillard cannot seem to understand. In Australia, we value free speech. If someone makes allegations about another person in the press that are defamatory and not true, that person has legal remedies. These remedies are available to anyone, from the Prime Minister to the man or woman on the street. The Prime Minister of this country is in a privileged position. That privilege, however, does not extend to blatant attempts to stifle free press.

Just while I have some time left open to me, I want to speak briefly about the bombing of Darwin, and I want to congratulate my colleague Natasha Griggs, the member for Solomon, who yesterday moved in the House that the anniversary of the bombing of Darwin be a day of national significance. Of course, 18 February next year is the 70th anniversary of the bombing of Darwin. I think we should remember that more bombs were dropped on Darwin than on Pearl Harbor. We should remember that 250 civilians and military personnel lost their lives in the bombing of Darwin. I am pleased that the member for Solomon has taken the initiative and moved this private member's motion.

I notice Senator Crossin is in the chamber today. I hope Senator Crossin will pick up the phone to the Minister for Veterans' Affairs and say to him that the Australian Labor Party must support this day of national significance. Is does rather beg the question—
Senator Crossin: Mr President, I rise on a point of order, and that is that perhaps some research might be in order. Senator Ronaldson's facts are not correct. I want to highlight that I gave a speech about that in this chamber on 9 February this year. I called for that eight months ago.

The PRESIDENT: That is not a point of order.

Senator RONALDSON: Thank you, Mr President. I am glad Senator Crossin actually stood up. I do not know how long Senator Crossin has been in this place, but she has had opportunity after opportunity to do exactly what the member for Solomon, Natasha Griggs, has done. The member for Solomon has achieved more in 12 months than Senator Crossin has achieved in I don't know how many years in this place. You had the same opportunity to do what she has done, and now you are trying to claim false credit for it.

Full marks to the member for Solomon, and I ask Senator Crossin again: are you going to pick up the phone to the veterans' affairs minister, Mr Snowdon, and demand of him that in the other place the Australian Labor Party support Natasha Griggs's private member's motion? She has done it in 12 months; Senator Crossin and the veterans' affairs minister have not done it—and in his case he has had over 20 years. Congratulations. It is remarkable.

Senator Crossin interjecting—

Senator Carol Brown interjecting—

Senator RONALDSON: I think the shouting from across the other side is tinged with an element of guilt. It is the guilt of inaction, guilt driven by the fact that someone in this place—namely, Senator Crossin—has had years to do exactly what the member for Solomon has done but has not done so. And now we are hearing these bleatings of false credit: 'Oh, I made a speech in relation to that.' You are from the Northern Territory, so of course you would have made a speech in relation to the bombing of Darwin. But you did not move the motion.

Micah Challenge

Senator XENOPHON (South Australia) (18:55): I rise tonight to speak on an issue that is close to my heart and something that a number of my colleagues in the Senate and the House have spoken about this week. I am sure many of us here and many people visiting and working at Parliament House would have noticed the giant toilet on the lawns earlier this week. I am sure many jokes could be made about politicians and excrement but, for once, I will resist the opportunity, as what I wish to speak about today is a very important and very timely issue.

Earlier this week, I had the pleasure of meeting with six inspirational South Australians who were in Canberra as part of the sixth annual national gathering of the Micah Challenge: Voices for Justice 2011. Meeting with Micah Challenge representatives is something I have done in the past and something I hope to continue doing in the future. I do not doubt that some of these energetic and inspirational campaigners will continue to play important roles in years to come.

One of the things that was said to me during my meeting with Micah Challenge representatives—Ben Clarke, Karen Ey, Maree Naroba, Simon Watson and Roger Burton—was that they were here not to represent themselves but to represent the people who do not have a voice. That really resonates with me. These people come from all walks of life. There are pastors and teachers, and there was even a software developer in the mix. They have taken time out of their busy lives to rally us, their
elected representatives, into doing our bit to eradicate global poverty.

There are 1.4 billion people living in extreme poverty today. That means they have less than US$1.25 a day on which to survive. Over a decade ago, in the year 2000, world leaders met to discuss how we could eradicate poverty. Out of that meeting came the establishment of the Millennium Development Goals, targets that together have the potential to halve income poverty and improve health standards dramatically by 2015. The goals are to eradicate extreme poverty and hunger; to achieve universal primary education; to promote gender equality and empower women; to reduce child mortality; to improve maternal health; to combat HIV-AIDS, including the use of retroviral medication to combat malaria and other diseases; to ensure environmental sustainability; and to develop a global partnership for development.

