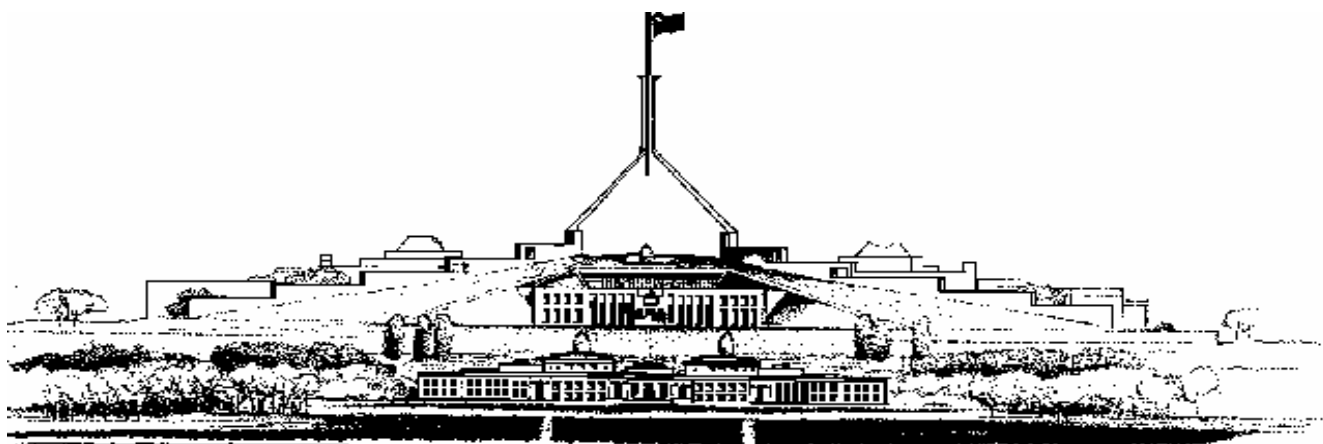




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



Senate

Official Hansard

No. 2, 2011

Wednesday, 2 March 2011

**FORTY-THIRD PARLIAMENT
FIRST SESSION—SECOND PERIOD**

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SITTING DAYS—2011

Month	Date
February	8, 9, 10, 28
March	1, 2, 3, 21, 22, 23, 24
May	10, 11, 12
June	14, 15, 16, 20, 21, 22, 23
July	4, 5, 6, 7
August	16, 17, 18, 22, 23, 24, 25
September	12, 13, 14, 15, 19, 20, 21, 22
October	11, 12, 13, 31
November	1, 2, 3, 21, 22, 23, 24

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**FORTY-THIRD PARLIAMENT
FIRST SESSION—SECOND PERIOD**

Governor-General

Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

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Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson

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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

Leader of the Family First Party—Senator Steve Fielding

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Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley

Chief Opposition Whip—Senator Stephen Shane Parry

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

Family First Party Whip—Senator Steve Fielding

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Senator	State or Territory	Term expires	Party
Abetz, Hon. Eric	TAS	30.6.2011	LP
Adams, Judith Anne	WA	30.6.2011	LP
Arbib, Hon. Mark Victor	NSW	30.6.2014	ALP
Back, Christopher John ⁽³⁾	WA	30.6.2011	LP
Barnett, Guy	TAS	30.6.2011	LP
Bernardi, Cory	SA	30.6.2014	LP
Bilyk, Catryna Louise	TAS	30.6.2014	ALP
Birmingham, Simon John	SA	30.6.2014	LP
Bishop, Thomas Mark	WA	30.6.2014	ALP
Boswell, Hon. Ronald Leslie Doyle	QLD	30.6.2014	NATS
Boyce, Suzanne Kay	QLD	30.6.2014	LP
Brandis, Hon. George Henry SC	QLD	30.6.2011	LP
Brown, Carol Louise	TAS	30.6.2014	ALP
Brown, Robert James	TAS	30.6.2014	AG
Bushby, David Christopher	TAS	30.6.2014	LP
Cameron, Douglas Niven	NSW	30.6.2014	ALP
Carr, Hon. Kim John	VIC	30.6.2011	ALP
Cash, Michaelia Clare	WA	30.6.2014	LP
Colbeck, Hon. Richard Mansell	TAS	30.6.2014	LP
Collins, Jacinta Mary Ann	VIC	30.6.2014	ALP
Conroy, Hon. Stephen Michael	VIC	30.6.2011	ALP
Coonan, Hon. Helen Lloyd	NSW	30.6.2014	LP
Cormann, Mathias Hubert Paul ⁽²⁾	WA	30.6.2011	LP
Crossin, Patricia Margaret ⁽⁴⁾	NT		ALP
Eggleston, Alan	WA	30.6.2014	LP
Evans, Hon. Christopher Vaughan	WA	30.6.2011	ALP
Farrell, Donald Edward	SA	30.6.2014	ALP
Faulkner, Hon. John Philip	NSW	30.6.2011	ALP
Feeney, David Ian	VIC	30.6.2014	ALP
Ferguson, Hon. Alan Baird	SA	30.6.2011	LP
Fielding, Steve	VIC	30.6.2011	FF
Fierravanti-Wells, Concetta Anna	NSW	30.6.2011	LP
Fifield, Mitchell Peter	VIC	30.6.2014	LP
Fisher, Mary Jo ⁽¹⁾	SA	30.6.2011	LP
Forshaw, Michael George	NSW	30.6.2011	ALP
Furner, Mark Lionel	QLD	30.6.2014	ALP
Hanson-Young, Sarah Coral	SA	30.6.2014	AG
Heffernan, Hon. William Daniel	NSW	30.6.2011	LP
Hogg, Hon. John Joseph	QLD	30.6.2014	ALP
Humphries, Gary John Joseph ⁽⁴⁾	ACT		LP
Hurley, Annette Kay	SA	30.6.2011	ALP
Hutchins, Stephen Patrick	NSW	30.6.2011	ALP
Johnston, Hon. David Albert Lloyd	WA	30.6.2014	LP
Joyce, Barnaby Thomas Gerard	QLD	30.6.2011	NATS
Kroger, Helen	VIC	30.6.2014	LP
Ludlam, Scott	WA	30.6.2014	AG
Ludwig, Hon. Joseph William	QLD	30.6.2011	ALP
Lundy, Kate Alexandra ⁽⁴⁾	ACT		ALP
Macdonald, Hon. Ian Douglas	QLD	30.6.2014	LP

Senator	State or Territory	Term expires	Party
McEwen, Anne	SA	30.6.2011	ALP
McGauran, Julian John James	VIC	30.6.2011	LP
McLucas, Hon. Jan Elizabeth	QLD	30.6.2011	ALP
Marshall, Gavin Mark	VIC	30.6.2014	ALP
Mason, Hon. Brett John	QLD	30.6.2011	LP
Milne, Christine Anne	TAS	30.6.2011	AG
Minchin, Hon. Nicholas Hugh	SA	30.6.2011	LP
Moore, Claire Mary	QLD	30.6.2014	ALP
Nash, Fiona Joy	NSW	30.6.2011	NATS
O'Brien, Kerry Williams Kelso	TAS	30.6.2011	ALP
Parry, Stephen Shane	TAS	30.6.2011	LP
Payne, Marise Ann	NSW	30.6.2014	LP
Polley, Helen Beatrice	TAS	30.6.2011	ALP
Pratt, Louise Clare	WA	30.6.2014	ALP
Ronaldson, Hon. Michael	VIC	30.6.2011	LP
Ryan, Scott Michael	VIC	30.6.2014	LP
Scullion, Hon. Nigel Gregory ⁽⁴⁾	NT		CLP
Sherry, Hon. Nicholas John	TAS	30.6.2014	ALP
Siewert, Rachel Mary	WA	30.6.2011	AG
Stephens, Hon. Ursula Mary	NSW	30.6.2014	ALP
Sterle, Glenn	WA	30.6.2011	ALP
Troeth, Hon. Judith Mary	VIC	30.6.2011	LP
Trood, Russell Brunell	QLD	30.6.2011	LP
Williams, John Reginald	NSW	30.6.2014	NATS
Wong, Hon. Penelope Ying Yen	SA	30.6.2014	ALP
Wortley, Dana Johanna	SA	30.6.2011	ALP
Xenophon, Nicholas	SA	30.6.2014	IND

- (1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.
(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

PARTY ABBREVIATIONS

AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party;
FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

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

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

[The above ministers constitute the cabinet]

GILLARD MINISTRY—*continued*

Minister for the Arts	Hon. Simon Crean MP
Minister for Social Inclusion	Hon. Tanya Plibersek MP
Minister for Privacy and Freedom of Information	Hon. Brendan O'Connor MP
Minister for Sport	Senator Hon. Mark Arbib
Special Minister of State for the Public Service and Integrity	Hon. Gary Gray AO, MP
Assistant Treasurer and Minister for Financial Services and Superannuation	Hon. Bill Shorten MP
Minister for Employment Participation and Childcare	Hon. Kate Ellis MP
Minister for Indigenous Employment and Economic Development	Senator Hon. Mark Arbib
Minister for Veterans' Affairs and Minister for Defence Science and Personnel	Hon. Warren Snowdon MP
Minister for Defence Materiel	Hon. Jason Clare MP
Minister for Indigenous Health	Hon. Warren Snowdon MP
Minister for Mental Health and Ageing	Hon. Mark Butler MP
Minister for the Status of Women	Hon. Kate Ellis MP
Minister for Social Housing and Homelessness	Senator Hon. Mark Arbib
Special Minister of State	Hon. Gary Gray AO, MP
Minister for Small Business	Senator Hon. Nick Sherry
Minister for Home Affairs and Minister for Justice	Hon. Brendan O'Connor MP
Minister for Human Services	Hon. Tanya Plibersek MP
Cabinet Secretary	Hon. Mark Dreyfus QC, MP
Parliamentary Secretary to the Prime Minister	Senator Hon. Kate Lundy
Parliamentary Secretary to the Treasurer	Hon. David Bradbury MP
Parliamentary Secretary for School Education and Workplace Relations	Senator Hon. Jacinta Collins
Minister Assisting the Prime Minister on Digital Productivity	Senator Hon. Stephen Conroy
Parliamentary Secretary for Trade	Hon. Justine Elliot MP
Parliamentary Secretary for Pacific Island Affairs	Hon. Richard Marles MP
Parliamentary Secretary for Defence	Senator Hon. David Feeney
Parliamentary Secretary for Immigration and Citizenship	Senator Hon. Kate Lundy
Parliamentary Secretary for Infrastructure and Transport and Parliamentary Secretary for Health and Ageing	Hon. Catherine King MP
Parliamentary Secretary for Disabilities and Carers	Senator Hon. Jan McLucas
Parliamentary Secretary for Community Services	Hon. Julie Collins MP
Parliamentary Secretary for Sustainability and Urban Water	Senator Hon. Don Farrell
Minister Assisting on Deregulation and Public Sector Superannuation	Senator Hon. Nick Sherry
Minister Assisting the Attorney-General on Queensland Floods Recovery	Senator Hon. Joe Ludwig
Parliamentary Secretary for Agriculture, Fisheries and Forestry	Hon. Dr Mike Kelly AM, MP
Minister Assisting the Minister for Tourism	Senator Hon. Nick Sherry
Parliamentary Secretary for Climate Change and Energy Efficiency	Hon. Mark Dreyfus QC, MP

SHADOW MINISTRY

Leader of the Opposition	Hon. Tony Abbott MP
Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Shadow Minister for Trade	Hon. Julie Bishop MP
Leader of the Nationals and Shadow Minister for Infrastructure and Transport	Hon. Warren Truss MP
Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations	Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts	Senator Hon. George Brandis SC
Shadow Treasurer	Hon. Joe Hockey MP
Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House	Hon. Christopher Pyne MP
Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals	Senator Hon. Nigel Scullion
Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate	Senator Barnaby Joyce
Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee	Hon. Andrew Robb AO, MP
Shadow Minister for Energy and Resources	Hon. Ian Macfarlane MP
Shadow Minister for Defence	Senator Hon. David Johnston
Shadow Minister for Communications and Broadband	Hon. Malcolm Turnbull MP
Shadow Minister for Health and Ageing	Hon. Peter Dutton MP
Shadow Minister for Families, Housing and Human Services	Hon. Kevin Andrews MP
Shadow Minister for Climate Action, Environment and Heritage	Hon. Greg Hunt MP
Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship	Mr Scott Morrison MP
Shadow Minister for Innovation, Industry and Science	Mrs Sophie Mirabella MP
Shadow Minister for Agriculture and Food Security	Hon. John Cobb MP
Shadow Minister for Small Business, Competition Policy and Consumer Affairs	Hon. Bruce Billson MP

[The above constitute the shadow cabinet]

SHADOW MINISTRY—*continued*

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

SHADOW MINISTRY—*continued*

Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health	Mr Andrew Laming MP
Shadow Parliamentary Secretary for Supporting Families	Senator Cory Bernardi
Shadow Parliamentary Secretary for the Status of Women	Senator Michaelia Cash
Shadow Parliamentary Secretary for Environment	Senator Simon Birmingham
Shadow Parliamentary Secretary for Citizenship and Settlement	Hon. Teresa Gambaro MP
Shadow Parliamentary Secretary for Immigration	Senator Michaelia Cash
Shadow Parliamentary Secretary for Innovation, Industry, and Science	Senator Hon. Richard Colbeck
Shadow Parliamentary Secretary for Fisheries and Forestry	Senator Hon. Richard Colbeck
Shadow Parliamentary Secretary for Small Business and Fair Competition	Senator Scott Ryan

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Wednesday, 2 March 2011

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers and made an acknowledgement of country.

GOVERNOR-GENERAL'S SPEECH

Address-in-Reply

The PRESIDENT (9.31 am)—I inform the Senate that yesterday, accompanied by honourable senators, I presented to the Governor-General the address-in-reply to her speech, on the occasion of the opening of parliament, which was agreed to on 9 February 2011. The Governor-General indicated that she would be pleased to convey the address-in-reply to Her Majesty the Queen.

**TAX LAWS AMENDMENT
(TEMPORARY FLOOD AND
CYCLONE RECONSTRUCTION LEVY)
BILL 2011**

**INCOME TAX RATES AMENDMENT
(TEMPORARY FLOOD AND
CYCLONE RECONSTRUCTION LEVY)
BILL 2011**

Second Reading

Debate resumed from 1 March, on motion by **Senator Farrell**:

That these bills be now read a second time.

Senator NASH (New South Wales) (9.31 am)—I rise this morning to continue my contribution to the debate on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011.

Senator Parry—And a fine contribution it was.

Senator NASH—When I left off I was, I believe, talking about the government's complete inability to manage the economy and

about the waste and mismanagement that we have seen from this government since they came to office. I was discussing the different points of view of the two sides of the chamber. Obviously the government think that there should be a whacking great new tax on the Australian people to pay for assistance to the flood victims. We on this side do not. We believe that, with a budget of over \$350 billion, this government are surely able to find savings measures to allow them to pay for the flood reconstruction. That would seem a fairly simple equation.

People out in the community certainly believe that the government should have gone down the road of finding those savings. When they look at the wasted money, the waste and mismanagement from this government, people quite rightly say, 'Why can't the government find some avenue other than whacking a great tax on us?' Let us just have a look at a few of the cost blow-outs that we have seen from this government. Remember, colleagues and those who are listening out there across this beautiful land, that this is the reason the government do not have the money to help the flood victims. The reason the government do not have the money to help the flood victims is that they have wasted so many Australian taxpayers' dollars already that there is simply no money left.

Let us have a look at a couple of those blow-outs. Everybody would be very well aware of the Building the Education Revolution, BER, program. There was a \$1.7 billion blow-out on those school halls. That figure of \$1.7 billion sounds a little familiar, does it not, colleagues? It sounds familiar because it is awfully close to the \$1.8 billion that the government are trying to tax out of the Australian people. Logically, if the government had not wasted that \$1.7 billion, they would have the money to assist the flood victims. Those on the other side will, I am sure, have a million excuses for that, but it is not good

enough—the Australian people deserve to be treated fairly and they do not deserve to be whacked with another great tax.

Then there was the pink batts disaster. I think the amount that was wasted or mismanaged in that program was around \$2.4 billion. It is no surprise that now, when the government is trying to put another great tax on them, the Australian people are saying, ‘We are not in the slightest bit impressed, Julia Gillard, Prime Minister, that you are going to tax us.’ They understand that this government has simply wasted billions and billions of dollars and that that money could have gone to help the flood victims.

The list of ALP cost blow-outs, waste and mismanagement is endless. I am sure, Senator Parry, that we all remember the computers in schools program. That one blew out by \$1.2 billion.

Senator Parry—Unbelievable.

Senator NASH—It is true—\$1.2 billion.

Government senators interjecting—

Senator NASH—I see my colleagues on the other side of the chamber have woken up. The reason they are interjecting is that they do not like hearing this. They do not like it being on the record—billions after billions wasted and mismanaged. Then, colleagues, we had GroceryWatch. Was that not an absolute stunner of a program? Labor promised ‘practical measures to increase competition and empower consumers’. It was a complete failure and it was abandoned—\$7 million was wasted on a completely misguided idea, all part of this government’s grand plan to make groceries cheaper.

The government are hopeless and it is because they are hopeless that they need to tax the Australian people to help the flood victims. The list goes on—the solar homes program had an \$850 million blow-out and the Green Loans program wasted \$300 million.

They have spent over a billion dollars on consultants since coming to government, probably because they do not have a single decent substantive idea of their own.

Senator Parry—They need consultants on how to break promises.

Senator NASH—They manage to break promises on their own very easily, Senator Parry. Still the list goes on—stimulus advertising, \$50 million wasted; climate change advertising, \$14 million wasted. This next one I am particularly interested in: 150 public servants to administer the emissions trading scheme. Last time I looked, we did not have an emissions trading scheme. The Australian taxpayer paid \$81.9 million to implement an emissions trading scheme which we do not have. That, to me, should ring alarm bells right across this country—\$80 million to administer a program which does not even exist. It is things like this which rile people in the Australian community who are so furious that this government is about to put yet another tax on them to help flood victims. There is not a person across this country who does not want to help flood victims and their communities—not one. Australians object to this government putting another tax on them when their history and track record of waste and mismanagement is there for all to see. If this Labor government had any idea how to manage an economy, they simply would have the money to help flood victims and their communities without putting a massive new tax on the Australian people.

It is interesting to hear the arguments from the other side. It is obvious, from what we have heard so far, that the government do not have any arguments that stack up. Yesterday, I happened to be in the chamber to hear Senator Bilyk’s contribution. She pointed out that the levy will be in place for only 12 months. Please! Who believes the government on that one? With their history of bro-

ken promises and Senator Bilyk saying, 'The levy's going to be in place for only 12 months,' who can believe that? You cannot believe this government. A very good example of why you cannot believe this government is the Prime Minister's backflip on the carbon tax.

Senator Bilyk raised the carbon tax yesterday, so I am really only responding to what she said. Before the last election, this Prime Minister said to the Australian people, 'There will be no carbon tax under a government I lead.' What do we have this week? We have the Prime Minister saying to the Australian people, 'I'm going to give you a carbon tax.' You do not have to be a rocket scientist to realise that that is a complete backflip. The Prime Minister lied to the Australian people. If the Prime Minister wants to give the Australian people a carbon tax, having told them before the last election that there would not be a carbon tax—and many people based their vote on the fact that the Prime Minister said before the last election that there would not be a carbon tax—then Prime Minister Julia Gillard should take that carbon tax to the people at an election before implementing such a tax. That is the only right, proper and fair thing for this Prime Minister to do because so many believed her when she said that there was not going to be a carbon tax.

Treasurer Wayne Swan even said that the coalition saying there was going to be carbon tax was a 'hysterical allegation'. Remember that? The coalition were correct. We were absolutely dead right in questioning the Prime Minister. We were absolutely dead right in saying that she would bring in a carbon tax. Look at what she is trying to do now. She is trying to give this country a carbon tax.

A carbon tax will increase the cost of groceries, for families by around \$300 a year. It

will increase the price of fuel by 6½c a litre and will lead to losses of jobs, sending jobs offshore. The government loves talking about the 'clean energy economy'—the phrase of the moment. We had 'decisive action' last year. I doubt many in the government would be able to explain what they mean by the clean energy economy. They keep talking about jobs from the clean energy economy, but there is no detail. They are not talking about what those jobs will be or where they will be. They are not saying, 'Farmer Joe from over here will have to go over there to do something in IT. That's a clean energy job. That's good.' They simply have not thought it through. Companies like BlueScope Steel have been talking about the enormous impact that a carbon tax will have on their company. We will see entire businesses forced offshore and Australian jobs will be lost. If we let our industries collapse and rely on imports for things like steel—and that could happen—we will be at the mercy of the countries selling us their product. Guess what will happen then? The price will go through the roof.

While this legislation is about the flood levy, I feel it is appropriate to respond to Senator Bilyk's comments yesterday about the carbon tax. You cannot trust this government. When they say that this flood levy will be in place for only 12 months, you simply cannot believe them. I know my good colleague Senator Mason would agree with me entirely.

Senator Mason—I always do.

Senator NASH—Thank you, Senator Mason—I am not sure that is entirely correct, but close. We simply cannot trust this government. It has lied to the Australian people. It said that we are not going to have a carbon tax. How on earth can we believe them when they say that the flood levy will be in place for only 12 months?

Senator McLucas—Because it is in the legislation.

Senator NASH—Ah, because it is in the legislation! The wonderful thing about this place is that we are masters of our own destiny and legislation can be changed. Legislation is often changed, legislation is often amended. While I appreciate your contribution, Senator McLucas, I do not think anyone falls for that furphy either because amending legislation is what we do. I do not think people across the country are going to be comforted by the fact that it says in the legislation that the levy will be in place for only 12 months.

People simply have stopped trusting the Prime Minister and this government—if they ever did—because they know that this government says one thing and does another. They know that the words that come from this government do not translate into action. This government has absolutely no vision for the future. There are no substantive policies, and people out there in the Australian community are waking up to that big time. This assistance for flood victims is a tax that should not be placed on the Australian people—it is as simple as that. The one key thought that the Australian people need to keep in mind is that the only reason this flood tax is even being debated, the only reason that we are discussing it as a mechanism to fund assistance to flood victims, is that this Labor government under Julia Gillard and under Kevin Rudd before her—and who knows who is coming next, maybe Bill Shorten or Greg Combet, maybe Stephen Smith; it could be anyone—has no ability whatsoever to manage the economy. It has no ability to make sure that its finances are in order so that when things like the terrible disasters in Queensland happen they can be funded.

The best way to fund assistance for those people is through a surplus. The best way to fund assistance for those people is to have a government that can manage money, and in this Gillard Labor government the Australian people certainly do not have one of those governments. There is waste, mismanagement of money, broken promises—as we saw from the Prime Minister on the carbon tax—and the Australian people can expect a lot more of those things because leopards do not change their spots and this government is not going to change the fact that it is unable to manage the economy and steer this country to any kind of sustainable future.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (9.46 am)—I am very pleased to join this debate on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011. First of all let us remember the extent of the damage that our country has suffered during the horrible summer of 2011. We have had floods in the South-East Queensland area and right up to Central Queensland, we have had floods in northern New South Wales, we have had floods in Victoria and parts of Tasmania, we have had the horrific fires in Western Australia and we have had Cyclone Yasi in my part of the world. They have been a series of events that have truly shaken the people of Australia, but I want to put on record my belief in the resilience of Australians and their ability to get through the situation that we face.

As we know, Queensland has suffered terribly. There have been enormous personal losses in people's homes and businesses and there have been incredible losses to public infrastructure, particularly in the area from about Rockhampton south and in my region as well. As I indicated to the chamber during

the condolence debate, the psyche of our community has been challenged. There are many Queenslanders who are suffering from trauma. There are many Queenslanders who are particularly hurt. There are many Queenslanders who are grieving the loss of family members. That is the situation we have on the ground in Queensland at the moment. So now is the time for political leadership in this country to be shown. Now is the time to stand together with people whose lives and businesses have been broken. Now is the time for our political leadership to commit to being with Australians who have suffered so much, to be with them in the rebuilding task. And that is what we are seeing from our government. We have a plan to work with families and people whose businesses have been lost to rebuild their lives. We have a plan to work with our fellow Australians—a plan to care, to build and to stand with those who have lost so much.

But what we have seen from those opposite is another example of opposition for opposition's sake, another example of fear-mongering, another example of 'divide with the hope of conquer'. When Australians need personal and emotional support, we have seen those in the Liberal and National parties put their own personal political fortunes ahead of the needs of many Australians. Our government has been responsible in designing the funding of the rebuilding that our communities require. Our government will cut some spending programs and defer some new infrastructure to the value of \$3.8 billion and we will apply a one-off, 12-month levy to those who are earning more than \$50,000 a year and who are resident outside the disaster zones. In my view that is a sensible balance between savings in the federal budget and the broader community sharing the load of the rebuild.

Can I say that the 12-month levy will have a very small impact on family budgets. Peo-

ple who are on \$55,000 will contribute 48c a week to this fund. People on \$80,000 will contribute \$2.88 a week. This is not a large amount of money. The rate that has been set is appropriate to recognise that we all want to be part of sharing the rebuilding load. Even the Premier of Western Australia said that that state wants to help support the people of Queensland. This is about Australia coming together and saying: 'Let's all recognise the hurt and the losses. Let's come together and make our small contribution to the rebuilding effort that is required.' Someone on \$200,000 a year will pay \$24.04 a week, which can be compared to the tax cut that that individual will have had. The cumulative tax cut that that person has had is \$116.35 a week, so they are still ahead. The arguments that the opposition are running, I can only say, are based on a desire to divide the nation.

The opposition has lacked the leadership that our community needs at this time. The opposition has intentionally confused the issues to promote its political cause. Australians have been generous in their contributions to the Premier's disaster recovery fund. It is important to remember—and the opposition has been confusing this issue—that the Premier's disaster recovery fund will be used for the building and replacement of private property but not public infrastructure. The public infrastructure will be funded by government through, as I said, the deferral of infrastructure spending, savings in the federal budget and \$1.8 billion that will be derived from a one-off levy. The opposition has intentionally confused the purpose of each of those two funds in the public's mind.

I want to take this opportunity to thank the many Australians and the many people from around the world who have contributed to the Premier's fund. Those funds will be allocated directly to needy families whose losses have not been covered by personal means—

either through insurance or the capacity to look after the losses themselves. This is a sensible approach. It is a mix of public and government contributions. It indicates that the rebuild in Queensland will be a shared responsibility. It is time for the political leadership of this country to stand with our fellow Queenslanders who are still battling with the disaster rather than continue to see what we get from the opposition.

Senator MASON (Queensland) (9.54 am)—The Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 are ostensibly about introducing a flood levy, but they are actually about compulsive behaviour. I recall learning, when I was growing up, that Walt Disney was driven to wash his hands 30 times every hour. Other people have a strange compulsion to collect old newspapers and some people collect empty beer cans, but this government tops them all: they think they have to impose a new tax every week. They are fiscally compulsive. No matter the issue—alcopops, carbon, minerals or now the floods—Labor breaks into a cold sweat and yells and gibbers, ‘Tax it, tax it, tax it, tax it.’ That is what this government does.

Everyone in this parliament knows that Labor are imposing yet another tax because they cannot spend taxpayers’ money wisely. That is the crux of this tax. It is a double whammy; it is worse than you might think. The federal Labor government have to impose a levy because the Queensland state Labor government is totally incompetent. I know Senator Xenophon has said a lot about insurance and the failure of the state government to take out insurance. That is true and I accept that it has cost Queensland, and now the nation, billions of dollars. But it is far worse: the cumulative debt forecasted in

Queensland state Labor’s own budget papers will be \$83½ billion in 2014-15.

I remember Mr Beazley’s \$96 billion black hole in 1996 and how outraged the coalition and the community were about that. That was \$96 billion with an Australian population of roughly 18 million. The debt for each Australian was roughly \$4,000 per head. In 1996 the coalition was rightly outraged and the community turfed out the Keating government. In Queensland, though, it is far, far worse. We have \$83½ billion in debt projected for 2014-15. What is Queensland’s population? It is about 4½ million people. The debt for each man, woman and child in Queensland will be nearly \$19,000 in 2014-15. That is absolutely outrageous. The irony of this situation is that the federal government, up to its eyeballs in debt, is bailing out a state government drowning in debt—how appropriate for a flood levy.

We know Queensland is a shambles, but let us not let the federal government off the hook. Labor is borrowing \$81 million a week in order to pay the interest on its net debt of \$89½ billion and it is borrowing around \$700 million each and every week—about \$100 million a day—to meet its net interest payments, which will increase to \$102 million a week in 2011-12. As Joe Hockey has pointed out:

It is also worth noting that for 2010/11 the interest paid on Labor created government net debt will be \$4.38bn.

The interest payments on Labor’s debt will be 2½ times the flood levy. If it were not such an incompetent government there would no need for a flood levy but, of course, the government is incompetent. We have to pay off the \$90-plus billion government debt before we even start to reduce interest payments. This all assumes that the terms of trade will remain as they have been

and, as Access Economics has said, that cannot be assured anymore.

Mr Acting Deputy President, remind me on how many occasions, upon leaving office, has the Labor Party left our country in more debt. On how many occasions since leaving office, when it was defeated by the coalition, in all its iterations since 1901 has the Labor Party left our country in more debt? Let me give the Senate a clue. Labor has been defeated on seven occasions since Federation. How many times do you think, out of those seven times that Labor has been defeated, has it left this country in further debt? Do you want to take a guess?

Senator Ronaldson—Four?

Senator MASON—No.

Senator Ronaldson—Five?

Senator MASON—No.

Senator Ronaldson—Six?

Senator MASON—No.

Senator Ronaldson—Not seven!

Senator MASON—All seven, Senator Ronaldson. Every time there is a Labor government it leaves the country in more debt. It has been the same since John Christian Watson in 1903 right through to Paul Keating, and it will be the same this time. The one thing we know about this government is that whoever the leader is—I do not care whether it is Kevin Rudd, Julia Gillard, Bill Shorten or Greg Combet—it will leave this country in more debt because that is the historical legacy of the Australian Labor Party and it has never changed in 110 years. It is a perfect record. Every time there is a Labor government there is further debt.

The Gillard government is heading the same way. You cannot even argue that somehow this is nation building. What were the government's two most recent nation-building attempts? One I recall is the pink batts scheme. What a shambles that was—it

cost billions as well. The Auditor-General said that nearly 30 per cent of 13,800 houses inspected as of March 2010 had problems ranging up to 'serious safety concerns'. That meant that over 300,000 home owners have potentially been left exposed to serious risk in their own homes. What a great scheme! It found that the government was warned about the problems concerning quality, fire, safety, fraud and internal capacity before the commencement of the program, but despite the warnings there were still four deaths, nearly 200 house fires and many, many scams and dodgy installations. It is true, and I accept and I think my colleagues do, that Mr Garrett was not to blame. I do not blame Mr Garrett. Who was calling the shots? Mr Rudd was, from the Lodge. He was to blame for this—parliament's friend—probably the worst Prime Minister since World War II. At least Mr Whitlam—he may have been a fiscal incompetent—believed in something. Mr Rudd believes in nothing, except Mr Rudd.

The second great nation-building program was the Building the Education Revolution. Mr Acting Deputy President, you will recall that. You might recall too, sir, it cost about \$16 billion. The question you want to ask is: how could you spend \$16 billion and have so many people be so unhappy? How could you possibly do that? The government did it—and do you know why there are so many people unhappy? Because the federal government let state governments build school halls for state schools. That was the grotesque and expensive failure of this government. Sure, some people liked it. My old friend Senator Carr loved it. He loves the state planning, and the old Stalinism was also apparently attractive—he loves all that. But what happened? In the end those poor schools that wanted a library got a gymnasium and those that wanted a gymnasium got a library.

Senator Parry—Or a tuckshop.

Senator MASON—Or a tuckshop that was overpriced. What did the Auditor-General find? The Auditor-General found that the Commonwealth government, in particular the Department of Education, Employment and Workplace Relations, did not have sufficient oversight mechanisms to ensure that the Commonwealth knew that state governments were getting value for money when they were building state schools. They did not have sufficient oversight mechanisms. The result of that has cost this country billions and billions of dollars. Do not believe me; believe Mr Orgill. What did he say in his report? Look at the government's own data in the Orgill report. Take the states of New South Wales, Victoria and Queensland. If state schools in those three states—the three biggest states with more than 70 per cent of schools—were built as efficiently as independent and Catholic schools in those three states, billions would have been saved. If government schools were built with the same efficiency as independent schools, the government would have saved \$2.6 billion. If state schools in Queensland, Victoria and New South Wales were built with the same efficiency as Catholic schools, the Commonwealth government would have saved \$1.5 billion and there would be no need for a flood levy. There would be no need for a flood levy if the Commonwealth government had built those schools with the efficiency of independent schools or Catholic schools.

I am told, 'Brett, you are too negative. The government is doing great things—don't worry, Senator Conroy has it all under control. The NBN is going to sort it out. That's going to be the great new infrastructure project.' Senator Conroy is the great white hope but the problem is that the NBN is likely to be the great white elephant. As the debate in this chamber has so often asked, has the NBN passed a cost-benefit analysis? No, it has not. There is still no cost-benefit analy-

sis. How much is it going to cost? All up, about \$43 billion to \$46 billion, with a Commonwealth contribution of around \$23 billion. There is no cost-benefit analysis even for the expenditure of that much money. Then again, pink batts and the BER would not have passed a cost-benefit analysis either, would they? The irony is that Telstra goes off to Hong Kong and builds a wireless scheme there that is doing extremely well, and in Australia six times as many people are accessing broadband through the wireless scheme as through direct connectivity.

Taking all this levy issue it is a disgrace that the closest the federal government came to seemingly sharing the community spirit—Senator McLucas was right, the great community spirit—was their very crude and jarring appropriation of the word 'mateship'. They appropriated the word mateship, the use of an iconic Australian term, to spin the imposition of yet another tax. Imagine using the words 'mate' and 'mateship' to spin the imposition of yet another tax—yet that is what this government has done. Perhaps if the government had properly managed the pink batts disaster and the school halls program fiasco, there would not be any need for this confection of mateship from the federal government. Real mates help each other; they do not tax each other. The government should be building levees, not imposing levies. Let us call this for what it is—it is not a mateship levy; it is a financial mismanagement levy. What people are paying for is not the damage wrought by the flood but the damage that Julia Gillard's government has done to our nation's economy. That, plain and simple, is the reason for this levy.

Senator HURLEY (South Australia) (10.09 am)—The temporary flood and cyclone reconstruction legislation allows for the rebuilding of communities, so life can return to normal as soon as possible. Many lives have been greatly affected by these aw-

ful disasters in Queensland, Victoria and Western Australia. It was a devastating summer of disaster which has compelled all Australians to support those affected in many ways. I acknowledge all Australians who have provided cash donations, Shoe Boxes of Love contributions and physical labour or have simply given compassionate love and support. All Australians, including, I know, many in my home state of South Australia, sat and watched what happened with deep sympathy and concern, and felt compelled to give support in any manner possible. Unfortunately the disaster claimed the lives of some Australians and caused utter destruction in many affected areas. The lives of the affected are not going to return to a routine of normality when so much around them is destroyed.

This temporary flood levy is getting lives back on track, getting communities back on their feet and getting vital infrastructure back in place for affected communities. It is estimated that the cost of rebuilding is around \$5.6 billion, and the levy will contribute approximately \$1.8 billion. The levy will meet 75 per cent of rebuilding costs within the Natural Disaster Relief and Recovery Arrangements. This will rebuild essential infrastructure such as roads, bridges, rail lines, hospitals and schools. This is infrastructure that the affected communities need. Sometimes in our history the government has had to ask the Australian people for financial support, and that is what this levy will do. Levies have been implemented in the past and the government has seen fit to introduce this levy at this time in order to restore the vital infrastructure that has been lost.

This levy will be on a temporary basis, in effect for the 2011-12 financial year only. Nevertheless, the Gillard Labor government has ensured that low-income earners will not have to pay. The levy applies to 0.5 per cent of taxable income in excess of \$50,000 per

annum and one per cent of taxable income for earners of \$100,000 or more. For example, an income earner on \$60,000 will contribute 96c per week, and someone who earns \$80,000 will contribute \$2.88 per week. These are modest costs that will only be in place for the one financial year. The levy is very simple in its application, as the levy payments are made through regular pay arrangements, the same as payments are made for the Medicare levy. The Gillard Labor government has also ensured that the people who have been affected by the floods will not have to contribute to the cost of recovery. Recipients of the Australian Government Disaster Recovery Payment, the people who have been affected by the floods and fires, therefore will not be asked to contribute to the flood levy.

The advantage of a temporary levy is that it avoids cutting or delaying government spending that is vital to Australia's interests. For one financial year the levy does the right thing for affected individuals and families. It seeks a minimal weekly payment from income earners, with payments often less than the price of a cup of coffee. Australians understand this, and accept that this is only for one financial year. They saw the damage done to their fellow Australians and feel it is a necessary levy that does not unnecessarily stop or delay other programs that the government has implemented or is seeking to implement.

This temporary and modest levy should be supported by the Senate, as the levy will not only rebuild the communities affected but also not delay other essential infrastructure investments. Deferrals in infrastructure spending such as the opposition propose will only result in further restraint on productivity and increasing future costs, and it is vitally important that Australia continue to build productivity and continue with its infrastructure spending. Productivity and spending on

infrastructure and education declined during the Howard government. That had adverse results for this country and will continue to have adverse results for this country unless this government continues with its rebuilding program. We cannot rebuild without the necessary expenditure and that should not be delayed.

A responsible response to the recent disasters is to implement a temporary levy to rebuild the community infrastructure that was lost, get the communities back on their feet and not burden the nation, preventing it from moving ahead. Not only would the opposition delay investments to national infrastructure; they would also cut spending in international aid—aid that is in our national interest and that stops radicals getting into schools in Indonesia and determining curriculum. This aid provides Indonesian children with a real education, not a radical ideology.

The Gillard Labor government has already sought where cuts can be made and has made those cuts. As a South Australian I support this levy because, in South Australia, we understand the devastation and understand that the lives of Queenslanders, Victorians and Western Australians should return to normal as soon as possible. South Australians understand that without vital infrastructure, such as roads, rails, schools and hospitals, lives cannot return to normal and that the temporary flood levy would help achieve a return to normality. It is very important in Western Australia and Victoria that community infrastructure be returned. But so much of Queensland was affected by these disasters that we face the real prospect that Queensland will suffer another devastating check to its economic growth. This must not be allowed to happen. The federal government understands that its assistance is required in this instance.

Queensland was already suffering from some checks to its economic growth, partly

just through a natural phase of the cycle but also through the effect that the strong Australian dollar had on its tourism industry and other industries. Queensland was just beginning to recover and fight back from that, as well as continuing to build its own state infrastructure to cope with the increasing population and the increasing number of businesses.

Not only is it in the interests of Queensland as a state but it is also in our own interests as a nation that every state in Australia is on a strong economic trajectory. We are not certain that we have recovered from the global financial crisis. There may well be a tail end to that crisis and, if so, it is important that every region of Australia is in the best possible situation to withstand that. The government understands that getting aid into Queensland in the short term is very important. We must get Queensland back on its feet in the shortest time possible.

Despite that and despite understanding that all of Australia should contribute to this recovery, South Australians were alarmed to hear Tony Abbott propose, as part of his budget cuts—which were suggested instead of a levy—a \$600 million deferral of water buybacks in the Murray-Darling Basin. We have heard from the opposition some scepticism that the levy may not last for only a year. I think there is some scepticism in South Australia that Tony Abbott's deferral of water buybacks may well turn into a permanent position. Many South Australians remain unconvinced of the Liberal Party's determination to fix problems in the Murray-Darling water basin. I think that sentiment was reflected in the vote in South Australia at the last federal election.

Tony Abbott's proposal will, once again, delay action on the Murray River. My understanding, from talking to fellow South Australians, is that they would much prefer a

temporary levy to help the affected communities get back on their feet, without taking such actions which cause us to not only stand still but go backwards again. The concern about the opposition's proposals is that they would, once again, be taking Australia backwards in terms of productivity, innovation and spending on infrastructure. That is the reason I urge the Senate to support these very important bills.

Senator ABETZ (Tasmania) (10.20 am)—The coalition fully supports the government in providing federal assistance to the large task of rebuilding our nation after recent natural calamities. Rebuilding is a task to which we are all committed. The government has estimated the bill that the Commonwealth faces at \$5.6 billion—that is, \$5,600 million—a large sum in anybody's language.

We cannot and do not seek to question the need or the quantum. Indeed, the need is huge; the task is overwhelming. As Australians all, we are committed to the rebuild. The question before us is: how will we fund the task? That is the only issue in dispute. The coalition believes that there are other sources to fund the rebuild rather than by inflicting a new and further tax on the long-suffering people of Australia.

We believe that a reallocation of priorities should and could fund the reconstruction effort. Labor has agreed to junk many of its disastrous policy thought bubbles, such as cash for clunkers. The simple fact is that with sound, judicious economic management this tax would not be necessary. This tax, designed to raise \$1.8 billion—that is, \$1,800 million—through the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011, could have been obviated if Aus-

tralian were spared, for example, the pink batts debacle, with its blow-out of over \$1,000 million, or if the Australian people were spared the disastrous border protection debacle, which has seen that budget blow out by over \$1,000 million as well, or Labor's green loans scandal, which has seen a blow-out in its budget of a mere \$850 million, and the list goes on. We could talk about Fuelwatch and about GroceryWatch, and the list goes on and on, with this government wasting money dollar after dollar, thousands of dollars, millions of dollars—indeed, thousands of millions of dollars after thousands of millions of dollars.

The best fund for disaster reconstruction is what we as a coalition had when we lost office—that is, a budget surplus. That was our policy in government and it remains our policy in opposition. But Labor frittered it away with their cash splashes and policy debacles that make the Whitlam era now look quite responsible. But why a special tax to fund reconstruction? Why did Labor not go to the Australian people and say, 'We had a \$1,000 million blow-out in our pink batts scheme and we therefore need a levy to make up that hole in our budget,' or, 'Our border protection policy is such a disaster it has blown out by over \$1 billion and we now need a special levy'? Why did Labor not do that? Because they saw the politics of it and they made a judgment that here was an opportunity to raise a tax. Labor see a situation, see an opportunity and, with Pavlovian-like instinct, they start salivating at the prospect of another tax. If you mention student services, Labor think tax; mention carbon, Labor think tax; mention resources, Labor think tax; mention LPG, Labor think tax; and mention a disaster, Labor think tax. Labor will think tax even in circumstances where they have solemnly promised otherwise.

Labor went to the last election specifically promising to lower the tax burden for every

Australian business. Labor promised no carbon tax to consumers, but now what are they doing? They are introducing a carbon tax, and on carbon tax Labor have had all the positions. It was the 'greatest moral challenge of our time.' Then, Ms Gillard oversaw its unceremonious dumping. She then claimed credit for it and said no carbon tax under her government, which we now know was simply a deception to win the last election. A tax that was no good in August 2010 is now allegedly fundamental to our economic wellbeing six months later. Ms Gillard and Labor have had more political outfits on this than Barbie has dresses.

The simple fact is that tax is in Labor's DNA—the bigger, the better—and a quick \$1.8 billion tax dreamt up overnight on the back of a national disaster exposes their thinking. In my home state of Tasmania it will rip a minimum of \$25 million out of our small economy. That is \$25 million worth of fewer jobs, less economic activity and less income for small businesses, and that in a state that suffers the double whammy of a Labor-Green state government as well as a Labor-Green federal government. No wonder we suffer the highest unemployment, with a six in front of the unemployment figure, in Tasmania. Labor then tells us that taxes are somehow good for jobs. If that logic were right, one assumes that you could gain full employment in the nation simply by taxation measures. I do not think so. The simple fact is that taxes do cost jobs, and that is why we in the coalition stand very proud of our record as saying that, whilst taxes are necessary, they should be minimised.

In recent times mention has been made of a Newspann on this issue of the flood tax, and with great respect to Newspann I think that their introductory sentence to that poll was such that it weighted the answers in a particular way. More interestingly, a more robust poll of 1,000 Tasmanians, 200 in each

electorate, has been held in my home state of Tasmania. That poll showed that Tasmanians are strongly against this tax. Tasmanians are and are known as a very generous people, but just as they are generous they are also discerning. They reject this tax, like the coalition, because it is seen as unnecessary and another example of Labor mismanagement and waste. In that poll the Tasmanian people were given the opportunity of indicating their support for the tax proposed by Labor or the coalition alternative, and 48 per cent of Tasmanians supported the coalition alternative to 40 per cent for Labor's alternative. Interestingly, in the marginal seat of Braddon, 55 per cent of Tasmanians supported the coalition policy in this area. So I completely reject the assertion made by the Labor government that if you somehow oppose this tax you oppose the reconstruction that is required by our country and that somehow generosity is not within your soul and spirit.

Indeed you can make that sort of political jibe across the chamber to the coalition and think you can get away with it, but when the Australian people and the Tasmanian people have spoken so emphatically in a poll rejecting this new tax, I would defy Labor to go back into the marginal seat of Braddon—just as one example—and say that the people of Braddon are mean-spirited. I say to you that the people of Braddon, like the coalition, are discerning and do understand the adverse impact of this legislation and this unnecessary new tax.

I will also reflect briefly on the impact that this bill is going to have on charitable giving. Australians opened not only their hearts but also their wallets in relation to this natural disaster. They have now given well over \$10 per man, woman and child. These same people are now being told, 'No matter that you gave, no matter that you gave generously, no matter that you gave voluntarily, we will

now from on high from Canberra, by a Labor government, tax you as well.'

Any future charitable fundraising for disasters will now be inhibited because people will rightly wait to see if a tax will be imposed upon them. In this cynical Labor manoeuvre, always seeing an opportunity for a new tax, rushing in, they forgot to ask the fundamental question: what will this do in the future for charitable giving? What Labor has done, I fear, is poison the well of charitable giving in this country. The Australian people are well known for their generosity and they have given in excess of around \$220 million to the victims of the natural disasters, and now they are going to be taxed.

So in the future when there is a fire or when there is a flood and the Salvation Army, the Red Cross or a Premier has a public appeal and says, 'Please give generously,' people will quite rightly, as a result of Labor's actions here in this parliament, say: 'No, I'm not going to give. My household budget might allow me to, let's say, give \$100 to the appeal, but if Labor is going to tax that \$100 off me anyway, then I am not going to give to the charity; I will wait for the tax to be imposed.' I say to Labor and the crossbenchers, even at this late stage: think very carefully about this tax in these circumstances.

We have also had the nonsense put to us time and time again that the coalition introduced levies in relation to certain circumstances. Yes, we did. What were the circumstances? When we came to government, Labor likes to overlook the fact that we had to plug a huge budget deficit and repay \$93 billion worth of government debt. The budget and our economy were in a mess. It took us year after year to pay off that debt, and we had a budget plan and a strategy designed to make sure that the budget went into

surplus and would continue in surplus. So, when we had disasters such as that at Port Arthur in my home state, we did impose a gun levy, but that was in circumstances where the government coffers were already stretched.

I also make the point that there were no charitable organisations like the Salvation Army, the Australian Red Cross or other organisations saying, 'Give generously to the appeal to buy back guns.' Nor when we were confronted with the East Timor situation was there a charitable organisation saying, 'Give generously to the East Timor fund,' as there is with this natural disaster. Indeed, with the East Timor levy, because we were managing the budget so well, whilst we passed the levy into law, we never had to collect the moneys because the economic good times that we had planned in fact overtook the need for that.

Similarly, people can talk about a dairy levy or a sugar levy. There were no charitable organisations asking to give generously to dairy farmers or sugar farmers. This particular situation that we are debating today is in a completely different realm because the charitable sector had moved in so quickly, so efficiently, to try to assist. But Labor, through its deliberate tax grab here, has now, I fear, poisoned the well.

The best method of ensuring that you have a natural disaster fund is to have a budget surplus. There is the old saying—and it is now very true, given the events of Queensland—that any prudent management sets aside money for the proverbial rainy day. Queensland had a rainy day and another day and another day—many days of rain—but had they set aside money? No. It seems now that the Queensland state government made a deliberate choice not to insure. Should the people of Queensland suffer as a result of that? Absolutely not. But should the Queen-

sland government be brought to account for noninsurance? Absolutely yes.

Ms Bligh, while she fronted the cameras very well during the disaster—and I have already said publicly in this place that Ms Bligh performed exceptionally well—might now like to front those cameras yet again and explain to the Queensland people why she did not get insurance for her state like Western Australia, New South Wales and Victoria have. Prudent management requires you to do such things and the fact that we are now debating a new tax, on top of all the other taxes Labor wants to inflict on us, is an example of both state and federal Labor mismanaging their budgets and mismanaging taxpayers' money. As a result, they want to inflict greater pain.

I repeat again that the coalition fully supports the huge task that faces this nation in rebuilding after the natural disasters. There is no question from our side that it needs to be done, that it should be done quickly and that moneys should be made available. But when you see the record of this government with the pink batts and border protection—each blowing out their individual budgets by over \$1 billion—when you see the green loans scandal costing us \$850 million, when you see a couple of tens of millions of dollars wasted on Fuelwatch and GroceryChoice, when you see the waste that continually comes from this government, you ask, 'Could the budget be reprioritised to avoid this tax?' We as a coalition emphatically say yes. The funds and the budget can be redistributed. Indeed Mr Hockey and Mr Robb have indicated to the Australian people how that could be done to save the \$1.8 billion and, as a result, obviate the need for this tax.

It is very interesting that in the last few days we are seeing how the Greens are driving this government. On the day that \$1.8 billion was absolutely essential in relation to

the funding of the huge task that we have, the Greens were able to come along and demand a couple of hundred million dollars for this and Mr Wilkie from Denison was able to demand tens of millions of dollars for something else, and all of a sudden we ask, 'Are we going to increase the levy as a result?' No, it is not necessary. So one wonders where that extra money is going to come from. To sum up, we in the coalition fully support the reconstruction effort. The money is there. The money should be made available without the extra tax burden being inflicted upon the people of Australia.

Senator XENOPHON (South Australia) (10.39 am)—I would like to start my contribution to this debate on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 by reflecting on the impact of the floods and cyclone in Queensland. In human terms they have been devastating. Lives have been lost. Families have been torn apart and communities have been scarred forever. Like so many of us, I have been inspired by the people of Queensland and the way they have come through these incredible disasters. Let me be clear on this: we must find the funds to help Queensland rebuild. We must give Queenslanders everything they need to rebuild their lives and their communities.

Some politicians in Queensland have opportunistically tried to make out that I have some beef with Queensland. I do not. I have great affection for Queensland and its people. My beef, for want of a better term, is with the Queensland government, which gambled with billions of dollars of our money and lost. The first thing we need to ask ourselves is: why do we need to have a levy in the first place? It is quite clear that one of the key reasons this levy is being sought by the government is that Queensland

failed to take out natural disaster insurance. Under the current natural disaster relief and recovery arrangements the federal government is obliged to pay 75 per cent of the costs of rebuilding infrastructure after a disaster and the state or territory picks up the remaining 25 per cent. The problem is that, unlike Western Australia, Victoria, New South Wales, South Australia and the ACT, Queensland decided to save money and not take out insurance. That is the only reason the federal government has to find \$5.8 billion.

Queensland claims to be self-insured. It is not. If it were, it would not need \$5.8 billion from federal taxpayers. There is another term for Queensland's so-called self-insurance; it is called not having insurance. It is claimed that Queensland currently has a fund of around \$700 million, which is well short of the almost \$8 billion it would require if it were not for the federal government's funding of \$5.8 billion, leaving Queensland to fund \$2 billion given the current federal-state relief arrangements, which split a recovery bill 75 per cent and 25 per cent respectively. The problem with the current arrangements is that the 75-25 split applies regardless of whether a state has insurance or not.

Victoria also got flooded, but because it has insurance the cost to the federal taxpayer will be a fraction of what it would have been had the Victorian government not sensibly taken our disaster coverage. It is a point that is not lost on Victorian Premier Ted Baillieu. It is interesting to note that the Victorian Managed Insurance Authority has a level of transparency and accountability far superior to similar bodies in states such as Queensland. It is also interesting to note that the Victorian Premier, Ted Baillieu, was reported in the media just yesterday as saying, 'This is something that we all have to pay for. It is something that needs to be sorted out.'

You only need to look at the annual reports of the various state insurance authorities to see the difference in levels of transparency and how little transparency there is with the Queensland fund. Last week Premier Bligh claimed on ABC TV's *Q&A* program that disaster insurance was not available for Queensland. It is a strange thing to say given that insurance was available to Queensland. A decade ago it was offered multibillion dollar disaster insurance for infrastructure, including roads, for two events per year. The cost for that was less than \$50 million a year. They had senior officials working on this, including Queensland Under Treasurer Gerard Bradley. They sent officials overseas to negotiate with global reinsurers, as I understand it. Then at the eleventh hour the decision was made not to take out the policy so the Queensland government could save \$50 million a year, knowing that the federal government under current arrangements would pick up the bulk of any multibillion-dollar bill.

I mention Mr Bradley in particular because he recently gave evidence at the House Standing Committee on Economics inquiry into this levy and his evidence also seems to contradict the known facts in this area. When asked why Queensland did not have insurance, Mr Bradley said:

As I mentioned in my opening comments, the NDRRA is the established mechanism by which the Australian federation manages the risk of catastrophic events. The Queensland government has considered its insurance arrangements in the context of those NDRRA arrangements. We do have in place appropriate insurance through our Queensland Government Insurance Fund, which is a captive insurer.

Also, for infrastructure and other matters that fall outside the parameters of the NDRRA arrangements, for example our major utilities in gas, water and energy and public transport, the authorities who are involved in provision of the infra-

structure do consider their appropriate insurance arrangements.

Mr Bradley went on to say:

Indeed, there are insurances in place for certain assets that have been impacted by the floods but do not qualify for NDRRA arrangements. We have considered the issue of reinsurance for our captive insurer, but at the time that we considered that we did not consider that that represented value for money for the state. It is the case that some other states do have reinsurance arrangements in place. I am advised by them that generally they do not cover road infrastructure. As I have mentioned, 80 per cent of the cost of this natural disaster relates to roads, so the availability and cost of seeking reinsurance for that infrastructure would be a major challenge.

Listening to that, you could be forgiven for thinking that Queensland could not get disaster insurance that covered roads. But in fact they were offered it and rejected it. I have repeatedly challenged the Queensland government in recent days to deny that they were offered this level of insurance, that they were offered significant, substantial insurance in the billions of dollars to cover their assets, including roads, for a premium of less than \$50 million a year.

When pressed about the claim that the insurance did not offer value for money, the Under Treasurer went on to say:

We looked at the case of the Queensland Government Insurance Fund and looked at the availability of reinsurance to cover major events. We sought reinsurance advice from our broking advisers and we did take that to the international insurance industry. But the costing of that and the risk provisions that they proposed did not represent value for money for the state in terms of the deductions for events and the exposures they were willing to cover. They did not, for example, cover natural disaster.

Once again, this testimony seems to be at odds with the information I have received from a number of sources over the insurance dealings of the Queensland government. That

is why I believe we need to look at the insurance arrangements in Queensland. Clearly there is such a large gap between claim and counterclaim that an inquiry is needed to get to the bottom of it.

In due course the Senate will also need to seek the key documents so that we can see what was offered, when and for how much. That is very much in the public interest. It should never be good enough for a state or territory government to say, 'Trust us, we tried to get insurance; now give us billions of dollars.' Had Queensland taken out the policy, the bill faced by the Commonwealth would be a fraction of what it is now. Ultimately, the Queensland government decided to gamble with billions of dollars of Australian taxpayers' money and we all lost.

The Queensland government has argued disaster insurance did not represent good value for money. The question is: for who? It might be cheaper for Queensland to gamble with federal money, but it has left the Australian taxpayers with a repair bill that is billions of dollars more than it needed to be. You also need to ask the question: why is it that private householders and corporations in this country can get disaster insurance on the private market—on the global reinsurance market—for the same sorts of events that the Queensland government could have got insurance for?

Certainly Queensland Treasury gets to save \$50 million a year or a similar amount for a reasonable premium, but now we have a situation where the federal taxpayer has to find 120 times that amount. Think about that—120 times the annual premium to honour the grossly deficient state and federal funding arrangements. When you look into those arrangements, the deal gets even better for uninsured Queensland and a lot worse for those governments that do have disaster insurance like Victoria, New South Wales,

South Australia, Western Australia and the ACT. That is because, under the current GST arrangements, Queensland gets up to 80c in the dollar back of the 25 per cent share they have to pay through increased GST revenue, so state governments that took out insurance lose GST money in order to prop up a state government that did not bother to take out insurance. That compounds the moral hazard. There is a huge moral hazard here when it comes to the issue of taking out insurance, given the current arrangements. There is a positive disincentive, in a sense, for state governments to do the right thing when it comes to insurance.

Some have argued the federal government cannot force the states to take out insurance. I am not suggesting they can. But the federal government can tell the states the consequences of not taking out appropriate insurance. The federal government can withhold federal disaster relief if a state does not take out insurance or it can reduce access to relief if a state or territory underinsures. That is clear, given the grants arrangements under section 96 of the Constitution.

If I support this levy, I want to ensure this is the last disaster levy Australian taxpayers ever need pay, and the federal government should not be expected to reward bad behaviour. I am not suggesting these changes should be retrospective. But I am saying that we should learn from the mistakes of the past—multibillion dollar mistakes. The federal government should never again be signing a multibillion dollar blank cheque to a state or territory that did not do the right thing. We should look after Queensland this time, but we should also have to say, 'If you don't get appropriate cover you can't get federal funds next time.' If it is good enough for Victoria and New South Wales and South Australia and Western Australia and the ACT, it should be good enough for the Queensland government.

I can indicate that, whilst I will support the second reading stage of this bill, I will reserve my position in relation to the third reading, to the final stage of this bill. I will not be supporting this levy unless changes are made to current arrangements so that states are given strong incentives to seek appropriate disaster cover and strong disincentives if they do not.

Senator FIELDING (Victoria—Leader of the Family First Party) (10.51 am)—It has been a very tough start to the year for many Australians as we have been hit with devastating floods, cyclones and bushfires. The loss of human life is tragic and is very hard to accept. Also, the trail of destruction that these natural disasters left behind and the damage caused to people's homes, property, businesses and stock is devastating. Australia has taken a massive hit, including in my own home state of Victoria. In Victoria alone, the losses to the farm sector as a result of the flooding are tipped to reach \$2 billion. This is enormous, and it comes on the back of a decade battling the worst drought and bushfire that the state has ever witnessed. I recently went to visit the northern parts of Victoria to see the flood damage firsthand and to speak to those affected. Places like Echuca, Rochester, Kerang and Horsham all bore the brunt of Mother Nature. As a country it is important that we stand behind our fellow Australians and help rebuild those places that were badly affected. On this issue there should be no debate.

The government has proposed a combination of budget cuts and a means tested flood levy, while the opposition has been calling for deeper spending cuts but has had trouble agreeing on exactly what areas should be cut in the budget. Others have suggested we just extend the number of years the budget will be in deficit. Personally, I am wary about going down a path that extends the number years we are in budget deficit. All sides of

politics acknowledge that we need to get on with the job of rebuilding our devastated communities and I believe that sharing the cost of rebuilding is the best way forward. Australians have a proud history of coming together and helping each other out in tough times, and that is exactly what is needed in this case. I am also pleased that the proposal from the Gillard government does not ask those earning less than \$50,000 to contribute to the levy. That makes sense.

In regard to the discussion about the budget, I believe that the best way to insure against future disasters is to ensure we have future budgets in surplus and, in the longer term, to create a national disaster fund. Given the importance of helping communities to quickly recover, I do not believe we can leave flood, fire and cyclone affected communities hanging in limbo any longer, and we should not let the politics of parliament stand in the way of rebuilding all those communities that have been devastated by natural disasters. I am happy to say that after productive discussions with the Prime Minister, I have negotiated a \$500 million prepayment for Victoria for recovery and reconstruction. This \$500 million in funding is a huge boost for Victoria. Victorians will now be able to get on with the job of rebuilding the state and restoring things to how they used to be. It will give Victorians some peace of mind. It means the recovery can get underway immediately. It will be used for measures such as restoration of essential public assets and infrastructure, personal hardship and distress assistance, concessional interest rate loans for eligible small businesses and primary producers, and clean-up and restoration grants for small businesses, primary producers and not-for-profit organisations.

I have also raised with the government the important broader issue of the Commonwealth creating a national disaster fund. It

makes sense that we learn from these events and make sure we have the appropriate safeguards in place so that we have funds to deal with these issues in the future—funds that could come from such a national disaster fund. I am pleased the government has assured me that it will take steps to examine whether the introduction of a national disaster fund would be appropriate. Family First will be supporting these bills and will continue to work hard to ensure the rebuilding process goes ahead without delay.

Senator WONG (South Australia—Minister for Finance and Deregulation) (10.55 am)—Can I make clear at the outset that I am not summing up for the government yet. I understand Senator Sherry will do that on a later occasion, but I thought it was important that I take the opportunity to speak on these important pieces of legislation, the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and a related bill. I also take the opportunity to thank Senator Fielding for his contribution and for his responsible discussions with the government on this issue.

As the Senate would know, today is the second day of autumn. We saw a summer which was a difficult one for this country, a summer where natural disaster hit many corners of our nation. We saw floods of devastation in Queensland and Victoria, cyclones in Northern Queensland and the northern part of WA, as well as fires in Western Australia. As a nation we have lived through the enormous human tragedy that these disasters have regrettably brought to too many Australian families—people who are dealing with loved ones missing forever, and homes, businesses and livelihoods destroyed. But as Australians we have all risen to the multitude of challenges. We have given generously. We pitched in to help others get through the crisis—sometimes people we know, sometimes people we do not. As has been said by my

colleague Mr Swan, this was demonstrated best by the fact that Queensland was running out of gumboots simply because too many people wanted to help. That is perhaps a great testament to the capacity of Australians to lend a helping hand. There was nothing more inspiring, I believe, than seeing so much of the true Australian community spirit—people, sometimes strangers, saving others, helping people, being prepared to work together to help their community and their neighbours.

We now face the bill for repairing the vital infrastructure. As we watched on our television screens or, for those communities who lived through these crises, as we saw firsthand, we saw the enormous destruction and devastation of so many of our communities and, as importantly, so much of the vital infrastructure which enables not only our economy but our community to continue to operate—the roads, rails, ports and bridges that keep this nation ticking. That is what is of importance as we debate this legislation. The Commonwealth government has an important responsibility to make sure the rebuilding occurs, and we know that ahead of us we have a huge task. In economic terms, the Queensland floods represent one of the most costly natural disasters in our history. My colleague the Treasurer has made clear that the floods are anticipated to take about half a percentage point off growth in the current financial year. That has been echoed in public statements by the Reserve Bank. In the short term, we are also likely to see a reduction in coal exports, crop damage of perhaps around a billion dollars, and a hit to our tourism industry and other industries.

The cost of the rebuild task pre-Cyclone Yasi, the government indicated, was in the order of \$5.6 billion. The government have made clear that we will find the majority of this cost to the federal budget through spending cuts but that the remainder will be pro-

vided by this temporary levy which is before the parliament. The government are taking this approach because we were extremely mindful of the economic and fiscal circumstances the nation faces when we designed this response to this costly set of natural disasters. We are of the view that you have to think not only in the shorter term but also in the medium term. We know that the outlook for the Australian economy continues to be strong. Ours is an economy that is nearing full capacity, and in those circumstances it is economically and fiscally responsible for us to pay as we go.

The Prime Minister announced in late January her package for the rebuild. To meet the rebuild, the government has found cuts in the budget that will contribute around \$2½ billion in saves with more to come in the budget process. We have also sought to delay some \$1 billion of infrastructure projects. This is again a decision driven by a very keen understanding of the economic circumstances in which the nation finds itself. Where you do have a substantial amount of construction and an economy nearing capacity and where capacity constraints in terms of skilled labour and the availability of capital are present, the government has to be mindful of this when putting its reconstruction package together. We believe it is sensible to defer these infrastructure projects to ensure we give ourselves the room, the space and the capacity to do the rebuilding task. In addition, we propose to fund some \$1.8 billion through a progressive levy applicable only to those people earning more than \$50,000 a year and only on the income they earn over that amount.

It is true that Australians have already played their part and have given many dollars to help individuals. These are important and generous donations. They help families and individuals get back on their feet. They are about the short-term task of helping peo-

ple rebuild homes, restart businesses and buy goods to replace those that have been damaged in order to get them through this crisis. This is a very different economic task to the task which is the subject of the legislation before the Senate, because this legislation is about rebuilding essential economic infrastructure—our roads, our rail, our ports. It is a different job. Those on the other side, who I notice have now gone significantly quieter on this issue, who have said it is not a good thing to have a levy to rebuild Queensland because people have already donated money to charities and so forth, are not really being upfront with the Australian people because they know two things: first, that money is for a different purpose and, second, the amount of money we have to find to do this rebuild is some 30 times what has been donated. There has been enormous destruction of infrastructure and that is why the government has announced these plans. That is why we are proposing a modest and progressive levy.

The levy is proposed to apply in 2011-12 for a finite period ending in June 2012. It is a levy proposed to deal with a significant one-off cost to the federal budget and it is a levy that recognises the capacity to pay. As I said, it applies only to people with an income over \$50,000. For those on \$60,000 a year, the levy will mean they pay less than a dollar a week. If you are earning \$80,000 a year, the cost of the levy is less than a cup of coffee a week. The government has also put in place arrangements to ensure that those who were affected by the floods and who receive federal government assistance will not pay this levy. The government is making around \$2 in savings for every dollar raised by the levy. We have made a range of tough decisions, some of which have caused some concern in some sectors. We have made some tough decisions and some tough calls to fund some two-thirds of this rebuild, but we think the right thing to do is to take a fiscally and re-

sponsible approach to what is a national challenge of rebuilding Queensland and other flood affected areas.

It is disappointing in these circumstances, in the face of these disasters, that the opposition is still clinging to its only strategy, which is to oppose everything. It seems that no is the only word that the opposition understands. Even in this time when one would have hoped the national interest would be put ahead of political interest, we see again the opposition putting politics, or its perceived political advantage, ahead of the national interest—their self-interest ahead of the national interest. We saw a remarkable approach where Mr Abbott beat his chest over a number of weeks about how savings were so easy to find but then had to be dragged unwillingly to the point of announcing those savings. What did we get? We got a series of deferrals, a lot of double-counting and a whole range of backflips. Perhaps the most important point to make is that the opposition has double-counted some \$700 million in its savings—\$700 million double-counted by an opposition that asserts that it is fiscally responsible. It has claimed savings that it has previously claimed to fund other spending priorities, so essentially it is trying to count savings and spending it twice. You cannot do that in the federal budget, and no responsible opposition should be putting that forward.

The opposition have also taken an interesting position on foreign aid. We know what Mr Downer thinks of that, but interestingly we also know what Mr Briggs and even Mr Abbott's deputy, Ms Julie Bishop, think of that. There has been much discussion in this place and in the other chamber about the similarity between what the opposition has proposed and some One Nation ideas that were made public. The other aspect of the opposition savings, which I am sure you will not hear Senator Joyce talking about, is that it is quite clear that Mr Truss has been rolled,

because a range of the infrastructure saves that Mr Truss opposed are now being supported by Mr Abbott.

Perhaps the most unseemly aspect of the discussion about the levy and the way to fund the floods was seeing Mr Abbott's emails on this issue in which he sought contributions from Australians to the Liberal Party. At a time when Cyclone Yasi was bearing down and Queenslanders were trying to start the rebuild after the enormous natural disaster, we saw the Leader of the Opposition seeking to use the opportunity to ask people to donate to the Liberal Party. It was really quite an extraordinary act.

The opposition have again said that they are going to oppose this. I think the question the opposition have never answered is why they believe that the levies that they initiated were somehow okay but the levy the government is putting forward to rebuild Queensland is not. Let us remind ourselves of the levies which were initiated under the Howard government: the gun buyback levy, the superannuation surcharge levy, the stevedoring levy, the milk levy, the sugar levy, the Ansett Airlines levy and the proposed East Timor levy. There was also a proposed cleaner fuels levy. And of course Mr Abbott himself during the last election proposed another levy to fund a scheme to see women on high incomes receive their full wage while on leave. So a levy is good enough for Mr Abbott when he wants to buy back guns or help the sugar industry, but it is not good enough to rebuild after the most costly natural disaster that we have seen. The reality is that any analysis of the opposition's position on this issue would show that they put their political interests above the national interests.

As the Prime Minister said, there was a lot of scepticism from commentators when the government first put forward this package.

There were those on the other side who said that no-one would accept it, no-one would ever pay it and it was the wrong thing to do. Over the last weeks what we have seen is the soundness of the argument for the government's package becoming much clearer in people's minds. We are pleased that some of the Independents in the House have seen fit to support this legislation and that this has received good consideration by the cross-benchers in this Senate.

It has been an interesting debate. We have heard a lot of rhetoric and fierce opposition from the coalition senators. I notice that the sting has gone out of that now. But I think the political question which really arises in the context of this debate is on Mr Abbott's fitness to lead the Liberal Party, let alone to put himself forward as the alternative Prime Minister. I am interested to know whether senators on the other side from Queensland are really going to step up and say, 'We oppose a levy to help rebuild our communities. We oppose a levy that is about providing the support necessary to deliver critical infrastructure and to help our fellow Australians.' This has been a summer full of tragedy; it is time for us to work together with those communities who have been so badly affected to rebuild their homes, their communities and their lives. I commend this legislation to the Senate.

Debate (on motion by **Senator Wong**) adjourned.

**TELECOMMUNICATIONS
INTERCEPTION AND INTELLIGENCE
SERVICES LEGISLATION
AMENDMENT BILL 2010**

Second Reading

Debate resumed from 28 February, on motion by **Senator Sherry**:

That this bill be now read a second time.

Senator LUDLAM (Western Australia) (11.11 am)—I will continue with the remarks I was making the other day before we jumped to the tax bill. This bill, the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010, has quite far-reaching consequences in that what it is really doing is extending the mandate of ASIO to allow it to conduct telecommunications intercepts on behalf of other agencies, which I think is actually quite troubling. As I was saying the other day, ASIO operates under fairly strict rules of engagement. Those are necessary. They have evolved over a long time in the post-war period. The reason for that is if we admit that we need clandestine intelligence agencies in Australia then there is immediately a tension between what they do on our behalf with taxpayers' money in order to ostensibly provide for the safety of Australians here and overseas and the need for the promotion of democratic transparency.

As I said the other day, I have met across an estimates table with the Director-General, Mr Irvine, on a number of occasions. He is forced, effectively, by the act that his agency comes under to be politely dismissive of the questions that we put to him about what the agency actually does. We are referred back to the act. We are referred to the fact that there is oversight by the Inspector-General of Intelligence and Security. But the parliament, through estimates committees and the other tools of accountability that we have access to here on behalf of our constituents, are not able to find out very much about what this agency does. There is a degree of opacity, I suppose. The agency and the minister argue that this is necessary and that, by definition, this is how ASIO needs to act and to organise itself—and not just ASIO but the rest of the intelligence community.

There is no greater symptom of this form of thinking than in the freedom of informa-

tion reforms that went through this place late last year. We simply provided blanket immunity from FOI for ASIO and other intelligence and security agencies. So you cannot even request their paperclip inventory under the Freedom of Information Act anymore, because everything is simply shrouded under this mantle of national security. Not even the CIA or British intelligence agencies are immune or completely exempt from freedom of information, but that is the kind of thinking that dominates in Australia. We think these agencies somehow have secrets which are so important that any imposition at all is completely out of order and somehow places our national security in jeopardy.

I note that the budget of ASIO has expanded. While the rest of the Commonwealth Public Service has been on some kind of efficiency drive, ASIO has in fact headed in the other direction. The Parliamentary Library provided us with a good budget review for 2010-11 of ASIO and related intelligence issues and we have seen several years of compounding growth in ASIO in its budget, in its staff and in the extraordinary fortress which is under construction on the shores of the lake. The total budget has risen from \$427 million in 2009-10 to be now approaching around \$717 million. We wait breathlessly to find out what the budget will be in 2011-12.

We have an agency with an important mandate, national security, with a rapidly expanding budget and a rapidly expanding staff that is about to go into its new home. And yet somehow we are meant to simply pass this bill today—and I understand that the opposition will be supporting it here, as they did in the House of Representatives—without any essential justification for why we are so dramatically expanding its mandate. And this expansion takes its out of its area when it is conducting telecommunications intercepts for other agencies.

But there is also the fact that henceforth it is going to be on call. This goes to the nature of the committee stage amendment that I have circulated and that I hope for support for from both sides of the chamber. People from other agencies who have the need for telecommunications intercepts or other forms of investigations are going to be able to use ASIO as effectively—as the Law Council have warned—a kind of mercenary agency. And they will be able to do this whether or not it has anything whatsoever to do with ASIO's responsibilities under their act. That is an extraordinary expansion of ASIO's powers. There is no justification for it. There appears to be a bipartisan consensus to simply let this sail through. We will not have that. The Australian Greens will certainly be voting against this bill, which we have not often done on telecommunications interception matters. This is a step vastly too far.

We need to be very careful before we expand the mandate of clandestine agencies with very sketchy reporting obligations to the people of this country. We need to have good reasons to allow their mandate to expand into mainstream law enforcement—and indeed tax matters, for heaven's sake. That is where this appears to go. I am not sure who the minister representing will be. It may be Senator Wong. I foreshadow now that I have a number of questions that I will be raising in the committee stage about the reasoning behind this bill and about whether our interpretations of how this bill has been drafted are actually correct. Maybe you can disabuse us, if it is you, Senator Wong, of some of our concerns. But we will wait until the committee stage for that.

Amendments to the Telecommunications Interception Act seem to happen fairly frequently. They seem to come through here every couple of weeks, and I am only exaggerating by a little bit. There is a creeping expansion of the ability of Australia's intelli-

gence, security and law enforcement agencies to tap our phones, to read our web traffic and to use all of the tools of surveillance that are used around the world to spy on people, whether in democratic societies or not. The checks and balances that make us different here in Australia, we suppose and hope, are things like reporting obligations. That is the nature of the amendment that I have circulated.

If other agencies are going to be able to call ASIO in well outside its mandated area of expertise as described under its act then at the very least we need to know how many of those kinds of calls were made and how much agency resources are being consumed by that kind of work. These are the nature of the questions that I will be raising in the committee stage. I do not think that we want to create the appearance—and I am sure that this is not the government's intention—of an agency without enough to do. We have just tripled its staffing complement, and we do not want to create the appearance that somehow, despite its very serious mandate around thwarting terrorist events before they occur, for example—which I understand is absolutely front and centre of the work of the agency—folk there have the spare time to take phone calls from other ministers and other departments requesting telecommunications intercepts and other services. Is that really the case? Do these people have that time? If they do, why are we hiring them in the first place? Why this enormous expansion of ASIO's resourcing if they are then going to be sitting around waiting for phone calls from other ministers and other agencies asking for help. That is something that we need to clear up.

We see creeping expansions through amendments to the Telecommunications Interception Act and through the quite feeble response that we saw last year in the package of so-called counter-terrorism reforms,

which effectively leave the architecture of the Howard era terrorism laws entirely in place. There have been some changes made, including some quite important ones, but most of them have been cosmetic or have even made matters worse. And all of this has occurred in the absence of an office that was meant to be established, the National Security Legislation Monitor—and we wanted to have the word ‘independent’ installed in the name—to work out for us whether these laws are necessary and proportionate.

Nothing that I have said here is intended as disrespect to the work that our intelligence and security agencies do. The flipside, I suppose, of its clandestine nature is that the work is thankless. Some of it is probably pretty dangerous and difficult. And you are not able to go to the newspapers and say what you have been up to. None of this is intended by way of disrespect for the core functions of these agencies. If, assuming that I am reading it correctly, it is about preventing acts of domestic or international terrorism, we—as a party founded on a pillar of non-violence—certainly have no problem with that. The problem is with the scope-creep that continues just a little bit at a time without any opposition or voice raised by the opposition in this parliament. I suppose I should not be surprised by that, because they were the ones who set down, in the rather grim years following the horrors of 9/11, the architecture that we are currently living under.

I look forward to the contributions that the opposition will make and perhaps some clarification in the minister’s closing statement if she is intending on giving one as to the purpose of this bill. Why are we so dramatically expanding the mandate of ASIO to allow it into so many other domains with so little description as to the reason or of the intended effect? Those are the questions that we hope to answer on the way through this

debate. I again foreshadow that we will not be voting for this bill until we can be satisfied that it is in the nation’s interests—that cloudy and hazy concept of the national interest that we never quite seem to get around to defining. I look forward to some of these matters being clarified in the debate that is to come.

Senator BRANDIS (Queensland) (11.21 am)—The Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 will enable ASIO, ASIS, the DSD and the Defence Imagery and Geospatial Organisation, DIGO, to cooperate more closely and to assist in the performance of each other’s functions to enable the sharing of information and to make consequential amendments to the telecommunications interception regime. The intention of the bill is to ensure that the various security, intelligence and law enforcement agencies can respond quickly to a threat, share information and cooperate within their defined roles in multi-agency teams.

The government recently announced the establishment of the Counter Terrorism Control Centre, which is the principal example of the interoperability sought to be facilitated by this bill. In particular, ASIO has expertise in areas that would assist law enforcement agencies to have access to information. The bill will enable ASIO to provide assistance to those agencies in relation to telecommunications interception, technical support, logistics and analytical assistance. In some circumstances telecommunications data may be obtained to find missing persons or to access stored communications of victims of crime whose consent cannot otherwise be obtained.

Each of the security and intelligence agencies has its charter or delimited areas of operation to ensure that powers entrusted to them are not abused. The intention of the bill is not to authorise operations outside the

agencies' charters but to permit cooperation for limited purposes so as to enhance interoperability and approved joint activities requiring information sharing.

The coalition has been briefed on this legislation by representatives of the Attorney-General's Department and the security agencies. I am assured that the agencies do not intend to trespass outside their statutory limitations but rather seek to use their specialist skills towards a common purpose. There is no reason to doubt the desirability of that outcome or the integrity of the organisations and their offices. However, the legislation is somewhat densely drafted and, given the intrusive powers to which they refer, it is important to ensure that the established boundaries are maintained.

The bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee, and I am pleased to see that it has bipartisan support and that the committee's recommendations have been adopted in the government's amendments and adverted to in the replacement explanatory memorandum. There are also amendments to adjust the membership of the Parliamentary Joint Committee on Intelligence and Security. The membership of that committee is to be expanded from nine to 11 to accommodate the member for Denison, who demanded a seat as part of the price for his support of this government. I make no observations on the appropriateness of that course other than to say that the amendment to maintain the representation of coalition members and senators has our support.

The coalition cannot support the amendments circulated by the Australian Greens. These amendments would require details of the assistance sought and rendered under the arrangements in this bill to be published in ASIO's annual report. The coalition is concerned that these details may be highly sensi-

tive. The joint committee is empowered to seek such information and to determine, on advice, whether publication would potentially compromise security. That, I think, is more appropriate than requiring publication in the annual report, and the coalition sees no reason to call into question the efficacy of the joint parliamentary committee process. Accordingly, the coalition supports the bill, together with the government amendments on sheet AF255.

Senator BARNETT (Tasmania) (11.25 am)—I stand to speak, like my colleague Senator Brandis, broadly in support of the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 and to make some observations as the Deputy Chair of the Senate Legal and Constitutional Affairs Legislation Committee, which looked at this very bill. The committee reported in November 2010 and acknowledged that that was a unanimous report. We were provided with a reference on 30 September, so it was a reasonably quick effort. We reported on 24 November 2010. We deliberated and came to a common conclusion that the government's intent was certainly supported but that in terms of dotting i's and crossing t's the effort was not good enough. We made two recommendations that I am advised have now been accepted by the government.

I think this confirms again the credibility and the efforts of Senate committees across the board and the good work that they do. I am pleased to stand here in this place and say that I am proud to have been part of that process of trying to make a difference in improving our laws wherever possible. Certainly in this case it has happened. There has been a significant improvement and the government has, at least to its credit, taken on board the suggestions and recommendations and have come back to us. I put on record my thanks particularly to the submitters and

those who appeared before our inquiry, including in Canberra. I note that the Communications Alliance, particularly the Australian Mobile Telecommunications Association, put forward some very thoughtful, inquiring and interesting points that have been reviewed and considered by our committee. Of course, as usual, the Law Council of Australia made submissions and put forward very comprehensive views. Again, I put on record my thanks and that of others in this place to the Law Council of Australia for their good work again and again when it comes to expressing views that are comprehensive and thorough. Those views are appreciated by the Senate and by the Senate committee process. Indeed, we had 16 submissions in all, and I thank them for doing that.

The committee came to a common understanding that Australia's national security agencies and law enforcement agencies should have access to the best information available and the best technical expertise available and that that should then be acted on in the national interest and the public interest. Certainly the bill broadens security agencies' powers, but that needs to be balanced with the public interest in law enforcement and in national security agencies sharing information to facilitate their legitimate activities and with the public interest in protecting the personal information of individuals. If there is a less intrusive way of achieving these objectives, then we should consider that seriously and try to implement it. There may be less intrusive ways of achieving a similar outcome, and those options always need to be considered. The Information Commissioner put evidence to our committee accordingly.

We made it very clear that in the view of our committee there was a lack of explanation by the department—by the government—in the explanatory memorandum to the bill. It is our view that much of the in-

formation provided in the department's answers to questions on notice and supplementary material should have been included in the explanatory memorandum. We got it on one hand, but it was not provided in the explanatory memorandum, which of course is on the public record and should be attached and complement the bill and its various parts.

In conclusion, yes, we have made two recommendations—in fact, three, with the third one being that the previous two be accepted—and my understanding, and the coalition's position, is based on Senator Brandis's position put in this place, which is that the government has responded to our recommendations and has acted. It is appreciated. When we are dealing with national security and with what is in the national interest, it is a difficult issue to try to get the balance right so that the powers are not too intrusive. With the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 I think we are heading down the right track. But these things should remain under constant and careful review, and that is definitely supported.

(Quorum formed)

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.33 am)—I would like to thank senators Ludlam, Brandis and Barnett for their contribution to the debate on the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010. I note that Senator Ludlam raised concerns that this bill may expand ASIO's mandate. This bill does not expand ASIO's collection powers or remove any oversight mechanisms. I also note Senator Brandis's concerns about the risk of operational and sensitive security information being made public. I note that the senator

therefore supports this bill and not the Greens proposal.

I will begin by thanking the Senate's Legal and Constitutional Affairs Legislation Committee for its work in the examination of the bill. I also thank all those who contributed to the inquiry. I know that the Attorney-General also appreciates the efforts of the committee. The committee reported that it appreciated the importance of ensuring that Australia's national security agencies and law enforcement agencies have access to the best information and technical expertise available. The committee recommended that the Senate pass the bill subject to further guidance on the proposed amendments.

In relation to the proposed amendments, which will require carriers and service providers to inform the Communications Access Co-ordinator of proposed changes that would significantly affect their ability to comply with their statutory obligation to assist interception agencies, the committee recommended that the explanatory memorandum be revised to provide greater clarity. The government accepts this recommendation and has revised the explanatory memorandum. The explanatory memorandum clarifies that the circumstances in which schedule 2 applies are the same as those currently contained within section 201 of the interceptions act. Regrettably, section 201 of the interceptions act does not facilitate notice of changes sufficiently early in the development of changes to allow for effective consultation. This early notification will ensure that carriers and service providers can meet their obligation to assist, and avoid the need for costly alterations once a change has been implemented.

The committee further recommended that the Attorney-General's Department develop guidelines to assist industry in understanding what changes must be notified under sched-

ule 2 of the bill. The government accepts this recommendation and the Attorney-General's Department will, as a matter of priority, develop guidelines for industry to assist them in meeting this regulatory obligation.

In relation to the proposal to enable enforcement agencies to apply for a stored communications warrant to access the stored communications of a victim of a serious contravention, the committee recommended that the explanatory memorandum be revised and that it provide additional detail about where privacy issues may arise. The government accepts this recommendation. The explanatory memorandum has been revised and explicitly states that the issuing authority must consider how the privacy of the victim of crime may be interfered with by accessing the stored communications. Additionally, the explanatory memorandum outlines that the gravity of the interference on privacy is a question of fact. It is to be determined on the principles of proportionality, a reasonable expectation of privacy and a targeted consideration of the circumstances of each case.

In relation to the proposed amendments contained in schedule 6 of the bill to enable further assistance, cooperation and information sharing amongst Australia's national security community, the committee recommended that the explanatory memorandum be revised. The government accepts this recommendation and has revised the explanatory memorandum. The replacement explanatory memorandum further outlines the existing limitations and how the legislation does not currently meet the operational requirements of these intelligence and law enforcement agencies.

The existing legislation can hinder cooperation occurring to its fullest extent, such as where joint or multiagency teams are formed to provide a closely integrated whole-of-government response to a national security

issue. The current legislative limitations to information sharing have been identified through practical experience. The amendments will ensure that ASIO can pass certain incidentally obtained information to the relevant authorities where appropriate. These amendments do not provide ASIO with new powers to collect information. The existing strong accountability and oversight mechanisms will continue to apply, and the Inspector General of Intelligence and Security will continue to have oversight of these activities.

The government has proposed amendments to the bill to insert schedule 8, which will amend the Intelligence Services Act 2001. The amendments will provide an opportunity for greater representation for members of parliament on the Parliamentary Joint Committee on Intelligence and Security by increasing the membership from nine to 11 members. The amendments also increase the quorum for the committee from five to six members. This reflects the increase in the committee's overall membership and ensures that a majority of members are required for a quorum. Members appointed to the committee before the commencement of these amendments are not affected. The amendments will also ensure the continuance of evidence taken by or produced to the committee. The committee provides important scrutiny of the administration and expenditure of Australia's security and intelligence organisations.

The bill amends the Telecommunications (Interception and Access) Act 1979, the Australian Security Intelligence Organisation Act 1979 and the Intelligence Services Act 2001 to remove technical and other barriers to facilitate greater cooperation, assistance and information sharing between law enforcement and intelligence agencies. If agencies are able to draw on the expertise of others within the law enforcement and national security communities then vital information is

less likely to fall through the gaps. These measures will build on previous steps taken to facilitate intelligence sharing and greater interoperability, particularly in multiagency teams and task forces, which are important in responding to our increasingly fluid and evolving national security environment. Ensuring that our national security and law enforcement agencies have the ability to respond to threats to our national security is a key priority for this government.

As I conclude, there are a few extra comments that I would like to make in response to Senator Ludlam in particular and his question of why the amendments are needed and what the purpose of the bill is. The main purpose of this bill is to enhance cooperation and information sharing among the national security and law enforcement communities. Currently, under the interception act, law enforcement agencies can only seek assistance from other law enforcement agencies in exercising an interception warrant. This distinction does not reflect the cooperative basis on which law enforcement and security agencies are expected or required to work. By ASIO being included within this group, ASIO will have greater flexibility to support whole-of-government efforts to protect our communities. Amendments to the ASIO Act and the Intelligence Services Act will also facilitate closer cooperation and assistance and enhance information sharing within Australia's national security community. The bill includes amendments that enable ASIS, DSD, DIGO and ASIO to cooperate more closely and assist one another in the performance of the other agency's functions. The amendments will provide national security agencies with greater flexibility to work together and to harness resources in support of key national security priorities.

I also note that Senator Ludlam referred to ASIO operating under the 'cloak of darkness'. I want to put on the record that ASIO

operates in accordance with its legislation, which has strict controls. ASIO is also accountable to the Attorney-General and the Parliamentary Joint Committee on Intelligence and Security, as well as being subject to strong oversight by the Inspector-General of Intelligence and Security. The inspector-general is a strong oversight mechanism independent of government and charged with ensuring that the security and intelligence agencies act with legality and propriety. This bill does not change any of the strong accountability regime that already exists.

In response to Senator Ludlam's queries with respect to the frequent amendments to the T(IA) Act, let me say that this bill facilitates broader technical assistance in relation to telecommunications interception and other areas of expertise including logistics and analytical assistance. The assistance in the area of interception is to provide expertise to assist law enforcement where they lack the capabilities to effectively investigate serious crime. The interception act requires ongoing consideration and review to ensure that it meets the challenges of new and emerging technologies.

On that note, I conclude and thank all senators and those who participated in the inquiry for their assistance in this matter.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.45 am)—I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill. The memorandum was circulated in the chamber on 9 February 2011.

Senator LUDLAM (Western Australia) (11.45 am)—As senators would be aware, I have foreshadowed an amendment and it has been circulated in the chamber. I think everybody has got it. But I would like to put a couple of questions quickly to the minister at the table before I move that amendment. Senator Collins, I would like to pick you up on the topic that you put to us right at the end of your comments—and thanks for directly addressing some of the issues that I raised in my speech. But let us cut to the chase. If this bill were about intelligence agencies sharing intercepts and intelligence with each other, I probably would not have spoken at such great length. I think that is entirely uncontroversial and reasonable. Intelligence agencies working in silos has been quite frequently cited in the United States context as contributing to the attacks on New York City and the Pentagon—because people were not sharing the intelligence that they had. So I do not object to—and I did not try to raise any kind of controversy about this at any time in my speech—our intelligence and security agencies talking to each other within the boundaries of their act. But my reading—I should say really the reading of the Law Council and some of the other folk who have submitted on this—is that schedule 6, item 12, of the bill quite substantially reworks the kinds of agencies that ASIO will be able to share intelligence with. My reading of page 26 of the bill is that ASIO can share information with whomever it likes, as long as there is some justification provided to the agencies and through the minister. Would this bill and that specific amendment to schedule 6, item 12, allow ASIO to share information with agencies such as the tax office, Centrelink, ASIC or anybody? Maybe that is just a yes or no.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.47 am)—My understanding is that it is only as it currently does with respect to the ATO and Centrelink and there are no changes that would affect the current operations. Let me just take you through a few points on this matter. The purpose of the amendment is to provide that, if ASIO does obtain information relevant to a serious offence, it can provide information directly to the most appropriate agency. There are no plans for ASIO to start dobbing in welfare cheats. As is currently the case, there could be circumstances where it would be appropriate and in the public interest for ASIO to communicate information relating to a serious offence to those agencies—for example, if ASIO obtains incidental information about major taxation fraud. But I stress ‘as is currently the case’. Currently ASIO can provide such information to specified police forces. This bill would enable ASIO to provide the information directly to the ATO or other agency if that agency is the most appropriate agency having regard to its functions. The bill does not provide ASIO with any new collection power. This relates only to information obtained incidentally in the performance of ASIO’s functions. Any communication must be authorised by the director-general or person authorised by the director-general for that purpose under section 18.1.

Senator LUDLAM (Western Australia) (11.49 am)—Can I confirm that it is the case that ASIO already has the power to provide information to effectively anybody that the agency sees fit, through the consent of the director-general, and there is no material change whatsoever? If we can stick to the narrow issue of who ASIO can share intelligence with, is there no change effectively provided in this bill?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.50 am)—Senator Ludlam, it may assist if you repeat your precise question, because at the moment the information available to me simply addresses my earlier comments.

Senator LUDLAM (Western Australia) (11.50 am)—I would like to establish whether the amendments that are contained in this bill allow ASIO to share information with a wider variety of people than it currently has the powers to do. For example, the Law Council raised the issue that ASIO will now be able to communicate information to, for example, a staff member of an authority of a state. I guess that could mean a senior police officer, but it would not necessarily mean a law enforcement officer; it could be someone in a health department. What I am trying to clarify is: is this new; have we expanded the range of people with whom ASIO can directly share intelligence or not?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.51 am)—I suppose in part the answer I give now relates to my earlier comments. The answer is essentially, yes, a wider variety of agencies—because it allows that information now to be communicated directly. So, rather than going through the AFP, the communication can now occur directly to the ATO, which would not have been the case. But the answer is also, no, it cannot be communicated to anybody. I can repeat the criteria that would be involved in how information could be communicated and why it would not just be anybody. If you want me to, I can go back and elaborate on those aspects again.

Senator LUDLAM (Western Australia) (11.52 am)—Thank you, Minister. So we have established one point. When we go back to the remarks you made in your second

reading speech, I think we will find that you introduced this bill as relating to sharing of intelligence between intelligence agencies, and we have just established that that is not strictly the case at all; it is about sharing intelligence right across Commonwealth and state agencies according to criteria which we will come to.

Sticking with clause 12 of schedule 6 for the moment, my reading is that there are two very broad criteria on which ASIO might take this kind of action. One is if the information relates or appears to relate to the commission of a serious crime, and that is reasonably well-defined elsewhere; or if the director-general or his or her delegate is satisfied that the national interest requires the information to be shared. So now we are contemplating the proposition that no crime is being committed or alleged but the DG or his or her delegate is satisfied that the national interest in fact requires this information to be shared. Minister, could you provide us with the definition of 'national interest'?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.53 am)—The information I have before me has been canvassed with respect to schedule 6. The term 'national interest' is currently used in the ASIO Act and has not been defined. The bill does not introduce the concept of national interest to the ASIO Act, but the sort of matters that might be encompassed by the term 'national interest' could include matters of importance to Australia's international relations or to sustaining the economy. However, attempting to confine national interest to specific matters would defeat the purpose of this definition. In a democracy it is appropriate that the government of the day set its priorities and determine what is in the national interest. In the security context national interest may be informed by the Na-

tional Security Statement and the national intelligence priorities which are set by the government and reviewed on at least an annual basis.

Also with respect to what I indicated earlier, enabling ASIO to cooperate with and assist law enforcement agencies primarily to facilitate technical assistance for interception, including through the National Interception Technical Assistance Centre, the bill enables ASIO, ASIS, DSD and DIGO to cooperate more closely. With respect to this cooperation and to assist one another in the performance of the other security agencies' functions, it amends ASIO's communication provisions to provide ASIO with sufficient flexibility to communicate intelligence with other intelligence agencies to complement the amendments to their ability to cooperate.

Senator LUDLAM (Western Australia) (11.55 am)—I will say this as plainly as I can, Minister. I do not think any of the submitters raised issues about intelligence agencies sharing intelligence between each other. I did not address that in my speech or in my questioning. So I am happy to set that issue aside as uncontroversial. I am interested, however, in the fact that we have had an acknowledgement now that there is a vastly broader range of agencies through a set of criteria with which ASIO can now share intelligence and that in fact it does not need to relate to the commission of a crime; it needs to relate to an undefined national interest. I think that is of concern.

Coming to the criteria which you did offer to talk us through before, I understand that there are some broad statutory criteria that are set out in this bill, that is that the relevant information relates to a possible breach of the law the agency administers and that that breach attracts a term of imprisonment of at least one year. So that sets the bar at a certain level. But beyond that, which is very broad,

what further criteria will be developed or employed to determine when information should be shared?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.57 am)—You quite rightly suggest that there should be significant safeguards in this respect. I have some further comments in relation to those safeguards, if you will bear with me for one moment. Communication of information by ASIO officers requires appropriate authorisation in accordance with section 18(1) of the ASIO Act. Unauthorised communication of information by ASIO officers is an offence under section 18(2). Any communication must comply with ASIO guidelines under section 8A, including clause 13, which relates to specifically the use, storage or disclosures of personal information. ASIO officers must also comply with relevant internal policies and procedures. ASIO is subject to IGIS oversight. The IGIS operates independently of government and has broad investigatory powers to investigate complaints and conduct inquiries and regular inspections and monitoring of security and intelligence agencies.