But the question remains: why the big toilet? Of all the Millennium Development Goals, the one we are least likely to achieve in its entirety by 2015 is clause 7C—that is, to halve the proportion of the population without sustainable access to safe drinking water and basic sanitation. According to the United Nations, the world is on track to meet the drinking water target, although supply of safe water still remains a challenge in many parts of the developing world.

As it stands, approximately 50 per cent of the population in developing nations does not have access to basic facilities for the safe disposal of human urine and faeces; 2.6 billion people around the world do not have access to a toilet. I have said this before, but these people are not seeking lavish bathrooms with marble benchtops and expensive fixtures; they just need to have a toilet. This in turn would help halt the spread of bacteria and disease in human faeces when people are forced to defecate on the street. The World Health Organisation estimates that by providing access to clean water and sanitation 28 per cent of all child deaths could be avoided—and that is literally millions of lives that could be saved, millions of young children who could live, who could have a fighting chance at life.

The giant toilet and the queue that surrounded it on Tuesday reiterated just how many people around are, as the Voices for Justice slogan says, 'Dying for a dunny'. If current trends are anything to go by, the sanitation target will not be met in developing regions until 2037—that is, 22 years late. This target will not be met in sub-Saharan Africa until early in the 22nd century, and at current rates it will never be met in Oceania.

I spoke in this chamber a few years ago and asked a question of the then relevant Minister representing the Minister for Foreign Affairs, Senator Faulkner, about the 0.7 per cent millennium goal target. I even displayed a T-shirt saying 'Kevin 0.7'. That was in a different time! While things may have since changed a bit in the corridors of power, the issue raised back then is equally as pertinent today. Back in 2000, at the Millennium Summit, each developed nation was asked to give 0.7 per cent of its gross domestic product towards achieving this goal. Australia gave 0.32 per cent of its gross national income in 2008-09 to aid efforts. That works out to about $3.30 in taxes from each of us—or about the cost of cup of coffee per person. While that is still several billion dollars a year, it is still $3.30, about the cost of a cup of coffee for all of us on a daily basis. It is pretty minuscule when you put it in those terms.

Australia's net foreign aid is set to increase from 0.33 per cent of gross national income in 2010-11 to 0.35 per cent of GNI in
2011-12. As it stands, by 2015-16 the annual aid figure is estimated to reach 0.5 per cent, or a total of anywhere between $8 billion and $9 billion. But that still leaves Australia lagging behind many other developed nations, including Sweden, Norway, Ireland, France, Germany and Canada. Even the UK has pledged to lift its aid spending to 0.7 per cent by 2015, despite the fact that the impact of the global financial crisis has been much greater there than in Australia. We must do better.

According to the Micah Challenge, to achieve the international aid target of 0.7 per cent of GNI we will require an additional $2.6 billion by 2015-16. The difference between 0.5 per cent and 0.7 per cent is not small change, by any means, but this is a big country with a big heart and I would plead to those who may be listening, to those who think this is not a good use of our money, that I think it is, for a whole range of reasons—for the lives that will be saved, for the difference it will make to our neighbours, for the difference it will make globally. And, whilst we are doing it for the right reasons—to reduce premature deaths, to reduce poverty, to improve health and sanitation around the world—those countries that are lifted out of poverty are also our future trading nations in years to come. Lifting them out of poverty makes long-term good economic sense. That is a collateral benefit, but the primary benefit must be humanitarian—that should be our motive.

For every $1 we spend on providing these people with clean water and sanitation, $8 is paid back into their economy. My friends at Micah Challenge also tell me that the net benefit of achieving universal access to sanitation and drinking water is approximately $171 billion. That is the benefit. Access to clean water and effective sanitation substantially reduces the incidences of child death from diarrhoea, malnutrition and pneumonia. It is a very good use of that aid money. Diarrhoea claims the lives of 1.3 million children under five each year—a toll greater than malaria, measles and AIDS combined. In other words, close to the population of my home state of South Australia, of children, die every year because of something so avoidable. Pneumonia, often spread through skin-on-skin contact from unwashed hands, is the second-largest killer of children under five. Malnutrition, often caused by the aforementioned diarrhoea and also roundworm, claims the lives of approximately 950,000 children each year.