Senator LUDLAM (Western Australia) (11.58 am)—I am wondering if you can let us know—and this starts to come close to the purpose of the amendment that I have circulated—whether ASIO will be required to periodically report to the minister and/or the parliament about what agencies it has shared information with and how often. To forestall pushback by the minister or by the officers of the Attorney who have joined us today, I am not intending when I speak about disclosure that we would be publishing sensitive information about national security. We are just seeking really how often has ASIO shared information with somebody outside the intelligence community and the broad nature of it. So we are not interested in state secrets

here; it is more about the mechanics of how it is operating. Perhaps while you are taking these matters on board, Minister, can you describe how, if at all, these reporting obligations differ from the status quo as already contained in the ASIO and the T(IA) Act?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (11.59 am)—Bear with me, Senator, whilst I deal with at least part of your question. Unfortunately, listening to the detail of your question and being advised on it is a challenging task at the moment. ASIO is required to periodically report to the minister. ASIO's guideline 13.4, made under section 8A of the ASIO Act, requires ASIO to keep records of all requests made to access personal information and all personal information received in response to a request. ASIO also has internal policies and procedures made in consultation with the IGIS. All ASIO records can be inspected by the IGIS, who may consider issues of legality, compliance with ministerial directions and guidelines, internal policies and procedures, as well as the propriety of ASIO's actions. Additionally, ASIO is required to keep the minister informed of its activities and provide regular reporting to the Attorney-General. In the light of the existing oversight and accountability mechanisms, a more specific requirement to report to the minister is not strongly justified. I suppose this takes us to the Greens proposed amendments in relation to ASIO's annual report.

The ASIO Act already requires ASIO to report on the activities of the organisation during the year. This would clearly encompass ASIO's activities under the cooperation and assistance provisions in proposed section 19A. The level of detail proposed in the Greens amendment would get it to 'operational' detail, which would not be appropriate for inclusion in the unclassified annual report. It would be open to the Attorney-

General to issue a direction to ASIO, requiring ASIO to report to the Attorney on requests made under the proposed cooperation and assistance provisions. In the light of all the existing reporting mechanisms, safeguards and oversight mechanisms, a specific reporting requirement of the nature suggested by the Greens is, in the government's view, not warranted. Senator Ludlam, I am not sure whether there is another element of your question that I have not covered. You may want to revisit that if that is the case.

Senator LUDLAM (Western Australia) (12.02 pm)—Thank you, Minister. I would hate to boil your answer down to a yes or no. It sounded suspiciously like a no. I have the highest respect for the IGIS and it is certainly a very important role. I presume that view is shared by everybody. But I was asking on behalf of the parliament. Again, to pre-empt your comments about tabling detailed national security or sensitive information, that is not the intention at all. Just to summarise, there will not be any greater degree of reporting under the drafting of this bill, whether or not the Greens amendments are supported, about these excursions outside ASIO's traditional area of interest. To come directly to the point, if the Australian tax office is in receipt of information from ASIO or if the tax office requests some assistance from ASIO in the performance of its functions, are there any public reporting obligations or is there any way of tracing that activity at all? Or is it all internal?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.03 pm)—I think it is fair to encapsulate my earlier comments with a yes. The excursions that you are referring to will be reported under existing mechanisms.

Senator LUDLAM (Western Australia) (12.03 pm)—Minister, could you perhaps

spell out for us whether we will find that in the annual report, for example? Will I get a list, however it is to be done, of agencies outside the intelligence community at the end of each year or each quarter—I do not think we will necessarily be seeking to put that in the public domain—that have used ASIO services in any given year? Where will we find that?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.04 pm)—Bear with me one moment, Senator. I am sure that you will appreciate that there is a difference between this information being reported and the level at which it is reported, as opposed to your question, which is: where am I going to get a list from? Under the T(IA) Act there will be reporting by the agency which obtained the assistance. This reporting will be included in the TIA annual report, which will be tabled in parliament. As I have already mentioned, ASIO will be reporting under its current legislation. The Attorney-General will also be able to direct further reporting, particularly with respect to areas where public reporting may not be appropriate. This is one of the rationales behind the expansion of the joint parliamentary committee.

Senator LUDLAM (Western Australia) (12.06 pm)—That goes some way towards satisfying the intention of the Australian Greens amendment and it is appreciated that you have been able to clarify that for us. I will still obviously be proceeding with the amendment because, as you have observed, our proposal goes somewhat further. But at least there will be something there. I want to confirm that the kind of information that we are discussing here regarding communications includes information about an individual's movements—their associations, their business activities and their financial status.

This information, even though it has no immediate nexus with the possible commission of an offence and it is under the national interest clause that we were discussing earlier—that kind of quite detailed intelligence about Australian citizens or others who live here or Australian citizens who live overseas—can now be transferred to other agencies whether or not they are inside the intelligence community and even though there is a complete absence of any allegation of an offence having been committed. Can I just confirm that that is the case?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.07 pm)—Senator Ludlam, can I clarify whether your question is in relation to information being available with respect to a particular individual performing an offence or in relation to information that becomes available indirectly and separate to the individual performing the offence? There is obviously information that becomes available to security agencies that is in relation to an offence, but ancillary information involving other individuals is not necessarily directly related to them performing an offence themselves.

Senator LUDLAM (Western Australia) (12.07 pm)—I apologise, Parliamentary Secretary, but I think your question may have confused matters further. My intention in this instance is to work out the scope of the information that can be shared and to clarify the fact that there is actually no need for an offence to be alleged or be anywhere on the horizon. Information that ASIO collects on people through phone taps or other forms of surveillance it undertakes can now be shared with any Commonwealth or state agency, subject to the criteria we have discussed, whether or not any offence or alleged offence is anywhere on the horizon.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.08 pm)—It is envisaged that this could include information about individuals' movements, associations, business activities, financial status or communications, even where this information has no immediate nexus—I stress that point because it relates to my earlier attempt to clarify this—with the possible commission of an offence. However, the key point is that any such communication must meet the required threshold—that is, the Director-General or a person authorised by the Director-General for that purpose must be satisfied that the national interest requires the communication of that information. This is an important threshold as any decision under this provision could be reviewed by the Inspector-General of Intelligence and Security for legality and propriety.

Senator LUDLAM (Western Australia) (12.09 pm)—There was that old 'national interest' again, which we have just established is not defined anywhere in ASIO's act or anywhere else. I will move the amendment shortly because I am not sure how much further it is going to be possible to get with this. I have got two further questions. One of them relates to the origin of this reform, if you could call it that. Was this proposed by ASIO? Did it come from within these agencies or has there been a demonstrated need from outside the intelligence community, from the kind of other state and Commonwealth authorities that we have spoken of, for the powers of surveillance by clandestine security agencies? I am just wondering what the origins of this bill in fact were.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.10 pm)—Senator Ludlam, while the officers go back into the origins for me, let me go back

to your earlier comments in relation to the national interest not being defined. I have to differ with you in your interpretation of my earlier remarks. I would not accept that it is not defined. Rather that definition or interpretation may be fluid under the circumstances I previously outlined.

The amendments are not responses to any specific recommendations but address general issues raised in various reviews. The Smith review, the National Security Statement and the *Counter-terrorism white paper* all highlighted the importance of increased interoperability and intelligence sharing among the national security community. The capabilities of intelligence, security and law enforcement agencies need to remain under constant review so that we can address the challenges of the contemporary environment. Part of this ongoing review is considering whether these agencies and the legislation under which they operate continue to be appropriate for the modern national security context. These amendments have been identified as necessary to support the government's broader national security policy framework.

Senator LUDLAM (Western Australia) (12.12 pm)—Thank you. It is probably a bit cheeky to ask whether that was just copied straight off ASIO's website. I draw your attention to clause 19A in schedule 6 of the bill. Proposed subsection (3) goes into what kind of resources ASIO may make available to the various people it may now find itself working with. The clause talks about the 'services of officers and employees, and other resources, of the Organisation available to the body'. We have been speaking today mostly about intelligence hoovered up in the course of ASIO's normal work being delivered to various other agencies. This appears to go substantially further than that, so I am just wondering if, for example, ASIO personnel and resources might be utilised in

other agencies or in the context of a multi-agency taskforce for purposes that are unrelated to obtaining, correlating and evaluating intelligence relevant to security. For example, could ASIO personnel be used to request and conduct interviews with people for purposes unrelated to the fulfilment of ASIO functions and would they have to identify themselves as ASIO personnel if that were being done?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.14 pm)—I am advised that the use of resources must be related to their functions. It is possible that ASIO could provide assistance with human-source intelligence collection to another agency. This would be most likely in a context where another intelligence agency may not have anyone well placed to obtain the intelligence and ASIO is able to do so. However, in the context of assistance to law enforcement, ASIO staff would not conduct interviews for police as such records would be inadmissible as evidence in court. ASIO has internal policies and procedures with respect to the activities of officers. These are prepared in consultation with the Inspector-General of Intelligence and Security.

Senator LUDLAM (Western Australia) (12.14 pm)—Thanks, Minister. I do not know how to address these various proposed subsections, but proposed section 19A(1)(a) through to (d) list ASIS, DSD, DIGO and a law enforcement agency. So let us set them aside for the moment, because that I think is in the normal process of the way that these various agencies work. Paragraph (e) states:

an authority of the Commonwealth, or an authority of a State, that is prescribed by the regulations ...

and so on, which we have spoken of. This seems reasonably black and white: the answer to the question I put to you before was

yes. If the tax office, through the various criteria and processes that we have discussed earlier, needs help from ASIO, for example, to interview somebody for some reason in the national interest, ASIO would be within its power to make somebody available. I put what I am asking in two parts. First of all, is that a correct reading of the way that this act will work?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.16 pm)—In your commentary just then you said that you inferred that the answer would be yes. I would argue to the contrary—that, on the suggestion that ASIO may be a force for hire, this is simply not the case. It is unlikely that an agency would see any merit in being involved in a multi-agency team if it were totally removed from their functions. Agency heads have to agree to any cooperation or assistance arrangements under these provisions. The provision of assistance in areas not directly connected to the functions of an agency might be considered in other contexts, such as providing assistance of a technical nature, as in relation to telecommunications interceptions or translations. However, agencies have finite and limited resources, which acts as a self-regulatory constraint, and I can assure senators that ASIO is not simply waiting around for requests for assistance from other agencies.

Senator LUDLAM (Western Australia) (12.17 pm)—That answers one question.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.17 pm)—You will allow me to add further to my answer?

Senator LUDLAM (Western Australia) (12.17 pm)—Sure.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.17 pm)—There are no plans to prescribe other agencies by regulation in the near future, and the regulation-making power has been included to provide flexibility should the government consider it necessary or desirable to enable the agencies to cooperate with or provide assistance to other agencies in the future. This could be important, for example, in the context of future multi-agency teams and taskforces that include members of or are led by other agencies.

Senator LUDLAM (Western Australia) (12.17 pm)—Thank you, Minister. That last part was helpful. I realise I am probably firing four questions at you at a time, which must be a bit difficult. Let us come to the point. Can ASIO personnel conduct interviews with people on behalf of another agency? If they can, would they be required to disclose what their home agency was?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.18 pm)—The answer, at least to the first part of your question, is yes. There is a difficulty with the second aspect of your question because, in terms of public reporting of those activities, that may not be the case as per the other requirements in those broader reporting arrangements as I outlined. In response to the second element of your question, the answer would be consistent with their existing policies and procedures, so that may or may not be the case. I am not sure if you would like me to clarify that further with a bit more time.

Senator LUDLAM (Western Australia) (12.19 pm)—I think we have clarified this quite a bit. I appreciate your, along with the officers at the table, taking some time to talk us through it. The more I hear, the more I

wish I had moved a number of other amendments on the way through, but I will have to suffice with simply voting down the bill when push comes to shove in a few moments.

So ASIO personnel can conduct interviews on behalf of other agencies completely unrelated to the law enforcement, intelligence and security community even if there is no hint of the commission of, or allegation of, a crime being committed. It rests on the definition in this instance of national security, whatever that might be.

My final question—and I will then move the amendment that we have circulated—is whether the minister can describe whether there is any relationship between this amendment to the TIA that we are discussing today and the proposal—if you call it that—for data retention that has also been discussed at some length, whereby internet service providers and other telecommunications carriers would be required effectively to keep every digital trace that all of us leave in the course of our normal lives to be made available to the same intelligence community we have been discussing today. Is there any crossover at all between these two proposals?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.21 pm)—There is no connection to retention of data. No government decision has been made about a data retention scheme and I am not in the position to go into the policy arguments on this occasion.

Senator LUDLAM (Western Australia) (12.21 pm)—It is a great shame. I move Australian Greens amendment (1) on sheet 7032:

(1) Schedule 6, page 29 (after line 5), after item 17, insert:

17A Before paragraph 94(1A)(a)

Insert:

- (aa) the total number of requests made under paragraph 19A(2)(b) to the Organisation during the year for co-operation and assistance under section 19A; and
- (ab) the name of each body which made a request under paragraph 19A(2)(b) during the year; and
- (ac) a summary of the purpose or purposes for which each request under paragraph 19A(2)(b) during the year was made; and

I do not know that I need to speak to this amendment at great length, apart from to note that I can entirely understand why the minister, who is here representing the executive, would be opposed to an amendment like this, but I am dumbfounded at the rest of the senators denying the parliament access to this information—in redacted form. We are not asking for national security sensitive information to be put into the public domain. I am dumbfounded that a whole heap of senators are about to file in here and vote against their having access to this information on behalf of the people who elected us. I find that extraordinary. I understand why the executive does it, although I strongly disagree with it; I do not understand what is about to happen. A number of senators are about to file in here and vote against allowing themselves access to this information. While perhaps the bill will not expand the legally defined mandate of ASIO, I think it will greatly expand its operations well outside the area for which it was established. This is something that we will regret the next time we come to an amendment to the T(IA) Act or the ASIO Act.

All of this is in the absence of the independent national security legislation monitor who was spoken of years ago. I think this place passed enabling legislation to get that office on its feet a year ago and that office still does not exist. Every Senate estimates I

turn up and ask whether that office exists yet and it does not. So we are working in a vacuum against a backdrop of the continued creeping expansion of the powers of clandestine security and intelligence agencies, and it is the role and the purpose of this Senate to set some limits on those agencies. This is quite a strong example. The coalition did not bother even asking a single question of the minister on the way through this whole debate. It has been left to the Australian Greens to do it and now we are about to vote to deny ourselves access to that information, which I think is shameful. I thank the minister for the answers provided. I thank the officers from the Attorney's office who have come to try and help enlighten us a little bit through this murky debate and I strongly commend this amendment to the Senate.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (12.23 pm)—With respect to the Greens amendment, it is the government's view that the ASIO Act already requires ASIO to report on the activities of the organisation during the year. This would clearly encompass ASIO's activities under the new cooperation and assistance provisions in section 19A. The level of detail proposed in the Greens amendment would get into operational details which would not be appropriate for inclusion in the unclassified annual report. It would be open to the Attorney-General to issue a direction to ASIO requiring ASIO to report to the Attorney on requests made under the new cooperation and assistance provisions. In light of all the existing reporting mechanisms, safeguards and oversight mechanisms, a specific reporting requirement of the nature suggested by the Greens is not warranted.

Details such as the names of organisations requesting assistance and the purpose would reveal operational details about the activities, practices and methods of intelligence agen-

cies. The existing requirement for ASIO to report on its activities will enable ASIO to provide a general level of detail on cooperation and assistance without disclosing sensitive operational details. Additionally, consistent with the current practice, ASIO will also keep the Attorney-General informed of its activities on a regular basis. The ASIO Act also requires the Director-General of ASIO to regularly consult with the Leader of the Opposition for the purpose of keeping him or her informed of matters relating to security. Finally, with respect to the national security intelligence monitor, this is an important appointment that requires close consideration of candidates, and the Prime Minister is doing this as we stand.

Question put:

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

The committee divided. [12.30 pm]

(The Temporary Chairman—Senator MG Forshaw)

Ayes.....	5
Noes.....	<u>33</u>
Majority.....	<u>28</u>

AYES

Brown, B.J.	Hanson-Young, S.C.
Ludlam, S.	Milne, C.
Siewert, R. *	

NOES

Bilyk, C.L.	Birmingham, S.
Bishop, T.M.	Brandis, G.H.
Brown, C.L.	Bushby, D.C.
Cameron, D.N.	Crossin, P.M.
Farrell, D.E.	Faulkner, J.P.
Feeney, D.	Fielding, S.
Fierravanti-Wells, C.	Fifield, M.P.
Forshaw, M.G.	Hurley, A.
Hutchins, S.P.	Kroger, H.
Lundy, K.A.	Marshall, G.
McEwen, A.	McLucas, J.E.
Moore, C.	O'Brien, K.W.K.
Parry, S.	Polley, H.
Pratt, L.C.	Sherry, N.J.

Stephens, U.
Troeth, J.M.
Wortley, D.

Sterle, G.
Williams, J.R. *

* denotes teller

Question negatived.

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (12.32 pm)—I move government amendment (1) on sheet AF255:

- (1) Page 33 (after line 5), at the end of the Bill, add:

Schedule 8—Membership of Parliamentary Joint Committee on Intelligence and Security

Intelligence Services Act 2001

1 Subsection 28(2)

Repeal the subsection, substitute:

- (2) The Committee is to consist of 11 members, 5 of whom must be Senators and 6 of whom must be members of the House of Representatives.

2 Paragraph 8(1)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) either of the following happens before the Committee reports on the matter:
- (i) the Committee as so constituted ceases to exist;
 - (ii) the constitution of the Committee changes;

3 Paragraph 18(1)(a) of Schedule 1

Omit “5”, substitute “6”.

4 Transitional—existing appointments not affected

The amendments made by this Schedule do not affect an appointment, made before the commencement of this item, of a Senator or member of the House of Representatives as a member of the Parliamentary Joint Committee on Intelligence and Security.

The government proposes to amend the bill by including an additional schedule 8, which will expand the membership of the Parliamentary Joint Committee on Intelligence and Security. The amendment consists of four items. The first item proposes a government amendment to subsection 28(2) of the Intelligence Services Act 2001 to expand the membership of the committee from nine to 11 members. As a result of the increase in membership of the committee, item 3 proposes to increase the quorum of the committee from five to six members. Item 2 clarifies paragraph 8(1)(b) of schedule 1 of the Intelligence Services Act to ensure the committee may continue to use evidence taken by or produced to it during the same or another parliament, even where the committee ceases to exist or its membership changes. Finally, item 4 includes a transitional provision to ensure the amendment does not affect the appointment of members to the committee before the commencement of this government amendment.

This committee provides an important role in the scrutiny of administration and expenditure of Australia’s security and intelligence organisations. I recommend the government amendment to the Senate.

Senator BRANDIS (Queensland) (12.34 pm)—The opposition will be supporting this amendment. We see the sense of restructuring the committee along the lines foreshadowed in the amendment.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (12.35 pm)—I move:

That this bill be now read a third time.

Senator LUDLAM (Western Australia) (12.35 pm)—The Greens will be voting against this bill, but we do not intend to call a division.

Question agreed to.

Bill read a third time.

NATIONAL HEALTH AND HOSPITALS NETWORK BILL 2010

Second Reading

Debate resumed from 27 October 2010, on motion by **Senator Farrell**:

That this bill be now read a second time.

Senator FIERRAVANTI-WELLS (New South Wales) (12.36 pm)—I understand that the National Health and Hospitals Network Bill 2010 is going to be withdrawn. May I get clarification on that?

Senator Sherry—The Federal Financial Relations Amendment (National Health and Hospitals Network) Bill 2010 is the one not being proceeded with. We are intending to proceed with this one.

Senator FIERRAVANTI-WELLS—The National Health and Hospitals Network Bill 2010 establishes the Australian Commission on Safety and Quality in Health Care as an independent statutory authority and provides for the establishment of the National Performance Authority and the Independent Hospital Pricing Authority under the proposed reforms. This matter went before a committee and was examined in detail. In the coalition minority report, we raised a series of questions about the need for yet another layer of centralised health bureaucracy in the

form of the commission to be established by this bill. One of the biggest concerns about health changes mark I and now mark II is the extra bureaucracy which will be established. The commission already exists within the Department of Health and Ageing and is highly regarded within the healthcare standards sector. The establishment of a new, stand-alone commission will cost taxpayers millions of dollars and will supply many services already considered to meet international best practice. The setting of standards and accreditation is already being performed by an independent not-for-profit organisation, the Australian Council of Healthcare Standards. I refer the Senate to evidence given by an ACHS representative at the committee inquiry:

I also think it is a shame if the commission wastes too much of its time and effort on re-inventing the wheel.

Submitters were also concerned that there should be a measure of public consultation in regard to this provision before the bill became law. In this regard, Associate Professor Woodruff from the ACHS said:

I would just hate the wording of this bill to establish an authority that did not really have to engage people that have been working in this field with a good track record for decades.

Submitters also expressed concerns that the standards in mental health were not covered in the health reform process. Dr Darryl Watson, the Treasurer of the Royal Australian and New Zealand College of Psychiatrists, said the process:

... continues to neglect the needs of those with mental illness.

Dr Watson went on to say:

The college believes there is a need for specific focus on the special needs of the safety and quality issues in the mental health sector. Closer engagement between the commission and mental health consumers and carers would improve the influence of the commission on practice in this

sector. The provision of this focus is not covered by this bill.

It is really unclear now where we are at in relation to what is in and what is out, what is part of mark I and what is part of mark II. At estimates I asked the department to provide a comparison between mark I and mark II health changes, so that we can at least try to see what has been dumped from the first agreement and what survives in the second agreement. The original proposals were for the establishment of two other bodies—the Hospital Pricing Authority and the National Performance Authority—which I understand will survive. Our concern and the concern of the coalition still stands—that is, the further bureaucracy will incur further significant cost.

At the committee hearing a number of the submitters said that it would be preferable to introduce the legislation in relation to this commission together with the Hospital Pricing Authority and the National Performance Authority as a package. Indeed, this was supported by the submission from the Consumers Health Forum of Australia. One of the most worrying aspects of this bill is the total lack of detail as to how the commission would go about its work. There is no detail as to how the new body would perform the most fundamental facets of its operations—that is, how they would measure performance and what powers they would exercise. However, it appears to us from this bill that compliance with the standards and guidelines developed by the commission will remain voluntary. If we are to aim for the highest standards of safety and quality in health care and if the commission is to drive this, some kind of incentive or sanction needs to be in place to encourage or enforce compliance. Otherwise, we run the risk of seeing a commission developing high-quality standards and guidelines which have no value because they are not adopted by our health services.

In that instance, it becomes an expensive and irrelevant body.

In the absence of any clear delineation of the particulars of the enforcement methods and strategies to be employed by the proposed commission, submissions raised concerns about the lack of public debate on the commission's proposed approach to enforcement, especially if financial penalties and/or incentives were used to effect compliance.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being 12.45 pm, we will move to matters of public interest.

Philippines

Senator MARSHALL (Victoria) (12.45 pm)—I rise today to speak in solidarity with those fighting for change in the Philippines. I am proud to speak on this issue today because, while we in Australia enjoy all the privileges of a healthy democracy and the protection of the rule of law, those fighting for change in the Philippines seek justice and basic human rights, and they do so in the face of violence and oppression.

As I have pointed out to the Senate previously, the situation still continues to be dire for those who speak out in the Philippines. Progressive political parties in the Philippines, such as the Gabriela Women's Party and Bayan Muna, remain subject to continual harassment and extrajudicial killings. Hundreds of members of these parties—hundreds of people who have been brave enough to stand up to injustice—have been murdered over the past decade. I question whether many of us here in this place would have the courage and stamina to continue our work while our party members, our staff, our

friends and our families were systematically harassed and murdered.

In the Philippines, the institutions of the state have failed in their duty to protect their citizens. In Australia we watch this failure from afar. It is a shocking yet important reminder of the value of our institutions and political freedoms. It is also a reminder that we must reject outright those people, companies or political parties that employ violence and oppression.

In the Philippines, the murderous blight on democracy and human rights is not limited to people actively engaged in the party-political process. Victims of extrajudicial killings include unionists, lawyers, church workers, human rights advocates and journalists. These killings continue almost daily and are depressingly commonplace. The common factor that links the victims of these crimes is that they have all been outspoken on issues of justice, poverty, civil liberties, workers' rights and human rights. They have advocated on behalf of the poor and oppressed in the Philippines and many have been directly critical of the government or military.

These abuses have been clearly linked to the government and the military by a number of international organisations, including Amnesty International and the United Nations. Professor Philip Alston, an Australian human rights academic and a former United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, investigated these killings and concluded:

... the executive branch—

of the Philippines government—

openly and enthusiastically aided by the military, has worked resolutely to circumvent the spirit of these legislative decisions by trying to impede the work of the party-list groups and to put in question their right to operate freely.

This goes some way to explaining why so few of these crimes have been appropriately investigated and why those responsible for these atrocities have not been brought to justice.

I greatly admire the courage shown by anyone willing to fight for change in the Philippines. It is a great testament to their commitment and bravery that they are not cowed by the might of military, industry and elements of government. Despite the great risks, many people continue to strive to bring about social change, publicly challenging injustice and toiling alongside people from all walks of life in the Philippines.

Recently, the struggle of workers and ordinary Filipinos was brought back to my mind when I learnt of yet another brutal killing of a trade union leader. On Friday, 12 November last year, Carlo Rodriguez, who was 41 years old, was gunned down at an intersection in Calamba City, Laguna while on his way home from a meeting with fellow union leaders. His unidentified assailants were riding a tandem motorcycle. The method is a hallmark of the extrajudicial killing program that has targeted leaders and supporters of progressive organisations throughout the Philippines. 'Caloy', as he was known, was a progressive and effective union leader and a genuine public servant. He spearheaded collective negotiations, seeking to improve the economic and working conditions of workers and union members in Southern Tagalog. He fought for substantial wage increases; he fought against privatisation and in defence of jobs and public services. Caloy, together with other union leaders in the province, mobilised government employees and peasants for land reform.

The murder of Caloy is a tragedy, but more importantly it is a great setback for all those who had hoped that with the election

of the new government of Benigno 'Noynoy' Aquino III on 1 July 2010 there would be a break from the brutal and violent past of the Philippines. In the 2010 presidential elections it was hoped that tolerance of political discussion and dissent would grow. It was hoped that there would be a new-found resolve to take on those elements of the government and the military who believed it acceptable to engage in wanton murder of their opponents—those brave enough to stand up to their greed. It was hoped that the 2010 presidential elections would usher in an era where crimes against the people of the Philippines were investigated and those responsible for those crimes held to account. Yet Caloy is the 22nd extrajudicial killing under the Aquino administration and the sixth government employee and union leader killed for their uncompromising commitment. We have not forgotten the 800 victims of summary executions, torture and enforced disappearances under the previous, Arroyo, regime. The killings simply must stop. If they do not then the new administration is no better than its predecessor—rotten, ruthless and a butcher of civil society.

The Arroyo presidency, from January 2001, greatly damaged Filipino society. Her administration was associated with widespread corruption and the terrifying day-to-day reality of military death squads acting with impunity. In the May 2010 national elections, Aquino was elected in a landslide. President Aquino was elected on a wave of support that sprang from the fervent hope of ordinary Filipinos that corruption and violence could be stopped and that peace, democracy and prosperity could come at last to the Philippines. Alongside the Filipino people I share that hope.

Shortly after hearing of the murder of Carlo 'Caloy' Rodriguez, I was in a position to welcome two Filipino activists, Luis Jalandoni and Coni Ledesma. These two ac-

tivists were in Australia on a speaking tour organised by community based groups such as the SEARCH Foundation, Action for Peace and Development in the Philippines and the Philippines Australia Union Link. These groups have led the work in building stronger ties between Australia and the Philippines, as well as raising public awareness of the plight faced by Filipinos advocating for change. The speaking tour was vitally important in informing the concerns and ongoing discussions of Australians who are interested in a safer, just and more prosperous Philippines.

Luis is the chairperson of the National Democratic Front of the Philippines and has been involved in the movement for radical change in Philippine society for over 40 years. Practising as a Catholic priest from the 1960s to the mid-1970s, he lived among the sugar workers and peasant settlers of the southern province of Negros Occidental—the Philippines' sugar capital. Luis actively supported and joined the mass struggles of sugar workers and peasants. He was a founding member and national executive board member of the Christians for National Liberation, a progressive organisation which helped form the National Democratic Front of the Philippines in 1973.

Jailed as a political prisoner in that year, he got dispensation from the priesthood in 1974 and emerged with greater fervour for the Filipino people's struggle. In October 1975, he helped launch the La Tondena rum distillery strike—a groundbreaking workers' strike that helped break the back of state repression during the martial law years. From 1992, Luis has been involved in the Filipino peace negotiations and since 1994 he has been chairperson of the NDFP negotiating panel for peace talks with the government of the Republic of the Philippines. He is also a signatory to many Philippine peace agreements, including The Hague joint dec-

laration and Oslo joint statements 1 and 2 from 2004.

Coni's politicisation began in the early 1970s after exposure to student struggles. A Catholic nun at the time, she continued her progressive journey when she was assigned to the social action office in Cebu City in central Philippines. Her political involvement further deepened as she joined mass actions such as those of the sugar workers and peasant settlers of Bacolod City in Negros Occidental. Coni assisted in organising the Christians for National Liberation—the CNL—in the Visayas in central Philippines. She was elected as a member of the CNL national executive board at its first national assembly in August 1972. Coni was arrested by the Marcos dictatorship in September 1973, and then released the following year. Together, Luis and Coni were the first Filipinos to ask for and receive political asylum in the Netherlands.

I have given a brief outline of the activism of these two Filipino activists to demonstrate their commitment to peace and change in the Philippines. I commend them for coming to Australia and seeking out ordinary Australians in an effort to inform and educate us about the turbulent political situation and ongoing work towards peace within the Philippines. Unfortunately, for too many Australians the Philippines is simply a holiday destination—not a country traumatised by corruption and institutionalised brutality. I sincerely hope that, in the wake of their visit, members of this parliament will be able to take the time to gain a deeper understanding of the situation in the Philippines and do what they can to support the work underway to recommence the stalled peace process.

Today, Colombia is the most dangerous place in the world for trade union leaders. The Philippines has the dubious distinction of being the second-most dangerous place in

the world. Afghanistan, whose situation many parliamentarians have raised in this place, is the most dangerous place in the world for journalists. Again, the second-most dangerous place in the world for journalists is the Philippines. It is important to be clear about why this is the case. Trade union leaders work with oppressed people to empower them to challenge their oppressors. Journalists have the power to spread that message and allow others to break free from their oppression. Unfortunately, like in many other developing nations around the world, it is large multinational companies that allow and benefit from the oppression of the poor and oppressed. In many cases, these companies operate with a high profile within Australia.

There is no better illustration of how difficult and dangerous is the battle that Filipino workers face when fighting against exploitation than the struggle of the Nestle Philippines Cabuyao factory workers. These workers have now been on strike for over 10 years. This strike is indicative of the efforts by large multinational companies to drive down the wages and conditions of workers and to undermine their human rights. Over 500 workers were dismissed for simply trying to exercise their right to have retirement benefits included in their collective bargaining agreement.

This dispute has demonstrated the harsh reality for workers in the Philippines, the harsh reality of violent repression in response to legitimate industrial action and it has demonstrated the impunity with which companies like Nestle act in the face of court orders to negotiate properly with the union. In the Philippines, however, Nestle chooses to ignore court orders to reinstate all sacked workers. This is over a simple dispute about a collective bargaining agreement. It is a dispute over things that we are lucky enough to take for granted in Australia.

As a result of this dispute, two of the workers' union leaders have been murdered. One of these leaders, Diosdado Fortuna, president of the Nestle Philippines workers union, was gunned down by men on a motorcycle after visiting the picket line of striking workers at the Nestle factory. These circumstances were all too similar to those of the murder of Carlo 'Caloy' Rodriguez, as I described earlier. Diosdado Fortuna is sadly one of 97 Filipino trade union leaders murdered in this way between January 2001 and November 2010. Even after groups such as the Uniting Church requested that Nestle condemn this murder, they simply remained silent. Those workers who have not found new jobs now live in makeshift slums and they have been forced to withdraw their children from school due to a lack of money.

Nestle Philippines still refuses to comply with a decision of the Supreme Court of the Philippines to allow a decent retirement plan to be included in the collective bargaining agreement for the factory workers. Nestle still refuses to reinstate the striking workers at the Cabuyao plant and negotiate in good faith on the collective bargaining agreement.

This is the same company we see regularly trumpeting their social credentials on our TVs here in Australia. If a company like Nestle is prepared to ignore the rights of workers in developing countries like the Philippines, it begs the question: what circumstances would it take for them to show Australian workers equal contempt? The just action for a company as large and as wealthy as Nestle would be to seek a speedy resolution to a dispute about a retirement plan with vulnerable workers in the developing world, yet they have chosen to sack their employees and leave them languishing in a slum. When unionists connected with its operations are murdered, the just action for a company as large and as wealthy as Nestle would be to come out and strongly condemn such terrible

acts and make it very clear where it stands, yet what we see is a company exploiting the absence of the rule of law—(*Time expired*)

International Women's Day

Senator CASH (Western Australia) (1.00 pm)—As the coalition's spokesperson for the status of women, I was delighted to co-host yesterday's International Women's Day parliamentary breakfast to celebrate the 100th anniversary of International Women's Day, which will fall on 8 March 2011. This was an opportunity to reflect on the amazing achievements that have been made for women and by women since International Women's Day was first celebrated in 1911 and to reflect on how far women have progressed on the journey towards equality in the last 100 years.

In relation to women's suffrage, Australia has had, and still has, a number of female Premiers. We have a female Governor-General. We now have a female Prime Minister and a female Deputy Leader of the Opposition, along with many female members of both the ministry and the shadow ministry. In celebrating the Australian achievements, I am reminded of a remark made by Oona King, a former British Labour MP, when she said of former UK Prime Minister Margaret Thatcher:

I didn't care if Thatcher was the devil; it meant so much to me that I was growing up when two women—she and the Queen—were running the country.

The significance of what we have in Australia is evident when one reflects that Kuwait's parliament only extended suffrage to women in 2005 and by a 35-23 vote. In Saudi Arabia, women are still deprived of any meaningful representation. But, despite the many rights and privileges that Australian women enjoy, in celebrating International Women's Day we must recognise that significant challenges remain both here and abroad.

The incidence of violence against women is still far too common with almost one in three Australian women and girls experiencing some form of violence in their lifetime. I was heartened to see that the National Plan of Action to Reduce Violence Against Women and Girls was formally adopted at the most recent COAG meeting after nearly two years since its initial announcement, and it is my sincere hope that it will have a meaningful impact. The debates that have dominated the 'women's' agenda in recent times in Australia have centred on female representation on corporate boards and the appropriateness of quotas; on the gender pay gap; sexual harassment in the workplace; and the specific design of a statutory paid parental leave scheme. Whilst none of these issues is trivial, the concerns of women in so many quarters of the world are so much graver and, tragically, often have life-threatening consequences.

In China, 39,000 baby girls die annually because parents do not accord them the same medical care and attention that boys receive. In India, a 'bride burning' takes place approximately once every two hours. In the west African country of Niger, a woman has a one-in-seven chance of dying in childbirth. In the United Arab Emirates, the *Gulf News* reports that husbands have a state sanctioned right to beat their wives in order to discipline them, 'providing that the beating is not so severe as to damage her bones or deform her body'. In Saudi Arabia, women cannot drive, vote, show their faces or talk with male non-relatives in public. Some Saudi girls are allowed to go to school and attend university, but when they do they must sit in segregated classrooms and watch their teachers on closed-circuit television. It is reported that in Afghanistan under the Taliban regime in the late 1990s religious police forced women off the streets in Kabul and issued regulations ordering the blackening of windows so that

women would not be visible from the outside. Despite the political changes that have occurred in Afghanistan, many challenges still remain. The repression of women is still alive, particularly in rural areas where many families still restrict women from participation in public life. Women are still forced into marriage and denied a basic education. There have been reports of little girls being poisoned to death for daring to go to school.

According to the Human Rights Commission of Pakistan, every day two women are slain by male relatives seeking to avenge their family honour. Closer to home, UN Women reports that countries in the Asia-Pacific region record some of the most horrendous statistics of violence against women in the world. For example, in Papua New Guinea 44 per cent of women have experienced sexual violence in relationships, 55 per cent of women have been forced into sex against their will and 58 per cent of women have experienced physical and emotional abuse in relationships.

It is fair to say that Western society, and in particular Western women, have been too reluctant to point out and too slow to condemn the plight of women outside the West for fear that any censure of anti-female practices would be seen as culturally insensitive. It is a regrettable fact that harmful traditional practices have been committed against women in certain communities and societies for so long now that they are considered part of accepted cultural practice. In other words, excuses are made under the guise of traditional cultural practices for allowing women to be subjected to crude and unrestrained primitive practices which we in the Western world would never tolerate. One of these practices is female genital mutilation. A few years ago, Germaine Greer went so far as to argue that attempts to outlaw female genital mutilation were an attack on cultural identity and that 'if an Ohio punk has the right to

have her genitalia operated on why has not the Somali woman the same right?' Clearly, Greer is either ignorant of, or impervious to, the purposes and consequences of female genital mutilation and the lack of choice for the young girls on whom it is inflicted.

No-one has captured the folly of Greer's position more eloquently than Roger Scruton. In an article in the December 2010-January 2011 edition of the *American Spectator* he states.

Once we distinguish race and culture, the way is open to acknowledge that not all cultures are equally admirable, and that not all cultures can exist comfortably side by side. It is culture, not nature, that tells a family that their daughter who has fallen in love outside the permitted circle must be killed, that girls must undergo genital mutilation if they are to be respectable.

... ..

You can read about these things and think they belong to the pre-history of our world. But when they are suddenly happening in your midst you are apt to wake up to the truth about the culture that advocates them. You are apt to say, 'That is not our culture and it has no business here.'

I hold the strong view that, as women living in a free and democratic society, we have a fundamental obligation to speak out and protect the human rights of women both here in Australia and overseas. This position is recognised by UN Women Australia, which has stated:

Australia is strategically positioned and has the ability to effect substantive change for the role of women at national, regional and international levels.

UNIFEM, which is now part of UN Women, considers there to be six forms of violence against women which must be stopped. One of these forms of violence is harmful traditional practices, which includes female genital mutilation. This issue is one on which we need to stand up for the rights of women and be prepared to recognise the stark reality that

female genital mutilation is being practised in Australia, notwithstanding that it is a criminal offence and not withstanding that this is a practice which we in Australia find culturally abhorrent.

Since being appointed the coalition's spokesperson for the status of women, I have spent some time researching various areas of interest. I recognise and thank the Parliamentary Library for their efforts in providing me with various papers on women's issues, the content of which I have relied upon in some of my observations today.

On the issue of the practice of female genital mutilation in Australia, I was astounded to learn that the Royal Women's Hospital in Melbourne stated in 2010 that it is seeing between 600 and 700 women each year who have experienced some form of genital mutilation. I find this particularly distressing as studies show that this practice has no known health benefits and is known to be harmful to girls and women in many different ways. According to the World Health Organisation, the immediate consequences of this archaic practice can include severe pain, shock, haemorrhaging, bacterial infection, urine retention, open sores in the genital region and injury to nearby genital tissue. Long-term consequences include recurrent bladder and urinary tract infections, cysts and infertility. And we must never forget the World Health Organisation's finding that genital mutilation doubles a woman's risk of dying in childbirth and can increase by three to four times the chances their children will be stillborn.

Perhaps one of the more abhorrent aspects of this practice is that it is a practice that is mostly carried out on girls up to the age of 15—not over the age of 15 but up to the age of 15. An estimated 100-140 million women have experienced genital mutilation worldwide and three million girls are estimated to

be at risk of undergoing the procedure every year.

This practice is without a doubt a violation of the rights of women and girls and a form of discrimination. This is not just my belief; several international and regional treaties to which Australia is a party have specifically identified female genital mutilation as being both a violation of the rights of women and girls and a form of discrimination. Given that Australia is a party to, supports or was significantly involved in the drafting of a number of these instruments and declarations, many of which specifically call for an end to this abhorrent practice, Australia is obliged to work towards the eradication of it. Other countries who are signatories to these instruments and declarations are likewise compelled to do the same thing.

In Australia, any type of female genital mutilation is clearly prohibited by specific legislation in every jurisdiction. Ideally, in practical terms, the main emphasis of intervention should be on ensuring that the procedure does not take place in the first instance. To this end, programs have been introduced in Australia that seek to educate parents and communities against the practice.

The first of these is the National Education Program on Female Genital Mutilation, which was introduced in 1995 by the then Department of Human Services and Health. The prime objectives of the national education program are to prevent the occurrence of this type of procedure in Australia through an emphasis on community education, information and support, and to assist those women and girls living in Australia who are at risk of or who have already been subjected to this type of practice. Since the introduction of the national education program, a range of strategies to tackle female genital mutilation

have been implemented at a state level, according to local needs and priorities. Victoria has been particularly active in attempting to eradicate the practice, partly in response to increasing populations settling in the state from countries which are known to actively practise female genital mutilation.

My point in raising these issues today is to remind us that, whilst International Women's Day enables us in Western society the opportunity to celebrate the many achievements of women both past and present, it is incumbent upon us to recognise that these celebrations must be more than just an acknowledgement and celebration of the rights that we in the West enjoy. We must focus attention and energy on ameliorating the less than satisfactory conditions of some women internationally.

One of the best recommendations in the UN Women Australia discussion paper circulated yesterday at the parliamentary breakfast is for Australia to ensure that our aid program pays significant attention to the education of girls and women. It is no coincidence that the areas of the world where girls are denied education and women are marginalised are very often the same countries that are mired in poverty and fundamentalism and subject to what we consider to be abhorrent practices.

There is a growing recognition, from the World Bank to the US Military's Joint Chiefs of Staff through to aid organisations, that focusing on women and girls is the most effective way to fight poverty and extremism. There is no doubt that as Australians we should be proud of our achievements in terms of promoting the status of women in this country. However, it is incumbent on us to remember that the journey is not over and that in some countries it has only just begun.

In celebrating International Women's Day on 8 March 2011, I wish UN Women the

very best in all its endeavours and once again thank UN Women Australia for hosting the parliamentary breakfast yesterday. I recognise and applaud the vitally important work they do for women here and all over the world.

Ovarian Cancer

Senator POLLEY (Tasmania) (1.14 pm)—I rise today to speak about an issue that is very close to my heart. I am speaking as a woman, a mother, a grandmother and a sister about a disease that affects far too many Australian women. More than 1,200 Australian women are diagnosed with ovarian cancer every year. Last month, February, was Ovarian Cancer Awareness Month, and I would like to take the opportunity to equip all Australian women with some essential information about the diagnosis, symptoms and treatment of this type of cancer.

Ovarian cancer is often a silent disease in its early stages, which means that many women have no symptoms at all or symptoms that are difficult to recognise. Due to the difficulty associated with diagnosing ovarian cancer, it is one of the most lethal gynaecological cancers there are. In 2006, 810 Australian women passed away as a result of ovarian cancer and, in 2007, 29 of my fellow Tasmanian women also lost their battle with ovarian cancer. It is my hope that through open and factual discussions such as this we can have an impact on reducing the number of ovarian cancer fatalities by promoting awareness and self-education. Unlike many other forms of cancer, ovarian cancer has no population screening and no simple detection test in its very early stages. This makes early detection very difficult for doctors and highlights the importance of self-education, awareness of our own bodies and knowing what is 'normal' for us.

There are currently numerous tests in development throughout the world which aim

to detect ovarian cancer in its early stages. These tests may have a role to play in the future in increasing the early detection of ovarian cancer. However, until the effectiveness of these tests is proven, the best defence we have is to be aware of the early warning signs so that as individuals we can recognise changes in our own bodies. Some of the more common symptoms associated with ovarian cancer are unexplained abdominal or pelvic pain, increased abdominal size or persistent abdominal bloating, difficulty eating or feeling full quickly. A full list of symptoms is available, and I urge Australian women to visit Ovarian Cancer Australia's website, which is www.ovariancancer.net.au. I encourage women of all ages, young or old, to visit this website and to speak with their doctor about the early warning signs of ovarian cancer to ensure their awareness.

The key point I would like to make is that the symptoms that precede ovarian cancer are new to you and different for your body. I urge all women to be aware of these changes and to seek advice from their GP if they are concerned. I cannot stress enough that, if you are not satisfied with the advice you are given by your GP, you should seek a second opinion. Early detection of ovarian cancer is critical in reducing the number of women who die from this disease. Statistics demonstrate the importance of early detection, particularly now, as they indicate an increase in the number of women diagnosed with ovarian cancer in Australia from 833 in 1982 to 1,266 in 2007.

As a woman and as a mother of girls I know that it is not in a woman's nature to worry about their own health. Women always put other members of their family first. It is not in their nature to make a big deal of minor symptoms and it is not in their nature to put themselves first as often as they should. So today, as we discuss the important issue of ovarian cancer, after Ovarian Cancer

Awareness Month in February, it is important to emphasise early detection, and I would like to remind women to think about themselves and put themselves first in this instance. I urge all women to take notice of the changes in their bodies, no matter how small, and to make the time in their busy lives to take control of their health, and I encourage all women to remember that looking after themselves is of the highest importance because if they do not look after themselves they cannot look after their loved ones.

Awareness of ovarian cancer is so important because it is a largely indiscriminate form of cancer. A woman of any age or any ethnicity, with all or none of the risk factors, could be diagnosed with ovarian cancer. It is often believed that a family history of cancer is a primary indicator of who will be affected; however, 90 to 95 per cent of ovarian cancer is diagnosed in women who have no family history. This is information that can, hopefully, help all women to be as aware as possible. It is important that if you have concerns or have experienced possible symptoms you see your doctor. If, after visiting your GP, you still have concerns, then it is sensible to seek a second opinion.

I would like to share with those in the chamber the story of a loving mother in my home state of Tasmania who 11 years ago lost her daughter to ovarian cancer. Her daughter was only seven years of age. I join with her mother in an attempt to raise awareness of this hideous disease and to ensure that the community understands that it can affect women of all ages. Cancer of any type is tragic, regardless of the age of the person affected; however, the impact on a family with a child diagnosed with cancer seems particularly dreadful and something that I imagine is not fully comprehensible until it is experienced firsthand. To have a child that sick would indeed be a devastating thing. Even more devastating is the thought that

because of a cruel, indiscriminate cancer a child could pass away. It is tragic and simply not natural for a child to die before their parents, and that is why I stress that early detection and awareness is so crucial.

Ovarian cancer is one of the most lethal forms of cancer because, as I said, it is not easy to diagnose. Ovarian cancer is considered to be in the early stages when it is still confined to one or both ovaries. As a cancer becomes more advanced it can be found in other pelvic organs, such as the uterus and the fallopian tubes. Advanced stage ovarian cancer occurs when the cancer has spread from the primary site, the ovaries, to other distant organs such as the liver or lungs.

The prognosis for an individual diagnosed with ovarian cancer depends on the stage to which the cancer has developed as well as the age and general health of the individual. For individuals diagnosed with ovarian cancer still in its early stages and confined to the ovaries, the prognosis is good and it is suggested that 93 per cent of these patients will still be alive in five years.

The reason I urge women to be as aware of their bodies as possible and to take notice of change early is because the later that ovarian cancer is detected the less chance there is of a successful recovery. If the cancer has spread into the tissues of the pelvis or other pelvic organs, the rate of survival five years after diagnosis drops from 93 per cent to only 39 per cent. If the cancer is in its advanced stages and has spread even further into distant organs, the five-year survival rate drops again, to 30 per cent. Although these statistics are an average, and each individual will have a different response to treatment, they remain alarming and demonstrate the importance of detecting this cancer as early as possible.

If the situation arises, and I pray it does not, that it is suspected you have ovarian

cancer, the best advice available says that you should ensure that you are referred to a gynaecological oncologist for treatment. The reason for this is that research shows that survival for women with ovarian cancer is improved when their surgical care is directed by a gynaecological oncologist. The greatest risk factor connected to ovarian cancer is considered to be age. Unfortunately, there is nothing we can do about getting older—I do try. However, there are a number of other risk factors that are often thought to influence an individual's chance of being affected by ovarian cancer. It is important to be aware of these risks, which include family history and genetics, which accounts for around only 10 per cent of ovarian cancers, having had no or few full-term pregnancies, smoking cigarettes, eating a high-fat diet and being overweight or obese.

I am pleased to have had the opportunity to speak on this matter, as I feel that it helps awareness when we bring this type of debate into the chamber. The profile of awareness of ovarian cancer is comparatively low compared with other types of female cancers and it needs to be regularly brought to our attention. This is often done through the suffering of a high-profile woman. The tragic passing of Jane McGrath reminds us of the importance of breast screening, and it brought home the reality that cancer is indiscriminate and can affect any one of us.