We must strive to achieve this 0.7 per cent target and to ensure that this money is spent on one of the most cost-effective, and effective, ways of making a difference to people's lives, to the lives of young children—that is, sanitation. At the end of the day we can debate endlessly about our nation's fiscal position and about the pressures of the global financial crisis, but we cannot forget our responsibilities to work towards this goal. I commend the work of the Micah Challenge and thank its representatives for taking the time to visit Canberra this week. To my friends at Micah Challenge, I say: hopefully, we will have some good news for you all next time you visit. Thank you.

**Working Women's Centre Timor-Leste**

**Senator CROSSIN** (Northern Territory) (19:04): I rise tonight to speak about a newly formed organisation that I am very proud to be associated with, and that is the Working Women's Centre Timor-Leste. The Working Women's Centre Timor-Leste has been established in Dili with the support of Union Aid Abroad-APHEDA; the Konfederasun Sindikuat Timor-Leste, or KSTL as it is known, which is the national
trade union organisation of East Timor; and the Australian Network of Working Women's Centres, which includes the Northern Territory Working Women's Centre, the South Australian Working Women's Centre and the Queensland Working Women's Service.

Earlier this month, the fourth Conference on Women and Industrial Relations was held in Dili to coincide specifically with the official launch of the Working Women's Centre Timor-Leste. Previous to this, in Australia we had the inaugural Our Work Our Lives conference in 2006 in Queensland, organised by the Queensland Working Women's Service and Griffith University; the second Our Work Our Lives conference in 2007 in Adelaide, organised by the South Australia Working Women's Service and Griffith University; and of course the last conference in 2009, organised by the Northern Territory Working Women's Centre, with academic support from the University of Western Australia. I was there, actually, at the Our Work Our Lives conference in the Northern Territory, to which women from Timor-Leste had been invited. A number of people got talking about seeing whether we could get a Working Women's Centre established in Timor-Leste, and why we shouldn't even try to have a conference over there in 2011. It was an absolute joy to see both of those dreams realised at the attendance of that conference earlier this month. The conference was held with the support, as I said, of the Australian Network of Working Women's Centres, the University of South Australia and the Queensland University of Technology. It was a resounding success, with people from a range of backgrounds participating in the conference. Academics, policymakers, practitioners and unions, parts of organisations or simply interested individuals discussed ideas around assisting women in precarious or vulnerable work; women's access to their rights and entitlements; progress towards decent work in the Asia-Pacific; and building sustainable communities through women's workforce participation.

Guest speakers included our own Parliamentary Secretary for School Education and Workplace Relations, Jacinta Collins. She spoke on the importance of the women's community sector organisations and also women's access to their rights and entitlements and the equal pay case for social and community workers. Also at the conference was our own Northern Territory Minister for Women's Policy, Minister Malardiirri McCarthy. The Northern Territory government generously sponsored the conference. ACTU President Ged Kearney was also present. She spoke about the importance of the trade union movement and its connection to the women's community sector. The Vice President of Timor-Leste's parliament, Maria Da Costa Paxiao, and Timor-Leste Parliamentary Secretary Teresinha Viegas were also present.

The working women's centres in Australia provide invaluable support and advice about work related matters to our most vulnerable women workers. Their advice is free and confidential. The centres target their services to those in disadvantaged bargaining positions, insecure and low-paid work. They are not-for-profit community organisations whose objective is to increase women's participation in and contribution to workplace arrangements that improve their income and conditions. I am a proud founding member of the Northern Territory Working Women's Centre and I believe very passionately in the crucial work that they do. Queensland and South Australia also have centres that provide this service.
The Working Women's Centre in Timor-Leste will be providing an even more important service in that country, which is still developing its industrial relations laws. Timor-Leste is ranked 140 on the Human Development Index; two in five people are poor, mainly concentrated in rural areas. Households headed by males are consistently better off than female-headed households in all of the usual indicators: education, health and subjective wellbeing. While cultural attitudes towards traditional gender roles have begun to change, women are still limited in progressing towards equal rights. The new constitution sees equal rights and duties for men and women in all aspects of life, but access, such as to the law, is still an issue for women. This is particularly true in relation to domestic and gender based violence.

While the women of Timor-Leste have traditionally held roles in the home, an increasing number of young women are now accessing formal education and seeking employment to help take themselves and their families out of poverty. Of the working population aged over 15 years, only 29 per cent are female. Labour participation is at its highest when women are aged in the mid-thirties and early forties, with the peak participation rate at 15 per cent when women are between 35 and 39 years of age. Forty-five per cent of women have had no formal education at all, compared to 34 per cent of men. Men are twice as likely as women to have completed university education or a diploma at a polytechnic.