As I speak today, I congratulate those many women who have worked so tirelessly over many decades to ensure that breast cancer screening is available to all women and the profile of breast cancer is far more known within the community, which is an excellent thing. But we need to be mindful that cancers such as ovarian cancer are still not as well known in our community so we should, wherever possible, make sure that we send the message out to the community that women need to look after themselves. They

need to seek medical advice if they have or are experiencing any of those symptoms that I highlighted earlier so that they have the best chance, the best opportunity, of beating this disease.

Those who are in the chamber know that we had a colleague in the past who was taken by ovarian cancer. So through not only our own families and friends but as colleagues in this place we have been touched by the sadness of losing someone to this hideous disease. We together have a responsibility, as I said, to raise the profile of ovarian cancer within the community, of the real risk that it is within our community, and we need to ensure that women are mindful and seek medical advice. The earlier it is detected the better the chance the individual has of making a full recovery.

Youth Allowance

Senator NASH (New South Wales) (1.26 pm)—Before I begin, I want to commend Senator Polley for the comments she has just made in the chamber. I think on all sides of the chamber we are very aware of the importance of this issue. I would like to take the opportunity to acknowledge one person who does an awful lot of work in this area, Bronnie Taylor, from Cooma, and to thank Senator Polley for her contribution.

I want to speak today on independent youth allowance. Many of you will not be surprised, I am sure, that I should rise again today to discuss this issue. The background to this issue is that, last year, in March, the government made changes to the independent youth allowance arrangements. What that did was change the arrangements for independent youth allowance so that students living in the inner regional zone were subject to criteria for accessing independent youth allowance very different from those for those students living in other regional areas.

Students in the other regional areas could work under the old arrangements of having to take a single gap year and earn a lump sum of around \$19½ thousand. The changes that the government made to the inner regional zone at that time meant that those students had to defer university for two years and had to work an average of 30 hours a week.

That is clearly wrong. At the time, as part of the deal agreed to with the government to get the good measures through, the coalition had to agree to this change taking place. We certainly did not want to do that, and indeed we moved an amendment that same day to include the inner regional zones under the same criteria as other regional zones. But what we saw from that point on was a huge financial burden being placed on regional students and their families who live in the inner regional zones. This is precluding many of those students from going on to university and further education. We should be making it easier for regional students to go on to tertiary education, not harder, which is what this Gillard Labor government is doing. I point out that it was the current Prime Minister, Julia Gillard, in her role as Minister for Education, who put these changes in place, which has resulted in unfair treatment for regional students.

There has been much discussion over the last year about this and I think it is the biggest sleeper issue I have come across in my time in this place. Thousands of students have been affected by this—thousands of students who are now not going on to university or further education because of the requirements contained in the government's current legislation. That is simply wrong. A lady from down in the south of the state said to me not long ago that she and her husband have three children and, because of the government's current requirements for students from inner regional areas, which is where

they live, they are going to have to choose which one of their children they can afford to send university. That is appalling. In this day and age that is absolutely appalling, and it lies fairly and squarely with the Prime Minister. She has to bear the responsibility for that because this was her legislation. It was her decision to treat regional students unfairly. That situation is just unacceptable.

When the Prime Minister talks about an education revolution she is obviously not including country students. Obviously, if you live in a regional area you cannot be part of the education revolution, because this government is refusing to recognise the very significant financial burden this is placing on students in those inner regional zones. The government's argument that the changes that came in last March to the dependent youth allowance somehow cover off the financial burden that has been created for students in the inner regional zones is simply incorrect. It is simply wrong. It is like comparing apples with oranges. Many of those new students are not getting the whole rate of youth allowance—and I acknowledge that there are many more students now getting dependent youth allowance; they were some of the measures we supported last year. When you compare that to the independent rate of \$388 a fortnight, you will see that some of these students might be getting very little. Indeed, I think towards the top end of the threshold it is about \$1.74 a fortnight. The government is being misleading when it says to the Australian people that the changes have made it better for regional students and that regional students are better off. It is simply wrong. The Australian people need to recognise that the government is telling them a furphy on this issue.

The coalition recognises that this is an unfair measure that needs to be fixed. Recognising that, I recently introduced a bill into the Senate on behalf of the coalition that

would require the government to treat inner regional students the same as other regional students. I am pleased to say that the bill passed the Senate—I thank Senator Nick Xenophon and Senator Steve Fielding for their support of that bill. I place on record my absolute disappointment with the Greens for voting with the government against my bill. The bill would have ensured that all regional students would be treated fairly when it came to independent youth allowance, but the Greens chose to walk away from those regional students they say they represent. They chose to side with the government, yet again under this new Labor-Green alliance that seems to be running the country, and vote to keep treating regional students unfairly. I think people in the community were shocked and very disappointed that the Greens chose to do that. Many people have come to me in absolute consternation as to why the Greens would have done that. I guess that is a question they will have to ask the Greens.

The bill of course then went to the House of Representatives. Interestingly, we saw the Independents—Rob Oakeshott, Tony Windsor, Andrew Wilkie and Bob Katter—vote with the government to stop debate on the bill, which did nothing more than ask for fairness for regional students, because of a ‘constitutional issue’. We said very clearly at the time, on behalf of regional students and their families, that the bill should have been allowed to be debated. It should have been a matter for the House of Representatives to debate and then for it to determine the constitutional issue. We also saw last week the extreme disappointment in the Independents’ electorates about what they had done. I have been flooded with comment from their electorates expressing a very sincere and strong disappointment that the Independents did a deal with the government.

The government announced last week that it would bring forward a review into youth allowance arrangements, which is of course welcome, but that it would move to remove the eligibility distinction between the zones. The Independents signed up to this. They claimed it as a huge win for regional students in their electorates. What the Independents failed to do was consider properly what the government had put forward. We heard last week in Senate estimates the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Chris Evans, say clearly on record that the government has no idea what the changes to the independent youth allowance will be from next year. Removing the distinction for eligibility between the zones could mean anything at all. There was an assumption, I think, in our regional communities that what the government had said meant that it would treat the inner regional zones in the same way as the other regional zones. But, no, colleagues; that is not the case. And that is according to the minister.

One can only ask: what was it that the Independents signed up to? They said they got this great deal for regional students; but what did they sign up to? The government cannot tell us what the changes are going to be, so how can it be some great deal that the Independents have got for their regional students? If the government does not even know what the changes are going to be, how on earth could the Independents know what they are going to be? They sold out regional students last week. They could have voted to debate my bill—voted for the bill to ensure that regional students were treated fairly—but they chose not to do that, and that is absolutely appalling. I must commend my shadow minister, Christopher Pyne, the member for Sturt; the member for Forrest, Nola Marino; the member for Gippsland, Darren Chester; and my very good colleague

in this place Senator John Williams for the enormous work that they and so many of our other coalition colleagues have done on this issue to try and get the government to see sense and to realise that it is just common sense to treat all regional students fairly. It is no longer acceptable for this government to keep treating regional students unfairly.

Given that the Prime Minister was the architect of this at the time in her role as Minister for Education, perhaps she just does not want to admit she made a mistake. I can tell her that there are thousands of regional students out there who are begging for her to put her ego to one side and put the needs of and fairness for regional students first. There is no excuse not to treat them fairly. The government uses cost as the excuse to not treat these regional students fairly, to not treat inner regional students the same. This is a government that can waste and mismanage billions of dollars and spend, for example, \$81 million on administering an emissions trading scheme that does not even exist and then say to regional students, 'I'm terribly sorry but we cannot find the money to treat you fairly.' It is not acceptable. All this government have to do is admit there have been some unintended consequences and fix the problem. They can do that very simply by bringing their legislation back, amending it—which is only the insertion of about one sentence into that legislation—and that problem will be fixed. They can find the money, they know they can find the money and it is no longer acceptable for them to use that as an excuse. Regional students are not cash cows.

The coalition is now calling on the government to fix this problem soon—not off in the never-never from 2012, as they have said, which is not fair. The government has said that those students who finished year 12 at the end of 2009 are basically stuffed. They can only operate under the current legislation

and it is too bad for them. As the minister said the other night in Senate estimates:

... there will be winners and losers ...

For my mind, there should not be any losers in the area of regional students' education.

What we are calling on the government to do—and this is very clear and very simple—is make changes to the legislation from 1 July this year, not next year. We will allow the government to run the review that they want to put forward. That is fine. Run that through until 1 July but, at that point, identify the funding to make the changes. From 1 July the inner regional students should be subject to the same current criteria as those students in the other regional zones—that is, being able to take a single gap year, work over the 18-month period and earn the lump sum provision. They should all be treated exactly the same from 1 July this year. As part of that, the students that finished year 12 in 2009 who took a gap year last year, if they meet the criteria, would be eligible to access that assistance from 1 July this year. I think that is a fair and reasonable solution for the government to take up. It certainly gives them time to find a funding mechanism. The coalition has one—the Education Investment Fund. But, if the government chooses another funding mechanism, that is entirely up to them. It gives the government time to sort out the funding problem which they say is the only issue.

The government will argue this is part of a bigger picture and is not just about independent youth allowance. I totally agree. I have said all the way through this being debated that the independent youth allowance changes that we are asking for only fix the current inequity. We absolutely need to look at the bigger picture of how we can better assist regional students and assist them more fairly. That could be done through a tertiary access allowance which I shall outline an-

other day. But the government needs to make these changes now. From the government's own figures, the six-month period from 1 July this year to 1 January next year would cost the government only around \$27 million.

The issue is one of fairness. It is no longer acceptable for this Prime Minister, Julia Gillard, to treat these regional students unfairly. There is a solution. The government can adopt that solution. We recognise that perhaps these were unintended consequences, but this needs to be fixed. Regional students need to have every opportunity and every support to go on to tertiary education. This Gillard Labor government is currently making it harder for them. On behalf of all of these regional students and their families, I implore the government to recognise their plight and fix the legislation so that they can all be treated fairly.

Carbon Pricing

Senator BOSWELL (Queensland) (1.41 pm)—I wish to raise the destructive impact of a carbon tax on Australian jobs. The Prime Minister has promised that a tax on carbon will lead to a clean energy economy and jobs. It will do neither, and she is selling a lie. Much closer to the truth is the Prime Minister's statement to ABC Radio on 28 February that when you price carbon you raise money and, having raised that money, you then go out and use it. A price on carbon is not an economic reform but an economic deform. Raising business costs does not deliver jobs; it takes them away.

The argument for a carbon price is that it is supposed to change behaviour in the market such that we move to cleaner energy and reduce emissions in a process that becomes cheaper over time. This theory has been disproved by experiences in other countries such as Spain and Germany. The price of deforming their economies has been astro-

nomical. Many jobs have been lost and the populations made poorer because of billions of dollars of subsidies poured down the throat of the green energy tiger with little to show for it in terms of reduced emissions. The cost-benefit results are in and they show that no-one has yet found a way to efficiently direct a green revolution.

The Australian Prime Minister glibly tells the nation a carbon tax will bring jobs and a clean energy economy. Australian workers and businesses should take what she says with a lake of salt. The Climate Institute promises 34,000 jobs if there is a carbon price of \$36 on top of the 20 per cent renewable energy mandate. That is a pittance when spread throughout the nation. Their gimmicky interactive map shows where the scattering of jobs could be found and there are vast tracts of Australia, including mining areas, where there are no green jobs to be found. The Climate Institute does not say how many jobs will be lost as a result of making energy too expensive, but the number will be far greater than a paltry 34,000.

The Prime Minister proposes a new tax on everything that uses energy—from toasters, to conveyer belts, to fridges, to forklifts. A carbon tax is as pervasive in the economy as the GST. But there has been no modelling, no confirmation of the price or any official breakdown of the revenue. There is no detail on compensation or exemption or how the government will achieve this mighty churn of massive amounts of money being taken from business and consumers. Perhaps, if there had been some trust built up between the Prime Minister and the Australian people, there could be some faith in the glib assurances that there will be jobs and green welfare for the poor. But the Prime Minister has broken what little trust there may have been between her and the electorate.

We are talking about a comprehensive re-arrangement, reorientation, retooling of the nation's economy. This is not about pink batts anymore, it is not about putting laptops in schools, it is not even comparable to re-wiring health or broad-banding the country. This is a mammoth undertaking and, as far as meat on the bones go, the nation is frozen out of the detail. The government pushes on regardless of detail and regardless of caucus concerns. And the reason? We have to listen to our Prime Minister telling absolute porkies about jobs and a carbon tax is for one reason only: the Greens. How jubilant they have been claiming the carbon tax crown. They cannot wait for July to come and so that they can flog the living daylights out of the economy, literally turning the lights out.

The Department of Climate Change and Energy Efficiency data shows that Australia's top 292 emitters pumped out 341 million tonnes of direct carbon emissions, leading to potential revenue of \$8.2 billion if there was a carbon tax of \$25 per tonne. Then there is the financial impact on electricity generators themselves. Energy Supply Association of Australia chief executive, Brad Page, said:

Twenty five dollars never sounds like a lot of money until you turn it into what does it mean for individual businesses compared with today's costs they face. You are talking about an increase on their total cost of anywhere between 75 and 100 per cent. That is really the issue And that is what everybody is failing to appreciate. What they think is a low cost of \$25 per tonne could very easily be doubling their costs today.

A carbon price will turn lights out rather than keep them on with green energy.

Even former close allies like the Australian Industry Group's Heather Ridout are now distancing themselves from the Labor-Greens recipe for economic disaster. She said:

While certainty is important for decision-making around major long-term investments, this certainty should not come at the cost of a loss of competitiveness that sends jobs and emissions offshore or risks the continuity of energy supply.

The Australian Chamber of Commerce and Industry economics director, Greg Evans, said:

We don't think there should be any action from Australia until there is international movement, as it is conferring a major competitive disadvantage on competitive industry.

... ..

We can assure the government that none of our 350,000 members are actually queuing up to pay higher energy prices, especially where the environmental again associated with carbon pricing is negligible and also that there will be significant economic pain.

No carbon price was acceptable in Australia ahead of any international action by countries such as the US, China and Japan. He said:

By doing that, we are acting irresponsibly. We are actually putting our head above the trenches and waiting for our competitors to shoot us.

Once you have a carbon tax in place then the levers are there for any future deal between Labor and the Greens to tweak up the rate.

Their strategy may well be to bring in a lower price to start with and then raise it later on. A low price will not be enough to make the switch to alternative energy. Ziggy Switkowski warned that to drive the take-up of alternative energy the price would have to rise substantially from the \$20 to \$30 a tonne being speculated about to more than \$51 a tonne. The Climate Institute is using models that show cutting greenhouse gas emissions by 15 per cent by 2020 would need a price on carbon of \$36 a tonne. Cutting emissions by 25 per cent would need a higher price again. Mr Connor said, 'You'd have to have a starting price in 2012 of around \$50 a tonne.' It is too easy to imagine a future in

which the Prime Minister tells the nation ‘I know I promised a carbon price of \$10 a tonne, but the great moral challenge of our time means I’m raising it to \$50.’

No doubt she will also promise more jobs. More jobs: that is the greatest mistake in this whole debate. Other countries have tried this path and it has failed. There is evidence to learn from but the government is not heeding it, because of their desperation to do deals with the Greens. A Madrid university study shows that, for every job created in alternative energy in Spain, 2.2 jobs were lost. That is not clean energy; that is poverty-making energy. The money could have been put to far greater use for both the environment and workers.

The premiums paid for solar, biomass, wave and wind power—which are charged to consumers in their bills—translated into a \$774,000 cost for each Spanish Green job created since 2000. The author of the study told *Bloomberg News*: ‘The loss of jobs could be greater if you account for the amount of lost industry that moves out of the country due to higher energy prices.’ As the *Australian’s* editorial of 1 March noted, ‘by not taxing and not subsidising, the government could create twice as many jobs.’ BlueScope Steel chief executive, Paul O’Malley, told the ABC’s *Inside Business* that his company would face a \$300 million annual bill from the carbon tax. This came on the top of a first-half net loss of \$55 million from soaring raw materials prices. O’Malley has warned that the tax could spell the end of manufacturing in Australia. The prime minister and her deputy, Senator Bob Brown are turning their backs on the workers at companies like BlueScope.

What is the point in giving these workers’ families rebates for higher electricity prices when in the process you have taken away their income earner? A carbon tax does far

more damage than can be redeemed by household power bill compensation. It is impossible to take billions and billions out of the working economy and still expect it to work. A carbon price or tax is a trauma inflicted on an economy. It is not benign. It will not work to make us more green and clean, because it destroys our capacity to deliver and afford emission-reducing behaviour and distorts the market in favour of highly costly and inefficient and ultimately unsustainable energy alternatives. As the *Australian* editorial of 1 March went on to say:

Importantly, most studies into potential green jobs fail to take into account the jobs that are lost. So the tradesmen employed constructing a wind farm are added but the lost jobs for the scrapped coal generation plant are not subtracted.

Then there is the market distortion that green job studies often ignore. Subsidies, mandatory targets and tax breaks push energy production to renewable but more expensive technologies, thereby increasing power prices. These increased costs are imposed on the entire economy, reducing investment and employment.

Stimulus spending in renewable energy and green jobs has been promoted on the basis that, to varying degrees, it could produce multiple wins: rebooting the economy, reducing carbon emissions, increasing energy security and encouraging innovation. But such unambiguous success is seldom, if ever, the case.

I will provide more detail about the case of Germany, a country that has been lauded for its renewable energy efforts and jobs. Australia must look carefully and learn from Germany’s experience. In the case of photovoltaics, Germany’s subsidisation regime has reached a level that by far exceeds average wages, with per worker subsidies as high as €175,000, or US\$240,000. The amount of electricity produced through solar photovoltaics was a negligible 0.6 per cent despite its

being the most subsidised renewable energy source, with a net cost of about €8.4 billion, or US\$12.4 billion, in 2008. Using the same assumptions and a net cost for wind of 3.10c per kilowatt hour, the abatement cost is approximately €54, or US\$80, a tonne. A report released in 2009 called *A critical review of Germany's Renewable Energy Sources Act* found that, contrary to the view that Germany's commitment to renewables is 'a shining example to the rest of the world', this is a cautionary tale—'a massively expensive environmental and energy policy that is devoid of economic and environmental benefits'.

There is no substance to the argument that by acting early Australia can become a supplier of PV cells and wind turbines. We have seen here already how China undercut Australian manufacturers in PV cells. Germany thought it was being clever with all its subsidies on renewable energy, but the same thing happened there. According to the report, in 2006 and 2007 almost half of Germany's PV demand was covered by imports. Here is proof that if Australia imposes a carbon impost when China does not then Australian jobs will disappear and China's renewable energy supply jobs will increase. How does that help our economy, our workers or the world environment? It does not. We have not helped them at all. We have instead provided coal to China so they can power the manufacture of solar equipment to sell to the US.

I finish with this quote, which again highlights the cautionary tale of the German experience:

Empirical studies consistently show the net employment balance to be zero or even negative in the long run.

I will not continue with that quote, because time does not allow. We cannot be conned into thinking that renewables lead to greater numbers of green jobs, or any jobs for that matter. The experience overseas just does not

support this claim, and we would be foolish to go down that path.

Sitting suspended from 1.57 pm to 2.00 pm

QUESTIONS WITHOUT NOTICE

Carbon Pricing

Senator ABETZ (2.00 pm)—My question is to the Minister representing the Treasurer, Senator Wong. Isn't it the case that a carbon tax does not guarantee emissions reductions? Isn't it also the case that a carbon tax is a recipe for abrupt and unpredictable changes as the government would need to adjust the tax frequently to meet the emissions reduction target, each time subjecting these adjustments to the inherent uncertainties embedded in the political process?

Senator WONG—I think those words have a familiarity to them. It should be remembered that what the government is proposing, and has laid out in the mechanism that was made public after the Multi-Party Committee on Climate Change, is a mechanism that is an emissions trading system but has a transitional mechanism of a fixed price. Some of the issues you raised are some of the policy considerations that you have to consider when looking at the various models of abatement. It is true that some of the criticisms of a tax include whether or not the environmental outcome will be met. But in the context of this a number of things should always be remembered. The first is that the government has proposed a market mechanism—that is, an emissions trading scheme. We propose also, after dialogue with the multiparty committee, an interim transitional period of a fixed price. That is true.

It should also be remembered that Mr Abbott himself has advocated for a carbon tax. It is interesting—

Senator Cormann—Not before the last election. You know that.

Opposition senators interjecting—

Senator WONG—I hear the interjections, including from Senator Cormann. Here they go. They are very sensitive about this issue because they know that on this they have no credibility whatsoever. You have variously advocated an emissions trading scheme, a carbon tax, no action and, now, taxpayer funding of carbon abatement, and I will certainly have more to say later about the slug on Australian families that the opposition is proposing.

The PRESIDENT—Order! On both sides I need silence. Senator Sherry and Senator Cormann.

Senator ABETZ—Mr President, I ask a supplementary question. Isn't it the case that the introduction of the carbon price ahead of effective international action can lead to perverse incentives for industries to relocate or source production offshore and that there is no point in imposing a carbon price domestically that results in emissions and production transferring internationally for no environmental gain?

The PRESIDENT—Order! Senators on my right.

Senator WONG—These are some of the policy matters that have to be taken into account when designing the market mechanism.

Opposition senators interjecting—

Senator WONG—If the opposition want to engage in the detail of this policy discussion and actually put forward some sensible propositions about how you do manage your emissions-intensive, trade-exposed sector and how you do manage moving with the international community, we would welcome it. But that is not your position. Your position is to simply slug Australian families so that polluters can be paid, possibly to do what they would have done anyway. The reality is

that you have no policy on this issue. You are completely divided. I know that Mr Abbott has had to read the riot act to you to try to resolve or paper over the fundamental philosophical differences you have on your side.

Honourable senators interjecting—

The PRESIDENT—Order! I remind senators on both sides that I need to hear the response of the minister. If you are having an exchange across the chamber, as interesting as it may well be for you, it does not allow me to hear the answers that have been given. That is the fairness that needs to prevail in this place, just as people need to be heard in silence when the questions are being asked.

Senator ABETZ—Mr President, I ask a further supplementary question. Given that the minister reluctantly acknowledges that she made the statements that I quoted in my first two questions, and given her previous position, so eloquently expressed, against a carbon tax, can she explain how she got it so right then and so wrong now?

Senator WONG—Well, wasn't that a tricky question? What a tricky question. Perhaps I should lay it out very clearly.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Wong, resume your seat. Both sides, the time for debating this is at the end of question time, as I often point out. Senator Wong has the call.

Senator WONG—As I explained in my answer to the first question, we are proposing an emissions trading scheme as the mechanism. We are also proposing, in consultation with other members of the parliament, a fixed price for a period of time as an interim transitional measure. We have been upfront about that. We are doing that because we believe that action on climate change is important and we also believe that working

with the parliament to provide a carbon price is in the national interest.

That really stands in contrast to the way the opposition approach these issues—in stark contrast. Really, if you want to understand the Leader of the Opposition's thinking, or lack of thinking, on this issue, you need to go back to last year and this quote: 'I think my assessment of the policies has never changed that much; I think all that's changed is my assessment of the politics.' (*Time expired*)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the Kingdom of Bhutan led by Her Excellency Pema Lhamo. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

I also draw to the attention of honourable senators the presence in the gallery of an APEC delegation from New Zealand. On behalf of all senators, I wish you a warm welcome, and we express our deepest sympathies for the recent events in your country. We wish you a warm welcome to Australia and, in particular, to the Senate, and I would also like you to convey our sympathy to your country following the devastating earthquakes last week in Christchurch.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Carbon Pricing

Senator CROSSIN (2.08 pm)—My question is also to the Minister for Finance and Deregulation, Minister Senator Wong. Can the minister outline to the Senate the importance of maintaining fiscal integrity around major economic reforms such as tackling climate change?

Senator WONG—Pricing carbon is a major economic reform and it is one that should

be undertaken in an economically and fiscally responsible manner. Regrettably, that is not something that the opposition is doing, because what has been disclosed today is that the opposition's so-called direct action policy will in fact cost nearly three times more than they told the people before the last election—in fact, \$20 billion more than they costed at the last election. How embarrassing. This party pretends to be—

Opposition senators interjecting—

Senator WONG—How embarrassing: a party that claims to be fiscally responsible now is found out, now is caught out. A policy that was supposed to cost just over \$10 billion will in fact cost \$30 billion, another addition to your budget black hole. How embarrassing. One wonders what happened. Did Mr Robb not check the figures before the policy was released before the last election? Did they all—Senator Cormann and others—just rely on Mr Hunt to do it right? Well, he has led you up the garden path, and it is utterly embarrassing.

Opposition senators interjecting—

The PRESIDENT—Senator Wong, resume your seat.

Senator Ian Macdonald interjecting—

The PRESIDENT—Senator Macdonald, I remind you that shouting is disorderly and continuous shouting is completely disorderly.

Senator WONG—Mr President, I understand why they want to shout, because they do not want to hear this because it is embarrassing. You go to the last election and you say, 'We're going to meet the five per cent reduction by 2020.' You say, 'We're going to cost it at \$10-and-a-bit billion.' You are now found out: \$30 billion, a \$20 billion black hole on top of your previous black holes, and this is the coalition that already started behind the eight ball. You already had a budget

black hole; you are just adding to it. (*Time expired*)

Senator CROSSIN—Mr President, I ask a supplementary question. Can the minister also outline to the Senate the implications for households of taking a different approach to tackling climate change?

Senator WONG—Not only would the coalition's so-called direct action plan increase the budget black hole; it will also leave the average Australian family some \$720 worse off. That is because your plan takes from taxpayers and gives to polluters, with very little environmental gain. It is inefficient. That is \$720 per year that the average Australian family will be worse off under your policy. So, next time you do one of your stunts and go along to a fruit stall, picking up apples and saying, 'Oh, these will be more expensive,' why don't you tell the truth and say, 'What we're actually going to do is put our hands into the wallets and the purses—

Opposition senators interjecting—

The PRESIDENT—Senator Wong, resume your seat.

Senator Ian Macdonald interjecting—

Senator Chris Evans—You got sacked from the shadow ministry for lying, Ian, so—

Opposition senators interjecting—

The PRESIDENT—Senator, I think you should withdraw that.

Senator Chris Evans—I withdraw it unconditionally, Mr President.

Senator WONG—Why wouldn't the opposition be upfront and say, 'Actually, our policy is to put our hands in the purses and the wallets of Australian families and hand it to polluting companies for questionable environmental gains'? That is your policy. (*Time expired*)

Senator CROSSIN—Mr President, I ask a further supplementary question. Can the

minister also outline to the Senate any support for the economic implications of taking an alternative approach to tackling climate change?

Senator WONG—The coalition have searched far and wide for an economist who will say this is a good idea, because what we know is this: the Treasury say it is not a good idea and the Department of Climate Change and Energy Efficiency say it is not a good idea. Where are the economists who say it is a good idea? Really, I think Mr Turnbull had it right. Mr Turnbull essentially said that there are no economists who can be found to support your policy. You are a party that pretends to be economically and fiscally responsible. You have put forward a policy with a bunch of black holes associated with it, which will cost three times more than you told the Australian people, \$20 billion more—\$720 from Australian families—and you have no economic basis, no economic credibility and no economic rigour to your policy whatsoever. And Mr Turnbull and other people in your party know it. (*Time expired*)

Carbon Pricing

Senator BERNARDI (2.14 pm)—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Is the minister aware of a national survey that found that 83 per cent—

Senator Cameron—Is this a question about a burqa?

Honourable senators interjecting—

The PRESIDENT—Senator Bernardi, I will have to ask you to start again. I cannot hear the question.

Senator Cameron—Is this a question about a burqa?

The PRESIDENT—Senator Cameron!

Senator BERNARDI—There's a sheep bleating.

The PRESIDENT—Senator Bernardi, I do not need your comments on this matter. I am endeavouring to give you what you are entitled to, and that is to be heard in silence. Senator Bernardi, start again.

Senator BERNARDI—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Is the minister aware of a national survey that has found that 83 per cent of businesses intend to pass on the cost of Labor's carbon tax through increased prices? Regardless of what price the minister and the government decide to put on carbon dioxide emissions, and regardless of how high the tax might be, can the minister admit that the evidence indicates that consumers and Australian families will inevitably be worse off?

Senator WONG—Given some of the senator's recent statements, there is very little that he says that I would give any weight to.

Honourable senators interjecting—

Senator WONG—And there are those moderates on the other side who agree with me.

Senator Birmingham—Play the ball, Penny, not the man.

Senator WONG—I am very happy to do that, Senator. It's a pity some on your side don't do that.

Opposition senators—Ooh!

The PRESIDENT—Senator Wong, resume your seat. When there is silence, we will proceed. Senator Wong.

Senator WONG—We have been upfront with the Australian people that pricing something that is—

Senator Brandis—'There will be no carbon tax.' How upfront was that?

The PRESIDENT—I remind senators that interjections are disorderly and I need to hear the answer.

Senator Cormann—You are misleading the Senate!

The PRESIDENT—That is another interjection that does not help the capacity of this chamber to deliver a reasonable question time to those who are listening.

Senator WONG—I am asked about price impacts. As the Prime Minister has said, once you price something that is currently free, which is polluting, there will be price impacts. The carbon price is paid by big polluters but, yes, we have acknowledged there will be price impacts, which is why, under the approach we will be taking, households will get assistance. The Prime Minister has been clear about that. For Senator Bernardi's information, it is one of the key differences between the government's approach as proposed and the opposition's approach. The opposition takes from taxpayers and gives to polluters. The government levies a charge on pollution, recognises the price impacts and provides assistance to Australian households. No amount of the sort of scaremongering and inaccurate information that Senator Bernardi and others in the opposition put forward will make us resile from this basic fact: we want to price carbon. If you do not price carbon, you do not effectively tackle climate change. There will be price impacts. The government has said that, which is why we have also said that we would be looking, as the first priority, to assist households.

Senator BERNARDI—Mr President, I thank the minister for the answer and I ask a supplementary question. Given that the government intends to compensate Australians for the cost of this tax, isn't this just a massive exercise in socialist wealth redistribu-

tion, driven by a Greens ideology through an inefficient bureaucracy at the cost of millions of dollars to Australian businesses?

Opposition senator—Bob's nodding!

Honourable senators interjecting—

The PRESIDENT—When there is order, we will proceed.

Honourable senators interjecting—

The PRESIDENT—Everyone has enjoyed the moment. If we could have silence, then we will proceed with question time.

Senator Sherry—The only socialists left in the place are the National Party!

Senator Abetz interjecting—

The PRESIDENT—Whilst this might be interesting across the chamber, I wish to draw to your attention that this is a matter for post question time. All that is being achieved here is chewing up the time that is allocated for question time, and I do not think that that is healthy. Senator Wong.

Senator WONG—The answer is no.

Senator Conroy—That's all it deserved.

Honourable senators interjecting—

The PRESIDENT—When there is order, we will proceed.

Senator BERNARDI—Mr President, I ask a further supplementary question. Given that this carbon tax will cost Australian households as well as businesses millions of dollars, why is the government introducing a tax that will destroy Australian jobs, hurt Australian families and fail to achieve its stated goal of emissions reduction?

Senator WONG—The government have made clear our view that climate change is a challenge that needs to be responded to. We believe that pricing carbon is an important economic reform. We believe that the most efficient way of doing that is to put in place a market mechanism to impose such a price and to ensure that there are proper measures

to assist households as well as businesses through the transition. This is about meeting one of the challenges of today that is a challenge of tomorrow. It is about looking to the future. It is about trying to ensure in years to come that we look back and we say, 'We did manage the transition to a clean-energy, low-pollution economy'—whereas people will look back on this *Hansard*, Senator Bernardi, and reflect on the somewhat outlandish conspiracy theories and the scaremongering, fearmongering, oppositionist approach that you always take to most issues and most certainly to this one.

Asylum Seekers

Senator HANSON-YOUNG (2.22 pm)—My question is to the Minister representing the Attorney-General, Senator Ludwig. Last week the Department of Immigration and Citizenship during the Senate estimates hearing confirmed that there are 900 asylum seekers who have been assessed as genuine refugees by the immigration department, yet they are still awaiting their ASIO security clearances. This has been an increase of 570 since October last year. What action is the Attorney-General taking to address these delays?

Senator LUDWIG—I thank Senator Hanson-Young for her question. I will start by indicating that it is important to Australia's national security that security assessment processes are thoroughly conducted and they are appropriately conducted. In terms of addressing the need to reduce the processing time, in some cases it can unfortunately take an extended period of time, which is dependent on the circumstances of each individual case. However, ASIO and DIAC are implementing changes to refine this processing. ASIO regularly reviews and revises the allocation of resources to security assessments. This includes diverting resources from some caseloads to manage cur-

rent priorities. In setting priorities ASIO consults closely with DIAC. ASIO provides regular information to the Office of the Inspector-General of Intelligence and Security on the status of security assessments for the different visa caseloads. And of course the security assessment process continues to be an important element of Australia's robust border security regime. In some instances conducting security assessments, as I have said, does take time to work through those cases because each individual case must be assessed carefully and critically with all the relevant information. That does mean that the information flows have to occur and there are time lags in that. The process is not as simple or straightforward as some may argue. ASIO draws on classified and unclassified information to evaluate activities, associated attitudes, background and character and taking into account credibility and reliability. So all of that does in some cases mean that the time that it takes is extended. However, both ASIO and DIAC do recognise that it is important to work together— (*Time expired*)

Senator HANSON-YOUNG—Mr President, I ask a supplementary question. Is the minister aware of advice that was provided from the immigration department to ASIO some 15 months ago warning of a potential serious backlog in the time taken to conduct security assessments of asylum seekers? Can the minister confirm whether ASIO took on this advice and increased their overall staff capacity?

Senator LUDWIG—In terms of the specific issue on handling the matters themselves, I provide this response to Senator Hanson-Young. I have been able to explain the times it has taken for these matters to be proceeded with. Specifically in relation to the period that you have outlined, which is some 19 months earlier, I do not have any specific advice from the Attorney-General in

response to that question. In that case it would be wise for me to check with the Attorney-General and provide a response in relation to this specific matter. I will ask the Attorney-General to see what information he can provide in respect of that matter.

Senator HANSON-YOUNG—I thank the minister. If you could take that question on notice that would be greatly appreciated. The final supplementary question I have is that with no time frame or limits by which ASIO are required to conduct their security assessments, 900 genuine refugees are continuing to be detained indefinitely. What will the government do to ensure that innocent and vulnerable refugees are not subjected to further detention?

Senator LUDWIG—I thank Senator Hanson-Young for her second supplementary question. As I have indicated in the earlier answer, there are, as you have indicated, some 900, which is about 15 per cent of the total eligible to apply for a visa, awaiting the outcome of ASIO's advice to DIAC as to whether the Minister for Immigration and Citizenship will agree to allow them to apply for a visa. They have not got a visa at this stage, so they still have not completed the process. However, what I indicated is that, in terms of ensuring that we can reduce the processing time, it is clear that ASIO and DIAC are implementing changes to refine the process. There is no time limit, as I am advised, and I will check with the Attorney-General to ensure that this still remains the case. But clearly the difficulty always is that, because of the time lag sometimes for ASIO to get the information— (*Time expired*)

Carbon Pricing

Senator PAYNE (2.28 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. I refer the minister to the Prime Minister's statement in which she warned that families may have to wait

months before they know how much the carbon tax will push up the cost of power and groceries. Why did the government make the announcement for a carbon tax, which will impact every single Australian, without actually designing it first?

Senator CHRIS EVANS—The opposition say they want to oppose this and then they complain that they do not have enough detail. You have already made up your minds about your position. You are not prepared to engage in the public debate. You are not prepared to seriously engage in a valid way. We think pricing carbon is an essential economic reform, that it is the right thing to do. We have announced the way we intend to progress these matters and we will have a proper public debate and engagement about finalising the detail within the framework we have established.

One of the things we learnt in the last term is that you cannot trust the Liberal and National parties to engage with you, because, after negotiating for months and months getting agreement on the way forward, they suddenly did a volte-face and abandoned their commitment.

Opposition senators interjecting—

The PRESIDENT—Senator Evans, resume your seat. The time for debating the issue is post question time. I keep reminding senators of that. There is plenty of time at the end of question time for people to participate in the debate.

Senator CHRIS EVANS—We learned last time, in trying to work with the Liberal-National Party for a constructive public policy outcome, they let us and the Australian public down. We were unable to legislate, after three attempts to get the legislation passed by the Senate. What the Prime Minister did the other day was to announce the framework which would be applied in our moving to a price on carbon—the time

frame—and we will seek to build community and parliamentary support to achieve that.

Opposition senator interjecting—

Senator CHRIS EVANS—We need to build parliamentary support, Senator, because we know we cannot rely on you. We cannot rely on you to take your responsibility seriously. All we get from you are stunts in fruit-and-veggie shops, bike rides or appearances in budgie-smugglers, but no engagement in the public policy debate—just knocking, knocking, knocking, with nothing to say. So we are going to engage with the people who have a real interest in public policy and try to make sure we bring in a carbon price that allows us to see the transformation of our economy and our climate. (*Time expired*)

Senator PAYNE—Mr President, I ask a supplementary question. Given that the government has revealed that details of the Labor-Greens carbon tax will not be finalised for many months, meaning that legislation will not be presented to the parliament until the second half of this year, isn't it just an underhanded attempt by the government to concentrate on their Labor-Greens compact and have their carbon tax passed in a post-July Senate, where the balance of power will held exclusively by the Greens?

Senator CHRIS EVANS—That is a really, really clever point! Senator Abetz must have written that one for you. Get real! Get in the public debate; meet your responsibilities rather than making silly little political debating points. Take your responsibilities seriously, Senator!

Senator Brandis—Mr President, I rise on a point of order. It must be obvious to you, as it is to everyone in the chamber, that the Leader of the Government in the Senate is abusing and badgering a senator, not addressing his remarks through the chair and not

addressing the question either directly or indirectly.

The PRESIDENT—There is no point of order.

Honourable senators interjecting—

The PRESIDENT—Order on both sides!

Senator Cameron interjecting—

The PRESIDENT—Senator Cameron! On both sides: it does not help the conduct of question time when there are endless interjections from both sides and people debating the issue across the chamber. It distracts from the conduct of question time and my capacity to hear the answers that are being given. I understand that on both sides there may well be fervent and passionate views on this issue, and I understand that there is obviously a capacity in this chamber for robust debate. That is what parliamentary democracy is about. But it becomes very difficult for me when people on both sides are debating the issue when the question is being answered, whether people like the answer or not—or whether people like the question or not. It is not a matter of what people's individual views might be, and I understand that there will be people on both sides who will be offended either by the question or by the answer. And I accept that. But what I want to be able to do is to listen to the answers—and with due deference to you, Senator Brandis, there were some parts of that answer I had no capacity to hear at all, because of the debate that was taking place across the chamber on both sides.

I am not singling out one side or the other. I am just saying to the chamber: I am listening to the answers, I am trying to ensure that the ministers are addressing the questions that are being asked. Some of the questions, I might add, do not necessarily help question time in this chamber either, and I have been fairly flexible about the questions that I have allowed during question time, because I be-

lieve that this place should not be about a focus on the presiding officer during question time. I think it should be about the questions and the answers that are given by ministers, and the responsibility of the ministers in answering the questions to comply with the standing orders and be directly relevant to the questions that are being asked.

If we do not abide by the framework, then question time becomes argy-bargy, it becomes a battle of voices and it does not really serve the general public any good whatsoever. I just ask for there to be a bit of tolerance on both sides. I understand the robustness and the passion on both sides. But just tinge that with a little bit of restraint so that I can at least hear the answers.

Senator Ian Macdonald—Thank you for that, Mr President; that was timely. But could I raise a point of order. There is a creeping pattern where ministers are spending the first 30 seconds of their answers personally attacking the questioner and lecturing the questioner on the question they have raised. My point of order is: there is a rule that says that speakers must speak through the President and not directly. If ministers did that, they would not spend the early parts of their answers lecturing the questioner directly on how they should propose questions.

The PRESIDENT—Senator Macdonald, my only response to your comment is that I invite all honourable senators to sit down and go back through the *Hansard* of the most recent Senate question time and do an analysis of the questions and do an analysis of the answers. Let me assure you that one of the things I look at daily, not in a partisan way but in the interests of the conduct of this chamber, are those very issues that you raise. Let me assure you that I can suggest to the chamber that there is plenty of room for improvement on both sides.

Senator CHRIS EVANS—Mr President, I am sure Senator Payne does not need the protection of Senator Brandis. I have always found she gives as good as she gets and is more than capable of withstanding a debate on even terms with me. I do want to make the point that I was referring clearly to the Liberal Party and the attitude they are taking to this debate. We have got Liberal Party frontbenchers out there comparing the Prime Minister to Gaddafi. That is the sort of contribution we are getting from the opposition. We are trying to debate climate change and an appropriate national public policy response and all we have got is name calling and stunts. Quite frankly, the public expect better of their parliamentarians. I urge the Liberal Party to engage in the policy, not just the politics. (*Time expired*)

Senator PAYNE—Mr President, I ask a further supplementary question. For the benefit of the Australian people who await the details of this tax, how is this not just another example of the Greens dictating the government's agenda—hurting families in the process, putting jobs at risk and compromising the future of this nation?

Senator CHRIS EVANS—Again it is a political question to try and justify the political posturing of the Liberal Party: isn't it all about the Greens? No, it is all about climate change. It is all about public policy. It is all about the things that John Howard took seriously and you no longer take seriously because you have made yourselves totally irrelevant to the political debate. You have nothing to say of any seriousness about these issues. This government is trying to pass, through this legislation, a serious response to climate change that puts a price on carbon. We encourage all members of parliament to engage in that serious public policy debate, but the Liberal-National Party have written themselves out of that. They have put themselves on the sidelines—shouting, ranting

and name calling but offering nothing; totally irrelevant. This government will work with those members of parliament who are prepared to engage in a serious debate about a serious issue.

Carbon Pricing

Senator BILYK (2.40 pm)—Mr President, my question is to the Minister representing the Prime Minister, Senator Evans. Can the minister explain to the Senate how the government plans to assist households in the transition to a low-carbon future?

Senator CHRIS EVANS—I thank Senator Bilyk for her ongoing interest in these issues. The government believe climate change is real. We believe that taking action is absolutely essential to deal with that climate change. We all know that the most efficient way to tackle climate change and reduce pollution is to put a price on carbon. This is exactly what we have committed to do. We have always said in the Labor Party that we will help households as we make the transition to a low-carbon economy. Our highest priority will be helping individuals, pensioners and families. We will support those Australians who need help with increases in the cost of living, especially pensioners and other low-income earners. That has been a consistent position of this government throughout the debate on the response to climate change.

A carbon price is a price on pollution. It is the cheapest and fairest way to cut pollution and build a clean energy economy. The best way to stop businesses polluting and get them to invest in clean energy is to charge them when they pollute. The businesses with the highest level of pollution will have a very strong incentive to reduce their pollution. The government will then use every cent raised to assist families with household bills, to help businesses make the transition to a clean energy economy and to tackle climate

change. The government's resolve is clear: households will come first and assistance will be targeted at the people who need it most. That has been our policy both through the last term of government and through this term. We are looking to tackle climate change seriously and we are looking to make sure that any assistance that is available is directed primarily and firstly to households to help them make that adjustment.

Senator BILYK—Mr President, I ask a supplementary question. Can the minister explain to the Senate why it is important to assist households to make the transition to a low-carbon future?

Senator CHRIS EVANS—As I made clear, households are the government's No. 1 priority. We are about putting a price on carbon so that big polluters pay and big polluters change their behaviour. We are not embarking on this policy path because we want to make it more expensive for households to make ends meet, but we are acknowledging that there will be an impact on prices. As John Howard and others have all recognised, you cannot have a serious debate about this issue without recognising that there will be impacts in the economy. You cannot pretend that that is not the case. We are not only engaging in what is a serious response to changes in our environment but also engaging in major economic reform that will benefit the economy in the long term, right down to the household level. It is important that, in doing that, governments have a focus on assisting those who most need assistance—households, particularly those of low-income earners and pensioners—to make sure that they are receiving that assistance. (*Time expired*)

Senator BILYK—Mr President, I ask a further supplementary question. Can the minister also outline to the Senate why

household assistance is a critical element of the government's carbon price plan?

Senator CHRIS EVANS—We have made it clear that we recognise that the impact on households is a critical part of this response. We know that households need assistance as we make the transition to a low-carbon future. That is why we are focused on assisting them to respond. We are moving to a position where there is a penalty in the economy for big polluters. They will pay a price and that should impact on their behaviour. We know from international experience it will impact on their behaviour, but there are flow-on impacts in the economy that we will have to deal with. The government have made absolutely clear that our focus will be on assisting households to adjust to the changes in the economy, to assist families with household bills, to help businesses make the transition. These are the priorities we will apply to any revenue raised as part of the carbon pricing system. So we are very focused on making sure that households are assisted as we adapt to the changed environment. (*Time expired*)

Bibles: Citizenship Ceremonies

Senator BARNETT (2.45 pm)—My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. Why has the government banned the giving of Bibles and other holy books as gifts at citizenship ceremonies?

Senator CARR—I thank the senator for his question. I am somewhat surprised that you would walk into a question like this. I know that you have very strong views on these questions, but you would have thought that the questions committee in the opposition would have provided you with more facts. This was a Howard government decision in 2003, which meant that Bibles and holy books were no longer considered appropriate gifts to be distributed to new citizens at citizenship ceremonies. I appreciate

your interest in the matter, but you should check the facts before you walk in. I think Senator Abetz has set you up again. I think it is something to do with Tasmanian politics. It is very unfortunate and quite cruel in fact.

The PRESIDENT—Senator Carr, I draw your attention to the question.

Senator CARR—I am just making the point that Senator Abetz, who is obviously in control of the questions committee, had set up—

The PRESIDENT—Senator Carr, I draw your attention to the question.

Senator CARR—The Howard government made the decision in 2003, which meant that Bibles and holy books were no longer considered appropriate gifts to be distributed to new citizens at citizenship ceremonies. So Bibles are not banned from citizenship ceremonies. Attendees may choose to bring their own bible or a holy book on which they make their citizenship pledge. We have indicated, following the decision of the Howard government, that to ensure the secular nature of the ceremony attendees can select the pledge that best suits their beliefs. One pledge may well mention God; other pledges do not. It is entirely a matter for the individual. It is not a decision that this government has taken but a decision of the Howard government. I think, Senator Abetz, you should not be so mercurial as to put a senator in a position to ask a question such as that.

Senator BARNETT—Mr President, I ask a supplementary question. Clearly the minister has not got his facts together. Does the minister agree that the giving of holy books, including Bibles, as gifts at citizenship ceremonies has been a longstanding practice in large and small communities all across Australia? Does the minister agree that this ban is political correctness gone mad?

Senator CARR—Senator Barnett, might I just refresh you on the facts. The opposition seems to be only too happy to grandstand on divisive issues without checking the facts. But in 1998 the version of the code under the heading ‘Holy books’ stated:

Some local governments may choose to make a gift to each new citizen of the particular holy book on which the candidate will make the Australian Citizenship Pledge.

This version of the code also included ‘holy book’ under the list of appropriate gifts that may be given to citizens on page 8 of the guide. However, in 2003 under the Howard government this advice was changed to include the words:

Candidates who wish to use a holy book or scripture when making the Pledge should be invited to bring the holy book or scripture of their choice to the citizenship ceremony.

That was on page 35. At the same time holy books were removed from the list of appropriate gifts which are included on page 19. So go to Senator Abetz and ask him why he set you up with such a question.

Senator BARNETT—Mr President, I ask a further supplementary question. Will the minister answer this question: is the giving of holy books and Bibles by community groups, bible societies and otherwise also banned at citizenship ceremonies? Will the government reverse the ban and, if so, when?

Senator CARR—Senator Barnett, I have indicated to you that Bibles are not banned during citizenship ceremonies. Attendees may choose to bring their own Bible or holy book on which they make the citizenship pledge. But to reflect the secular nature of the ceremony—

Senator Joyce—Mr President, on a point of order—this is extremely important: the question that was asked was whether community groups can still hand them out. There

are a lot of people very interested in this answer. Would you please answer the question?

The PRESIDENT—There is no point of order. The minister is addressing the question.

Senator CARR—Mr President, I have been very clear with the senator. I have given him a very direct answer as to the circumstances for the use of Bibles at citizenship ceremonies. There is no ban on the use of holy books at citizenship ceremonies. Individuals make the choice as to whether or not they bring Bibles to those ceremonies and the source of those Bibles is not covered by any regulation whatsoever.

Edwards, Lance Corporal Mason

Senator FIELDING (2.51 pm)—My question is to the Minister representing the Minister for Veterans' Affairs, Senator Evans. Is the government of a report in the *Herald Sun* on 9 February 2011 regarding the decision by the Australian War Memorial to deny an application to list Lance Corporal Mason Edwards on the honour roll after he died during an exercise in training at Port Augusta for his third deployment to Afghanistan? Given the family's dismay at his exclusion from the roll, has the government been in contact with the family to discuss the matter and, if so, what was the outcome?

Senator CHRIS EVANS—I thank the senator for his question. Unfortunately, that is a very detailed question about a particular case and I cannot at the moment see whether I have a brief on a particular matter. I have not had any warning of the question and, as the representing minister, I am not aware of the case personally. So I am afraid I am going to have to take it on notice, unless someone can assist me with my briefing papers. It is not immediately apparent to me. It is obviously a serious matter for those involved and I want to treat it seriously. I do not know the answer, Senator, but I am happy to bring you

a response as quickly as possible so that you have that, but I will have to take it on notice.

Senator FIELDING—Mr President, I have a follow-up question. Given that it was the Australian War Memorial's council that denied the application to list Lance Corporal Mason Edwards on the roll in Canberra, and given the importance of having our fallen Australian servicemen properly recognised for their sacrifices, will the government commit to considering a review of the processes and criteria for admission to the roll of honour?

Senator CHRIS EVANS—I think everyone in this chamber takes seriously the recognition of our serving personnel, and particularly those who have been killed or injured on active duty. That is one of the few things that the chamber is always totally supportive of and unanimous on. I know we all take our responsibility to support our serving personnel very seriously. I just do not have information on this case, Senator Fielding. I know that makes it difficult for you, but it is obviously a matter of great importance to the family. It is obviously a serious matter in terms of whether or not Lance Corporal Edwards gets proper recognition, as you claim, and I would much prefer to take that on notice and get you a considered response. I do not know what the policy issues are in this matter. As I say, I will get you an answer as soon as I can.

Asylum Seekers

Senator CASH (2.54 pm)—My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. I refer to the evidence given by Andrew Metcalfe, Secretary of the Department of Immigration and Citizenship, in Senate estimates last week, where he said in relation to the government's proposed East Timor regional processing centre:

... one of the issues you raised earlier, about pull factors or a magnet factor, is the sort of thing that you would actually need to work through quite carefully such that the place would not become a magnet in itself.

Will the minister admit that the government's current policies will make it inevitable that an East Timor regional processing centre will become a magnet for asylum seekers?

Senator CARR—I thank Senator Cash for her question. I listened carefully to the evidence that was presented at the estimates committee—

Senator Cash interjecting—

The PRESIDENT—Senator Cash, it is not a debating time. You have asked the question. Senator Carr, you know what the question is; you need to address the question.

Senator CARR—I listened carefully to the position that Mr Metcalfe presented to the committee and I do not agree with your interpretation of what he said.

Senator Cash—Well, you wouldn't, but it's the fact.

Senator CARR—Senator Cash, I will do my best to answer your question, but given that you feel the need to offer me further advice on what you actually mean by it perhaps I should turn to some of your colleagues, because I know that the views you express are not shared by your colleagues. I do not believe that Senator Trood, Senator Humphries or Senator Payne—

Senator Brandis—Mr President, a point of order on relevance: once again, the minister is not addressing the question. He was asked whether or not the effect of the proposed processing centre would be to be a magnet for asylum seekers. He was quoted some remarks by the secretary of the department. What he asserts may be the opinion of opposition senators on the matter has no bearing on the question he was asked.

Senator Ludwig—On the point of order, Mr President: irrespective of the point made by Senator Brandis that it has no bearing, the minister can address the subject matter of the question and he is doing that. In doing that, if he raises the opposition and their position as part of the subject matter, that is still within the relevance of the question. He is directly relevant to the question that was asked.

The PRESIDENT—The minister still has one minute and 18 seconds remaining. I am listening closely to the answer that is being given by the minister and I draw the minister's attention to the question.

Senator CARR—I was making the point that not everyone in the opposition has the sort of reactionary views that Senator Cash has. Not everyone sees the world in such hysterical terms. Senator Cash has a particular interpretation of what Mr Metcalfe said at the estimates committee. I disagree and I know a number of her colleagues from her own side disagree. We have indicated the regional protection framework and the regional processing centre is all about breaking open the people-smuggling rackets, because what we want to do is to ensure that we are able to provide people with a very clear understanding of our determination to stop people smuggling. We have all said and always said that this is not an easy process and there is no quick fix involved. Rather than engage in simplistic slogans and very poorly argued positions, we are committed to working cooperatively with regional partners to develop a sustainable regional response to what is a very significant regional problem. We are not alone in the world in dealing with this problem and we are turning to others to work with them to find a solution to these questions of people smuggling. Senator, it is unfortunate that you have such poor hearing— *(Time expired)*

Senator CASH—Mr President, I ask a supplementary question. Given that when the Howard government lost office there were zero children behind bars and currently under Labor there are 1,065, when will this government show some leadership and compassion and stop this travesty?

Senator CARR—The government's performance on this question stands in very sharp contrast to the callous disregard shown for the rights of children under the previous government. The Minister for Immigration and Citizenship assured the parliament very recently that the government will meet its commitment to ensure that we do remove the majority of children from detention by June of this year. Our focus is on ensuring that the youngest unaccompanied minors, families with young children, single parents, pregnant women and other particularly vulnerable families are given the benefits of ensuring that we get them out of detention centres. Our priorities will then extend to older unaccompanied minors and other family groups, in that order. This is a rational approach to what is a serious problem, but you certainly will not deal with this question— *(Time expired)*

Senator CASH—Mr President, I ask a further supplementary question. Given the arrival over the weekend of boat No. 209, will the minister concede that the government's failure to re-open Nauru, the fact that its proposed regional processing centre will become a magnet for asylum seekers and its softening of the strong border protection policies of the Howard government will continue to give people smugglers the green light?

Senator Cormann—Two hundred and nine policy failures.

Senator Cash—It could be 210. I haven't checked in the last hour, so I will stand corrected, Minister.

The PRESIDENT—That is disorderly. You have asked your question.

Senator CARR—The problem for the opposition is that they think that by talking in these simplistic slogans they are going to be able to have a serious policy response to the issue. The Nauru solution failed and it is not an option in the current circumstances. It simply does not meet our international obligations and it is not appropriate to deal with what is quite a serious problem in these circumstances.

Senator Abetz—There's a brief coming your way.

Senator CARR—It is very simple, Senator Abetz.

The PRESIDENT—Interjections do not help at this stage. Minister, continue.

Senator CARR—The hysteria that the opposition is seeking to wind up on these issues does no service to them or to this country. These are matters that require sustained and careful consideration. Sloganeering will not deal with the situation. Senator Cash, you are amongst the best at it but, unfortunately, that is not of any service to this country. *(Time expired)*

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Carbon Pricing

Senator BUSHBY (Tasmania) (3.03 pm)—I move:

That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) and the Minister for Tertiary Education, Skills, Jobs and Workplace Relations (Senator Evans) to questions without notice asked by the Leader of the Opposition in the Senate (Senator Abetz) and Senators Bernardi and Payne today relating to a proposed carbon tax.

Having heard the answers provided by ministers today, I can only conclude that those opposite live in some rarefied, latte-sipping, elitist little world where they simply do not come across everyday Australians—the people they once referred to as working families. When they do, they treat their opinions, concerns and fears as the rantings of the ill-educated, the ignorant or of the little people who know no better. These Australians deserve better, because they face real financial struggles and challenges every day. They are getting angry that Labor shows no appreciation of the challenges they face. Those opposite seem to have no concept of the cost of living pressures that continue to mount on Australians as so many of life's necessities, such as groceries, electricity, gas, water, petrol and transport, increase in cost. Many of these increases are influenced by decisions of government, either directly or indirectly, yet this government seems to have no knowledge, understanding or appreciation of the magnitude of the struggle faced by so many Australians. No, it seems to think that they have an endless ability to pay more as it seeks to pile tax upon tax on them. The most recent attempts at this are the flood tax and the carbon tax, which was announced last week.

Ignoring for the moment the stark betrayal of the Australian people that this breach of a clear, concise and totally unambiguous pre-election promise represents, this attempt to hit the Australian people with another tax demonstrates that Labor is out of touch with Australians. Of course, the government will tell you that this tax is different; this tax is needed to address the evils of climate change, or so we are told. The fact is, whether or not you accept the need for urgent action in this area, this tax will not and cannot reduce global emissions of greenhouse gases, no matter how it is designed. We have heard the argument why this is the case put

eloquently by this side of the chamber and in the other place over recent days. Indeed, it is a fact that many on the other side of the chamber know and acknowledge the truth in private. Today we asked questions of Minister Wong that go to the heart of what she thinks about carbon taxes. It is probably worth repeating some of the statements that Minister Wong has made in the last couple of years. They include:

A carbon tax does not guarantee emissions reductions.

And:

A carbon tax ... is a recipe for abrupt and unpredictable changes, as the government would need to adjust the tax frequently to try to meet the emissions reduction target, each time subjecting these adjustments to the inherent uncertainties embedded in the political process.

Finally, and I think this is the real clanger:

The introduction of a carbon price ahead of effective international action can lead to perverse incentives for such industries to relocate or source production offshore.

That is exactly what those on this side of the chamber and in the House have been saying ever since the Prime Minister broke her promise last week and moved to introduce a carbon tax.

This is particularly relevant given some of the answers that we received to questions in estimates last week. All we really know about what the government is going to do with this tax is that it will impose a tax and it will impose it from 1 July next year. But the government itself has no idea of what level of tax it will impose, how much per tonne people will have to pay or on what. Even in the last couple of days it has been refusing to rule out putting the tax on petrol. Last week in estimates, those in Treasury who did the 2008 modelling which came up with the figure of \$26 per tonne said clearly that it was not possible to say now what price would need to be charged to meet Labor's promised

emissions targets, which is what this is all about. The officials said last week that too much had changed since they did that modelling in 2008 to be able to say whether that \$26 per tonne remained a relevant figure or whether it should be something different. No new modelling has been done since that time to inform the government of what figure that should be.

The Australian people now face a situation where they have the certainty of Labor introducing a carbon tax but Labor themselves have no idea how big that tax needs to be in order to deliver their own emissions targets. They do not know if it is the \$26 per tonne which was modelled and found to be the case in 2008— (*Time expired*)

Senator FURNER (Queensland) (3.09 pm)—It was quite perplexing to listen to Senator Bushby's contribution to this debate. It surprises me because my recollection is that he was a member of the Senate Economics Legislation Committee that inquired into the CPRS bill, as it was called at that stage. I was a member as well. I can certainly remember the contributions made by scientists, economists and a whole plethora of people with experience who came along. They made contributions making it clear that this is a serious issue. It is serious enough for people to come into this chamber and make contributions and have a debate on this matter rather than throw up scare campaigns and talk about sipping lattes and all this sort of nonsense. It gets really bad when you have the opposition coming into this chamber making those ridiculous, outrageous claims. There is no substance to their argument on this pressing issue.

They pretend to be the champions for workers. They come in here and say: 'We're concerned about what will happen with jobs. We're concerned about what will happen with workforces.' Where were they five

years ago when they introduced Work Choices into this parliament? They were championing at the bit to bring in laws to diminish conditions and to restrict workers from accessing unfair dismissal rights. There were a whole range of severe cases that brought back IR extremes from the 19th century. That is how far they went with Work Choices. We fixed that and we will fix the climate.

We will introduce laws and we will get them through this chamber to make sure the climate is protected, unlike those on the other side. What is their view? What does their leader say? He says that climate change is crap. That is their position. Not one of them have refuted that position. They stand up and champion that. They champion the view of their so-called opposition leader that climate change is crap. That is why they come to this chamber and support the policy of a \$30 billion deficit. That is what their policy will create. Their policy is as useful as an ashtray on a motorbike. They know it, and that is why they cannot come in here and defend it. They come in here with these scurrilous, ridiculous claims that they are going to do something for the climate. They are not, and the Australian public know that.

The differences between the policies of the government and the opposition are clear. We have a policy that will make sure polluters pay. Conversely, they have a policy that will make taxpayers pay for pollution. Those are the differences between the two of us.

Senator Bernardi interjecting—

Senator FURNER—We have a view of making sure polluters pay, Senator Bernardi—unlike you over there. You want the taxpayers to fund your policy of a \$30 billion bill. That is what you want to do on your side of politics. We will make sure that taxpayers are protected in this exercise as opposed to you lot. You have form in that. If you remember, leading up to the election, an \$11

billion deficit was found in your promises. This is why you cannot be trusted on anything. This is why you will fail in these arguments.

Going back to Senator Bushby, he was on those inquiries. He cannot hide from that. He heard the evidence from scientists and economists. He knows there are jobs in this. He knows there is protection in this for the economy. He knows the opportunities that exist to encourage renewable energy. But he does not come in here and argue those points. No, he comes in here and supports his leader's position that climate change is crap like the rest of you do.

That inquiry was followed up by the inquiry of the Select Committee on Climate Policy. It had good representation. I thought for a moment there that some of the people on the opposite side were coming on board and supporting climate change. But, no, at the end of the day when the report came out they were against it. They have always been against it, unlike us. We have tried to put through climate change legislation since 2008—

Senator Bushby interjecting—

The ACTING DEPUTY PRESIDENT (Senator Trood)—Order! Senator Furner, just a moment. Senator Bushby, you have made a contribution in this debate, so I think it would be helpful if you would restrain yourself.

Senator FURNER—He has made a contribution, and the emissions that have come from the other side have been unbelievable. There have been enough tonnes of emissions contributed from the opposition to lead to climate change and a concern about us being worthy enough to put forward legislation that will address the issues on climate change. We will prosecute that argument and we will succeed.

Senator BERNARDI (South Australia) (3.14 pm)—It is extraordinary to listen to Senator Furner. My only advice to him would be to go back to reading his speeches, because when he gets fired up and is trying to extemporaneously talk he makes a complete and utter fool of himself and his entire policy. I say that not in a personal sense. Senator Furner said, 'We will fix the climate.' What a load of poppycock; what a load of nonsense. These people do not even know what the detail of their policy is, and yet he is promising to fix the climate. Gee, how are you going to do that when Australia acts on 0.038 per cent of emissions? This claim by this government that they are going to fix the climate is an extraordinary claim; an egotistical claim; a narcissistic claim. On the other hand, Senator Furner said that they are for climate change. Quite frankly, I am against climate change. I would rather that the climate stay as it is so that we do not have more extreme weather events and so forth. But Senator Furner is for climate change.

Let me turn to the matter of substance, which was, in asking Senator Wong about compensation, trying to find out how that was going to change their behaviour. Senator Wong, quite frankly, played right into our hands. She dealt a straight bat to it and said, 'We're going to make sure that we compensate families.' And yet Ms Gillard, the Prime Minister, said that there has to be a price impact on families; otherwise, it is not going to have any effect. And yet Senator Wong told us that they are going to fully compensate families. This is a catch-22; a tautology. It is a complete round robin of nonsense from this government.

There is no question at all that the government is going to take billions of dollars out of the economy from businesses and sequester it in the government coffers and then distribute it as they see fit. This is the redis-

tribution of wealth. It makes an absolute mockery of the Australian people for this government to suggest that if a company pays \$600 million worth of extra tax—which is what some research indicates that an electricity generation company will pay—that they are not going to pass that on to consumers. Then the government is going to compensate consumers. So how is this going to reduce emissions at all?

Senator Wong has been damned by her own statements in this regard. She has said that a tax will not guarantee a reduction in emissions. This is a great con—a carbon con. In fact, even the term ‘carbon’ is a con, because what we are talking about is reducing carbon-dioxide emissions, not carbon. Carbon is that thing that is in every living creature. Acting Deputy President Trood, you are about 18 per cent carbon—very good quality carbon; there is no question about that. Apparently, this government want to tax you, just like they want to tax every Australian taxpayer.

The real issue—what they have neglected—is that they are putting in place a tax on carbon-dioxide, that odourless, colourless gas that we all respire whenever we exhale. This is a tax on humanity. This is a tax on hot air. Why wouldn't a government that is intent on reaching deeply into the pockets of Australian family, that is so far out of its financial depth that it is absolutely drowning—and taking the taxpayer with it—and that is financially incompetent and broke tax something like hot air? They are desperate, and they can tax it to their heart's content and claim that they are fixing the climate, as Senator Furner said. This is an absolute nonsense. It is not going to make one bit of difference to the climate, despite Senator Furner's assurances. It is not going to make one bit of difference to the global temperature. But it will make a difference to every

Australian family. It will make a difference to Australia's competitiveness.

And it has made a difference to the Australian people already, because this government lied about it. When Ms Gillard said, ‘There will be no carbon tax under a government I lead,’ she did not tell the truth—just like she did not tell the truth to the Labor caucus when she said that they were going to support the bill from the Greens that is going to give rise to same-sex marriage in the ACT and maybe the Northern Territory. She did not tell the truth then. She did not tell it to the Australian people when she said that there would be no change in the marriage laws. Now she has given in to the Greens. She did not tell the caucus. They slapped it through in one line. It did not even go to the cabinet. That shows the hopelessness of this government. The broken promises—the carbon tax promise and the territories promise—go the heart of this government: the Greens tail is wagging this dog of a Labor government.

Senator POLLEY (Tasmania) (3.19 pm)—If there were ever a need for a carbon tax on hot air it was after that contribution. I really do not know how you can draw the bow to link this issue with a proposed private member's bill that is yet to come before us. That bow would have to have a very long string. The accusation that the Prime Minister has lied over her commitment on gay marriage is an outright misrepresentation of the facts.

But let us get back to the substance of what we are debating here, the carbon tax. Let us be very clear: the Labor Party and the Prime Minister have always—before the election campaign, during the election campaign and since the election campaign—been very clear that we as a Labor government want to tackle climate change. We have always been upfront with the Australian com-

munity on our belief in the scientific evidence that has come before our committees and the public. The majority of those opposite do not even believe in climate change. Those sceptics over there are happy to run a scare campaign and not to have an informed debate about the issues of climate change. Some of those opposite are really scared. The scare campaign that they ought to be focused on is: where is Malcolm Turnbull, who is he going to be after and what changes will come into effect when he resumes the leadership?

What we need to do is focus on the issues that are before us and the effects of climate change that we are experiencing as a community. We know that electricity prices have been increasing across the country. That is not going to change. What we need to do is address the urgent need to tackle climate change in a serious way. The government has made it very clear that families will face increased costs to their household budgets. But we will be compensating them for those increases.

Unlike those opposite, we as a government are willing to work together. The other side is making a big issue about the Greens running the agenda for the Labor government. In fact, we are more than happy—as we have been in the past when there was an agreement on the ETRS—to work together with those who are committed to addressing climate change. But no, those opposite—the majority of those in the chamber and their leader, Mr Abbott—do not recognise and do not believe that there is a need to address climate change. How can you work with them and have a serious debate when all they are about is opposing, opposing, opposing and being the opposition for opposition's sake?

We need to acknowledge that there are people who do acknowledge that something has to be done and who in fact support the

government. I quote Graham Bradley, the President of the BCA, in the *Sydney Morning Herald* on 1 March 2011:

We argued long and hard ... for a bipartisan approach on this important issue in the interests of longer-term certainty. As soon as that breaks down we are in a very difficult political environment for business ... we would prefer the two major parties to come together so there is some longevity to the policy.

Heather Ridout also made comments urging that we work together. So those opposite, if they are going to be serious and participate in this debate, instead of making personal attacks on senators' contributions from this side, ought to look at their own backyard. Senator Bushby, my colleague from Tasmania, came into this chamber and was so hypocritical in accusing the government senators of being out of touch with the Australian community and Australian families. I do not recall him speaking up for Australian families when the Howard government introduced Work Choices. I did not hear him once. In fact, I am not sure that Senator Bushby would even recognise a working family in Tasmania, let alone have any association with one. This debate is an important one, and we welcome it. We will be consulting and will continue to consult with the community on this issue. We do not believe we have all the answers. (*Time expired*)

Senator FISHER (South Australia) (3.24 pm)—The members opposite have no answers—and I rise to take note of the nonanswers given in question time today and to note that all this government is doing is dancing a dance. Our Prime Minister is dancing a very merry dance, at the behest of the Greens and to avoid calling a tax a tax. She is dancing a very merry dance to try to deny that she has broken a promise that there would under her government never, ever be a carbon tax. We might as well do the hokey pokey again on a dud of a policy that is all

pain and no gain. It is bereft of detail; it is a total dud. All it will do is distort the market. It is bereft of details. Is petrol in or is petrol out? You put petrol in, you take petrol out. You put petrol in and you shake the tax about. You do the hokey pokey and—ooh!—you turn right around. And what happens when you turn right around? You are back to where you were before: all pain, no gain. As Senator Furner said, it is as useless as an ash-tray on a motorbike. The government's carbon tax will surely be that, and as useless as tits on a bull. The analogies are endless.

The Minister for Finance and Deregulation, Senator Wong, said that the carbon tax is all about the future. No, it is not. We are in a time warp. It is like the ETS all over again. It is a dud of a policy. You have released it without detail. It is all pain and no gain. We might as well do the *Time Warp* dance:

It's astounding;

Time is fleeting;

Madness takes its toll.

So let's do the *Time Warp*. You might as well take us back to the time of the ETS with this carbon tax, because that is what it is—'Let's do the *Time Warp* again.' It is, after all, 'just a jump to the left' and then a 'step to the right' as this government moves us closer and closer to a carbon tax. The government jumped to the left and said, 'We'll never have a carbon tax.' The government then stepped to the right, because now they would have us believe that that which was wrong before apparently—a carbon tax—is now right. Now it is right to have a carbon tax.

So put your hands on your hips—and this is where it gets good; we are supposed to believe that—because the Prime Minister, hands on hips, is going: 'Tut, tut, tut. It's not a tax; it's a scheme. It's a market based mechanism.' Call it what you will, it is a tax. A tax is a tax is a tax. So:

Put your hands on your hips.

Bring your knees in tight.

The Prime Minister is going to have to do that. She is going to have to bring those knees in tight, because Minister Wong has conceded that yes, the carbon tax will increase prices; it will increase costs. Bring your knees in tight. The government might as well confess that a carbon tax will increase petrol prices at the bowser. Once the Australian people are aware of the increased prices at the bowser, bring your knees in tight. Some of that excess money will be siphoned offshore for the government to deliver on the UN pledge for developed countries to subsidise developing countries to save themselves on climate change. But it is the pelvic thrust:

But it's the pelvic thrust

That really drives you insane.

It is the pelvic thrust. It has to be parliamentary. The Prime Minister wants it to be.

Senator McEwen interjecting—

Senator FISHER—Senator McEwen, lift your head. It is at the behest of your Prime Minister. It is the pelvic thrust that is really going to drive the Australian people insane, and that is the carbon tax. It is a dud of a policy without detail. It will be all pain and no gain. And yes, Senator McEwen, you should hang your head in shame, as should your Prime Minister and your government.

Question agreed to.

COMMITTEES

Legal and Constitutional Affairs Legislation Committee

Reference

Senator BRANDIS (Queensland) (3.29 pm)—I move:

That the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010, together with the amendments on sheet No. 703, circulated by the Australian Greens, be referred to the Legal and Constitutional Legislation

Committee for inquiry and report by 21 March 2011.

Question agreed to.

NOTICES

Presentation

Senator Cash to move on the next day of sitting:

That the Senate—

- (a) notes that 8 March 2011 is International Women's Day;
- (b) acknowledges:
 - (i) the work that UN Women, the United Nations (UN) organisation dedicated to gender equality and the empowerment of women, undertakes to improve the conditions of women both domestically and internationally, and
 - (ii) that despite the many rights and privileges Australian women enjoy, there remain challenges that we must strive to overcome;
- (c) notes, with concern, that:
 - (i) in Australia, violence against women is still far too common with Australian Bureau of Statistics figures showing that one in three women have experienced physical violence since the age of 15, and
 - (ii) harmful practices, including female genital mutilation, have been committed against women in certain communities and societies for many years and that such harmful practices are considered by some to be part of accepted cultural practice;
- (d) reaffirms its opposition to so-called traditional cultural practices which allow women to be subjected to crude and unrestrained primitive practices that would not be tolerated in Australia; and
- (e) recognises that Australians have a fundamental obligation to speak out and protect the human rights of women, both in Australia and overseas.

Senator Coonan to move on the next day of sitting:

That—

- (1) The following matter be referred to the Standing Committee for the Scrutiny of Bills for inquiry and report by the last sitting day in June 2011:

The future direction and role of the Standing Committee for the Scrutiny of Bills, with particular reference to whether its powers, processes and terms of reference remain appropriate.

- (2) In undertaking this inquiry, the committee should have regard to the role, powers and practices of similar committees in other jurisdictions.
- (3) The committee be authorised to hold public hearings in relation to this inquiry and to move from place to place.
- (4) The committee be authorised to access the records and papers of the 2010 inquiry into its future role and direction.

Senator Fifield to move on the next day of sitting:

That the Senate notes that after more than 3 years in office and a change in Prime Minister, the Government still has not found its way and continues to fail to deliver on its commitments to the Australian people.

Senator Heffernan to move on the next day of sitting:

That the time for the presentation of the report of the Rural Affairs and Transport References Committee on biosecurity and quarantine arrangements be extended to 6 July 2011.

Senator Heffernan to move on the next day of sitting:

That the Rural Affairs and Transport References Committee be authorised to meet during the sitting of the Senate on Thursday, 3 March 2011, from 12.30 pm to 1.30 pm, for a private briefing.

Senator Mark Bishop to move on the next day of sitting:

That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a

public meeting during the sitting of the Senate on Thursday, 3 March 2011, from 4.30 pm, to take evidence for the committee's inquiry into the provisions of the Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010.

Senator Fifield to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, no later than noon on Monday, 21 March 2011:

- (a) all documents relating to the appointment of Ms Catherine Deveny as a disabilities ambassador for the International Day of People with Disability held on 3 December 2010, including, but not limited to, advice provided to the then Parliamentary Secretary for Disabilities and Children's Services, the Hon Bill Shorten MP, on the proposed appointment of Ms Deveny;
- (b) all correspondence between the Government and Ms Deveny in relation to Ms Deveny's role as a disabilities ambassador, including the details of any expenses, allowances and payments paid by the Government to Ms Deveny connected with the performance of her role; and
- (c) details of meetings and functions, including dates, places and other principal guests, and any other related duties performed by Ms Deveny in her role as a disabilities ambassador.

Senator Fisher to move on the next day of sitting:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 2 November 2011:

The capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters, with particular reference to:

- (a) the effectiveness of communication networks, including radio, telephone, Internet and other alert systems (in particular drawing on the spate of emergencies and

natural disasters of the 2010/2011 Australian summer):

- (i) in warning of the imminent threat of an impending emergency,
- (ii) to function in a coordinated manner during an emergency, and
- (iii) to assist in recovery after an emergency;
- (b) the impact of extended power blackouts on warning systems for state emergency services, including country fire brigades and landholders or home owners;
- (c) the impact of emergencies and natural disasters on, and implications for, future communication technologies such as the National Broadband Network;
- (d) the scope for better educating people in high-risk regions about the use of communications equipment to prepare for and respond to a potential emergency or natural disaster;
- (e) new and emerging technologies including digital spectrum that could improve preparations for, responses to and recovery from, an emergency or natural disaster; and
- (f) any other relevant matters.

Senator Siewert to move on Thursday 3 March 2011:

That the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 be referred to the Environment and Communications Legislation Committee for inquiry and report by 13 May 2011.

Senator Xenophon to move on the next day of sitting:

That—

- (1) The following matters be referred to the Economics References Committee for inquiry and report by 2 May 2011:
 - (a) the provisions of the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and

- Cyclone Reconstruction Levy) Bill 2011;
- (b) current insurance and reinsurance arrangements of the states and territories of their assets and infrastructure;
 - (c) the appropriateness of fiscal arrangements for natural disaster reconstruction efforts; and
 - (d) any related matters.
- (2) Given that the proposed Flood and Cyclone Reconstruction Levy is intended to be allocated to the State of Queensland:
- (a) the Senate calls on the Queensland Government to provide to the committee any correspondence, and any related documents, between the Queensland Government and any insurance advisers, insurance brokers, reinsurance brokers, insurers and reinsurers in relation to providing services or insurance products, or offers or proposals of insurance or reinsurance of Queensland Government assets, from 1 January 2000; and
 - (b) in conducting its inquiry, the committee seeks from any relevant individual, corporation or other private entity, any correspondence, and any related documents, between the Queensland Government and any insurance advisers, insurance brokers, reinsurance brokers, insurers and reinsurers in relation to providing services or insurance products, or offers or proposals of insurance or reinsurance of Queensland Government assets, from 1 January 2000.
- (3) In undertaking the inquiry, the committee hold at least 3 days of public hearings in Queensland.

Postponement

The following items of business were postponed:

Government business notice of motion no. 1 standing in the name of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) for today, relating to the con-

sideration of legislation, postponed till 16 August 2011.

General business notice of motion no. 187 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, relating to the consultation of party leaders and independent senators for a summoning of the Senate, postponed till 22 March 2011.

Withdrawal

Senator XENOPHON (South Australia) (3.31 pm)—I withdraw business of the Senate notice of motion No. 3 standing in my name, which is a reference to the Economics References Committee.

COMMITTEES

Senators' Interests Committee

Reference

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (3.32 pm)—I move:

That:

- (1) The following matter be referred to the Standing Committee of Senators' Interests for inquiry and report by 12 May 2011:

The development of a draft code of conduct for senators, with particular reference to:

 - (a) the operation of codes of conduct in other parliaments;
 - (b) who could make a complaint in relation to breaches of a code and how those complaints might be considered;
 - (c) the role of the proposed Parliamentary Integrity Commissioner in upholding a code; and
 - (d) how a code might be enforced and what sanctions could be available to the parliament.
- (2) The committee consult with the House Committee on Privileges and Members' Interests on the text of a code of conduct with the aim of developing a uniform

code, together with uniform processes for its implementation for members and senators.

Question agreed to.

INDEPENDENT YOUTH ALLOWANCE

Senator NASH (New South Wales) (3.33 pm)—by leave—I amend, in the terms circulated in the chamber, general business notice of motion No. 188 standing in my name for today relating to the eligibility criteria for independent youth allowance, before asking that it be taken as a formal motion. I amend part 1(b) by adding the words: ‘notes that the broad purpose of the review is to find a permanent solution to address the disadvantages that currently exists for rural and regional students in qualifying for financial assistance’. I now move:

That the Senate—

- (a) notes that the Government:
 - (i) has admitted there is a problem with the criteria for independent youth allowance for inner regional students,
 - (ii) has committed to bringing forward its review of the matter and notes that the broad purpose of the review is to find a permanent solution to address the disadvantages that currently exist for rural and regional students in qualifying for financial assistance, and
 - (iii) has indicated it will remove the difference between the inner regional areas and the other regional zones for the eligibility criteria for independent youth allowance;
- (b) calls on the Government to bring forward its timetable for resolving the matter and, in particular, ensure that:
 - (i) the review is completed and funds to pay for the measure are secured by 1 July 2011,
 - (ii) that the current eligibility criteria for independent youth allowance for persons whose homes are located in Outer Regional Australia, Remote Australia

and Very Remote Australia according to the Remoteness Structure defined in subsection 1067A(10F) of the *Social Security Act 1991* also apply to those with homes in Inner Regional Australia from 1 July 2011, and

- (iii) all students who had a gap year in 2010 (that is, 2009 year 12 school leavers) and who meet the relevant criteria qualify for the payment; and
- (c) sends a message to the House of Representatives informing it of this resolution and requesting it concur.

Senator HANSON-YOUNG (South Australia) (3.34 pm)—I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Trood)—Leave is granted for two minutes.

Senator HANSON-YOUNG—Based on the motion before us from Senator Nash, the Greens will support this motion; however, we are of course quite concerned that any type of review of the youth allowance eligibility criteria for access from rural and regional students must be something that deals with the overall inequities and the disadvantages. We want to make sure that the government does this review with a view to having a permanent solution and not just cherry-picking based on the motions and various different bills that come before them.

We have been dealing with this issue for over two years now. It is time that the government comes up with a comprehensive permanent solution to ensure that rural and regional students are not disadvantaged. What Senator Nash is putting forward is calling on the government to fix the current inequity, but it is only a short-term fix. The government must accept that by the end of this year they need to have some new legislation on the table for a long-term solution.

Senator NASH (New South Wales) (3.35 pm)—I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Trood)—Leave is granted for two minutes.

Senator NASH—I acknowledge the support of the Greens for this motion and concur with the remarks made by Senator Hanson-Young. It has been very clearly on the record from the coalition that this particular motion only fixes a current inequity as it relates to the independent youth allowance criteria. The coalition is also very clearly on the record from before the previous election as believing that there should be a full review into the youth allowance arrangements and a full review into financial assistance for rural and regional students.

Question agreed to.

NOTICES

Withdrawal

Senator FISHER (South Australia) (3.36 pm)—I withdraw general business notice of motion No. 149 standing in my name for today ordering the production of documents on a report from the Australian Information Commissioner on the National Broadband Network.

DAMPIER ARCHIPELAGO ROCK ART

Senator LUDLAM (Western Australia) (3.37 pm)—I seek leave to amend general business notice of motion No. 185, standing in my name and the name of Senator Siewert, in the terms which I understand have been circulated in the chamber.

Leave granted.

Senator LUDLAM—I, and also on behalf of Senator Siewert, move the motion as amended:

That the Senate—

(a) notes that:

- (i) the largest single rock art site complex, which is also the largest outdoor rock art complex in the world, is that located on the Dampier Archipelago,
 - (ii) the rock art located on the Dampier Archipelago provides the most significant and intact continuous chronology of human endeavour in the world and as such identifies that the rock art and its chronology is unique and irreplaceable, and
 - (iii) it is widely acknowledged that the Dampier Archipelago contains approximately 2.5 million carvings, and in the 117 km² of the Burrup Peninsula (formerly the Dampier Island) 10 000 pieces of rock art have been destroyed at a minimum with a further 2 000 remaining in the Western Australian Museum's fenced compound; and
- (b) calls on the Minister for Sustainability, Environment, Water, Population and Communities to instruct the Australian Heritage Council to do an emergency review of the outstanding universal values of the Dampier Cultural Precinct and any threats to those values.

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

The ACTING DEPUTY PRESIDENT (Senator Trood)—Leave is granted for two minutes.

Senator LUDLAM—I thank the chamber for leave, and I would also like to thank the government for the spirit in which they have approached this amendment, on behalf of myself, Senator Rachel Siewert and advocates for the extraordinary cultural and heritage values of the Burrup rock art province, known on maps, I suppose, as the Dampier Archipelago and known for a much longer period of time as Murujuga. This is an area that Senator Siewert and I have had quite a long association with. Obviously, it has a vastly longer association with the traditional owners of the area, the north-west Pilbara. There are somewhere between half a million and a million petroglyphs, or rock art engravings, on the Burrup. For senators in this place who may not have given themselves

the time to visit, I strongly advocate spending some time on the Burrup.

This motion, by agreement with the government, instructs the Australian Heritage Council to do an emergency review of the outstanding universal values of the Dampier cultural precinct and threats to those values. The threats are real and present. Woodside recently blasted flat more or less a square kilometre of this extraordinary province for the Pluto petrochemical plant on the Burrup. Woodside have also committed extraordinary cultural violations, in my view, in the original siting of the gas plant, and there is other damage, with ongoing vandalism by people coming and going on the Burrup. This emergency review of the heritage values is extremely welcome. It is long overdue. We hope it will end eventually, after not too long, with this precinct being listed for its World Heritage values, which have been acknowledged for a long period of time.

I should also mention my friend and colleague Robin Chapple MLC, who has been a long-time advocate for Murujuga, the Burrup Peninsula, and of course FARA, the Friends of Australian Rock Art. I ask the minister—if you are able to by leave—to just briefly describe for us what an emergency review actually means in the context of heritage laws in Australia. I look forward to this getting underway as rapidly as possible.

Senator STERLE (Western Australia) (3.40 pm)—I seek leave to make a brief statement, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT (Senator Trood)—Leave is granted for two minutes.

Senator STERLE—The government appreciate the senator amending the motion at our request and we acknowledge the goodwill of Senator Ludlam and Senator Siewert. We also recognise the significance of the rock art on the Dampier Archipelago. The

value of the Dampier Archipelago, which includes the Burrup Peninsula, is clear and has been acknowledged by its national heritage listing on 3 July 2007. We understand that Indigenous people and groups such as the Friends of Australian Rock Art have expressed concern about threats to the site.

While it is not normally the role of the Australian Heritage Council, in this instance the minister will instruct the council to undertake an emergency assessment of the Dampier Archipelago site. The emergency assessment will look at the outstanding universal values of the site and any threats to that site. The council will begin their assessment as soon as possible and are expected to produce a draft report within six months. Once finalised, the council's report will be made available to the public.

Question agreed to.

COMMITTEES

Treaties Committee

Meeting

Senator PARRY (Tasmania) (3.41 pm)—At the request of Senator McGauran, I move:

That the Joint Standing Committee on Treaties be authorised to hold a public meeting during the sitting of the Senate on Monday, 21 March 2011, from 10.15 am to noon.

Question agreed to.

Cyber-Safety Committee

Meeting

Senator McEWEN (South Australia) (3.42 pm)—At the request of Senator Wortley, I move:

That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Monday, 21 March 2011, from 10.15 am to 12.30 pm.

Question agreed to.

**ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION
AMENDMENT (BIOREGIONAL
PLANS) BILL 2011**

First Reading

Senator COLBECK (Tasmania) (3.42 pm)—I move:

That the following bill be introduced: A Bill for an Act amend the *Environment Protection and Biodiversity Conservation Act 1999* in relation to bioregional plans, and for related purposes.

Question agreed to.

Senator COLBECK (Tasmania) (3.42 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator COLBECK (Tasmania) (3.43 pm)—I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator COLBECK—I table the explanatory memorandum and I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

Today I introduce to the Senate the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011.

This bill will reinstate parliamentary scrutiny to an area of just over 7 million square kilometres of Commonwealth waters.

At present, these waters are undergoing assessment by the Gillard Labor Government through the Marine Bioregional Planning process with the ultimate aim of creating marine parks.

This process is being applied to waters from the state or territory boundary of approximately three nautical miles out to 200 nautical miles, the outer reaches of the Exclusive Economic Zone.

The waters around Australia have been sectioned into five Bioregional Zones, and the current Government is developing Bioregional Plans for four of those areas.

First cab off the rank with respect to the release of draft plans is the South-West Bioregion which takes in 1.3 million square kilometres of water from the eastern tip of Kangaroo Island in South Australia up to the waters off Shark Bay half way up the coast of Western Australia.

The North-West Bioregion encompasses the remaining Commonwealth waters off the Western Australian Coast, just over 1 million square kilometres, from Kalbarri to the border with Northern Territory.

The North Bioregion covers 715,000 square kilometres of coast across the Northern Territory including the Gulf of Carpentaria, Arafura Sea and the Timor Sea .

The East Bioregion covers 2.4 million square kilometres and also includes the airspace above and the seabed below. It does not include waters within the boundary of the Great Barrier Reef Marine Park.

Within these four Marine Bioregional Zones, the Gillard Government has designated 23 Areas for Further Assessment. It is highly likely these Areas of Further Assessment will later have designated within them areas of sanctuary zones, recreation only zones or special purpose zones.

There will be areas closed to all but a few activities, areas where commercial and recreational fishing will be excluded, and areas where particular types of gear and fishing practice will be restricted.

The Marine Bioregional Zones, and the subsequent declaration of Marine Protected Areas within these which will follow, are being brought forward under the Environmental Protection and Biodiversity Conservation Act.

As such, the Minister for the Environment currently has sole authority to sign off on the boundaries of the sanctuary zones, and by asso-

ciation the activities which will be allowed to take place within them.

With the stroke of a pen, the Minister has all the power to have a massive impact on Australia's territorial waters and all of the people who make a living within them.

The declaration of Marine Bioregional Plans is deemed by the Act not to be a legislative instrument, and thus they are shielded from parliamentary scrutiny.

The bill I am introducing today seeks to make the bioregional plans disallowable instruments.

This bill seeks to remove that absolute power from the Minister. It gives Parliament the opportunity to have a say when occasions dictate it to be necessary.

This bill provides far greater parliamentary sovereignty and allows both houses the right to say whether any new marine park declaration should happen, on its individual merits.

This bill is not about whether the Government's declaration on marine protected areas goes ahead but whether parliament has the right to have its say and to do the job we're elected to do – to represent the millions of Australians who voted us here.

I make the point now, for the record, that the Coalition supports a balanced approach to marine conservation.

The history of Marine Protected Areas in Australia confirms the Coalition's commitment and track record in this area.

It was the Howard Government in 1998 that secured agreement with the State Governments to commit to establishing a National Representative System of Marine Protected Areas.

It was the Howard Government that made a further international commitment to establish such a representative network by 2012 at the World Summit on Sustainable Development in 2002.

And it was the Howard Government in 2005-2006 that initiated the investigation and subsequent implementation of the South-East Marine Reserves Network – the fifth of the five bioregions I mentioned in my introductory remarks.

I make these points to highlight that the Coalition is not anti-Marine Park but that we believe there

is a right way and a wrong way to go about the development of such reserves.

As a Tasmanian and also as the Parliamentary Secretary for Agriculture, Fisheries and Forestry back in 2005-2006, I was at the coalface of the development of the South-East Marine Reserves Network. It was a valuable experience, both challenging and rewarding task.

The development of the South East network reinforced without doubt to me that the successful implementation of a marine networks plan would not eventuate without genuine, detailed, open consultation with each and every stakeholder who felt they had a claim or vested interests.

The overwhelming success measure is that following consultation with stakeholders on the draft proposals for the South-East network, the Government made around 20 changes to boundaries and zoning. The result is a network that is both larger and more representative of the region than was the original proposal and has far less impact on the fishing industry.

Without doubt, a win-win for all interests.

Unfortunately I leave off on that positive note to now draw attention to the current developments regarding the remaining four Marine Bioregional Plans.

It is not quite so warm and fuzzy.

In fact, our Labor Ministers are not handling the great responsibilities before them in a manner that is giving stakeholders of any persuasion confidence in the Marine Bioregional Planning process.

The Rudd and Gillard Labor Governments have not adopted a balanced approach to Marine Protected Areas.

The Rudd and Gillard Labor Governments have not engaged in appropriate levels of consultation with local communities, with affected commercial industries or with the marine recreation interests.

Environmental groups have also put to me that they have felt left out by the Federal Government when it comes to genuine consultation.

This approach by taken by Labor has created incredible anxiety and uncertainty in the fishing industry.

Coastal communities are wise to the fact that if they don't get to have a say, this Labor Government's track record is that it will hear only from the fringe green groups rather than the people who actual use and manage our fisheries on a daily basis.

Industry is nervous. And not just the commercial fishing industry, which just for the record is Australia's sixth largest primary producer.

Recreational fishing might be just a weekend or holiday activity for some of us, but for thousands of Australians it is a job or a business. Many have built businesses large and small off the back of this weekend and holiday social activity – charter tours, boat sales, bait and tackle, engines, chandlery, electronics to name just a few.

Recreational fishing is a multi-billion dollar industry and it is a sector that could see significant negative impacts if Labor cannot get these Marine Bioregional Plans right.

Labor has also failed to meet its own timeframes for declaring Marine Parks.

In the lead up to the 2010 election Labor promised to release draft maps for the South-West Bioregion by mid December. Then the Minister promised to stakeholders they would see the draft maps by late January or early February.

We have seen since that this was no different to any other Labor election promise – like Prime Minister Gillard's promise of not putting a price on carbon.

The draft maps for the South West are still not out.

Industry and communities are still in the dark and growing more anxious as each day passes. In Western Australia, fishing is worth \$400 million to the economy each year, so the angst is understandable.

Labor also promised to release a Displaced Effort policy in the lead up to releasing the first draft maps but this too, like all Labor promises, has failed to materialise within the time frame promised.

The release of this policy is absolutely critical to the Marine Bioregional Planning process as it will literally make or break the livelihoods of thousands of Australians.

The Coalition remains concerned that Labor is not giving all interests a fair hearing.

Concerns are building based on stakeholder feedback that this Labor Government is fonder of listening to the mistruths of the fringe conservation groups than the users of the seas.

I am referring to those fringe environmental groups that like to claim our fisheries are in disarray when in fact they are amongst the best managed and healthiest in terms of stock numbers of any country in the world.

These are the same fringe groups who are currently lobbying to have the entire Coral Sea locked up, peddling mistruths and misinformation.

The Coalition believes there is a need for conservation of our important marine biology, but future decisions on Marine Protected Areas should consider peer reviewed scientific evidence on threats to biodiversity before great swathes of ocean are locked up for all eternity.

The Bill I introduce today is in part a reflection on the failures of the Labor Government to adequately do the job so far when it comes to Marine Bioregional Planning.

We are stepping up to ensure marine communities are not unfairly disadvantaged by the Labor Government's failures to date and, indeed, any failures in the future.

Locking up marine areas without proper consultation or scientific assessment is not responsible and it is not practical and it should not be accepted by Australia's marine communities.

This Bill is the opportunity for the Parliament to add a vital democratic check to this process - a process that has the potential to adversely affect the livelihood and future of millions of Australians.

Senator COLBECK—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CUSTOMS AMENDMENT (ANTI-DUMPING) BILL 2011

First Reading

Senator XENOPHON (South Australia) (3.44 pm)—I move:

That the following bill be introduced: A Bill for an Act to amend the *Customs Act 1901* in relation to anti-dumping duties, and for related purposes.

Question agreed to.

Senator XENOPHON (South Australia) (3.44 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator XENOPHON (South Australia) (3.44 pm)—I move:

That this bill be now read a second time.

I seek leave to table an explanatory memorandum relating to the bill.

Leave granted.

Senator XENOPHON—I table an explanatory memorandum and I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

Australia is a small open economy and there is no question that we benefit from free trade.

But free trade must not be 'free for all' trade.

It is crucial that we do as much as we can to reasonably assist and protect Australian industry, Australian manufacturers and Australian jobs.

Dumping occurs when overseas companies sell products in a country below the cost it sells it for in its own country, making it near impossible for Australian companies to compete.

Under Part XV B of the Customs Act, dumping duties can be applied against the overseas company.

These dumping duties are supposed to offset the effects of injury; however I am increasingly concerned that the current framework does not adequately protect and does not fairly act in favour of Australian manufacturers.

In fact, the burden, the cost and the process appears to be skewed very much in favour of overseas importers.

This Bill seeks to correct this and put greater focus on the unfair impact on Australian manufacturers.

In this way, we can protect Australian companies and local jobs.

I first began to campaign on this issue of anti-dumping when I was contacted in early 2010 by workers at Kimberly-Clark, a paper and tissue manufacturer with operations in the South East of South Australia.

Kimberly-Clark was facing an uphill battle trying to fight a reversal of dumping duties on tissue products being imported from China and Indonesia.

In 2008, the Government imposed dumping duties on the Chinese and Indonesian tissue products after investigations found that Chinese products were being sold at 2 to 25 percent below the cost in its domestic market, while Indonesian toilet paper was found to have been dumped at 33 to 45 percent below value.

However, this decision was overruled in 2009 following a review by the Trade Measures Branch of Customs, which determined that there was "no material injury" to Australian manufacturing as a result of these imports.

By removing these dumping duties, the Government basically said to Kimberley-Clark – 'Go on, fend for yourself', even though they knew there was no way they could compete with the dumped products.

In February 2011, Kimberly-Clark announced it was closing two of its four tissue machines and selling a pulp mill in and near the regional town of Millicent, costing around 235 jobs.