Unfortunately, most work available to women in Timor-Leste is characterised by informal workplace arrangements. It is common for jobs to be found through word of mouth and paid cash in hand, resulting in little or no negotiation of fair wages and conditions, and certainly no such entitlements as leave for illness, pregnancy or family related matters. Since these women are unregistered workers, they are unable to access existing or proposed social security schemes. Since there are no occupational health and safety laws in Timor-Leste, some women are experiencing violence, harassment and other forms of coercion—experiences which no worker should have to put up with. A growing number of women are seeking employment as domestic helpers; however, there is no formal support for them. Domestic workers are not unionised and have no access to minimum entitlements or awareness of decent working conditions.

It is very clear that the services of the Working Women's Centre Timor-Leste will be in great demand as the country sees more women in the paid workforce. The centre aims to provide information, advice and support to women on work issues, initiating and implementing training programs, responding to specific issues and developing resources on issues facing women in or entering the workforce, and actively promoting equal employment opportunity for women through policy development, committees and campaigns. The centre has received support from the AusAID innovation fund to initiate and implement education, support and advocacy for vulnerable women workers in Timor-Leste, a program focusing on women working as domestic workers to provide them with education, advocacy and support to access their rights.

I take this opportunity to place on record the fantastic work that was done by people such as Tanya Karliychuk, who was the project officer for Timor-Leste and Indonesia at Union Aid Abroad APHEDA, who was able to put together a proposal to access those funds and was inevitably successful in getting those funds from the Australian government, and Shabnam Hameed, Trade Union Adviser to the KSTL for the Working Women's Centre Timor-Leste, who relocated...
to Dili from Sydney for the last year and put in so much time and effort getting the centre established. They were backed in passion and commitment by wonderful women in Australia such as Sandra Dann from South Australia, Robyn Greenwood and my own two really great coordinators of the Northern Territory Working Women's Centre, Anna Davis and Rachael Uebergang.

The Australian Network of Working Women's Centres will support the Working Women's Centre Timor-Leste by helping with policy development, research and capacity building, such as initial staff training. The Australian Domestic and Family Violence Clearinghouse will also be assisting the centre by providing access to national and international evidence based research on violence and its relationship with women's work. Working Women's Centre Timor-Leste has the full support of all seven affiliate unions of the KSTL. These are unions that represent nurses, teachers, public servants and agriculture, construction, general and maritime and energy workers.

I congratulate the founding members of the Working Women's Centre Timor-Leste: Abelita Da Silva; Ana Filomena Soares Mariano; Cecilya de Jesus; Eduarda Martins Goncaves; Elisabeth De Araujo, an outstanding woman who has done a great job there; Henyta Casimira; Marlia Lese Pires Moniz; Odete Amaral; Ricar Pascoela; and Rosa Soares. Of course, my very special congratulations, and all the best, go to Jessica Sequeira, who is the newly appointed Coordinator of the Working Women's Centre Timor-Leste. I am extremely proud to see the establishment and the opening of the Working Women's Centre Timor-Leste, which can now join a wonderful network of three working women's centres that we have back home here in Australia.

Senate adjourned at 19:14

DOCUMENTS
Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

- Notice of Withdrawal—CR 2011/73.
- Environment Protection and Biodiversity Conservation Act—Amendment of list of threatened species, dated 12 September 2011 [F2011L01929].
- Higher Education Support Act—Revocation of Approval as a Higher Education Provider—College of Law Pty Ltd [F2011L01933].
- VET Provider Approval No. 19 of 2011 Australian College of Natural Medicine Pty Ltd [F2011L01932].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Financial Services and Superannuation

(Question No. 57)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010:

(a) What steps or procedures are banks and lending institutions required to undertake before enforcing their securities; and (b) is there a prescribed level of consultation with the customer.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Lending institutions are required to comply with the Debt collection guideline for collectors and creditors, as published by the Australian Competition and Consumer Commission and the Australian Securities and Investments Commission. This guideline explains how Commonwealth consumer protection laws relevant to debt collection apply. These laws include: Schedule 2, Parts 2-2 and 3-1 of the Competition and Consumer Act 2010; and Part 2, Division 2 of the Australian Securities and Investments Commission Act 2001 (ASIC Act).

In addition, the part 5 of the National Credit Code, as part of the National Consumer Credit Protection Act 2009, provides procedures which must be followed prior to the enforcement of credit contracts, mortgages and guarantees, including issuing default notices and providing time for these to be remedied. On 5 August 2011, the Assistant Treasurer released an Exposure Draft of the National Consumer Credit Protection Amendment (Enhancements) Bill 2011. This Bill provides for the enhancement of the National Credit Code, including amending the provisions concerning enforcement of securities to provide that upon default a customer may provide the lending institution with a hardship variation request, which the lending institution must address before proceeding.