And for every job that's directly lost, more jobs are lost as well, and the impact on the community of Millicent, and indeed on the entire state of South Australia will be significant.

Now it's fair to say that other factors were at play in this case however there is no doubt in my mind that Kimberley-Clark could have withstood competitive pressures if the Federal Government had stood up for Aussie manufacturing and stopped the dumping of cheap paper imports into the country.

National Secretary of the Australian Workers Union, Paul Howes, as part of the launch of the AWU's Don't Dump on Australia campaign in February 2011, to raise public awareness about the impact of dumping on jobs, said: "Unfortunately the evidence is clear that our laws and regulations on free trade are simply weak – and other nations take advantage of our weakness".

Those sentiments have been supported by the National Secretary of the CFMEU, Michael O'Connor, who has been a long-time champion for his members on this issue.

And I fear that this is very much the case. In fact, it's been put to me that Australia is seen as an easy target, a mug, when it comes to goods being dumped.

And, while there are international rules around dumping, under the World Trade Organization's Anti-Dumping Agreement (Agreement on Implementation of Article VI (Anti-dumping)) which was finalised during the Uruguay Round in 1994 and sets up a framework for how countries can implement anti-dumping duties, the appropriateness and application of these rules needs to be seriously re-considered.

Indeed, it should not be a case of – 'They're the rules, no questions asked', rather as circumstances change and situations emerge the system needs to adapt in the interest of local industry and the Australian Parliament needs to act in the interest of Australian industry and Australian jobs.

This Bill is an important step in giving greater opportunities of redress to Australian manufacturers when it comes to fighting cases of dumping.

This Bill seeks to redress the flaws in the current framework and strengthen the provisions under the Act that will give greater support to Australian manufacturers during the application and investigation processes and in any review of decisions by the Trade Measures Review Officer or the Minister.

Some of the key amendments under this Bill are:

Reversing the onus of proof

Item 12 of the Bill inserts a provision for, where the CEO does not reject an application, the importer of the imported goods which are the subject of the application, bears the onus of proving that the imported goods have not been dumped or subsidised for export into Australia.

This amendment is to try to assist Australian companies who currently face an extreme financial burden to try to prove goods are being dumped in Australia.

Indeed, some companies have to spend hundreds of thousands of dollars investigating the practices of overseas manufacturers who they believe to be dumping goods.

Under this amendment, once Customs receives an application, Customs will be able to approach the overseas manufacturer and importer and the onus will be on them to prove they are not dumping.

And any material lack of cooperation on the part of the importer of the imported goods would lead to a presumption that the imported goods are, in fact, dumped goods.

Inserting a presumption of dumping

Items 3, 4 and 7 of the Bill insert a presumption that, where material injury has been proven and dumping has been proven, the material injury is the result of the dumping.

Currently, other factors are able to be attributed as the cause of the material injury and dumping duties are not applied, even though dumping has been proven.

This was the case with Kimberly-Clark.

Chinese products were found to have been dumped at 2 to 25 percent below the cost in its domestic market, and Indonesian toilet paper was found to have been dumped at 33 to 45 percent below value, and yet the Review Officer attributed material injury against Kimberly-Clark to other factors.

But I believe the impact of the dumped goods on Kimberly-Clark's bottom line meant that it was unable to withstand other competitive pressures.

This amendment will ensure that the overall impact of dumping on a company is taken into ac-

count and where material injury is proven and dumping is proven, that the two are considered to be linked.

Allowing new or updated information that reasonably could not have been provided earlier

One of the issues which was repeatedly raised in my discussions with manufacturers, unions and industry representatives was the inability for new or updated information to be provided at various stages.

Several items in this Bill seek to address this and allow new or updated information that reasonably could not have been provided earlier to be submitted during the application, investigation and review processes.

Allowing evidence to be provided from as recently as 90 days

The Bill also allows applicants to provide evidence from as recently as 90 days prior to the application being submitted.

Manufacturers have advised me that being required to compile evidence over a year or more before they can make an application for dumping duties means that injury is allowed to be caused over a longer period of time than necessary.

Allowing preliminary affirmative decisions to be applied once an investigation has been initiated

Preliminary affirmative decisions enable securities to be applied on imported goods being investigated for dumping or while decisions are being reviewed.

Currently, Customs cannot make a preliminary affirmative decision until 60 days after an investigation has been initiated.

Under this amendment, preliminary affirmative decisions can be initiated as soon as an investigation has been initiated and during a review of any decision.

This is aimed at protecting Australian manufacturers from injury while an investigation or review is being conducted as the process can be quite lengthy.

Increasing consultation with industry experts as part of the process

The Bill also inserts provisions for consultation with industry experts as part of the investigation and review processes.

A key concern that has been highlighted is the absence of relevant industry expertise to the application, investigation or review being conducted.

Referring decisions to the Administrative Appeals Tribunal

Another key amendment is enabling decisions to be referred to the Administrative Appeals Tribunal for appeal.

Currently, Australian companies only have the recourse of going to the Federal Court which is extremely costly and lengthy.

All of these amendments are aimed at improving and strengthening the current anti-dumping framework so that Australian companies are not the target of unfair practices.

The current system simply isn't working.

In the development of this Bill I have spoken with industry experts, trade union representatives, manufacturers and employees who face losing their jobs as a result of dumping.

I thank them all for their assistance and I hope that this Bill will provide Australian industry with the support they need to compete against international manufacturers who seek to undermine our markets.

I look forward to this Bill being subject to a Senate Committee inquiry for robust analysis and discussion, and following that necessary process, I look forward to these reforms being introduced which are necessary to put an end to the damage to industry and jobs caused by the dumping of goods in Australia.

Senator XENOPHON—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DEEP SEA DRILLING MORATORIUM

Senator SIEWERT (Western Australia) (3.45 pm)—I move:

That the Senate:

- (a) notes that the British High Court is hearing a legal challenge to the decision to al-

low deep sea drilling in the North Sea, based on the concern that the oil and gas industry has not demonstrated its readiness to effectively respond to a large-scale spill in deep water;

- (b) welcomes the fact that Australia is in the process of reviewing and reforming the legislation and regulation governing the offshore oil and gas industry, in the wake of the recent Montara spill in the Kimberley and Deepwater Horizon spill in the Gulf of Mexico;
- (c) raises concern that deep sea drilling licences continue to be granted in Australian waters before this regulatory reform has taken place, and before the industry has demonstrated it has appropriate risk management practices, response plans and resources in place to handle a deep sea spill in Australian waters; and
- (d) calls on the Australian Government to put in place a moratorium on deep sea drilling until the Senate has confidence that all the necessary measures are in place to prevent another serious spill.

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (3.45 pm)—I seek leave to make a short statement.

Leave granted.

Senator LUDWIG—The government does not support the motion. Since 1964 there have been 3,040 wells drilled offshore from Australia and there has been one incident in shallow water. Nearly 90 of these wells have been drilled at depths greater than 1,500 metres, all without incident. The reality is that lessons need to be learnt by adjusting the actual practices, not by shutting down the industry. Australia already has a \$16 billion trade deficit in imported fuel, which is expected to rise to \$30 billion by 2015. If we were to shut down the industry, we would not be able to test or put into effect the lessons learnt, and Australia would have to rely on unsustainable sources of foreign oil, un-

dermining our energy security. Shutting down the industry and putting the nation's energy security, jobs and the economy at risk does nothing towards achieving better regulation in the industry.

Senator SIEWERT (Western Australia) (3.47 pm)—I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Trood)—There being no objection, leave is granted for two minutes.

Senator SIEWERT—I am sure that Senator Ludwig made his statement in all good faith, reading from the notes he was provided with, but this motion does not say, 'Shut down the industry'; it says, 'Put a moratorium on until the Senate is satisfied that we can control a spill from any accident that happens with deep-water drilling.' I raise this issue because, in the UK, the High Court has just made a decision that it will review a decision made by the UK minister to allow deep-water drilling, because it has come to light that neither the companies involved there, nor the country, have in place any appropriate practices to control a spill from a deep-water oil well. In other words, we have not learnt yet from the mistakes in the Gulf of Mexico, where we had the biggest spill and the most significant impacts. We have not learnt here.

When I asked in estimates about what confidence we could have that we could control a spill in the Australian situation, the department had to admit that they cannot yet. The department have granted leases to BP off our Great Australian Bight. This is the same company that caused the accident in the Gulf of Mexico. The department have already granted BP these leases, and they had to admit that they do not at this stage have in place appropriate practices. They are having a conference to talk about it in August! 'But it's okay. We're sure we can control a spill.'

Yes, they are having a conference in August, Senator Ludwig, to talk about how they would control and put in place better practices for a deep-water spill. That is not good enough, when this well is going into Australian waters, environmentally sensitive marine areas, and could affect endangered species. 'But it's okay. We'll work it out after we have had our conference in August.' That is not good enough. This Senate should expect better from our management agencies.

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Gillard Government

The ACTING DEPUTY PRESIDENT (Senator Trood)—The President has received a letter from Senator Fifield proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The Gillard Government's continued pattern of broken promises, maladministration, waste and debt.

I call upon those senators who approve of the proposed discussion to rise in their places.

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

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

Senator RONALDSON (Victoria) (3.49 pm)—I thank Senator Fifield for submitting this matter of public importance. I will just read it again for the sake of the record. The matter of public importance lodged by Senator Fifield reads, 'The Gillard government's continued pattern of broken promises, maladministration, waste and debt'. What we have seen this week is a remarkable trans-

formation in Australian politics. We have actually seen the Australian Labor Party cede responsibility for government to the Australian Greens. The outcome of that is that the honesty and integrity of someone no less than the Prime Minister of this country are now on public trial. The ramifications of the decisions of this government over the last week should not be underestimated.

I want to give some quotes in relation to the Prime Minister's views on these matters. I am grateful for the article written by Glenn Milne on ABC Online today, where this was detailed. I will pull some of these quotes out as part of this discussion. On 3 March 2009, the Prime Minister told Jon Faine from 774 in Melbourne:

I think when you go to an election and you give a promise to the Australian people, you should do everything in your power to honour that promise. We are determined to do that.

In the same interview, the Prime Minister went on to say:

If the reputation of this Government is that we are stubborn in the delivery of our election promises, then we are stubborn in keeping our word to the Australian people. Then I'll take that. I'll take that as a badge of honour.

Then on *Lateline* on 16 June 2009 the Prime Minister again said:

We're always there delivering our election promises. That's important to us.

I will repeat it: 'That's important to us.' So when the Prime Minister on 16 August last year on *Lateline* said, 'There will be no carbon tax under the government I lead,' then the Australian people were entitled to believe her. Then four days later when she again said, 'I rule out a carbon tax,' the Australian people were entitled to believe her and make a value judgment about the Prime Minister's views on a big new tax.

What we have seen again is the Australian Labor Party constantly creating new taxes

that burn through the pockets of taxpayers in this country. I do not need to remind honourable senators about some of the farcical expenditure, the wastage, imposed upon the Australian community by the Australian Labor Party, much of which the Prime Minister herself, the person who is on public trial as we speak in relation to her honesty and integrity, has had ownership of. I refer, of course, to the BER program, where the government itself acknowledges that it will not provide the requisite financial information in relation to the expenditure. The shadow minister for education as late as half an hour ago again brought to the parliament's attention that, despite the Orgill report recommendations requiring the immediate production of all financial information in relation to the BER, despite the House of Representatives moving a motion to demand its production back in November last year, the government failed to provide it. And I do not need to tell honourable senators about the pink batt debacle.

If people say, 'I've heard it before,' people will hear it again and again up until the next election. There was \$1 billion spent on rectifying the mistakes of this government, let alone the wastage beforehand. As I have said before over the last week, there was \$1 billion wasted by this government in relation to pink batts and they cannot find \$5 million to put towards the Australian War Memorial despite General Peter Cosgrove twice last year requesting a \$5 million input to ensure that the Australian War Memorial did not close for one day a week. It is the priorities of this government but it is the priorities of the Prime Minister herself that are now on public trial.

I want to go on further to talk about the \$13 million that was wasted by the Rudd-Gillard government in relation to their national health program, this wondrous agreement between the Commonwealth and the

states, this wondrous agreement that required \$13 million spent on it in public advertising. Only one problem: there wasn't an agreement. There wasn't an agreement, and \$13 million of taxpayers' hard-earned money was wasted on an advertising campaign for an agreement that had not been reached.

I want to turn again to the Orgill report. The Orgill report was the government's attempt to extract themselves from a particularly difficult situation. The Prime Minister before the election said, 'Every single one of the Orgill recommendations will be followed by this government.' We know that the one that underpinned it—as I said before, the production of the financial documents relating to this program—has still not been released.

What we are going to see in this country between now and the next election is a very clear delineation of the policies of the opposition and the government. We will hold the Prime Minister to account every single day between now and the next election for the promise that she broke, for the untruth that she told in the run-up to the election in relation to a carbon tax. What we will remind the Australian people every single day between now and the next election is that this is a government single-handedly responsible for a reduction in the standard of living of ordinary Australians in this country, where the cost of living pressures are mounting and mounting.

In about 2½ weeks time we are going to see another complicit government removed forever from the face of Australian politics, the New South Wales Labor government. The Victorian Labor government were removed in November last year because they again did not give a tinker's cuss about what was happening to ordinary Australians. And the New South Wales government will go, as

will every Labor government around this country.

Surely one fundamental responsibility of any government in this country is to ensure that it governs for all Australians, and this unholy alliance between the Australian Labor Party and the Australian Greens will come back to haunt this country. As I said yesterday, it was consummated on earth and it will be delivered from hell. If the Australian Labor Party and those opposite are not aware of what they have been stitched up to and signed up to then some of them have less intelligence than I have previously given them credit for. The fact that this tax went through without any backbench consultation is a clear indication of the guilt that the Prime Minister felt in relation to this broken promise. If you believe some of those opposite, they will tell you that even cabinet did not discuss this big new carbon tax—a remarkable outcome from a government in absolute free fall.

Someone rang me this morning and said we had been a bit unfair attacking the Prime Minister, because she is not misrepresenting the truth. She can't be because she is not leading anything, she is not leading a government, so how can we quote her when she says that she is? She is leading nothing. She is leading this country and leading her party into oblivion with a grubby deal with the Australian Greens. The question everyone is now asking is: when was this deal done with the Australian Greens? Was it done during preference negotiations, which would have been before her commentary about there being no carbon tax under any government that she leads?. If that was indeed the situation, then the heinous crime of a broken promise is multiplied fivefold and the Prime Minister and Bob Brown, the Leader of the Greens, need to make it quite clear when this grubby preference deal was done. The Prime Minister stands utterly condemned. (*Time expired*)

Senator HURLEY (South Australia) (4.00 pm)—I have heard commentary lately that the opposition are getting increasingly hysterical on all kinds of arguments, and I think we have just seen a fairly good example of that. I would like to address the terms of this discussion one by one. First of all, the coalition speak about broken promises. Let us discuss the coalition's credibility on this. I would like to quote at some length from an article by Phillip Hudson in the *Herald Sun* about a very well-known case in the previous election campaign when the Leader of the Opposition, Mr Tony Abbott, appeared on the ABC's *7.30 Report*. The article says that Mr Abbott revealed in that interview with Kerry O'Brien that 'in the heat of discussions' he sometimes went further with a promise than he should. The article went on:

Quizzed about his broken promise not to increase taxes, Mr Abbott said sometimes 'absolute weight' could be placed on what is said and other times it was just the 'give and take of standard conversation'.

'I know politicians are going to be judged on everything they say but sometimes in the heat of discussion you go a little bit further than you would if it was an absolutely calm, considered, prepared, scripted remark,' he said.

'The statements that need to be taken absolutely as gospel truth are those carefully prepared scripted remarks.'

We have seen very little in the way of carefully prepared, scripted remarks from the opposition in the last week or two. What we have seen is hysterical over-reaction. If their leader is to be believed, nothing that he or the coalition say in this heated debate can be believed. The leader of the coalition broke promises, admitted during the election campaign, and those opposite have the gall to come into this MPI discussion and talk about broken promises. In the heat of the moment, coalition members, according to their leader, are able to make whatever wild exaggera-

tions they like. I did not see any member of the coalition come out and decry those statements from their leader, and I presume they still apply. That is the sort of credibility the opposition have about broken promises—none whatsoever. The previous coalition government had no credibility whatsoever either. So let us forget all about broken promises and their interpretation of what Ms Julia Gillard, the leader of the government, has been saying about the carbon tax.

Let us talk about the claim of maladministration. Senator Ronaldson specifically referred to the Orgill report on Building the Education Revolution projects. What he failed to refer to, of course, was Mr Orgill's conclusion:

The vast majority of the BER projects across the country in the government and non-government systems are being successfully and competently delivered, which has resulted in quality and, from our own observations, generally much-needed new school infrastructure, while achieving the primary goal of stimulating economic activity.

There was \$16.2 billion in this package, and only three per cent of all the schools that benefited from this package had issues. In the building and construction sector, when the promise was to have early delivery of this stimulus, three per cent is a pretty good result. Such a minimal number having problems in a project of this scale in my view equates to success. I know many people have seen coalition members at ceremonies opening these BER projects—

Senator Johnston—Not me!

Senator Williams—Not me!

Senator HURLEY—You say 'Not me', but I suggest you should go and see some of these projects; I suggest you should go and talk to some of the teachers—

The ACTING DEPUTY PRESIDENT (Senator Boyce)—Senator Hurley, please

ignore the interjections and address your remarks through the chair.

Senator HURLEY—I will try, Madam Acting Deputy President, but the provocation has been far too great. I will continue to make the point that it is a pity that coalition members do not go and talk to their schools more often and find out how very much needed these projects are, certainly in schools around my state. By and large the ones I have opened are small country seats that are enormously grateful—

Senator Ryan—Small country seats?

Senator HURLEY—These small country schools are enormously grateful for this funding. Let us talk some more about maladministration and waste. Senator Ronaldson referred to an unholy alliance. Let us talk about the unholy coalition of the Liberal Party with the National Party. One of the biggest examples of maladministration and waste was the regional rorts program under the previous Liberal government. Nothing has been able to touch that since. That was a litany—far more than three per cent—of failed projects and projects that were not properly considered or constructed. All around the country, in all of these regional seats, we saw programs that went nowhere—an enormous waste of money that was quite properly decried. Let us talk about debt, the last point raised in the MPI.

Senator Johnston—No debt—\$20 billion surplus.

Senator HURLEY—'No debt, no debt' says Senator Williams.

Senator Williams—I didn't say that.

Senator Johnston—It was me.

Senator HURLEY—I quote here from Lindsay Tanner from Wednesday, 16 September in the House of Representatives:

In the 2007-08 budget and pre-election period, the previous government committed to \$117 bil-

lion in new policy over five years. This procyclical spending put upward pressure on inflation and interest rates. At the height of the boom, with the economy growing at around four per cent annually, the previous government was projecting growth in government spending of 4.5 per cent in real terms in 2007-08. This level of spending meant that despite there being an underlying cash surplus in 2007-08 of 1.7 per cent of GDP, the budget was actually in structural deficit of around 1.2 per cent of GDP or roughly \$12 billion.

Opposition senators interjecting—

Senator HURLEY—I can hear the cries from the opposition. They do not want to acknowledge this. They do not want to acknowledge that they put in place by their policies a structural deficit because they did not think about the future. They did not think about which way the country was going to go. That structural deficit was well and truly in place and at the same time we had rising inflation and projected rising expenditure. This was pro-cyclical spending. When the Labor government was hit by the GFC it got into countercyclical spending, a classic and much-applauded technique around the world. The fact is—and the opposition will not acknowledge this—this government is recognised around the world as having undertaken sensible, pro-active and successful policies to ensure that, when the rest of the world was going into recession, Australians were able to bypass that.

There was a cash surplus left by the Howard government, which was useful in that process. I think all government members acknowledge that. It was, however, funded by an extraordinary growth in tax receipts. Again I quote Lindsay Tanner:

Over the six years to 2007-08 growth in tax receipts averaged 8.1 per cent per annum.

These are the people who complain about big new taxes. He continued:

In the election budget of 2000-01 tax receipts grew by 12.6 per cent. Yet from 2003 to 2007

there were virtually no significant savings measures in the budget.

Yes, there were tax cuts under the Howard government but there were tax cuts under the Rudd and Gillard government as well. We delivered on those tax cuts. We delivered sensible tax cuts and we are now delivering expenditure on infrastructure and expenditure on productivity that will reverse the underlying structural deficit. That is the difference.

Senator Ronaldson talked about cost-of-living pressures and we have heard that from the coalition. We did not hear anything about cost-of-living pressures under the Howard government. I do not deny that there are cost-of-living pressures. I know that families are experiencing cost-of-living pressures, but they would be experiencing a lot more cost-of-living pressure if there were a lot more unemployment in this country. If the government had not put together the sensible, practical stimulus package, there would be a lot more unemployment in this country and that would cause continuing structural problems in our economy.

It is all very well for coalition members to live by some short-term formula, but Labor government members take great pride in the fact that their policies and their passion are for delivering a strong, stable, productive economy where ordinary people are able to benefit from the growth of this country, hence proposed measures like the mining tax, which is so trenchantly opposed by those opposite. They trenchantly oppose any revenue measures but do not propose any serious practical measures for reducing our outlay. To be lectured by members of the coalition is demonstrably inane and stupid because their record in government has been poor. They have stood back and opposed a serious, practical and extensive government program of economic management. We have seen no policy and no ideas, and even if we had we

have seen in the past that the projections made by their leader, Tony Abbott, are subject to this broken promises out—we cannot place absolute weight on what he says at some times. This is the quality of the opposition that we are facing and I am certainly glad that I am on this side of the chamber.

Senator RYAN (Victoria) (4.13 pm)—Where to begin? If only eight minutes were enough. It is not going to be, but I am sure my colleague Senator Back will follow it up. I will move onto what we have just heard soon. What we see from the Labor Party is an attempt at all costs to avoid a discussion of their own record. Let me just go over a few of Labor's broken promises. There are many; I do not have time to cover them all. In February 2008 the then Prime Minister, Kevin Rudd, said, 'The private health insurance rebate policy remains unchanged and will remain unchanged.' That did not last the year as the government walked back on that promise and sought to means test the private health insurance rebate. I would like to point out, Senator Hurley, that it was a promise in writing from the shadow minister for health to the Australian Health Insurance Association. But it was not a promise which the government kept.

In November 2007 at the Labor Party campaign launch—you cannot think of another time where there was probably more national attention on the then Leader of the Opposition—the then Leader of the Opposition, Kevin Rudd, said, 'We have no plans to make any other changes to the way the baby bonus is structured either in terms of eligibility or payment methods.' Yet again, that did not last the first budget. Six months later the then Prime Minister and the then Treasurer stood up and tried to concoct an excuse to break that explicit promise again. They are just two of the meaningful promises.

Then we move to the ridiculous: the ridiculous promise for a citizens assembly, the national focus group on climate change organised by Mark Arbib and probably moderated by Karl Bitar. Most people thought they were going through an election at the time to actually elect what we call a citizens assembly, our national parliament; but no, that ridiculous promise by the then Prime Minister—

Senator Polley—Madam Deputy President, on a point of order: the senator should be referring to other senators in this chamber by their correct title.

The ACTING DEPUTY PRESIDENT (Senator Boyce)—That is a correct point of order, Senator Ryan. Please do so.

Senator RYAN—The current Prime Minister promised a citizens assembly, a promise that was laughed at all around the country.

Senator Williams—A harebrained idea.

Senator RYAN—An absolutely harebrained idea, Senator Williams. It was ridiculous. But here we have the killer. Here we have the excuse that cannot be run away from: 'There will be no carbon tax under the government I lead.' At least someone is going to come in here and admit that the Prime Minister is not leading this government, which some suspect and, I am sure from occasional grins down the other end of this chamber, some of us suspect on more than one ground.

This was a promise that had no qualification. There was no 'unless', there was no 'if', there was no 'but', there was no 'maybe' and there was no 'except'. This was an explicit promise. You cannot run away from video footage. It is there on YouTube. It has been played tens of thousands of times as Australians know that this government is simply trying to obfuscate. This was an unqualified, explicit promise intended to deceive. And there are two reasons we know

this—because the government is using many excuses now to try and run away from this. You heard the Prime Minister last week saying, ‘But we always spoke about a carbon price.’ If this is not a euphemism for a tax—which it has been used for in this context—it is being used either to justify a broken promise or as an admission that the promise in the first place was deceitful. When the Prime Minister says, ‘I might have said no tax but I said we would have a carbon price,’ that is an admission of the very deceit that you are being accused of right now.

Then we hear the argument about the new parliament, the parliament where one or two members of the House of Representatives, the place that forms government, campaign on the carbon tax but the leaders of both major parties actually outline how there would not be one. This is code for honesty being no price for power, that there is nothing the modern Labor Party would not sell in order to stay sitting on the right hand side of this chamber. But does it mean the Greens run the show? Is this an admission that to stay sitting to the right of the Speaker the Prime Minister had to actually give the Greens and Senator Brown what they asked for?

We do not have a European style democracy here where the people get to vote for a party list and then the decisions are taken by party leaders behind closed doors. We have a voting system in the House of Representatives that gives people the power to choose who represents them, yet we have a Prime Minister coming in and saying afterwards: ‘A very explicit promise I made days before an election, decided by fewer than 2,000 votes in a couple of seats, does not count. The election was close.’ In fact, that betrays the very purpose behind her speaking those words because Labor always has an excuse.

In 2008 we heard more about the inflation dragon. Who remembers the inflation

dragon—the inflation genie, as the then Treasurer also called it? This was the excuse to justify broken promises on health insurance, on the baby bonus, because apparently inflation was the biggest problem. But by 2009, a year after everyone else in the world, they realised they had to find another excuse and here it became the GFC. The GFC was the excuse for everything, the excuse for broken promises again on private health insurance when it was put up again and the excuse to go nowhere near any remote attempt at achieving a balanced budget. Now we have the hung parliament as an excuse. I am not sure whether the Prime Minister wants us to blame the Greens or to blame her, but the truth we have now is that we simply have another excuse.

The elephant in the room is Labor’s honesty. In the vain hope that people forget what this Prime Minister said word for word, they are just following the Labor play book. We saw it with Bob Carr and no tolls in 1995. We saw it with Steve Bracks and no tolls in 2002. You hope that people are going to forget.

Senator McLucas—And no GST.

Senator RYAN—That went to an election. I will take that interjection, Senator McLucas. I dare you to take this to an election. You will not. You are hoping that the people forget. You will wear this like a ball and chain. You are scared, and that is why you are talking more about the opposition than your own agenda. You can tell when Labor is scared. You see it in New South Wales now. You saw it in Victoria with John Brumby last November. When Labor talks about the opposition rather than itself, you know it is running scared. The ghost of Julia past will haunt the present and the future of this government, and those words will ring in people’s ears until the next election day.

I briefly move on to the issue of debt and deficit, which was so blithely dismissed by a previous speaker from the government side. I grew up in the 1990s in Victoria in the aftermath of Cain and Kirner, the intellectual and spiritual forebears of the current New South Wales Labor government and the recession that we had to have, told to us by the then Treasurer, Paul Keating. But debt and deficits are nothing less than deferred taxation. The ultimate irony of the BER is that the kids in those very school facilities are going to pay higher taxes and have fewer opportunities in their working years to pay back the debt that funded those facilities. This government is guaranteeing higher taxes and fewer opportunities for future Australians. If anyone in this country could not think of a better way to spend \$16 billion on our education system, then they are not trying. Ill-designed, shabbily built school halls that take over playgrounds are not education reform.

You can use the word ‘revolution’ all you want so it sounds fancy—that has nothing to do with education—and your defence is that it was stimulus. It is still being spent now. The Reserve Bank is putting up interest rates and you are still spending stimulus. It shows you how farcical this was and the defence is to say that only three per cent of projects had a problem. I remember when a few hundred million dollars was serious money and the only defence this government can come up with is that it had to shovel the money out the door so quickly you would expect a few hundred million to be wasted. This side of the chamber takes its responsibilities much more seriously.

Senator CAMERON (New South Wales) (4.22 pm)—Here we go again with the opposition—the confected anger, the argument that they were great economic managers. It is just beyond all plausibility. Senator Ronaldson does confected anger as well as any-

one—maybe not as well as some on the other side but he doesn’t do a bad job of confected anger. Then we had Senator Ryan, whose heroes are displayed all over his office walls and windows: Maggie Thatcher and Ronald Reagan. Back to the past, back to Maggie Thatcher, back to Ronald Reagan—that is Senator Ryan. It is Reaganism and Thatcherism. There is no role for government to protect workers, no role for government to protect the environment and no role for government to protect families. It is Thatcherism and Reaganism. It is no wonder Senator Ryan is on his way out of the chamber, because it is an absolutely abysmal approach, an old-fashioned approach and an approach that he should be ashamed of—Thatcherism and Reaganism. That is the so-called modern Liberal Party. There is all this confected anger, all this angst. All this pandering to the worst aspects of any society is a problem.

I have to say, I think the political debate in this country over the last couple of months has probably been at its lowest since I have been a citizen of this country, since I came here in 1973. What we have is an attempt to grab power, an attempt to grab government. The anger and the angst that the opposition are displaying are because they did not get a mandate from the Australian public. They were not seen as an alternative government by the public and they were incapable of negotiating with the Independents to form government. Labor formed government for some simple reasons. We were looking forward. We were looking at what is important in this country and we were determined to make sure that future generations in this country have modern jobs, a good economy and an environment that is sustainable. That is the difference between us and the Liberal coalition.

It is quite interesting that the member for New England, Tony Windsor, let the cat out of the bag last week when he said the Leader

of the Opposition was prepared to do anything, to promise anything, to form government. But I think the Independents had the Leader of the Opposition pegged. They knew that the Leader of the Opposition, as he said on *The 7.30 Report* and as Senator Hurley said here, would actually say anything in the heat of negotiations, but unless it was written down you could not take it as the gospel truth. That is the Leader of the Opposition. Let me tell you why I think the coalition could never form government and convince the Independents: because not even the so-called eminent elders of the coalition accepted that the Leader of the Opposition, Mr Abbott, could play a leadership role. It is clearly understood that he has no economic capacity.

The opposition are fond of quoting the former Treasurer Peter Costello. I think Peter Costello was a bit lazy. I do not think he had much courage. I don't think he actually did the right thing by the Australian economy. After years of boom, he left us in a pretty precarious position to build for the future. We had money rolling in but he completely capitulated to the former Prime Minister John Howard and just spent it on political bribes. That was the wrecker, the Hon. Peter Costello. But Peter Costello did get it right. He got it wrong economically, but he got it right when he was describing the current Leader of the Opposition, Tony Abbott. Let me quote what he said in *The Costello Memoirs*. I suppose you have all read *The Costello Memoirs*. This is what he said:

Never one to be held back by the financial consequences of decisions—

and he is talking about the current Leader of the Opposition—

he had grandiose plans for public expenditure. At one point when we were in Government, he asked for funding to pay for telephone and electricity wires to be put underground throughout the whole of his northern Sydney electorate to improve the

amenity of the neighbourhoods. He also wanted the Commonwealth to take over the building of local roads and bridges in his electorate.

So much for the economic competence of the current Leader of the Opposition. Again in *The Costello Memoirs* the former Liberal coalition Treasurer said:

He used to tell me proudly that he had learned all of his economics at the feet of Bob Santamaria. I was horrified.

'Horrified', said Peter Costello—horrified about the current Leader of the Opposition's economic underpinning.

Niki Savva, in her book *So Greek: Confessions of a Conservative Leftie*, said:

So, by December 2003 ... Costello has pretty much had enough of all the talk about Abbott as frontrunner for the deputy's position. Costello was hugely unimpressed by ... Abbott's dismissive comments about economic management.

Let me just stop there. This is the man who is arguing that he has got the economic capacity to lead an Australian government. But Peter Costello basically said that he was hugely unimpressed by Mr Abbott's economic capacity. Niki Savva continues:

Costello handed it to me to file away for future reference, with a key paragraph underlined. In the article, Abbott was quoted as saying he would probably run for the deputy leadership; however, he scoffed at the notion of becoming Treasurer.

I think that any potential leader of the government of this country—any Prime Minister—who is so dismissive of economic management and so derided by his own party is not sustainable as a leader with any economic management credentials at all. Laurie Oakes has written:

Now we know. If Peter Costello had become prime minister, he would not have wanted Tony Abbott as his deputy.

Costello believed Abbott's dismissive attitude to economic management made him unsuitable.

Do not come here lecturing the Labor Party about economic management when your so-called guru on economic management, Peter Costello, had absolute disdain for the current Leader of the Opposition. It is quite right that he should have had that absolute disdain because the Leader of the Opposition has no economic credentials. Tony Abbott is Leader of the Opposition now—why? Do you know why he is there? Because the extremists in the Liberal Party have taken over—the extremists who are opposed to climate change, who do not believe climate change is right and who put up policies that they describe as ‘Direct Action’. This is again an example of the complete failure of the Leader of the Opposition, Tony Abbott, to understand economic issues. He talks about direct action, but it has been revealed today that ‘Direct Action’ will cost the Australian public \$30 billion. That means there will be a black hole of \$30 billion in your budget, and it will cost the average Australian family \$720 a year to work under your policies.

Senator Johnston—Whose policies?

Senator CAMERON—Your policies, the coalition’s policies—\$30 billion. These figures demonstrate that ‘Direct Action’ is so environmentally ineffective that it will deliver only 25 per cent of the carbon pollution abatement required for the coalition to meet the bipartisan target of five per cent. If you cannot meet it with your policies, you will have to go out and buy permits on the world market. If you buy permits on the world market—you will have to buy 75 per cent of your abatement in permits—it will cost \$20 billion. That is the economic irresponsibility of the coalition. That is the economic irresponsibility of the Leader of the Opposition. That is the economic irresponsibility that will make sure you never form government. You have said in this debate that we are running scared. Let me tell you one thing: there is no running scared from having a proper

policy debate on environmental issues and carbon pollution in this country—absolutely none.

Senator Fierravanti-Wells questioned my commitment to working people. She questioned my commitment to doing what is in the interests of the economy. I have challenged her and will lay the challenge down again. I am prepared to debate Senator Fierravanti-Wells in Wollongong, which is where she has her office, on jobs, climate change and financial responsibility because this is a debate that we can easily win. We will win that debate easily because we are the government who have actually dealt with the global financial crisis and we are the government that are seen around the world as having been the most effective in keeping our economy out of recession. How did we do that? We acted in a timely, targeted and temporary manner, and we looked after the funds of the Australian public. I go back to eminent economists like Joe Stiglitz, Nobel prize-winning economists, who say the priority during these situations is to make sure you keep your economy running—you do not destroy your communities and you do not destroy workers and their families’ futures. That is exactly what we did. If we had listened to the economic approach of the coalition, what would have happened? We would have sat back and waited to see what happened. That is what you were proposing. Using the same policies that resulted in the Great Depression—government having a hands-off approach, not acting in a timely, targeted and temporary manner and walking away from the community—is the position the coalition would have us adopt. It is a coalition that is economically incompetent, it is a coalition that has no environmental credentials and it is a coalition that would put this country into \$30 billion of debt through an environmental policy that is absolutely unsustainable. They want to keep the miners on

side. We know the Western Australian senators are absolutely under the control of Twiggy Forrest and his ilk. We want to look after the public; not the big end of town. We will look after the nation; not the big end of town. (*Time expired*)

Senator BACK (Western Australia) (4.37 pm)—‘The Gillard government’s continued pattern of broken promises, maladministration, waste and debt’—never was a truer statement made. But where did it all begin? Did it begin with the election in August last year? No, it did not. It started in November 2007 under the Rudd-Gillard government where, as the gang of four, they were joined by the Treasurer, Mr Swan, and Mr Tanner. Ms Gillard was at that time the Deputy Prime Minister and, as the then Prime Minister fell off the rails, where was his deputy? Where was the person who should have kept him focused? Where was the person who should have stood between that Prime Minister and the Australian people? She was missing in action.

At that time, the plot had started. She showed no loyalty to him. She showed no loyalty to the Australian people. At the time when the dogs were barking that challenge, the question was asked of her and she said, ‘There’s a better chance of me playing full-forward for the dogs than there is ever a chance of me leading the Labor Party.’ The Western Bulldogs could do something for her and for the nation now—

Senator Jacinta Collins—Who do you follow, Chris?

Senator BACK—The Eagles are who I barrack for, Senator. The Western Bulldogs could put her at centre half-forward and put the rest of us out of our misery. As we know, Copenhagen came and that was the end, unfortunately, for Mr Rudd.

We move forward then to Ms Gillard as the Prime Minister. On 16 August she said,

‘There will be no carbon tax under a government I lead.’ On 20 August, the day before the election, poetically and historically she again said, ‘There will be no carbon tax under the government I lead.’ That was of course backed up by her deputy, the Treasurer. He said, ‘We reject the hysterical allegation that somehow we are moving towards a carbon tax. We have made our position very clear. We have ruled it out.’ That was a lie. Ms Gillard went to the people on a lie and her deputy did the same thing. If she wants to resurrect herself in the eyes of the Australian people—

The ACTING DEPUTY PRESIDENT (Senator Boyce)—Senator Back, it is not parliamentary to accuse other members of lying.

Senator BACK—In which case I will withdraw it and move on to those days after the election when the now Prime Minister argued, bantered and bartered and got to be the Prime Minister. It would be best defined as power without glory. One should reflect for a few moments on the qualities of leadership—the creation of a vision, inspiring loyalty, focusing on what is good for the organisation but not the individual, open to change in changing circumstances, seeking a mandate for change, promoting honesty and integrity, seeking the truth, concern for what is right and not always being right, and focusing on leading people rather than preserving one’s own leadership position. I think what the Prime Minister will find when she reviews the elements of leadership is that what she has sewn she will reap. It is not necessary for me to go back and look at those characteristics of leadership except perhaps for one, and that is to reflect on the fact that when there is a need for change leaders foresee that. Leaders will recognise changing economic circumstances and, in the case of a company, they will go back to their board or shareholders if they believe there is a cause

for change. After stating there would be no carbon tax, a leader of government in our country should go back to the people and seek a mandate to introduce that. We have certainly not seen that.

In the time available to me it will take too long to record the waste of this government: the \$2 billion of pink batts; the billions wasted on the BER, a lost opportunity for education; two out of 31 GP superclinics built; one out of 2,650 trade training centres built—and the list goes on. As we have heard from Senator Ronaldson, there are even cut-backs now to the War Memorial in this city such that it may not be able to operate every day of the week. We can reflect on the debt of this government. Sitting and listening to Senator Cameron talking about the responsibility and the economic management of the Howard-Costello government when he overlooks conveniently the fact that that government inherited a \$96 billion debt from the previous Labor government and paid it back by 2007, including \$5 billion a year of interest, one is blown away. We all know that this government was left with a surplus of \$22 billion, no net debt, historically high employment and the best economic circumstances this country had ever been in.

We talk about the need for stimulus spending. Let me contrast the wasted \$1,400 in 2009 to keep Q2 out of recession and the \$900 given out in March of 2010 to save us from recession in Q3. Certainly Senator Johnston and Senator Eggleston will relate to this analogy. In the 1890s when the colony of Western Australia was on its knees the then Premier John Forrest, in the face of tremendous economic straits, decided to put a water pipeline through to Kalgoorlie. In so doing he opened up not only Kalgoorlie and the mining areas of our state but the wheat belt as well. That is what an economic stimulus package is. That is what the Rudd government could have done. We can see the bene-

fit to the state, the people of WA and the people of Australia. Imagine if John Forrest had wandered around Western Australia giving out £5 or £7—what benefit would there have been?

This government is absolutely bereft of policy. It is bereft of honesty. Time really does not permit me to reflect on what the impact of such a carbon tax would be. Why would you tax your manufacturers and your exporters to make it more economic and more competitive for the high-carbon competitors overseas to take away our business, our trade, our terms of trade and the benefits that 150 to 200 years have yielded for this country?

Senator EGGLESTON (Western Australia) (4.44 pm)—We are here today to debate the broken promises of Prime Minister Gillard from the last election campaign. Let us first of all look at what the Prime Minister made in the way of commitments to the Australian people and whether she is honouring her election promises. In an interview with Jon Faine in March 2009, she said:

If the reputation of this government is that we are stubborn in the delivery of our election promises, that we are stubborn in keeping our word to the Australian people, then I'll take that. I'll take it as a badge of honour.

She also said:

We're always there delivering our election promises. That's important to us. And we're always there acting in the national interest.

That on 16 June 2009.

Let us now have a look at how well that grand commitment has been kept. First of all, what did Julia Gillard and Labor used to say about a carbon tax? They said on the eve of the election that there would never be a carbon tax. And what happened? Just recently—in fact, last Thursday afternoon—the promise made by Prime Minister Gillard on 20 August 2010, which was, 'I rule out a carbon

tax,' was broken when she announced that there would be a carbon tax.

What about the education revolution? There was the Building the Education Revolution. During the 2010 campaign, the Prime Minister promised that she would publish all costings as per the recommendations of the Orgill taskforce's interim report. Has this been done? The answer is no. Nothing at all about the costings of the Building the Education Revolution program has seen the light of day publicly.

Putting aside the broken promises on the carbon tax and on the Building the Education Revolution, I would like to focus on the Prime Minister's broken promises on health reform. In 2007, Kevin Rudd said that he would fix the hospitals by 2009 or take them over. We know that that did not happen. In fact, Mr Rudd said in 2010 that hospitals should be locally run and nationally funded. Now it emerges that they will be neither under the jurisdiction of Prime Minister Gillard. Under Gillard's deal with the states, the federal government will not be paying 50 per cent of the cost of all hospital services, which is what they promised and implied that they would do. The government's promise only relates to growth, not to existing hospital costs. The Commonwealth will in fact offer to pay 45 per cent of the growth costs in the 2014 year and up to 50 per cent in 2017-18, a far cry indeed, you would agree, from the financial takeover promised by Labor in 2007. In fact, it will be 10 long years between the time that Kevin Rudd first announced that Labor was going to fix our public hospitals before this so-called 50 per cent funding will flow in 2017. That is 10 wasted years for patients, doctors and nurses around this country. Once again in this area of health, Labor has overpromised and failed to deliver.

The National Funding Authority that was lauded as the centrepiece of accountability and transparency under COAG agreement mark 1, was unceremoniously dumped within weeks of that last COAG health agreement, with the health minister arguing that it was not appropriate to have a second funding authority. The whole history of the Rudd-Gillard government has been a litany of broken promises and unreal expectations that have proved undeliverable. This government has an unblemished record, almost, of misleading the Australian people and not delivering on what they said that they would deliver.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator WILLIAMS (New South Wales) (4.49 pm)—On behalf of Senator Coonan, I present a report and the *Alert Digest* of the Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Senator WILLIAMS—I move:

That the Senate take note of the report.

Senator WILLIAMS—I seek leave to incorporate a tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS

TABLING STATEMENT

Alert Digest No. 2 and Second Report of 2011 2 March 2011

In tabling the Committee's Alert Digest No. 2 I particularly draw the Senate's attention to the Committee's comments on the Combating the Financing of People Smuggling and Other Measures Bill which proposes additional regulation of remittance dealers.

One aspect of the the bill is that it seeks to extend AUSTRAC's information gathering powers to

include not only a 'reporting entity' but also 'any other person'.

The Committee accepts that there are circumstances in which the power is appropriate, but is of the view that its exercise ought to be subject to a reasonable belief that any information required will assist in the administration of the scheme. The Committee will be seeking the Minister's advice about this and a number of other provisions in the Bill.

Another issue of interest to the Committee discussed in Alert Digest No. 2 arises from the Customs Amendment (Serious Drugs Detection) Bill. This Bill will allow customs and border protection officers to use prescribed equipment to undertake an internal body scan of a person who is reasonably suspected to be internally concealing a suspicious substance.

The proposed measures are stated to replicate existing levels of protection in relation to internal scans. A detainee's consent is required before a scan can take place and other safeguards are also in place. In the Committee's view the general question of whether the legislation is a proportionate encroachment on personal rights and liberties is one which should appropriately be left to the Senate as a whole.

However, the Committee has 2 specific issues of concern under Standing Order 24 that it intends to raise with the Minister. The first is that although the explanatory memorandum indicates that if prescribed equipment has broader scan capabilities than those needed for the purposes of this bill the equipment will be locked to ensure that the capability cannot be accessed inappropriately this requirement is not included in the primary legislation.

The second concern is that although the explanatory memorandum describes some circumstances in which a person would be considered 'in need of protection' and therefore a scan could not be undertaken the legislation itself does not provide any guidance as to the definition.

Several other Bills also contain issues of potential concern under Standing Order 24 and I draw the Senate's attention to all of the Committee's comments in Alert Digest No.2.

In relation to its Second Report, the Committee has received a detailed response about the many issues raised in its previous Alert Digest about the National Vocational Education and Training Regulator Bill. The Committee thanks the Minister for his reply, but unfortunately the Committee retains a number of significant concerns about the Bill. These concerns include the broad power for the Regulator to amend accredited courses without guidelines for circumstances in which this is appropriate, the ability to seize evidential material not specified in a search warrant and the adequacy of safeguards and accountability measures for the use of force during the execution of a search warrant. The Committee has outlined its concerns in its Report No.2 and will forward them to the Senate Education, Employment and Workplace Relations Legislation Committee for information in relation to its inquiry into the Bill.

I commend Alert Digest No. 2 of 2011 and the Second Report of 2011 to the Senate.

**DEFENCE LEGISLATION
AMENDMENT (SECURITY OF
DEFENCE PREMISES) BILL 2010**

**Report of Foreign Affairs, Defence and
Trade Legislation Committee**

Senator MARK BISHOP (Western Australia) (4.50 pm)—I present the report of the committee on the Defence Legislation Amendment (Security of Defence Premises) Bill 2010 together with submissions received by the committee and I seek leave to speak briefly to the report.

Ordered that the report be printed.

Senator MARK BISHOP—I move:

That the Senate take note of the report.

Two high profile incidents highlighted the need for Defence to review its security arrangements. In 2008, a former army captain was convicted and imprisoned in relation to offences over the theft and illicit sale of 10 rocket launchers between 2001 and 2003 to a convicted criminal with terrorist links. The case illustrated the risk of improper removal of dangerous, restricted or classified items

from defence bases. The second major public incident happened on 4 August 2009. In this instance, five individuals were arrested on allegations of planning an armed attack on the Holsworthy army base. The alleged plan involved storming the barracks with automatic weapons and shooting army personnel or others. The exposure of the planned attack raised concerns regarding the security of defence bases.

The implementation of provisions contained in this bill are designed to continue to meet the challenges created by the changeable nature of security threats to ensure the continued security and safety of defence premises, personnel and assets within Australia. The bill represents the first phase of legislative amendments and provides provisions of common application across Defence to deal effectively with the security of defence premises, assets and personnel.

The committee considered two major concerns: firstly, whether there was sufficient notification of offences; and, secondly, the adequacy of training. With regard to notification, the committee recognises Defence's undertaking to display signs prominently at the entrance to defence bases or facilities notifying people of consensual and non-consensual search requirements. The committee holds the view, however, that, as the bill creates new offences, prior written warning about these offences should also be provided. It recommended, therefore, that the signs at entrances to defence bases and facilities provide notification that penalties may apply for offences under section 71V and 71W, respectively, of the bill.

Secondly, and more importantly, the most critical of the dominant messages coming from a raft of submissions made to the committee were about the adequacy of training. For example, the Victoria Police were firmly of the view that authorised officers and con-

tracted Defence security guards would require specialist training to ensure the appropriate exercise of search and related powers. Similarly, the Tasmania Police referred to Defence's obligation to provide training for security officers at an appropriate level in relation to any legislative authorities, especially stop, search and detention issues and the use of lethal force. Clearly, training is important to ensure that Defence security officials carry out their duties appropriately. Training is especially important for officers authorised to use lethal force. Although the New South Wales Police did not have any major concerns in relation to the bill, they noted in particular the importance of training requirements for staff authorised to use lethal force.

In this report the committee underscored the importance of training in relation to Defence security officials. It emphasised that training undertaken by such officials should be informed by the AFP and state police regimes. Given the fluidity of the security environment in which they are expected to operate, the training regime for Defence security officials must be both robust and responsive. To this end, the committee reaffirmed the importance of ongoing consultation between Defence and the AFP and other federal agencies, as well as regular joint exercises, and encouraged the cooperative relationship to develop.

The committee considered that determining training requirements in legislative instruments is appropriate to the extent that flexibility is required to enable timely modifications to the training requirements in response to the changing nature of security threats. It noted, moreover, that any such modifications would attract parliamentary scrutiny to ensure that provisions therein are balanced. The committee recognised that the bill provides a range of powers to Defence security officials to enhance security of de-

fence bases, facilities, assets and personnel within Australia. Notwithstanding its recommendation that training be consistent with the ‘reasonable and necessary’ principle, the committee is satisfied that the safeguards on the powers conferred on Defence security officials are adequate to ensure that such powers are utilised appropriately.

Whilst noting that the bill introduces new provisions in relation to defence personnel, including the power to exercise lethal force, to search and seize and to restrain and detain, the committee appreciates that security threats are dynamic in nature. To ensure that such provisions are adequately responsive to ever-changing security risks and meet their objectives, the committee proposes to review the operation of the bill three years after enactment, having specific regard to matters considered in this report and any other concerns raised in the ensuing three years.

The committee made four recommendations: firstly, that signs and entrances to defence bases and facilities provide notification that penalties may apply for offences under section 71V and 71W, respectively, of the bill; secondly, that the Australian Defence Force give consideration to the utility of the inclusion of the ‘reasonable and necessary’ principle in delegated legislation; thirdly, that the Senate pass a bill; and finally, that the Senate Standing Committee on Foreign Affairs, Defence and Trade review the operation of enacted provisions of the bill in early 2014.

Question agreed to.

MINISTERIAL STATEMENTS

Asylum Seekers

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (4.57 pm)—On behalf of the Minister for Immigration and Citizenship I table a ministerial

statement on moving asylum seeker children into the community.

DOCUMENTS

Departmental and Agency Contracts

The CLERK (4.57 pm)—Documents are tabled in accordance with the list circulated to senators. Statements of compliance and letters of advice relating to continuing orders on departmental and agency files and contracts are tabled.

NATIONAL BROADBAND NETWORK COMPANIES BILL 2010

TELECOMMUNICATIONS LEGISLATION AMENDMENT (NATIONAL BROADBAND NETWORK MEASURES—ACCESS ARRANGEMENTS) BILL 2011

TAX LAWS AMENDMENT (2010 MEASURES No. 5) BILL 2010

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (4.58 pm)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I shall move a motion to have one of the bills listed separately on the *Notice Paper*. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (4.59 pm)—I table a revised explanatory memorandum relating to the National Broadband Network Companies Bill 2010 and the Tele-

communications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011. I move:

That these bills be now read a second time.

Senator JACINTA COLLINS—I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

National Broadband Network Companies
Bill 2010

The National Broadband Network Companies Bill 2010 and the other bill that I am introducing today, the Telecommunications Legislation Amendment (National Broadband Network Measures – Access Arrangements) Bill 2010, build upon the Government's historic announcement of 7 April 2009 that it would establish a company, NBN Co Limited, to build and operate a new superfast National Broadband Network.

These bills enshrine in legislation the policy commitments the Government made in its NBN announcement and provide clarity and certainty to NBN Co Limited, industry and the wider community.

The NBN will connect up to 93 per cent of all Australian homes, schools and workplaces with fibre-based broadband services and connect other premises in Australia with next generation wireless and satellite broadband services. The NBN will better position us in an increasingly digital world to prosper and compete; and better enable Australian businesses to compete on a global scale.

In April 2009, the Government also indicated that it would legislate to establish:

- operating, ownership and governance arrangements for NBN Co Limited; and
- the regime to facilitate access to the NBN for retail service providers.

The Government has consulted extensively on the legislative arrangements for NBN Co Limited, releasing exposure drafts of the bills in February 2010 and also consulting through the Implementation Study on the NBN. The bills that I am in-

roducing today have been amended in light of those processes.

The first bill in the package, the NBN Companies Bill, sets out obligations on NBN Co Limited to limit its operations to, and focus them on, wholesale-only telecommunications. It also sets out arrangements for the eventual sale of the Commonwealth's stake in the company once the NBN roll-out is complete, including provisions for independent and Parliamentary reviews prior to any privatisation, and for the Parliament to have the final say on the sale. The bill also creates a power for the Governor-General to make regulations concerning future private ownership and control of NBN Co Limited, and establishes other relevant reporting, governance and enforcement mechanisms.

As such the bill deals with arrangements for both today and into the future. In particular, it makes sure that NBN Co Limited will be tightly bound to respect its wholesale-only mandate, thereby promoting competition and better services for all Australians.

The Bill covers NBN Co Limited, NBN Tasmania and any company NBN Co Limited controls. The bill specifies that NBN Co Limited must supply services only to carriers or service providers or specified utilities and transport authorities. Supply to utilities and transport will support the roll-out of smart infrastructure management technologies. The broader power in the exposure draft of the bill, that enabled the Minister to allow NBN Co Limited to supply services to specified end-users, has been removed.

The bill creates a power for the Communications Minister and the Finance Minister to order internal separation of NBN Co Limited's business units, including powers to order it to transfer or divest its assets. These powers provide additional safeguards that can be brought into play, if necessary, to ensure NBN Co Limited operates in a manner that is transparent and supports effective competition.

Taking into account the recommendations of the Implementation Study on the NBN, the Commonwealth will retain full ownership of NBN Co Limited until the rollout of the NBN is complete. This will ensure that during the rollout NBN Co Limited remains focussed on achieving the Gov-

ernment's policy aims, and not on the different risks and rewards that private sector equity investors would require.

After the Communications Minister has declared that the rollout is complete, the Productivity Minister may direct the Productivity Commission to undertake a 12 month inquiry into a number of matters, including the regulatory framework for the NBN, and the impacts of a sale of NBN Co Limited on the Commonwealth Budget, consumer outcomes and competition. Within 15 sitting days of the Productivity Commission inquiry report being tabled, a Parliamentary Joint Committee on the Ownership of NBN Co Limited is to be established, according to the practice of Parliament, to examine the report of the Productivity Commission inquiry. This Joint Committee will report to both Houses of Parliament within 180 days of its appointment. After it reports, the Finance Minister may, by disallowable instrument, advise that conditions are suitable for an NBN Co Limited sale scheme.

There is no longer a requirement that NBN Co Limited must be sold within five years of it being declared built and fully operational. Rather the timeframe for any sale is left to the judgment of the Government and Parliament of the day, enabling both to have due regard to the role the NBN is then playing, market conditions and any other relevant factors.

The bill also confirms that NBN Co Limited should be subject to the same range of obligations as other Government Business Enterprises. For example, NBN Co Limited is not a public authority and NBN Co Limited is not subject to the *Public Works Committee Act 1969* as was the case with earlier Government owned carriers like Telstra, OTC and Aussat, and is currently the case with Australia Post.

Together with the NBN Access Bill, the NBN Companies Bill delivers on the Government's commitment that NBN Co Limited will operate on a wholesale-only, open and equivalent access basis, delivering long terms benefits for competition and consumers.

Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011

The Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011 (the NBN Access Bill) accompanies the National Broadband Network Companies Bill. Together, the two bills form a package to promote competition and better telecommunications services for all Australians.

The NBN Access Bill will establish clear open access, equivalence and transparency requirements for NBN Co Limited. It will also extend supply and open access obligations to owners of other superfast networks that are rolled out or upgraded after the introduction of this bill to Parliament.

The bill establishes rules for the supply of services by NBN Co Limited. All of NBN Co Limited's services will be declared services under the *Trade Practices Act 1974*, and subject to enforcement under that Act. The bill also establishes a new category of Standard Access Obligations for NBN Co Limited. These obligations are designed to guarantee:

- the supply of declared services to access seekers;
- interconnection of facilities to the NBN; and
- access to conditional access customer equipment, as needed, to providers of retail telecommunications services.

The bill provides as a general rule that NBN Co Limited must not discriminate between access seekers. However, consistent with commercial and efficiency considerations, NBN Co Limited will be permitted to negotiate with individual access seekers to vary standard terms and conditions, but only under clearly specified criteria and subject to ACCC oversight. Different terms will be permitted in relation to the creditworthiness of an access seeker, consistent with current trade practices law. Different terms will also be permitted on grounds or circumstances as specified by the ACCC. Finally, NBN Co Limited may offer different terms to access seekers where this aids efficiency, and access seekers in like circumstances have an equal opportunity to benefit from any variations.

The concept of differentiation that aids efficiency already exists under Part IIIA of the Trade Practices Act. It recognises that a blanket requirement to offer equal treatment to all access seekers can lead to inefficient outcomes. For example, some service providers may want to make changes to standard services to reflect their existing products and processes, and being required to re-engineer these could be both costly and disruptive.

Submissions on the draft bill called for clearer definition of conduct that aids efficiency. The bill therefore requires the ACCC to publish guidance material on allowable discrimination, to provide greater certainty for industry.

If NBN Co Limited can offer different terms from those set out in published offers, it follows that access seekers need to know what variations to standard terms are available, to judge whether they are in like circumstances and be able to receive those varied terms. To address this, NBN Co Limited must supply the ACCC, within seven days of entering into an agreement containing different terms and in a form approved in writing by the ACCC, clear information on the deal. The ACCC must then publish this information, redacting such commercial-in-confidence information as it considers is necessary, and maintain a register of NBN Access Agreement Statements on its website.

Submissions on the draft bill released in February this year expressed concern that NBN Co Limited could offer volume discounts that would favour the largest carriers and service providers. The bill does not prohibit volume discounts that aid efficiency, but restricts NBN Co Limited from offering a volume discount unless it is in accordance with the terms and conditions which it has set out in a Special Access Undertaking which has been approved by the ACCC. This will ensure that available volume discounts are in the long-term interests of end-users.

Finally, the bill makes specific arrangements for carriers who build or upgrade certain fixed-line superfast access networks after the introduction of this bill to Parliament. Carriers must offer a Layer 2 bitstream service over such infrastructure and will be subject to access, non-discrimination and transparency obligations in relation to that service, based on those applying to NBN Co Lim-

ited. These requirements will commence on proclamation or otherwise 12 months from Royal Assent, giving industry time to adjust. These arrangements do not apply to point-to-point services to government and corporate users.

Provision is also made to simplify the making of industry codes and standards for fibre infrastructure and services. Once in place, these codes and standards will ensure new fibre networks are built consistent with the technical specifications for the National Broadband Network.

These amendments have been included to ensure that end-users have access to the same high-quality superfast broadband services, regardless of the network provider, and to promote a level regulatory playing field for the telecommunications industry.

The NBN Access Bill, together with the NBN Companies Bill which it supports, demonstrates this Government's commitment to structural reform of the telecommunications market, and to ensuring that the NBN meets the Government's key objectives that NBN Co Limited operate on a wholesale-only basis and offer open and equivalent access. By doing so, the NBN will provide a platform for vibrant retail-level competition that will bring better services to all Australians.

Tax Laws Amendment (2010 Measures No. 5) Bill 2010

This Bill amends various taxation laws to implement a range of improvements to Australia's tax laws.

Schedule 1 amends the eligibility criteria for accessing the film tax offsets by expanding access to film tax offsets in two ways.

Firstly, the amendments reduce the minimum qualifying expenditure threshold for the post, digital and visual effects offset from \$5 million to \$500,000.

Secondly, the amendments remove the requirement for films with qualifying expenditure of between \$15 million and \$50 million, to have at least 70 per cent of the film's total production expenditure as qualifying Australian production expenditure in order to qualify for the location offset.

These changes, which will apply from 1 July 2010, are estimated to increase expenditure on the film tax offsets by \$6.9 million over the forward estimates period.

These changes are aimed at attracting offshore productions to Australia and expanding opportunities for Australian post, digital and visual effects providers to bid for international work.

The amendments are also expected to increase employment opportunities and to assist in building capacity and expertise in the local film industry, which will in turn provide benefits for domestic productions.

The change to the location offset in particular will also reduce compliance costs for affected taxpayers.

Schedule 2 amends Division 247 of the *Income Tax Assessment Act 1997* to adjust the benchmark interest rate used in the taxation of capital protected borrowings provisions to the Reserve Bank of Australia's Indicator Lending Rate for Standard Variable Housing Loans plus 100 basis points for capital protected borrowings entered into, amended or extended after 7:30 pm (AEST) on 13 May 2008. These changes to the benchmark interest rate were first announced on 13 May 2008 and revised on 11 May 2010.

This Schedule also amends Division 247 of the *Income Tax (Transitional Provisions) Act 1997* to provide for transitional arrangements for capital protected borrowings entered into at or before 7:30 pm (AEST) 13 May 2008, to 30 June 2013. This allows capital protected borrowings entered into on or before 13 May 2008 to apply the existing benchmark interest rate until 30 June 2013 or the life of the product, whichever is earlier.

These amendments advance the Government's commitment to ensuring the tax system is as fair and efficient as possible. The new benchmark interest rate provides a more appropriate basis for apportioning the expense in capital protected borrowings between interest on a borrowing without capital protection and the cost of capital protection, while taking in to account industry concerns over the credit risk borne by lenders for the cost of capital protection that is paid on a deferred basis.

The amendments are expected to produce \$170 million in net savings over the forward estimates period. These changes are another demonstration of the Government's commitment to finding savings in the Budget to help tackle inflationary pressures.

Schedule 3 extends the main residence CGT exemption to cover a CGT event that is a compulsory acquisition or other involuntary realisation of part of a main residence. The extended exemption will apply where part of a main residence, the part being some or all of the dwelling's adjacent land or structure, is compulsorily acquired without the dwelling itself also being compulsorily acquired. This will mean that taxpayers will not be worse off where part of their adjacent land or structure is compulsorily acquired than if the compulsory acquisition had not occurred.

Schedule 4 allows complying superannuation funds and retirement savings account providers to deduct the cost of providing terminal medical condition benefits to superannuation fund members and retirement savings account holders.

Currently, complying superannuation funds and retirement savings account providers are able to claim deductions for insurance policies or some of the cost of providing benefits relating to the death, permanent incapacity and temporary incapacity conditions of release, but not those relating to the terminal medical condition's condition of release. This condition of release was introduced on 16 February 2008, when this measure will commence.

This amendment will address an anomaly in the law and provide certainty to industry. It will ensure consistent tax deductibility for superannuation funds and retirement savings account providers for the cost of providing benefits to members in the event that a member or retirement savings account holder retires due to ill-health or death benefits are provided.

Finally, Schedule 4 also amends certain sections of the *Income Tax Assessment Act 1997* to reflect the drafting convention that the term 'individual' should be used when referring to a human being.

Schedule 5 amends the 1999 GST Act to allow non-profit sub entities to access the GST concessions available to their parent entity.

These changes clarify the GST law to be consistent with the approach the Commissioner of Taxation has taken in interpreting the law to allow non-profit sub-entities to access these concessions.

As part of this amendment non-profit sub-entities will be allowed to access the higher registration turnover threshold of \$150,000 for non-profit bodies.

This measure will apply from the start of the first tax period after Royal Assent.

Schedule 6 amends the Taxation Administration Act 1953 to provide that it will not be mandatory for the Commissioner of Taxation to apply a payment, credit or running balance account surplus against a tax debt that is a business activity statement amount, unless that amount is due and payable. This amendment applies on and from 1 July 2011.

The amendment reduces compliance costs and unnecessary complexity for taxpayers.

Schedule 7 provides for an expansion of the Education Tax Refund so that school uniforms are included as eligible expenses.

The Government introduced the Education Tax Refund on 1 July 2009 to help families with the cost of education.

The Refund allows eligible families to claim 50 per cent of their eligible education expenses up to \$390 per child each year for primary school kids or \$779 per child each year for those in secondary school. This is indexed each year and covers the cost of computers, textbooks and trade tools for secondary school uniforms.

Extending the Education Tax Refund to uniforms will provide valuable assistance to Australian families and further help ease their cost of living pressures.

The Refund will be available for school uniform expenses incurred from 1 July 2011, with the first refunds paid in the 2012-13 financial year.

The Government is providing relief to family budgets while ensuring we return the budget to surplus by 2013.

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

Debate (on motion by **Senator Jacinta Collins**) adjourned.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (5.00 pm)—I move:

That the Tax Laws Amendment (2010 Measures No. 5) Bill 2010 be listed on the Notice Paper as a separate order of the day.

Question agreed to.

COMMITTEES

National Broadband Network Committee Establishment

The ACTING DEPUTY PRESIDENT (Senator Hurley)—A message has been received from the House of Representatives transmitting for concurrence a resolution proposing the formation of a joint committee. Copies of the message have been circulated in the chamber.

The House of Representatives message read as follows—

The House of Representatives acquaints the Senate of the following resolution which has been agreed to by the House of Representatives and requests the concurrence of the Senate therein:

- (1) that a Joint Committee on the National Broadband Network (NBN) be appointed to inquire into and report on the rollout of the NBN;
- (2) that every six months, commencing 31 August 2011, until the NBN is complete and operational, the Committee provide progress reports to both Houses of Parliament and to shareholder Ministers on:
 - (a) the rollout of the NBN, including in relation to the Government's objective for NBN Co. Limited (NBN Co.) to:
 - (i) connect 93 per cent of Australian homes, schools and businesses with fibre-to-the premises technology providing broadband speeds of up

- to 100 megabits per second, with a minimum fibre coverage obligation of 90 per cent of Australian premises; and
- (ii) service all remaining premises by a combination of next-generation fixed wireless and satellite technologies providing peak speeds of at least 12 megabits per second;
- (b) the achievement of take-up targets (including premises passed and covered and services activated) as set out in NBN Co.'s Corporate Plan released on 20 December 2010 as revised from time to time;
- (c) network rollout performance including service levels and faults;
- (d) the effectiveness of NBN Co. in meeting its obligations as set out in its Stakeholder Charter;
- (e) NBN Co.'s strategy for engaging with consumers and handling complaints;
- (f) NBN Co.'s risk management processes; and
- (g) any other matter pertaining to the NBN rollout that the Committee considers relevant;
- (3) that the Committee consist of 16 members, 4 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips, and one non-aligned Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate, and one Senator to be nominated by any minority group or groups or independent Senator or independent Senators;
- (4) that:
- (a) participating members may be appointed to the Committee on the nomination of the Leader of a Party in either House or of an Independent Member in either House;
- (b) participating members may participate in hearings of evidence and deliberations of the Committee and have all the rights of members of the Committee, but may not vote on any questions before the Committee; and
- (c) a participating member shall be taken to be a member of the Committee for the purpose of forming a quorum of the Committee if a majority of members of the Committee are not present;
- (5) that every nomination of a member of the Committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives;
- (6) that the members of the Committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time;
- (7) that the Committee elect an independent (non-aligned) member as Chair;
- (8) that, in the event of an equally divided vote, the Chair have a casting vote;
- (9) that three members of the Committee constitute a quorum of the Committee provided that in a deliberative meeting the quorum shall include one Government Member of either House and one non-Government Member of either House;
- (10) that the Committee have power to call for witnesses to attend and for documents to be produced;
- (11) that the Committee may conduct proceedings at any place it sees fit;
- (12) that the Committee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives;
- (13) that the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.
- Senator JACINTA COLLINS** (Victoria—Parliamentary Secretary for School Education and Workplace Relations (5.01 pm)—I move:

That consideration of message no. 93 be made an order of the day for the next day of sitting.

Question agreed to.

Christmas Island Tragedy Committee

Establishment

The ACTING DEPUTY PRESIDENT—

A message has been received from the House of Representatives transmitting for concurrence a resolution proposing the formation of a joint select committee. Copies of the message have been circulated in the chamber.

The House of Representatives message read as follows—

The House of Representatives acquaints the Senate of the following resolution which has been agreed to by the House of Representatives and requests the concurrence of the Senate therein:

- (1) that a Joint Select Committee on the Christmas Island tragedy of 15 December 2010 be appointed to inquire into and report on the incident of 15 December 2010 in which an irregular entry vessel foundered on rocks at Rocky Point on Christmas Island, including:
 - (a) operational responses of all Commonwealth agencies involved in the response, relevant agency procedures, and inter-agency coordination;
 - (b) communication mechanisms, including between Commonwealth and State agencies;
 - (c) relevant onshore emergency response capabilities on Christmas Island;
 - (d) the after-incident support provided to survivors;
 - (e) the after-incident support provided to affected Christmas Island community members, Customs, Defence and other personnel;
 - (f) having regard to (a) to (e), the effectiveness of the relevant administrative and operational procedures and arrangements of Commonwealth agencies in relation to the SIEV 221 incident and its management; and
 - (g) being mindful of ongoing national security, disruption and law enforcement efforts and the investigations referred to in paragraph (3), to consider appropriate information from the Australian Federal Police and the Australian Customs and Border Protection Service (including Border Protection Command) to determine, to the extent that it is possible, the likely point of origin of the vessel;
- (2) the Committee should have regard to:
 - (a) the findings and recommendations of Australian Customs and Border Protection Service (including Border Protection Command) internal review of actions relating to SIEV 221; and
 - (b) the work being undertaken by the Christmas Island Emergency Management Committee;
- (3) the Committee should have regard to and be mindful of independent parallel investigations into the incident including the investigation by the State Coroner of WA and investigations by the Australian Federal Police, and conduct its inquiry accordingly;
- (4) the Committee should report to Parliament and make recommendations to the Minister for Home Affairs and Justice and the Minister for Regional Development (relevant to his responsibilities for Australian Territories);
- (5) the Committee consist of 10 members: 3 Members of the House of Representatives to be nominated by the Government Whip, 2 Members of the House of Representatives to be nominated by the Opposition Whip, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate, one Senator to be nominated by the Australian Greens, and one Family First Senator;
- (6) every nomination of a member of the Committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives;
- (7) the members of the Committee hold office as a Joint Select Committee until presentation of the Committee's report or the House of

- Representatives is dissolved or expires by effluxion of time, whichever is the earlier;
- (8) the Committee elect a Government Member as its Chair;
 - (9) the Committee elect a member as its Deputy Chair who shall act as Chair of the Committee at any time when the Chair is not present at a meeting of the Committee, and at any time when the Chair and Deputy Chair are not present at a meeting of the Committee the members present shall elect another member to act as Chair at that meeting;
 - (10) in the event of an equally divided vote, the Chair, or the Deputy Chair when acting as Chair, have a casting vote;
 - (11) 3 members of the Committee constitute a quorum of the Committee provided that in a deliberative meeting the quorum shall include the Chair of the Committee, 1 Government member of either House and 1 non-Government member of either House;
 - (12) the Committee have power to call for witnesses to attend and for documents to be produced;
 - (13) the Committee may conduct proceedings at any place it sees fit;
 - (14) the Committee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives;
 - (15) the Committee present its final report no later than 30 June 2011;
 - (16) the provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (5.01 pm)—I seek leave to have the message considered immediately.

Leave granted.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (5.01 pm)—I move:

That the Senate concurs with the resolution of the House of Representatives contained in message no. 94 relating to the appointment of a joint select committee.

Question agreed to.

(Quorum formed)

HEALTH INSURANCE (ELIGIBLE COLLECTION CENTRES) APPROVAL PRINCIPLES 2010

Motion for Disallowance

Senator ABETZ (Tasmania) (5.04 pm)—At the request of Senator Fierravanti-Wells, I move:

That the Health Insurance (Eligible Collection Centres) Approval Principles 2010, made under subsection 23DNBA(4) of the *Health Insurance Act 1973*, be disallowed.

Quality health care is a vital public policy goal for the coalition and it should be such for this parliament. We want quality care delivered in a manner that does not waste money or lead to overservicing. In fact, it was those considerations that motivated the Labor government some two decades ago, in 1992, to introduce a regulatory framework in relation to pathology collection centres. It was this Labor framework in 1992, which was updated by the coalition about a decade later, that has now been junked by the government without any consultation with the sector.

The regulatory framework introduced by Labor was designed what was then the exponential growth in approval pathology collection centres. The regulations served their purpose well. But Labor's recent decision, without any consultation, to remove the regulations has seen a growth of 46 per cent in the number of such centres in just the last eight months. The numbers have grown from 2,426 collection centres to 3,536. That is an extra 1,110 collection centres, a 46 per cent increase, in just eight months.

Everyone must acknowledge this as wasteful and also unsustainable. This growth has been driven not by customer or patient demand or good health care but by the commercial considerations of—if I might say so—certain general practitioners. All the new collection centres—and I stress this: all 1,110 of them—are in GP surgeries, adding a cost of about \$100 million to the service. This impacts on research and on quality of service. It has seen the closure of laboratories in regional and rural areas and staff redundancies. What is more, the smaller providers are now being muscled out by the bigger players.

The position the coalition is proposing will overcome those bad outcomes and save the taxpayer money. It is in fact a savings measure. The Royal College of Pathologists of Australasia supports the coalition position. The Australian Association of Pathology Practices supports the coalition position. Indeed, if Labor were to support our position, they could reduce their flood tax by at least \$100 million, if not more.

Labor claim that these regulations offend the National Competition Policy. It seems that they pick and choose. If they were so serious, so concerned, about the National Competition Policy, one could ask: why are they not removing the regulations surrounding pharmacies and the whole host of other medical services? Indeed, it is very interesting, given the Labor Party's backflips on a whole host of issues in recent times, that they seem to have adopted in relation to pathology services the view that the market—to coin a phrase—should rip.

But this is a situation in which we are dealing with government funded services. It stands to reason that it will cost more the more that you drive the availability of it, especially the unviable ones, which will cost so much to provide. I am talking about those

new service centres that previously did not exist that have not been demanded by patients or indeed by good health care. The 46 per cent increase has simply been commercially driven, and that of itself may not be a bad thing, other than that we are in fact talking about the expenditure of a lot of taxpayer money.

In relation to this disallowance, which comes quite late in the piece given that these changes were introduced on 1 July last year, but given that these changes have been made, we can see the disaster the policy has been with this 46 per cent increase in the collection centres. We can also see the blow-out in the costs. I would have thought, given the bitter experience the government has suffered by this failed policy as a result of its lack of consultation, it may now be minded to say, 'Look, yes, let's disallow this particular regulation and go back to the drawing board.'

Some concern has been expressed as to what will happen to those 1,110 that have been licensed since this regrettable decision. We cannot do anything about that; they are licensed, they are in the marketplace and they will be able to continue for the 12 months for which they have been licensed. A suggestion has been made that somehow they would no longer be licensed. That is not the case; their licences, as agreed, would continue.

I will make a few other observations and also refer to the *Australian Financial Review* article of 21 September 2010 which, on page 47, reported that 'costs for all providers have soared' since the restrictions were removed on 1 July 2010. That was the experience already in September, some two or three months after the change was made. Now, with the experience of another five months on top of that under our belt, we can say that the costs for all providers have absolutely

soared and the cost to the Australian taxpayer will simply be so much greater.

The coalition does not support the sort of piecemeal approach that was adopted by the government. There was no appropriate consultation in relation to this. There will be increased patient costs, and that is going to undermine a very important sector of our health service providers and run the risk of cost blow-outs for the health budget. We have now been told that the minister will make cuts and changes to pathology funding in this year's budget. That was just reported today. The minister said that this would have to happen if appropriate savings are not identified by the sector. Well, if she wanted appropriate savings, she could have identified those herself by not disallowing this regulation.

There is a risk that, if more collection centres continue to open, it will be difficult to wind back the costs of providing services if an alternative arrangement is agreed. The coalition is not opposed to a change in regulation, but it needs to be subject to proper consideration and review to avoid unintended consequences for patients. Put simply, if the cost of providing these services is going to blow out, as it already has, as has been reported in the media, then who cops it? The taxpayer and the individual patients.

Pathology services have had the benefit of being one of the few services that are substantially bulk-billed. I am not sure if I can put my finger on the figure, but, if my memory serves me correctly, about 85 per cent of services in pathology are currently bulk-billed. I think I am getting a nod of agreement in relation to that. Make no mistake. With an impost of over \$100 million being imposed by this unfortunate decision, there will be more services, there will be more bulk-billing, but also there will be the temptation for these service providers to have a

gap which individual patients will have to pay.

There has not been a suggestion that doctors are not seeking pathology services because of a lack of collection centres. There has been no demand that there should be more pathology services or suggestion that pathology services have not been sought by general practitioners. Indeed, they have been and we have seen a growth rate in them above the growth rate in the population. But they have been contained in a way that does not lead to overservicing. Once there are these extra 1,000-plus collection centres, there are the overheads that the pathology companies have to pay for. And who is going to pay? Either the taxpayer or the patient. And there was no demand for that to occur.

I simply say to Labor: if you do not want to listen to me on this, that is fine; I accept that. Listen to your predecessors in 1992. The rationale they provided in 1992 remains valid and proper today.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (5.17 pm)—I would like to speak on behalf of the government and the Minister for Health and Ageing, Ms Roxon, and oppose the motion from the opposition to disallow the government's pathology reforms in the Health Insurance (Eligible Collection Centres) Approval Principles 2010. This motion again highlights the sort of negativity and destructive attitude to health reform—and all reform, in fact—that we have seen from the opposition in recent times. It is really an issue of whether people are going to side with the interests of big business or with the interests of patients. We would argue that the interests of patients ought to be given priority, and the opposition approach in this matter does not reflect a commitment to putting the interests of patients first.

It also seems to highlight that a commitment to competition and choice is all rhetoric from the opposition, not something that they give any serious attention to when we get to these sorts of debates. Discussions on National Competition Policy between the Commonwealth and states identified the regulation of pathology collection centres as an area where impediments to competition may exist. An independent review by KPMG in 2006 found that these restrictions protected the market share of the three major pathology providers which dominate the sector. That is a very important point: KPMG's independent review found that three major pathology providers dominate the sector. It also found that the restrictions were a major barrier to new entrants to the market.

The government's reforms lifted, from July 2010, restrictions on the number of collection centres for pathology tests which can be operated by a provider. The government's decision to lift these restrictions has improved competition in the pathology sector, leading to greater choice for patients and better access to services. And pathology providers have voted with their feet, opening more than 1,000 new collection centres around Australia, providing much greater access for Australians. About 20 per cent of these collection centres are operated by smaller pathology companies. This means that the smaller providers are increasing their market share, as previously they only operated about 16.8 per cent of all collection centres.

Medicare data shows that, as of November 2010, 21 per cent of new collection centres were in rural and remote areas. So we are seeing greater access for Australians to pathology centres and much better access and coverage in rural and remote areas. We have got new collection centres in regional New South Wales, including Kiama, Molong and Orange; regional Queensland, including

Toowoomba, Bundaberg and Rockhampton; regional South Australia, including Port Augusta, Bordertown and Whyalla; and regional Victoria, including Mildura, Benalla, Ballarat and Bendigo.

While some existing major companies have publicly criticised the government's reforms, I think it is worth noting that there may be issues for them in terms of market share and the threat of competition. They may not be the best source of advice on these matters. From the opposition's point of view, it has been publicly revealed recently that the pathology tycoon Ed Bateman has been a big donor to the Liberal Party. We know he funded political ads attacking the government recently, claiming the sky would fall in if Labor's pathology reforms were not reversed. But, of course, that has proven to be incorrect and he can be judged on the outcomes. This is perhaps more about his commercial interests than the interests of good health policy in this country. The sky has not fallen in, as was claimed.

The government's \$329 million pathology bulk-billing incentives have helped ensure that the bulk-billing rates for pathology continue to rise. The bulk-billing figure for pathology in the December 2010 quarter—the latest figure available—is 87.1 per cent, an increase of 1.4 per cent on the September 2010 figure. Pathology volumes rose 2.9 per cent in December 2010. The chief executive of Sonic, the biggest pathology provider, told shareholders last November that growth in its pathology business would return to long-term trends in 2011. Even Mr Ed Bateman agrees with this assessment. Primary Health Care advised shareholders on 15 February that earnings would improve in 2011 as revenue growth in pathology resumed.

This motion should be defeated by the Senate. It is much more about supporting the interests of some big companies with large

market share than about focusing on the needs of patients and their access to pathology services. This motion would clog the arteries of competition, and it does not reflect well on the opposition in terms of their negative approach to good public policy in this country.

I will conclude with those remarks and make it clear that the government opposes the motion in Senator Fierravanti-Wells's name. Can I say, though, in closing that I understand there was some discussion between Senator Xenophon and the office of the Minister for Health and Ageing on the issue of overservicing in the pathology sector and related compliance matters. I draw colleagues' attention to the Health Insurance Amendment (Compliance) Bill, which was debated in the other place this morning. That bill will strengthen oversight of issues such as inappropriate servicing and obviously will come to us in due course. But I am able to table a brief summary of the very comprehensive arrangements the government has in place already. It is a document titled 'Overservicing in the pathology sector: compliance and monitoring'. I table that to help inform the debate in the chamber.

Senator SIEWERT (Western Australia) (5.23 pm)—In July 2010 the government lifted restrictions on the number of pathology collection centres a pathology provider could operate. Collection centres collect patient samples from pathology tests, the issue we are talking about. Prior to July 2010, as we know, the number of collection centres allocated to providers was based on a formula connected to the volume of Medicare services. Under the old system the biggest providers were allocated the most collection centres. A 2006 independent review by KPMG found that these restrictions protected the market share of the major existing pathology providers. The market for pathology tests had been dominated by three major

companies: Primary Health Care, Healthscope and Sonic. The KPMG review also found that restrictions were a major barrier to new entrants to the market.

Many more new collection centres have opened since 1 July 2010, which we welcome. Approximately 20 per cent of these new collection centres are operated by small providers. This means that smaller providers are increasing their market share as previously they only operated 16.8 per cent of all collection centres, as has been articulated. Medicare data shows that, as of November 2010, 21 per cent of the new collection centres were in rural and remote areas.

Some existing major pathology providers have criticised the government's reform. You have to wonder whether their concern is about protecting their market share from competition as obviously they were protected before. The major pathology providers have claimed that the reforms could increase costs for patients and reduce bulk-billing. We understand the government is providing \$329 million over four years for bulk-billing incentives in pathology. We also understand that the government is in discussion with the pathology sector, including not-for-profit pathology providers, to provide and develop funding arrangements for the future. Smaller pathology operators have been able to expand their operations. I have in fact received letters from companies that have had legal leases with tenancy agreements, have employed many staff and have purchased equipment and furniture in many locations. Any going back to the pre-reform situation would destroy these companies and see a return to a closed-shop approach to the pathology market being highly dominated by corporate pathology providers. Patient freedom of choice would stop and out-of-pocket patient gaps would enter the market.

The Greens believe that the smaller, independent laboratories are keeping the larger, previously dominant providers honest. Although corporate pathology providers have seen a reduction in their profits, they are still able to make a profit. If the legislation were to revert back to the previous legislation, where would it place the practices that have already expanded? Would they retain the site they have opened since the beginning of July last year? These sites have legal commitments to lease payments for the term of the lease, but if they are no longer an approved collection centre or they do not have their licence, what would many of them do? Many staff have been recruited in these new facilities. There is an issue of ongoing employment in these already approved locations.

Despite claims that the government's reforms are damaging their business, the major pathology providers remain comfortably profitable companies and in fact some of them have predicted growth in their business in 2011. The Greens believe the disallowance motion would reverse the opportunity to provide greater choice to consumers and we would in fact then go back to protecting some of the dominant companies in the market. We believe this is not good overall for patients. Having said that, I have to say that we agree with Senator Xenophon that it would be a good idea at some stage not too far into the future to have a further independent review to look at how those arrangements are performing.

There has been an awful lot of lobbying going on around this issue. I will admit I have had lots of letters both for and against the new arrangements. I will note, however, that lobbying us with bits of paper cut off from pamphlets that have obviously been put in pathologists' outlets and have the association logo on does not work very well when all people have done is sign them, and I suspect some people do not actually know what

the issue is and what they are signing. The emails I have received from independent operators outlining their concerns if these arrangements were reversed explain the situation, explain where they are coming from and explain what impact going back on the new arrangements would have. They have provided an eloquent story on what impact it would have because they have in good faith taken up the new arrangements. That is not to say that we do not and have not heard the other providers' arguments, but we think on balance the new arrangements are better. But they could do with a review, so we support Senator Xenophon's position that there should be some review into the future.

We do not support this disallowance because we do not think going back to the old way of doing business is the appropriate way to handle this. We think it would have an adverse impact on those new centres that have opened and the ones that have opened in rural and regional areas, which we think has been a good thing for those particular areas. We will not be supporting this disallowance motion.

Senator XENOPHON (South Australia) (5.30 pm)—I will not be supporting the motion by Senator Abetz to disallow the Health Insurance (Eligible Collection Centres) Approval Principles 2010. However, I have had discussions with a number of stakeholders about this and I had what I thought was a productive meeting with the shadow minister for health about it. So I know and understand the concerns about overservicing and I will address those shortly.

It would be remiss of me, however, not to mention another matter. The Leader of the Government in the Senate referred to the issue of competition. I think it is a good thing to have competition in the marketplace, to open up the market. If only the govern-

ment had a similar approach to Coles and Woolworths!

Senator Chris Evans interjecting—

Senator XENOPHON—I do not know whether that is a promise from the Leader of the Government in the Senate—whether opening up pathology services is a harbinger of things to come for the grocery market, over which Coles and Woolworths have a stranglehold.

Senator Fierravanti-Wells—You can only keep trying.

Senator XENOPHON—I will keep trying, Senator Fierravanti-Wells. My office has been contacted in the lead-up to this motion by many stakeholders on this issue—large-scale pathology providers, small providers who have set up centres since the deregulation last year and industry representatives. Since the deregulation last July, the number of collection centres has increased by over 1,000 throughout the country. I note the comments by the government and by Senator Siewert that there has been an increase in access to pathology services in regional communities and country towns which did not previously have such centres. That is unambiguously a good thing.

I believe that this move has improved competition in the pathology sector, which I believe is a good thing. I am also aware that legislation was recently passed giving patients greater choice about which pathology provider they wished to visit—you are not restricted to the pathology provider on the form. That introduction of greater choice is also a good thing. However, I am concerned that overservicing may occur and that issue has troubled me most in considering this matter.

Before I refer to that, however, I also have a concern about the consequences of these regulations being disallowed. Those who have entered into commercial arrangements

with longer term leases of, say, two, three or five years, would, I believe, suffer significant detriment. There ought to be mechanisms in place to deal with those people who have acted in good faith in setting up businesses. However, I have had discussions with Mr Dutton, the shadow minister for health, at which he raised his concerns and I do think overservicing is an issue on which we always need to be vigilant.

I am advised by the Minister for Health and Ageing and by the Leader of the Government in the Senate, who set out a number of compliance mechanisms that already exist, that where the government discovers evidence of overservicing strong action can be taken. The 2009-10 annual report of the Professional Services Review contains full details of cases referred to the PSR by Medicare Australia, including some in the pathology sector. I have been assured by the government that there is strong, ongoing monitoring of service usage across the MBS, that Medicare Australia aims to audit approximately four per cent of providers each year and that the preparation of compliance reports identifying trends in the use of Medicare services and the continuous monitoring of data enable compliance teams to act quickly when problems emerge.

Having said that, the Senate has an opportunity, when the Health Insurance Amendment (Compliance) Bill 2010 is brought before this chamber, to have a serious look at strengthening the overservicing provisions, particularly in relation to the pathology sector. I think that it is important that we do so to ensure that there are sufficient mechanisms in place to prevent overservicing, to look at trends in overservicing, to ensure that consumers have a choice of pathology providers and to ensure that communities, particularly regional communities, have fair access to pathology providers. We need to ensure that there is no rorting of the system

occurring, that there is no overservicing and that the system is equitable in its operation. I think there is an opportunity, when the Health Insurance Amendment (Compliance) Bill is brought before this place in the not too distant future, to strengthen the legislation and allay some of the concerns of those who have proposed this disallowance motion. I think that will deal with the concerns about the potential for overservicing.

For those reasons, I cannot support this disallowance motion. But I look forward to working constructively with the opposition, my colleagues in the Greens and Senator Fielding from Family First to ensure that the overservicing provisions of the Health Insurance Amendment (Compliance) Bill 2010 are strengthened significantly and that there is a monitoring regime in place to prevent the system from being rorted.

Senator ABETZ (Tasmania) (5.35pm)—I make this appeal to the Greens and Senator Xenophon. They are aware that there are problems with the current situation—

Senator Xenophon—We are aware that there are potential problems.

Senator ABETZ—Senator Xenophon refers to it as a ‘potential’ problem. There are over 1,000 new collection centres starting in eight months, a 46 per cent increase—if you don’t think that that is going to lead to overservicing and pressures on GPs to refer more! Clearly GPs and others will be making money from having collection centres within premises they own or rent. As a result, if they are to receive funds from that, there will be pressure for extra referrals. It will be very interesting to see the increase in referrals since July last year. If we do disallow this situation, all we do is go back to that which existed in July—and there was no huge public outcry to deregulate this sector before then. In fact, there was no consultation whatsoever with the providers about this change.

So if we go back to that which existed in July 2010, we will get a position which will allow the government to engage in proper and genuine negotiations about these issues. As soon as this disallowance motion is defeated, as I suspect it will be, the government will say, ‘You beauty! We’ve achieved what we wanted,’ and there will be nothing you can hold over the government to get them to properly negotiate. Senator Xenophon, you continually live in hope that the government will abide by its promises and its undertakings. I would remind this place of the rock-solid guarantee given on 16 August 2010 by the Prime Minister that there will be no carbon tax. If you are willing to take her on her promise, and her minister on her promise, so be it.

In relation to competition, of course the coalition is committed to competition. I thought I had entered this debate from the coalition point of view trying to tease out the issues, not casting across the chamber the slurs and aspersions which the Leader of the Government in the Senate unfortunately descended to yet again when talking about donations and matters of that sort. Quite frankly, I think it demeans the leader and highlights the paucity of argument on the government side that they have to fill their time with that sort of demeaning nonsense. It does nothing for them or for their argument.

The simple fact is that, while some small providers are trying to get into the marketplace, they are being squeezed out as we speak. The failure of this disallowance motion will see the big providers get an even bigger market share and a greater monopolistic situation occurring at the expense of the small providers. While I do not think we will be able to change the minds of the Greens and Senator Xenophon on this, which is a matter of regret and the motion of disallowance will go down, the government will undoubtedly face a bigger bill and patients will

face a bigger bill. Will health services and quality be improved? The answer to that is an unequivocal no.

Question put:

That the motion (**Senator Abetz's**) be agreed to.

The Senate divided. [5.44 pm]

(The President—**Senator the Hon. JJ Hogg**)

Ayes.....	32
Noes.....	<u>33</u>
Majority.....	<u>1</u>

AYES

Abetz, E.	Adams, J.
Back, C.J.	Barnett, G.
Bernardi, C.	Birmingham, S.
Boswell, R.L.D.	Boyce, S.
Bushby, D.C. *	Cash, M.C.
Colbeck, R.	Cormann, M.H.P.
Eggleston, A.	Fierravanti-Wells, C.
Fifield, M.P.	Fisher, M.J.
Heffernan, W.	Humphries, G.
Johnston, D.	Joyce, B.
Kroger, H.	Macdonald, I.
Mason, B.J.	McGauran, J.J.J.
Nash, F.	Parry, S.
Payne, M.A.	Ronaldson, M.
Scullion, N.G.	Troeth, J.M.
Trood, R.B.	Williams, J.R.

NOES

Bilyk, C.L.	Bishop, T.M.
Brown, B.J.	Brown, C.L.
Cameron, D.N.	Collins, J.
Crossin, P.M.	Evans, C.V.
Farrell, D.E.	Faulkner, J.P.
Fielding, S.	Furner, M.L.
Hanson-Young, S.C.	Hogg, J.J.
Hurley, A.	Hutchins, S.P.
Ludlam, S.	Ludwig, J.W.
Lundy, K.A.	Marshall, G.
McEwen, A. *	McLucas, J.E.
Milne, C.	Moore, C.
O'Brien, K.W.K.	Polley, H.
Pratt, L.C.	Sherry, N.J.
Siewert, R.	Stephens, U.
Sterle, G.	Wortley, D.
Xenophon, N.	

* denotes teller

Question negatived.

NATIONAL HEALTH AND HOSPITALS NETWORK BILL 2010

Second Reading

Debate resumed.

Senator FIERRAVANTI-WELLS (New South Wales) (5.48 pm)—I was talking earlier about the absence in the National Health and Hospitals Network Bill 2010 of clear delineation of the particulars of enforcement methods, which was raised as part of the Community Affairs Legislation Committee inquiry and the minority report of coalition senators. I want to continue with regard to what sanctions or rewards the commission may use to achieve the desired standards of health. There was also some concern that those standards needed to be set in context for some healthcare providers facing the particular challenges of remoteness and distance.

With regard to tests of clinical performance to be employed by the proposed commission, concerns were expressed that they were inadequate and that the commission proposed to use the very screening that failed to detect the clinical performance of Jayant Patel at Bundaberg Hospital. Other concerns raised were about the make-up of the commission board, the wording of the bill and the absence of explicit references to key stakeholders that the proposed commission should consult with. Some submissions expressed concern that the legislation as it stands does not make it clear as to whether the board would include consumer representatives or even healthcare professionals.

Accordingly, the coalition made two key recommendations: given the cost, the lack of focus and unclear governance, and the potential for duplication, the coalition urged the government to withdraw this bill; but, if the

government persisted, the coalition strongly recommended that this legislation to establish the commission be deferred until the legislation for and purpose of the Independent Hospital Pricing Authority and the National Performance Authority had been fully developed.

In other words, this is another classic example—one of many—of the ramshackle way in which Minister Roxon and this government have approached health and health reform. I do not know how Minister Roxon had the front to turn up to the health ministers meeting in Hobart last week. Her position as Minister for Health and Ageing surely must be untenable at this point. The spectacular policy reversals that have become the hallmark of the Rudd-Gillard government, and now of Ms Gillard herself, have been nowhere more evident than in health, where core elements of Rudd's so-called reform have been dumped and elements that were previously discarded reinstated—though, quite frankly, we do not know what is still on the table and what is not because at the moment all we have is an agreement for an agreement; we do not actually have a signed agreement.

Mind you, we did not have a signed agreement under mark I anyway. It was very clear that within weeks of the mark I proposed health changes being 'agreed' to, the ink was barely dry before Mr Rudd, in what can only be described as a very cynical move, on the eve of the press gallery ball, dumped the national funding authority, which was part of the COAG red book—there it is at page 49 in black and white. It was the centrepiece of accountability and transparency for the COAG health changes mark I, yet the ink was barely dry when the then Prime Minister just dumped it.

Minister Roxon went out there and said: 'Oh, no, it is inappropriate. We have talked

to the states now. We don't really need it.' They did not need it, and now all of a sudden we have the national funding pool re-emerging in mark II. Something that was wrong last year is now right. So was Minister Roxon right or wrong last year? Is she wrong this year? This minister does not know what she is doing. I am not surprised because this whole thing is not really being driven out of the Department of Health and Ageing; it is actually being driven out of the Department of the Prime Minister and Cabinet—just like what happened under Mr Rudd.

Mr Rudd was the organ-grinder while travelling to those 100 so-called consultations. They were only whistle stops at hospitals because they sometimes did two or three in a day to give Mr Rudd and Ms Roxon the opportunity to dress up in a doctor's coat and a nurse's outfit while pretending that they were consulting and doing something about health. Those consultations were only about getting photo opportunities. As part of that they wasted \$13 million selling a false message of 'federally funded, locally controlled'. We know that was all about political spin.

We also know that tucked away in the fine print of the first agreement was a little line that said that the clinical expertise for local hospital networks was to come from outside the local hospital network wherever it was practical. What does that mean? It means that the doctors on the local hospital networks would come from outside the local hospital networks. That just beggars belief. The whole thing was built on a false premise and a false message about federal funding and local control. Forget what they were talking about last year with federal funding—that has gone out the door as well.

Ms Gillard's vote is now falling and she desperately needs to sort out the mess of Labor's first term. She is conveniently blaming everything on Mr Rudd. She is revving up

this issue about the GST clawback by trying to blame the Western Australians, even though Mr Rudd did not have an agreement in the first place. She is trying to rev this up because she needs this basic PR manoeuvre. She is now trying to sell us 'historic reform.' Labor has been talking about reform in health since 2007. Remember the 2007 promise from Prime Minister Rudd, 'We are going to fix the hospitals by 2009 or take them over'?