The procedure for enforcing a secured debt will also differ depending on the nature of the debtor and the form of secured property.

For land, State and Territory real property laws govern the enforcement of real property mortgages.

If the security sought is against the assets of a company, enforcement will be subject to the requirements imposed upon receivers and controllers by the Corporations Act 2001.

If the security is over personal property, currently, Australia has different laws and registers in each State and Territory which governs processes for enforcement. The Personal Property Securities (PPS) reform, which are contained in the Personal Property Securities Act 2009, brings together the different Commonwealth, State and Territory laws and registers under one national system. Personal Property Securities Service (PPSS) – Insolvency and Trustee Service Australia (ITSA) will assume responsibility for the PPS Register and Customer Contact Centre when the PPS Register commences operation in October 2011.

The steps and procedures followed in enforcing securities will also depend on the terms of the security itself. Many security agreements provide for giving notice or provide other prerequisites for action prior to enforcement.

Legal requirements operate in addition to lending institutions own internal processes which outline the steps and procedures to be followed by their staff prior to enforcing any security.
Sustainability, Environment, Water, Population and Communities
(Question No. 896)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 1 August 2011:

In regard to the recent decision by the department to allow Shell Development (Australia) Pty Ltd to drill the Palta-1 exploration well, approximately 50km west of the Ningaloo Marine Park border:

(1) Why was Shell's proposal to drill the Palta-1 exploration well not assessed at the full level of environmental assessment.

(2) What is considered a reasonable buffer to the United Nations Educational, Scientific and Cultural Organization listed World Heritage site.

(3) Is the Minister aware that his decision is being reported in international media such as The Guardian in the United Kingdom.

(4) Was there a full economic assessment of the impacts an oil spill or leak would have on key industries, such as tourism and fishing; if not, when will a full economic assessment of potential impacts of oil spills be included as part of the assessment process.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable Senator's question:

The department assessed this proposal and determined that significant impacts on matters protected under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) were unlikely if the action was undertaken in a 'particular manner'. In this case, the 'particular manner' refers to measures to minimise acoustic impacts to whales arising from seismic testing undertaken as part of the drilling program.

All EPBC Act assessments of offshore drilling proposals consider direct impacts of the proposal as well as potential impacts in the unlikely event of a major, unintended hydrocarbon release. The department thoroughly considered the potential risk of a hydrocarbon spill, including a well blow out.

As a result of the companies’ plans and response measures and the low likelihood of such an event, it was decided that no further federal environment assessment is needed. This decision is consistent with previous decisions made under national environment law for other similar proposals.

Every proposed project differs in nature and extent of potential impacts. Consistent with this, each referral received under the EPBC Act is considered on a case-by-case basis.

The Minister is aware that this project has received international attention.

Potential impacts to the 'the environment' of the Commonwealth marine area including the social, economic and cultural aspects of that environment were considered.

Sustainability, Environment, Water, Population and Communities: Program Funding
(Question No. 917)

Senator Joyce asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 17 August 2011:

In regard to the department's 2011-12 Portfolio Budget Statement, p. 59:

Can an outline be provided of what the spending is for under the line 'Restoring the Balance in the Basin (non capital expenditure).
Was this expenditure included in the figures for the Restoring the Balance in the Basin program provided to the Environment and Communications Legislation Committee in the answer to question no. 82 taken on notice during the 2011-12 Budget estimates hearings.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) This line is the Bill 1 allocation set aside for legal and other program implementation costs that will not be capitalised against any specific water entitlement purchase. These costs include conveyancing costs for individual purchases, general legal advice related to conveyancing, and pricing analysis services.

(2) Yes.

National Water Commission

(Question No. 920)

Senator Joyce asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 17 August 2011:

In regard to the National Water Commission (NWC), can a list be provided of all office locations that the NWC leases or owns, including the following details for each location:

(a) office size;

(b) if leased, annual lease payments and lease cost per square metre;

(c) if leased, the length of the lease, including any options to terminate the lease;

(d) the value of any buildings owned; and

(e) depreciation costs on buildings that are owned.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

The National Water Commission is wholly located in Canberra in one Grade C classified office building.

(a) 1,151 square metres.

(b) annual lease base rental for office accommodation is $495,041 (GST inclusive) which equates to $430.10 (GST inclusive) per square metre.

(c) the lease agreement term expires on 30 June 2014; the lease can be terminated should the lesser fail to maintain the building in a condition fit for use and in compliance with relevant Australian standards.

(d) no buildings are owned by the Commission.

(e) not applicable.

Sustainability, Environment, Water, Population and Communities: Accommodation

(Question No. 923)

Senator Joyce asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 17 August 2011:

Can a list be provided of all office locations that the department leases or owns, including the following details for each location:
office size;
• if leased, annual lease payments and lease cost per square metre;
• if leased, the length of the lease, including any options to terminate the lease;
• the value of any buildings owned; and
• depreciation costs on buildings that are owned.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:

The areas provided in this table are as per the Commonwealth Government Property Framework specifications. Annual lease payments and lease cost per square metre exclude GST.

<table>
<thead>
<tr>
<th>Office</th>
<th>Net lettable area, (m²)</th>
<th>Office area, (m²)</th>
<th>Annual rent</th>
<th>$/m²</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Gorton Building King Edward Terrace Parks</td>
<td>22321.40</td>
<td>20143.00</td>
<td>$8,085,863.40</td>
<td>$370.00</td>
</tr>
<tr>
<td>33 Allara St, Civic, ACT</td>
<td>9123.00</td>
<td>9123.00</td>
<td>$3,777,430.81</td>
<td>$414.06</td>
</tr>
<tr>
<td>13 Keltie St, Woden, ACT</td>
<td>6147.60</td>
<td>6147.60</td>
<td>$2,218,706.46</td>
<td>$360.91</td>
</tr>
<tr>
<td>Cnr Pederson Rd and Fenton Court, Marrara, NT</td>
<td>2209.00</td>
<td>928.00</td>
<td>$872,536.41</td>
<td>$394.99</td>
</tr>
<tr>
<td>203/Mawson, Wild and Harrisson, Channel Highway, Kingston, Tas</td>
<td>5946.00</td>
<td>5041.00</td>
<td>$2,287,136.47</td>
<td>$384.65</td>
</tr>
<tr>
<td>203/Edgar Waite, Channel Highway, Kingston, Tas</td>
<td>776.00</td>
<td>776.00</td>
<td>$195,905.12</td>
<td>$252.46</td>
</tr>
<tr>
<td>St Georges Terrace, Perth, WA</td>
<td>451.00</td>
<td>451.00</td>
<td>$259,324.92</td>
<td>$575.00</td>
</tr>
</tbody>
</table>

Note:
Cost of parking bays are not included in these figures.
Where actual cost per m² for office space is available it has been provided otherwise the average cost per m² for the total net lettable area of the tenancy has been provided.

(c) —

<table>
<thead>
<tr>
<th>Office</th>
<th>Lease start date</th>
<th>Lease end date</th>
<th>Option to terminate</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Gorton Building King Edward Terrace Parks</td>
<td>1 May 2011</td>
<td>1 December 2015</td>
<td>Nil</td>
</tr>
<tr>
<td>33 Allara St, Civic, ACT</td>
<td>15 December 2008</td>
<td>14 December 2013</td>
<td>Nil</td>
</tr>
<tr>
<td>13 Keltie St, Woden, ACT</td>
<td>1 June 2009</td>
<td>30 June 2012</td>
<td>Nil</td>
</tr>
<tr>
<td>Cnr Pederson Rd and Fenton Court, Marrara, NT</td>
<td>24 July 2002</td>
<td>23 July 2012</td>
<td>Nil</td>
</tr>
<tr>
<td>203/Mawson, Wild and Harrisson, Channel Highway, Kingston, Tas</td>
<td>1 July 2004</td>
<td>30 June 2024</td>
<td>Nil</td>
</tr>
<tr>
<td>203/Edgar Waite, Channel Highway, Kingston, Tas</td>
<td>1 July 2007</td>
<td>30 June 2017</td>
<td>Nil</td>
</tr>
<tr>
<td>St Georges Terrace, Perth, WA</td>
<td>1 July 2010</td>
<td>31 December 2015</td>
<td>Nil</td>
</tr>
</tbody>
</table>

(d) This Department does not own any office buildings
(e) Not applicable.
Sustainability, Environment, Water, Population and Communities

(Question No. 925)

Senator Joyce asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 17 August 2011:

Can details be provided on the budgeted expenditure for the following items for each year of the forward estimates:

(a) advertising;
(b) travel and accommodation costs;
(c) hospitality and entertainment costs;
(d) information and communications technology costs;
(e) consultancies;
(f) education and training;
(g) external accounting;
(h) external auditing (not included in accounting costs);
(i) external legal costs; and

(f) costs associated with the membership of organisations.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

The Minister for Sustainability, Environment, Water, Population and Communities has provided the following in response to the honourable Senator's question.

The Department's budgeted expenditure for each year of the forward estimates are not prepared at the level of detail requested by Senator Joyce. The Department prepares budgeted expenditure in the forward estimates based on external reporting standards and accounting policies as per the Charter of Budget Honesty Act 1998.

The major external standards used for budget reporting purposes are the:

Australian Bureau of Statistics' (ABS) accrual Government Finance Statistics (GFS) publication; and
Australian Accounting Standards (AAS).

Under the reporting standards above, a number of the items listed by Senator Joyce are classified and grouped as 'supply of goods and services expense' or 'supplier expense'. This line item for the forward estimates is shown in the 2011-12 Portfolio Budget Statements at Table 3.2.1.

Emergency Short Message Service

(Question No. 1034)

Senator Abetz asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 29 August 2011:

(1) Has the department contracted out the emergency short message service (SMS); if so, what is the cost of the contract. (2) What is the purpose of this emergency service. (3) Under what kinds of emergencies will an SMS be deployed. (4) What is the standard text message sent. (5) What is the anticipated amount of text messages that will be sent.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

1. The Department has contracted the emergency communications service through Telstra as part of the whole of government panel contract arrangement (established and managed by the Department of Finance and Deregulation). The cost for this service is $237,124.80 over three years, which includes a
onetime set up fee and a monthly hosting/access fee. The usage (e.g. sending SMS) is charged at a separate set fee.

2. To ensure continued capability if existing departmental systems become unserviceable or to speed up communications in the time of a continuity incident. This arrangement supports the business continuity and disaster recovery arrangements for the continued availability of critical services and assets, as required by the Australian Government Protective Security Policy Framework (Section 5.11), and outlined in the Australian/New Zealand Standard: Business continuity—Managing disruption-related risk (AS/NZS 5050:2010), and the Australian National Audit Office better practice guide, Business Continuity Management: Building resilience in public sector entities published in June 2009.

3. The service has been obtained to enhance the Department’s capacity to speedily respond to incidents, in particular floods, bushfires and information and communication outages. It provides the Department’s continuity coordination team the ability to contact key personnel and communicate critical information via SMS, voicemail, email, and conference call in a timely way to respond to an emergency. The service also enables prompt communications during other incidents and disruptions that may occur on weekends or after hours and affect the Department’s business and services.

4. The text message vary dependent upon the severity and type of emergency, impact to the departmental staff and services, the people involved and the purpose of the text message. The messaging is configurable by the Department.

5. The amount of text messages depends upon the severity and type of emergency and potential impact to departmental staff and services.

Sustainability, Environment, Water, Population and Communities
(Question No. 1055)

Senator Abetz asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 29 August 2011:

(1) How many Code of Conduct investigations have there been within the Minister’s portfolio for the financial years:

(a) 2010-11; and
(b) 2011-to date.

(2) How many investigations established:

(a) a breach; or
(b) no breach, of the Code of Conduct.

(3) In each case, what provisions of the Code of Conduct were thought to have been breached.

(4) What penalties were applied where the Code of Conduct was broken.

(5) How many investigations are ongoing.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator’s question:

The following statistics include Code of Conduct investigations undertaken within all divisions of the department and the following portfolio agencies:

- Director of National Parks
- The Bureau of Meteorology
- Great Barrier Reef Marine Park Authority
- National Water Commission
- Sydney Harbour Federation Trust

QUESTIONS ON NOTICE
Murray Darling Basin Authority

The following statistics relate to formal Code of Conduct investigations under the Department's/Agency's section 15(3) procedures. The statistics do not include matters involving a potential breach of the APS Code of Conduct that were resolved without the commencement of a formal investigation process under the Department's/Agency's section 15(3) procedures. These other matters relate to more minor misconduct concerns that are resolved through appropriate administrative mechanisms such as counselling and training.

(1) During 2010–11, twelve Code of Conduct investigations were finalised under the Department's/Agency's section 15(3) procedures. Three of these investigations commenced in 2009–10. For the year 1 July 2011 to date, four Code of Conduct investigations have been finalised under the Department's/Agency's section 15(3) procedures and there are two ongoing investigations.

(2) Of the investigations finalised in 2010–11 and to date in 2011-12, fourteen established a breach and two established no breach.

(3)—

<table>
<thead>
<tr>
<th>Elements of Code of Conduct</th>
<th>Provisions of the Code of Conduct thought to have been breached.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2010 – 2011 Finalised Investigations (number)</td>
</tr>
<tr>
<td>Behave honestly and with integrity in the course of APS employment (s. 13(1))</td>
<td>4</td>
</tr>
<tr>
<td>Act with care and diligence in the course of APS employment (s. 13(2))</td>
<td>4</td>
</tr>
<tr>
<td>When acting in the course of APS employment, treat everyone with respect and courtesy, and without harassment (s. 13(3))</td>
<td>4</td>
</tr>
<tr>
<td>When acting in the course of APS employment, comply with all applicable Australian laws (s. 13(4))</td>
<td>4</td>
</tr>
<tr>
<td>Comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction (s. 13(5))</td>
<td>5</td>
</tr>
<tr>
<td>Maintain appropriate confidentiality about dealings that the employee has with any Minister or Minister's member of staff (s. 13(6))</td>
<td>0</td>
</tr>
<tr>
<td>Disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with APS employment (s. 13(7))</td>
<td>2</td>
</tr>
<tr>
<td>Use Commonwealth resources in a proper manner (s. 13(8))</td>
<td>6</td>
</tr>
</tbody>
</table>
### Elements of Code of Conduct

<table>
<thead>
<tr>
<th>Provisions of the Code of Conduct thought to have been breached.</th>
<th>2010 – 2011 Financial Year Finalised Investigations (number)</th>
<th>2011 – To Date Finalised Investigations (number)</th>
<th>Ongoing Investigations (number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not provide false or misleading information in response to a request for information that is made for official purposes in connection with the employee's APS employment (s. 13(9))</td>
<td>3</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Not make improper use of: inside information, or the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for the employee or for any other person (s. 13(10))</td>
<td>2</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>At all times behave in a way that upholds the APS Values and the integrity and good reputation of the APS (s. 13(11))</td>
<td>7</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>While on duty overseas, at all times behave in a way that upholds the good reputation of Australia (s. 13(12))</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Comply with any other conduct requirement that is prescribed by the regulations (s. 13(13))</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

(4)—

### Type of Outcome

<table>
<thead>
<tr>
<th>What penalties were applied where the Code of Conduct was broken</th>
<th>2010 – 11 Financial Year Finalised Investigations (number)</th>
<th>2011 – To Date Finalised Investigations (number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Termination of employment</td>
<td>2</td>
<td>0</td>
</tr>
<tr>
<td>Reduction in classification</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>Re-assignment of duties</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Reduction in salary</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Deductions from salary by way of a fine</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Reprimand</td>
<td>7</td>
<td>1</td>
</tr>
<tr>
<td>Breach found – officer consulled</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Investigation discontinued because of resignation of employee under investigation</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

(5) There are currently two ongoing investigations into a potential breach of the APS Code of Conduct under the Department's/Agency's section 15(3) procedures.
Northern Territory Communities: Swimming Pools
(Question No. 1086)

Senator Scullion asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 1 September 2011:

1. Are there any agreements, funding or other, between the Federal Government, the Northern Territory Government and/or Northern Territory local government councils or shires relating to swimming pools in Aboriginal communities; if so:
   a. do these agreements specify who is responsible for the capital expense for the construction of swimming pools and who is responsible for the recurrent operational expenses; and
   b. can copies of these agreements be provided.
2. How many schools report on the ‘no school no pool rule’.
3. How many children are refused access to pools due to the ‘no school no pool rule’.
4. For all swimming pools funded through the Federal government, does the Government maintain records of when the pool was opened and when or if it was closed.

Senator Sherry: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

The Department of Regional Australia, Regional Development and Local Government does not have any agreements, funding or other, with the Northern Territory Government and/or Northern Territory local government councils or shires relating to swimming pools in Aboriginal communities.

Regional Australia, Regional Development and Local Government: Staffing
(Question No. 1162)

Senator Abetz asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 13 September 2011:

1. What was the total cost of allowances for government employees or contractors working at sea for the 2010-11 financial year.
2. What is the daily allowance for working at sea.
3. How many days in total were spent at sea in the 2010-11 financial year.

Senator Sherry: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator's question:

The Department of Regional Australia, Regional Development and Local Government has no contractors or employees who are paid a working at sea allowance.