In 2007 Mr Rudd was berating the then government for not providing enough aged-care beds and saying that people were becoming bed blockers. 'Bed blockers'—this is how Mr Rudd referred to older Australians who were forced to go into hospitals because, according to him, there were not enough aged-care beds. What actions did he take after that? This government took \$276 million out of highly needed beds in residential aged care and shunted them off to long-stay hospital beds. What happened to Labor's 2007 policy of improving the transition between hospitals and aged care?

According to Catholic Health Australia, every night there are 3,000 people who sit in hospitals who would be better cared for in aged-care homes. Prime Minister Gillard and Mr Rudd have not delivered. If you are talking about real health reform in this country you cannot have real health reform if you do not include aged care and mental health. We trawled through this in the COAG inquiry.

Senator Polley—What did you do in 11 years? You did nothing on aged care.

Senator FIERRAVANTI-WELLS—Just go back, Senator Polley, and see how Professor McGorry and all the other experts berated you—and continue to berate you—for your lack of attention to mental health and ageing issues in this country. Your basic problem is that you see 'reform' as photo opportunities in hospitals. You then put those

on your My Hospital website to pump all around the country so that you can be seen as if you were doing something. In effect, you are really not doing anything. All you have to do is go into your state hospitals. Come to New South Wales and have a look at the hospitals there.

In the end, you had concerns. In the first COAG red book you set out the need for a funding authority. You needed a funding authority for transparency and accountability because you were concerned that state governments would not use the money as they should. So what did you do? You dumped your national funding authority. You have now come out with this funding pool. We do not know what this funding pool is going to be. Your department does not know. It cannot tell us what Medicare Locals are going to do. You have 5,000 people sitting in the Department of Health and Ageing and they still have not worked out what Medicare Locals are going to do or what these authorities and bureaucracies are going to do.

What is very clear from the agreement mark I and the agreement mark II is that very little will change—the states will still be in control. Despite whatever spin you try to put on this and whatever public relations manoeuvres you try, this is no actual deal and it is certainly no historic reform. You have merely revived the promise to the point where the same lines are now being delivered by Prime Minister Gillard instead of Mr Rudd.

Let me take you back to last year. There was Kevin Rudd boasting that we had agreed to the biggest reforms to the health system since the introduction of Medicare. One year on, this Prime Minister has the audacity to proclaim an agreement to reach an agreement. That is all this is: an agreement to reach an agreement—a photo opportunity so that she can say that she is doing something

on health. It is all about political spin, especially when you compare it with the real reforms that not only were promised but also were delivered by the likes of Prime Minister Howard, Prime Minister Hawke and Prime Minister Keating.

Lets us try to look at this watered-down version of what she is trying to pass off as 'reform'. It looks like Ms Gillard has again overpromised. There is an enormous amount of detail to be sorted out and contested. The government said it was going to have one-stop shops for older Australians. It cannot even deliver a simple thing like one-stop shops. It has been talking about it for three years and it still cannot deliver something that simple. How is it going to deliver by 1 July all these grand promises that it makes? The reality is—and you only have to look to the health commentators in this country to see it—that, just like mark I fell apart, mark II in my view will end up falling the same way. Mark I left so many details to be worked out and when the ink was barely dry it started to fall apart, and it started to fall apart with the National Funding Authority being dumped.

Patients all around Australia are fed up. As I said, you have only to go to a New South Wales hospital to see how bad the system is. In any case, the government is promising all of this \$16.4 billion, but it is somewhere down in the never-never. By the time the government actually delivers, it will be 23 years from 2007, and that is a disgrace.

Senator SIEWERT (Western Australia) (6.01 pm)—The Australian Council of Safety and Quality in Health Care was first established as a non-statutory body in 2000 in response to a study by the then Commonwealth Department of Human Services. The study showed an adverse event rate of 16.6 per cent across public hospitals. The council was asked to lead national systematic ap-

proaches to improvements in the safety and quality of health care with an initial focus on reducing errors. The Australian Commission for Safety and Quality in Health Care, as it is now, commenced operations in January 2006. It was given a five-year program to tackle patient rights, accreditation of health services, medication safety and hygiene. The commission was asked to report to the health ministers and link up with health departments and other government and non-government bodies. At the time, it was envisaged that a commission would have clear mechanisms to link with, and participate with, jurisdictions and key stakeholders. The commission was to be responsible for providing robust advice to the Commonwealth, state and territory health ministers and informing the development of national safety and quality strategies.

Notable achievements in this period include the Australian Charter of Health Care Rights, the National Patient Wristband Standard and the development of a national approach to surveillance of hospital-acquired infection rates. I also mention the national falls prevention guidelines and the development of the guide to clinical handover improvements. These were all endorsed by Australian health ministers. In June 2009, the National Health and Hospitals Reform Commission recommended that the commission should be established as a permanent body.

This brings us to this particular legislation, the National Health and Hospitals Network Bill 2010. The Greens believe that safe, high-quality health care is imperative to any sensible health reform agenda. The commission will be responsible for developing and monitoring quality and safety standards, working with clinicians to identify best-practice care and ensuring the appropriateness of health care. The commission will also provide advice to the Commonwealth, state

and territory governments about standards that can be implemented on a national level. It is important to note, however, that national standards will only be implemented if all of the states and territories are in agreement.

The Greens are concerned that this in fact may delay implementation of a nationally consistent approach. Compromise may also be required to reach agreement on national standards. This highlights one of the deficiencies of the commission, and that is its lack of power. It provides advice on national standards for states and territories, yet this advice is only implemented on the agreement of all parties. It has a monitoring role but not a regulatory role. Further, compliance with standards is voluntary. Although I understand the Commonwealth may make compliance with standards a condition of any grant, there is concern about the actual powers or role of this commission.

States and territories cannot even agree on national data collections, reporting requirements, definition of sentinel events and a universal charter to be used for patients, so I do not hold much hope for them being able to reach agreements on national standards for safety and quality in the short term. The states, which are considered to be world leaders in certain areas, are going to be reluctant to compromise of course on areas where they consider themselves to be experts. We are concerned that there may be some aspects of their standards being 'dragged down'. Of course, we also recognise that we need to 'drag up' low-performing regimes. We flag this as an issue and we will keep an eye on that.

If there is a delay in reaching agreement on standards, this will affect when implementation can commence. Under the agreement with the states, the states are the 'system managers' for public hospitals, including for planning and performance. Presumably,

this would extend then to ensuring that local hospital networks implemented these national standards. While I suspect that most local hospital networks would implement the relevant national standards, as it would be considered in the public interest to do so and difficult to defend if they did not, the issues around accountability between the local hospital networks and the state health departments varies between state to state and has not been fully resolved.

The Greens will be moving a number of amendments to the legislation. These came directly out of concerns that have been raised with us and also from concerns raised at the Senate Community Affairs Legislation Committee inquiry into this bill. I will go through some of those concerns. The legislation states that commission standards, guidelines and indicators will be developed in conjunction with clinicians, professional bodies and consumers. During the inquiry a number of submissions from witnesses identified the issue that a clinician was often seen as a doctor. The National Primary Health Care Partnership stated:

While no definition of the term 'clinician' is provided in the context of the bill, the NPHCP wishes to emphasise that it is important this term is recognised as applying to nursing and allied health professionals as well as medical doctors and that these professionals are consulted in the development of standards, guidelines and indicators relevant to their scope of practice.

The Greens have some amendments that clarify the definition of 'clinician' so that it means more than perhaps what can sometimes be a narrow interpretation of that word. Our amendments define a clinician as an individual who provides diagnosis or treatment as a professional. This can be a medical practitioner, a nurse, an allied health practitioner or an Aboriginal health worker. We believe this makes the legislation much

clearer, and it is clear that all these medical professions are involved.

The Senate inquiry also raised the concern that participation of not just public consumers but also carers on the board had to be made much clearer. The Greens have proposed amendments that provide for the commission to consult with consumers and carers before formulating standards, guidelines or indicators. We understand that representation is one thing but this is also about the way it translates to genuine engagement with the consumer. Our amendments address this issue.

The Consumer Health Forum outlined during the Senate inquiry the need for consumers to be involved at all levels of standard setting and guideline setting. While it has been great that there has been a consumer commissioner on the current body, a single person is not the answer to ensuring that you are covering the needs of all consumers and carers

With regard to the involvement of consumers, the Greens also have an amendment that deals with patient confidentiality. During the Senate inquiry the issue of clarification of the meaning of consent was raised. The Consumer Health Forum welcomed the provision requiring the commission not to publish or disseminate information that would be likely to enable the identification of a particular patient. However this provision would not apply if consent has been provided. The Greens have an amendment that changes this to 'informed consent'. We had a discussion during the inquiry about informed consent. This was to make sure that the consumer who is able to give consent can do so in an informed manner and is fully aware of the implications of providing consent.

The Greens share the concerns raised during the Senate inquiry about compliance. This will be crucial in terms of enabling the

commission to achieve the substantial ambitions that have been set out. The Greens believe that this commission could be effective, like the National Institute for Clinical Excellence in the UK, in both improving quality and lowering the costs of services through improved work practices. However it is worth remembering that since 1995, when a definitive study was undertaken on adverse events in New South Wales and South Australian hospitals, there have been a lot of committees, studies and money spent on quality and safety but little improvement.

After examining more than 14,000 hospital admissions in New South Wales and South Australia, the national cost of harm from health care in our hospitals was estimated at \$4.17 billion per annum. That \$4.17 billion estimate represented 23 per cent of recurrent costs in all hospitals at that time. Assuming the same percentages of mistakes in 2010-11, the cost would now be more than \$11 billion. This would be a conservative estimate because complexity of cases has increased significantly since 1995. For example, the 're-do' rate for joint replacements is 25 per cent. The estimate of \$11 billion does not include mistakes in the non-hospital sector or the cost to the community of death and permanent disability.

As the Consumer Health Forum noted in the inquiry, there are a number of layers to all of this. There are the state governments and their role, there is the accreditation system and there are the different standards bodies, and they are all involved in this equation. The Greens believe there need to be some additional mechanisms built into the health reforms, and we look forward to seeing progress made on the development of a robust, transparent and effective performance and accountability framework for the Australian health system.

As we understand it, this framework could be used to set out clear performance standards in health care, and it could propose mechanisms for governing compliance. The Greens understand discussions are yet to specify how the framework will provide Australians with greater information about the performance of health and hospital services, but that it will include standards developed by the Australian Commission on Safety and Quality in Health Care. It will be interesting to see whether there is any provision in the National Performance Authority legislation for an accountability framework, and in particular how its roles and responsibilities would complement those of the safety and quality commission. In other words, we are looking at how these two particular bodies intersect to ensure that one complements the other.

The Greens note the submission from Choice to the NHHRC last year in which they supported the introduction of public performance reporting in the health system as a measure to drive improvements in quality and safety. They wish to see reporting developed for all aspects of the health system, not just hospitals.

The framework for implementation of national standards will be a crucial part of the reform puzzle, but it may also further compound matters as this will be the responsibility of the local hospital networks rather than state and territory health departments. As yet, the accountability frameworks between local hospital networks and state and territory health departments have not yet been defined and will vary by state and territory. Furthermore, the role of private hospitals under the local hospital networks is yet to be clearly defined and will be resolved on a state by state basis. This may further limit the extent to which a national approach can be implemented.

During the Senate inquiry it was noted that emphasis on representation of the board members provided for experience in general management of public and private hospitals but not specifically for expertise related to management of primary healthcare provider services—these could include general practices and community health services. Too much emphasis throughout the health reform process has been on hospitals and the Greens believe that much more should be done to focus on prevention measures, primary health and community services to keep people well and out of the hospital system.

We have an amendment that includes provision for the appointment of board members to include expertise relating to the management of general practice and primary healthcare services. The Mental Health Council of Australia noted in the Senate inquiry:

It is disappointing that the Bill does not make provision for specific expertise from health consumers and carers or mental health professionals as part of the Board of the ACSQHC. Such provision would be a significant step in ensuring that the activities of the Commission reflect the needs of mental health consumers and carers and would assist the Commission to better address the acute safety and quality needs in the mental health system.

The bill will be subsequently amended by parliament to establish two new statutory agencies—the Independent Hospital Pricing Authority and the National Performance Authority. However, the bill is silent on how these agencies will work together. This will be an important issue as the three agencies will likely be collectively responsible for improving the performance of the healthcare system and, more broadly, governance arrangements for health reform.

There is a growing awareness that patient care and chronic disease management require a multidisciplinary approach across a range of health sectors. The bill provides for con-

sultation on the development of guidelines, standards and indicators, and consultation on the development of a national model accreditation scheme. The department advised the Senate inquiry that the commission has placed considerable emphasis on broad stakeholder consultation in the development of key projects. In particular, consultation with respect to the development of standards has been framed within a seven-stage methodology that includes different mechanisms through which stakeholder groups contribute and draft standards are tested.

The Greens have concerns about voluntary compliance with the guidelines, standards and indicators developed by the commission and, as we have said, there have been many concerns raised about whether the commission or reform process will have sufficient teeth to implement standards on a national basis. The Australian Nursing Federation has suggested that the lack of incentives to implement the proposed standards could lead to inconsistencies and a failure to ensure improvements in quality. The AMA has also noted the lack of obligation for state and territory governments to comply with guidelines and standards from the commission. As we have said, we will be pursuing provision for compliance in the National Performance Authority legislation and through the other legislation we are yet to see on finalising the health reform process.

During the Senate inquiry, Professor Smallwood noted that the commission is 'expected to make things happen in a way its predecessor could not'. He suggested this could be achieved through high-quality data on safety and quality on a national level to be used for national benchmarking purposes. The Greens would support this approach. Australia does not have a nationally consistent dataset for hospitals. We believe that public pressure and accountability on performance could be a significant lever in im-

proving standards and we hope to see measures that will provide for this in future legislation; otherwise, we will seek to amend subsequent legislation to ensure this happens.

Finally, the Greens note research from the UK and the US which has shown that consumers had made little use of performance reports in places where they were available. The problem with the reports was that they are based on non-standardised measures and are not user-friendly. The way information was presented or 'framed' strongly affected whether consumers understood it, how it was evaluated and whether they used it. The research found that consumers cannot be expected to weigh up measures against a wide range of indicators to rank providers. Most presentations of comparative information are based on the assumption that consumers know what is important to them and where their self-interest lies. For example, it is usually assumed that people have fixed ideas about what is important in healthcare quality and that they can pick and choose from among different performance measures displayed in a comparative report. However, both theory and evidence suggest that these assumptions are faulty. When people are in a situation in which they must sort through complex, unfamiliar and important factors to make a choice, how that information is framed and packaged will determine to a large degree what information is actually used in that choice.

As performance reporting develops, consideration will need to be given to how best present this to the public in a way that makes it accessible and understandable. In the UK, the Dr Foster website provides large amounts of information on hospitals, but most of it is inaccessible for a consumer trying to choose between providers. The UK Healthcare Commission provides a much simpler presentation. It measures a small number of indicators on a four-point scale. This is more

consumer-friendly because the measures are presented in a simple and understandable way, with some form of ranking. In the past, the Minister for Health and Ageing, Minister Roxon, has indicated that performance information is partly about consumer choice. If it is to enable consumers to choose, the information needs to be presented in a way that can be understood. To determine what will work best for Australian consumers, the government needs to test options on and with the public. However the information is presented, it will need to be accompanied by an awareness and information campaign, and we look forward to further work on that issue. In the meantime, the Greens will support this legislation on the understanding that we will have a debate on the amendments we are proposing, because we believe these amendments will significantly improve this legislation.

Senator WORTLEY (South Australia) (6.19 pm)—I rise to speak on the National Health and Hospitals Network Bill 2010, which represents a very important step towards improving health care and its delivery in Australia. This bill will establish a permanent Australian Commission on Safety and Quality in Health Care. The establishment of the commission as a new, independent statutory body will form an integral part of the new governance structure for national health reform between the Commonwealth and the states. The Gillard government's national health reform will provide for the establishment of three new governance agencies in total: the Independent Hospital Pricing Authority, the National Performance Authority and, as already mentioned, the Australian Commission on Safety and Quality in Health Care.

An independent Commission on Safety and Quality in Health Care is a positive step forward in providing better health and better hospitals for all Australians. The new com-

mission is indicative of the Gillard government's determination to put quality and safety at the top of the agenda when it comes to quality health service delivery to all communities. The commission will be responsible for setting and monitoring the uptake and impact of adopting national clinical standards and working with clinicians to identify best practice clinical care. This will help to ensure the quality and appropriateness of services being delivered in specific health-care settings. Currently, the commission is in operation as a temporary body, and by making this commission a permanent, independent body, we formalise our commitment to ensure the calibre of our health system and appropriate safeguards.

As the Minister for Health and Ageing has stated, the government's health reforms are the most significant changes to the nation's health and hospitals system since the introduction of Medicare. The permanent commission forms part of the national health reform between the Commonwealth and the states. The National Health and Hospitals Network Bill expands the function of the Australian Commission on Safety and Quality in Health Care as an independent Commonwealth authority. The commission will develop the performance and accountability framework of national health reform, and it will be governed by a board which will be responsible for setting the quality and standards of care.

The commission will be dedicated to improving safety in health care and our hospitals. As the minister stated last year, statistics show that one in 30 adults contract an infection while in hospital and 12,000 of these are severe hospital-acquired bloodstream infections. The terrible reality is that up to a quarter of these patients will die. This means that the number of patients who die from hospital acquired infections is approximately double the number of deaths on our roads. A na-

tional body dedicated to not only monitoring but improving safety and quality in health care will help address this problem and ensure better health outcomes from our hospitals. The harm caused by preventable errors and healthcare costs resulting from unnecessary or ineffective treatment will also be reduced and this will have a positive impact on community trust. The commission will provide advice to Commonwealth, state and territory health ministers about which standards are suitable for implementation as national clinical standards.

The government's vision of national health reform will ensure services are better connected and coordinated. It will establish the local hospital network, which can be more responsive to local communities. The local hospital network will be responsible for implementing relevant national clinical standards once they are agreed upon by the Commonwealth, states and territories. The network will improve access to public hospital services, thereby healing the neglect from the Howard government, which callously ripped a billion dollars out of the system. Improved performance and less waste will be encouraged and rewarded through new funding arrangements. The Gillard government will invest \$750 million so that emergency patients are guaranteed to be treated, admitted or referred within four hours where this is clinically appropriate. A further \$800 million for elective surgery will speed up delivery and provide a guarantee that many patients, where clinically recommended, will not face excessive waiting times.

As a Labor government we strongly believe that all Australians have a right to high-quality health services. We believe a nationally consistent approach to the quality and safety of health care across Australia as part of national health reform is essential. We are working to ensure that we not only have an inspired national health reform agenda but

that we make this vision a reality. Reforms are to be delivered in six key areas, including expanding hospital capacity as well as regional cancer centres, boosting new GP training places and providing increased funding to upgrade general practices. The government's national health reform will ensure future generations of Australians enjoy world-class, universally accessible health care. The key element of this is the provision of \$35.2 million in Commonwealth funding over four years to jointly fund, with the states and territories, the continuation and expansion of the Australian Commission on Safety and Quality in Health Care.

Our track record on increased funding and necessary reform, strategically staged since 2008, really does speak for itself and we will continue the much-needed process of improvement in the current term. Even before the historic COAG agreement of February, significant progress had been achieved by the Labor government in crucial areas. Hospital funding has been increased by more than 50 per cent. On-time elective surgery has been provided to a record number of Australians. In fact, more than 76,000 elective surgery procedures have been performed in the past two years. To alleviate skills shortages resulting from the Howard years of short-sightedness and neglect, we are doubling the number of GP training places to 1,200 a year by 2014. In addition, we are funding the training of 1,000 new nurses each year.

In light of population and demographic projections, the government has established the Health and Hospitals Fund to make long-term, intergenerational investments in our national health infrastructure. This fund has invested \$3.2 billion in 32 projects around the country. We recognise that the life expectancy gap between Indigenous and non-Indigenous Australians is completely unacceptable. To date, we have invested \$1.6 bil-

lion in an Indigenous health national partnership to close that gap. The Medicare Teen Dental Plan has delivered more than a million dental check-ups to teenagers. Aged-care places have increased by more than 10,000. This figure includes 838 new transitional care places to help up to 6,285 older Australians leave hospital sooner each year, freeing up hospital staff, beds and services.

The Labor government is committed to improved cancer research, treatment and prevention through major, specifically targeted investments. The government has already invested over \$2.3 billion in fighting this terrible illness that affects thousands of Australian families each year. This sum includes: providing \$526 million in infrastructure funding to build two integrated cancer centres in Sydney and Melbourne, which will provide state-of-the-art cancer treatment combined with cutting-edge research; establishing, as part of a \$560 million investment, a network of 20 new and enhanced regional cancer centres across Australia to provide access to vital cancer services in closer proximity to those requiring treatment, including chemotherapy and radiotherapy; upgrading BreastScreen Australia's national network to 21st century digital mammography equipment; and investing \$70 million to expand the Garvan St Vincent's Cancer Centre in Sydney. The Garvan Institute is renowned world-wide for its research excellence in cancer care. In addition, the government is supporting a children's cancer centre in my own home city of Adelaide, and up to two dedicated prostate cancer research centres in Brisbane and Melbourne. It has also allocated the McGrath Foundation funding totaling \$12 million to train, recruit and employ 44 breast cancer nurses, and provided financial support for women who require external breast prostheses as a result of breast cancer.

The successful passage of this bill will ensure the permanent commission will be es-

tablished. Meanwhile the Gillard government remains committed to reducing the misallocation of funds and the waste and inefficiencies which were allowed to flourish under the Howard government. The bottom line is that individuals, families and communities want better hospitals. We all want better hospitals, and the way to achieve this is through national health reform. Unlike the opposition we are not prepared to sit on our hands and adopt a no-reform model which allows deteriorating care and increasing costs. It is crucial that we maintain the momentum for health reform and continue to work towards the best possible outcomes for all consumers of health and hospital services and for all stakeholders concerned with our nation's health. I commend the bill to the Senate.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (6.30 pm)—in reply—I would like to thank firstly the members and senators for their contributions to the debate on this National Health and Hospitals Network Bill 2010. I note that the opposition moved a second reading amendment in the House to delay the passage of this legislation until the legislation to consider the Independent Hospital Pricing Authority and the National Performance Authority is debated by the parliament. Once again the opposition is playing its usual game of ransom with important health bills. How could the opposition possibly view this bill as controversial? After all, Mr. Abbott set up the Australian Commission on Safety and Quality in Health Care when he was the Minister for Health and Ageing. The opposition knows it has no future plans for issues such as safety and quality in health care. It only has one strategy in health care for the next three years and that, unfortunately, is to block everything.

Establishment of the commission as a permanent body is a critical component of

the new COAG health deal. These national health reforms will call for greater transparency and accountability of health services to the public. The national body dedicated to monitoring safety and quality in health care is thus a key part to assist in holding health services to account. One in 30 adults contract an infection while in hospital and 12,000 of these are severe hospital acquired bloodstream infections and up to a quarter of these patients regrettably will die. The number of patients who die from hospital acquired infections is approximately double the number of deaths on our roads. This is a concerning statistic but one that the commission can address, ultimately promoting better health in our hospitals.

The Australian Commission on Safety and Quality in Health Care is not another layer of bureaucracy that wastes public resources, as the opposition would have us believe. Its release last year of the national hand hygiene guide and the Australian Infection Control Guidelines will be pivotal in our fight against major health issues such as hospital acquired infections. Leaving the commission as a temporary advisory body hampers its ability to give independent and informed advice to all healthcare providers and thus drive continuous quality health improvements for all Australians. Only its establishment as an independent and permanent body can best realise its full potential for ensuring patient safety and improving quality in health care.

This government will bring the legislation to establish the National Performance Authority before this parliament next week and the Independent Hospital Pricing Authority in due course. We have consulted with states and territories on the terms of reference for these bodies and are bringing these bills to parliament as planned. There is no reason why the parliament should not consider the legislation for this safety and quality commission, which is currently in operation as a

temporary body and providing an excellent service for the Australian health system, a body that has also been supported by the Senate Community Affairs Legislation Committee in their report on the bill released last year. The National Health and Hospitals Bill 2010 marks an important development in reforming Australia's health system. By establishing a permanent, independent safety and quality body, it formalises the government's commitment to drive continuous improvements in quality and safeguard high standards of care for all Australians.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia) (6.35 pm)—I move Greens amendment (1) on sheet 7014:

- (1) Clause 5, page 3 (after line 7), after the definition of *Chair*, insert:

clinician means an individual who provides diagnosis, or treatment, as a professional:

- (a) medical practitioner; or
- (b) nurse; or
- (c) allied health practitioner; or
- (d) health practitioner not covered by paragraph (a), (b) or (c).

I articulated the reason for this amendment in my speech on the second reading. That was so we are really clear that the definition of 'clinician' does not just relate to a GP, because that is what people generally think of as a clinician.

Senator FIERRAVANTI-WELLS (New South Wales) (6.36 pm)—I just wanted to advise that the coalition will not be supporting the Greens amendment. Our position in relation to the National Health and Hospitals Network Bill 2010 is that the provisions establishing the other authorities should have

been presented together. As Senator Farrell said, we did move a second reading amendment in the House calling on the government to do so. It should be noted, and I would like to reiterate this for the record, that we support the work of the commission within the department. Our view is that you do not have to create another layer of bureaucracy and a stand-alone bureaucracy to achieve the good work that the commission is doing and has been doing since its establishment in 2006, particularly in view of the evidence that was given at the Senate inquiry. The other reason why the coalition is concerned and has called for the consideration of these authorities together is that it is unclear how the function of this committee will coordinate or interact with the functions of the Independent Hospital Pricing Authority or the National Performance Authority. As I have said, the government should have introduced provisions for all the proposed bureaucracies together.

Senator Farrell comes in here and talks about delay. Delay by Minister Roxon has been a hallmark of her time here. She jumps up and down and complains that the Senate is not passing her legislation. Of course, what she does not say is that the delays are a consequence of her own measures and the programming of matters here in the Senate. This is not the first time that Minister Roxon and this government have been caught out by delays. Don't come and talk about delays, Senator Farrell. You are responsible for programming in this Senate. The government is responsible for programming in the lower house. So as far as that is concerned you have the running of when these matters are listed and when they are considered.

As I said, you should have introduced provisions for all proposed bureaucracies together. It still remains unclear as to why the minister has delayed the legislation for the National Performance Authority and the Independent Hospital Pricing Authority. I

hear from Senator Farrell that one is going to be introduced. It is the typical ramshackle drip-feeding fashion that this minister has adopted in this portfolio. We know the criticisms that were levelled at the way that the government handled this in the Senate inquiry. In fact, Senator Siewert herself made a reference to it and reiterated that. Therefore, on that basis, I am surprised that despite the criticism you have already received you still are not bringing these authorities in together so that we can see how they are all going to work and how they are going to interact. Maybe you are not doing so because you still have not worked out what they are going to do, because you still have not worked out what survives the health changes mark 1, what does not survive, what is in, what is out and what is being changed. It was very clear at estimates last week that you still have not worked out, despite all the work that has been done, what your Medicare Locals are going to do and what your local hospital networks are going to do. The whole thing is just one big question mark, particularly in terms of detail, because attention to detail certainly has been scarce.

Regarding the reason we have been concerned about this, I would like to draw your attention to certain comments that former Minister for Finance and Deregulation Lindsay Tanner made in a speech on 14 October 2009 to the Australian Institute of Company Directors at a public service governance conference:

The indiscriminate creation of new bodies, or the failure to adapt old bodies as their circumstances change, increases the risk of having inappropriate governance structures.

This in turn jeopardises policy outcomes and poses financial risks to the taxpayer.

... ..

Incorporating a new function within a department is almost always the preferred option because of

the difficulties a small body faces in meeting its own needs.

As I said, the coalition supports the role of the commission but, consistent with Mr Tanner's views, believes that this could have been achieved within the resources of the department. It is very important that we have before us all the provisions to look at how these bodies are going to interact. Why are you going to go out and create new bodies if you already have a commission that is doing good work? Considering the evidence that was given to us in the committee inquiry, by all accounts it has been doing a very good job in accordance with international standards. This is particularly so at a time when you have turned a \$20 billion surplus into a deficit of over \$40 billion and every day you are borrowing \$100 million. You keep talking about scarce resources. Quite frankly, scarce resources in this area should be focused on front-line clinical care rather than the creation of new bureaucracies without a strong and reasoned justification. But at the very least, having embarked on yet another layer of bureaucracy, I think the minister should have allowed the parliament the opportunity to scrutinise the complementary functions of the proposed bureaucracies together.

We really are talking about circumstances, just like with the health changes mark 1, where we are left with so many details to be worked out. As I said earlier, with the ink barely dry it began to fall apart with the dumping of one of its mainstays, the National Funding Authority. Notwithstanding the passage of time, we see that so much of the detail still remains unclear. You have been talking about these authorities, whether they be in an iteration of mark 1 or mark 2, for however long now and you still have not worked out what they are going to do. You still have not advised the parliament as to how they are going to interact. You still use

these arguments that 'We are going to achieve this, we are going to do this and we are going to do that.' You have this big jigsaw puzzle and you have all these bits and pieces all over the place, but you still have not told the Australian public how this whole thing is going to work together, how increasing these bureaucracies is going to make a difference.

Labor state health ministers have complained about the way this whole thing has been handled. There have been comments in the media by the New South Wales Minister for Health, Carmel Tebbutt. Leaked emails which talked about the high-handedness with which the Commonwealth had embarked on these so-called reforms came out of Victoria before the change of government. Now concerns have been raised by the Victorian and other governments in relation to the detail. As I have said before, you only have an agreement to think about an agreement; you have not actually signed on the dotted line. This commission is only a part, but you are now talking about how fundamental it is. So was the National Funding Authority, but you did not think twice about dumping that. Now, for political expedience, or whatever reason—we are not quite sure—you have decided to reinstate the very thing that last year you advocated as a fundamental hallmark of transparency and accountability in the health changes mark 1. That got dumped. Now, suddenly, you have this funding pool, and we do not know what it is going to do. You are all over the shop. You really do not know what you are doing. Here we have another example of a piece of the puzzle of so-called health reform which has been around, but we still cannot be told how it will fit into the bigger picture.

It is all very well to have photos of back slapping and handshakes at COAG meetings—they may help give Prime Minister Gillard a temporary political reprieve. There

is a hollowness about what has been 'achieved' compared to what was promised, and there is a complete lack of mechanics to deliver the nuts and bolts. What this is all about is still very unclear. Just ask patients who are waiting in hospitals from day to day, and who have been waiting since 2007, when then Prime Minister Rudd promised the grand hospital plan. It is worth while reminding the Senate that Mr Rudd, as Leader of the Opposition, made these grand promises on health. But when you actually came into government you did not have a plan, you did not have anything—you did not even have a back-of-an-envelope plan, and that has been very clear from what has come out at estimates.

You set up a commission which did a lot of work and produced a very good report, which of course was put aside. Then Prime Minister Rudd and Ms Roxon embarked on their grand hospital tours dressed in hospital attire so that it would look like they were really doing something on health. Those tours were really only photo-opportunities which found their way onto the MyHospitals website. They still have not been taken down.

From there you went onto the green book, the blue book and the red book. Every single step of the way you wasted more money, whether it was in advertising or in producing material which was changed every time to suit whatever political necessity you needed and whatever political spin your spin doctors were telling you would be necessary to give the appearance that you were doing what you said you would. We have not seen the necessary detail.

Now we are talking about 1 July. So many things need to be done by 1 July—so many things need to be ticked off by the states. I really do not see how that is going to happen. Senator Farrell spoke about the various au-

thorities and the need to have state action in relation to some of the complementary state legislation and provisions that will be required to meet the financial obligations between the states and the Commonwealth. We still have not seen any of that. The coalition opposes this bill and, for the reasons that I set out, we will not be supporting the Greens amendment.

Progress reported.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! It being 6.50 pm, the Senate will proceed to consideration of government documents.

Commonwealth Grants Commission

Senator BARNETT (Tasmania) (6.50 pm)—I move:

That the Senate take note of the document.

I note from the Commonwealth Grants Commission report on GST revenue sharing that there has been a very slight decrease of 0.1 per cent in Tasmania. Of course, the state government in Tasmania is blaming the federal government for all its woes. That is entirely wrong. The state Labor-Green government has announced a \$270 million cut, which is equivalent to 2,300 jobs, possibly front line jobs—police, teachers, nurses—and possible forced redundancies. This is of its own accord, because it has created a budget black hole. It has done it regularly and consistently year in, year out. The Labor-Green government does not know how to manage the economy.

In fact, it is worse than that. They are trashing the Tasmanian economy. If you think it is bad now, it is going to get worse based on all the predictors, based on small business confidence going down and based on the fact that unemployment is going up, particularly in the north and the north-east of Tasmania and in the rural and regional parts

of Tasmania. People know. They are feeling the heat. Why is this? It is because the Labor-Greens government do not know how to manage the budget. They do not know how to manage the economy.

David Bartlett, the former Premier, got out. Why did he get out? People have different views on this and I am not going to express all those tonight, but he got out early. He got out because he was responsible for this, together with the current Premier, Lara Giddings, who was then the Deputy Premier and was in the cabinet and made the decisions where they overspent time and again, year in and year out. Of course she is responsible. David Bartlett has moved on but Lara Giddings is now the Premier of Tasmania and she cannot wash her hands and say, 'That was then and this is now.' She was part of that decision-making process and she failed dismally. You cannot just say that this \$25 million cut to the GST payments to Tasmania next year and the year after is the cause of all the woe. That argument is simply unsustainable.

Their approach to forestry and forestry workers in Tasmania is appalling. They have undermined that industry. That industry have been hurt and put down and their future is very grim. This is because the Labor-Greens government has nothing to offer this industry but job cuts and an end to further forestry and harvesting activities throughout Tasmania. This is their agenda. The Greens tail is wagging the dog. In fact, the Greens hand is very heavy now on the shoulder of the Labor government. There are 10 members of the Labor Party in the lower house and five members of the Greens and they are as one in the trashing that they are putting the Tasmanian economy through and the hurt, pain and suffering that they are imposing on the Tasmanian people, in particular families—mums and dads.

Particularly I want to highlight the northeast. There are a lot of people in the northeast. They deserve better. That has been a very vibrant and resilient community, and I congratulate the mayor, Barry Jarvis, and the local community for persevering. They are trying. They are fighting. They are trying to create a future for themselves. But under the Labor-Greens government it does not appear as though there is any light at the end of the tunnel or any light on the hill. This Labor-Greens government should be ashamed of itself. It has injected fear and trepidation, and now business confidence is towards an all-time low. It is not good enough to say that the 0.1 per cent cut over the next couple of years in the GST revenue sharing relativities report is the reason for that. That is absolute and utter nonsense. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Review of Local Content Requirements for Regional Commercial Radio

Senator BARNETT (Tasmania) (6.57 pm)—I move:

That the Senate take note of the document.

In doing so, I refer to the importance of this report into the review of the local content requirements for regional commercial radio. Many senators and members in this place will be aware that last night in this Parliament House in Canberra the federal Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy, lit up digital radio for the commercial radio players in this city of Canberra. It commenced last night in Canberra at the push of a button by Senator Conroy on behalf of the federal government. You have to be pleased for the people of Canberra as a result of that. This was a trial area. They had success in gaining support for the commencement of digital radio in the city of Canberra.

This was on the back of a decision made two years ago by the government, together with members of commercial radio, that the capital cities of mainland Australia should be granted digital radio status. It was in about mid 2009, May or June, when digital radio came to the cities of Brisbane, Sydney, Melbourne, Adelaide and Perth. They are pleased. I am pleased that those cities and their residents have gained access to digital radio, with all the benefits that it provides. But what happened to Tasmania? Are we not a state of Australia? Are we not part of the federation? This government continues blindly on, in seeming disregard of the people of Tasmania. They are treating us as second-class citizens. This is not good enough.

I have been lobbying for two years to make sure that the people of Hobart—where I lived for many years; I live in Launceston now—the capital city of Tasmania, do not continue to miss out. Trials took place after the initial launches for the mainland capital cities. There was an investigation of rural Australia. Canberra won that. Well done, Canberra, but what about Tasmania? I would like to know what steps the state government of Tasmania has made in approaching the federal government to ask to please make it happen in Tasmania. We have been left off the map far too many times. It is not good enough.

I am aware that Senator Conroy and the federal government have supported the establishment of commercial digital radio in Canberra. Good luck to the residents of Canberra, but what about Tasmania? Tasmania is a federated state of the Commonwealth of Australia. What about the state of Tasmania? Frankly, the federal government should be entirely embarrassed about this. Senator Conroy, you will no doubt be fully aware of and have been enjoying digital radio in all of the capital cities on the mainland. But the next time that you are in Tasmania, when

you get to Hobart digital radio will not be there, because you have not lifted a finger.

I have raised this with some of the commercial radio entities in Tasmania and, indeed, the head of the ABC in Tasmania. But it has not happened as yet. It requires support from commercial radio. I am aware of that. But what has the federal government done to support and encourage the establishment of digital radio in Tasmania? I suspect that they have not much or nothing, because we have not seen it. We have been without for two long years. There is a very strong and heavy focus on television under this government, but not much of a focus on radio. I call on the minister to have another look at this; to reconsider this matter. A report came out at the end of 2010, but it has not been released. I call on him to release that report, make it available and make it clear what is in that report and what it says about Tasmania. The people of Tasmania have a right to know. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Consideration

The government document tabled earlier today (*see entry no. 2*) was called on but no motion was moved.

The following orders of the day relating to government documents were considered:

Aboriginal and Torres Strait Islander Social Justice Commissioner—Report for 2010—Native title. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Aboriginal and Torres Strait Islander Social Justice Commissioner—Report for 2010—Social justice. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Anindilyakwa Land Council—Report for 2008-09. Motion to take note of document moved by Senator Parry. Debate adjourned

till Thursday at general business, Senator Parry in continuation.

Anindilyakwa Land Council—Report for 2009-10. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Treaty—*Bilateral*—Treaty between Australia and the People's Republic of China concerning the Transfer of Sentenced Persons, done at Sydney on 6 September 2007—Text, together with national interest analysis. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Treaty—*Multilateral*—Explanatory statement No. 1 of 2011—Proposed Amendment to the Articles of Agreement of the International Monetary Fund on the Reform of the Executive Board, adopted by the IMF Board of Governors on 15 December 2010. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Health Insurance Act 1973—Five yearly review of the Medicare provider number legislation—Report, dated December 2010. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Defence—HMAS *Success* Commission of Inquiry—Allegations of unacceptable behaviour and the management thereof—Part One: The Asian deployment and immediate aftermath—Report of the Commissioner, the Honourable Roger Gyles, AO, QC, dated January 2011 [Redacted version]. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2009 to 31 August 2010. Motion to take note of document

moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Advisory Panel on the Marketing in Australia of Infant Formula—Report for 2009-10. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

National Environment Protection Council (NEPC)—Report for 2009-10. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Australian Customs and Border Protection Service—Report for 2009-10. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 October to 31 December 2010. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Treaty—*Bilateral*—Amendments to Singapore-Australia Free Trade Agreement, done at Singapore on 27 July 2009—Text, together with national interest analysis and annexures. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

Treaty—*Multilateral*—Accession by Australia to the Convention on Cybercrime (Budapest, 23 November 2001)—Text, together with national interest analysis. Motion to take note of document moved by Senator Adams. Debate adjourned till Thursday at general business, Senator Adams in continuation.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! It being 7.03 pm, I propose the question:

That the Senate do now adjourn.

Drug Use

Senator HUTCHINS (New South Wales) (7.03 pm)—The scourge of illegal drug use and addiction is a serious health issue, posing grave danger to the personal safety of the individuals using these substances and having a serious negative impact on society as a whole. Some commentators and policymakers have advocated for an agenda on narcotics that includes dismantling the existing system of deterrent penalties against drug possession and consumption—a process decriminalising the drug trade. This is a radical approach that would only serve to further endanger our community by requiring the Australian public to accept the use of dangerous drugs as part of our national culture.

The phrase ‘harm minimisation’ has been a central tenet of Australian drug policy since the National Drug Strategy was first implemented in 1985. As a description, it implies that government should formulate an optimal strategy in lowering the impact of drugs on both the individual and the broader community. But among those who argue for decriminalisation the emphasis is on safe drug use. The best way to minimise the harm resulting from illegal drugs is to ensure that they are used as little as possible or, ideally, not at all, as there is no such thing as safe use of these substances. Decriminalisation sends a signal that government no longer considers this type of activity as worthy of sanction or as a risk to public health. It represents an implicit tick of approval for dangerous drug consumption, as authorities are no longer seen to be discouraging the practice. People will be able to get away with practicing their addiction in public, something that is cur-

rently and appropriately unacceptable. Some policies have taken this impression further, giving sanctuary to such a destructive influence on society.

The consumption of narcotics is not a victimless crime affecting the individual user to the exclusion of all others. It cannot be considered purely as a matter of private choice. The issue must be framed in two main dimensions: as a health issue for which an individual requires intervention and treatment; and as a public safety issue, where the spread of illegal drug use must be branded as unacceptable both at law and in the community.

The challenge of combating illicit drugs transcends concern for the wellbeing of the individual because, beyond this, we know that there is a high degree of correlation between drug use and criminal activity. A recent study conducted by the Australian Institute of Criminology into offences committed in 2008 showed that in cases where a positive drug test was recorded that year, the most serious crime committed by an offender had the highest probability of being either an offence against property or a violent act. Previous research by the AIC has also found that, while drug use has not conclusively been isolated as a precursor to criminal offending, the two go hand in hand as part of a ‘general deviant lifestyle’.

Interestingly, it has been noted that cannabis, a drug that some are prepared to dismiss as ‘soft’, despite its strong links to the early manifestation of schizophrenia, leads almost invariably to a progression from use of cannabis products to use of amphetamines, cocaine and heroin. The ‘harm minimising’ response to this issue would not be to ignore one of the primary sources of the problem—that is, drugs that are so dangerous for human consumption that users run the risk of death with every use. That is not a market you can legalise and regulate. Steps towards

legalisation just increase access to the product, the social acceptability of its use, the number of users and the cost of medical treatment.

One argument put forward for decriminalising or even legalising the drug trade is that, by making it legitimate and commercial, existing criminal drug trafficking networks will disappear, because this approach allows for competition and new entrants, making the industry less profitable. There is also the contention that legalisation grants the government some degree of control over the quality of the product. I do not see the logic in these arguments. Those supply chains that already exist will still be in place, immune to competition because new entrants will be prevented in much the same way as they are currently—on the street. The same people would still control the market and set prices, and control of the market would still be enforceable by violence. Controlling the purity of a product would also bring a high and unnecessary cost to government, all to support an industry in products that are extremely harmful to their users.

To legalise trade in such commodities purely because we have as yet been unsuccessful in eradicating black market supply chains is at best an ill-conceived capitulation of our responsibility to ensure public safety and at worst wilful complicity in encouraging the spread of narcotic use. The Swedish experience is a sobering lesson for those who would make drug use permissible in Australia. For a period in the 1960s, Sweden had among the most permissive drug laws in the world, and the effects were damaging. It was found that the most common drug users were not once-off experimenters but hardened addicts who faced no barriers to accessing narcotics and no social impetus to quit. Unsurprisingly, as a result, that country's approach has changed. The deterrence based approach that followed led to a marked decline in so-

cial tolerance of drug use. As a result, drug usage has become much less common.

The balance between harm-minimisation strategies and prevention of drug use is one to be carefully managed. Incorrect calibration of public policies can send the wrong message. Despite the best intentions motivating such schemes, it is possible that some approaches do more harm than they do good. One particular initiative that exemplifies this is the Sydney Medically Supervised Injecting Centre in Kings Cross. This facility allows for the injection of illegally obtained drugs in a medically supervised environment. There is no compulsion of users of the facility to reduce their drug use. Instead, their activities are treated in a supportive way, which includes staff observation. This approach could indirectly or unintentionally reinforce the habit of intravenous drug taking in particular, as addicts are provided with an atmosphere in which their addiction is not condemned and their activities are protected from legal consequence.

Teaching people how to use and giving them a place to act, exempt from the law, defeats the purpose of intervention and disincentives. According to an evaluation by operators at the injecting centre, the rate of heroin overdose in the facility is many times higher than that experienced by users on the street. Drug Free Australia, a community group concerned about the efficacy of this project, suggests that this is because drug users are likely to take greater risks with the volume of heroin they use when injecting at the centre. One statement from a former client of the centre, reported in the media, said of users:

They feel [a lot] safer ... because they know they can be brought back to life straight away ... they feel it is a comfort zone, and no matter how much they use ... they will be brought back.

This illustrates just how careful we need to be in designing policies that truly minimise harm to individuals rather than creating an artificial environment in which risk-taking behaviour is encouraged.

It has been argued that substance abuse is a structural condition of our society and that it is not possible for it to be eradicated. This may be a reasonable assertion, as committed individuals can find ways to abuse legal products to draw a particular physiological reaction. But for many substances there is no justification for softening our stance. Substance abuse must not be seen as permissible in Australian society. In our responses we must ensure that risk-taking behaviour is minimised.

Treating drug use as a health issue is not mutually exclusive to criminal sanction and a strong regime of law enforcement targeting both the supply and use of these substances. These are significant disincentives that discourage the trade and use of drugs in the first place. Removing the legal barriers that restrict supply and deter drug use would mean more users, cheaper drugs and increased acceptance of narcotic use in the community. This would be counterproductive to addressing the real public health concerns that substance abuse creates.

The former head of the United Nations Office on Drugs and Crime, Antonio Maria Costa, said that he is increasingly convinced that countries get the drug problem they deserve. I hope governments across Australia continue to work towards a society in which both the supply of and demand for illegal drugs is curtailed. Efforts to decriminalise these kinds of activities or make them seem mainstream or acceptable will only result in our failure to achieve the stated aims of our National Drug Strategy—to minimise the harm caused by drug use in our community.

New Zealand Earthquake

Senator ADAMS (Western Australia) (7.13 pm)—I rise to speak about the close links the Australian people have with their near neighbour New Zealand. As a New Zealand born senator I was deeply moved by the two minutes silence held in the Australian parliament as a mark of respect to those who died or were injured in the Christchurch earthquake. The two minutes silence held yesterday in Canberra coincided with the two minutes silence in New Zealand. I am sure all thoughts were with those involved in any way with this terrible disaster.

As deputy chair of the Australia/New Zealand Parliamentary Group, I was a signatory to a letter sent to Vangelis Vitalis, Acting High Commissioner of the New Zealand High Commission. That letter read:

Dear Mr Vitalis

On behalf of the Australia/New Zealand Parliamentary Group we extend very sincere sympathies to the people of New Zealand in the wake of the tragic events of February 22.

Australia has no closer friend and partner than New Zealand and every Australian will be sharing in your pain. We know the strong and free spirit of the New Zealand people and we know you will rebuild.

Of course, we stand ready to assist in any way that we can and trust you will contact us if you believe there is anything we can do.

We wish all our friends across the ditch the very best in the days weeks and months ahead.

Yours Sincerely

The Hon. Joel Fitzgibbon MP, Chair

Senator Judith Adams, Deputy Chair

Senator the Hon. Ursula Stephens, Secretary

Arrangements have also been made by the New Zealand High Commission to make the condolence book for the Christchurch earthquake available at Parliament House for members and senators to sign. It is quite amazing how many New Zealanders are in

Australia, either living or visiting. On 30 June 2010 the Department of Immigration and Citizenship reported that an estimated 566,815 New Zealand citizens were present in Australia. I am sure those New Zealanders present in Australia are very grateful for the up-to-date coverage of the events taking place in Christchurch.

I cannot describe the shock and horror I felt watching the early vision of the earthquake and the devastation of such a beautiful city, which I know so well, and contacting friends and hearing their stories of how lucky they were, while others were not so lucky and lost their homes, but their families were safe. I will read a description from one of my friends of her observations the day after the earthquake struck:

Judith, this quake is so much worse than the one in September. Unless you can see the damage it is hard to believe that it has happened again. The roads are awful. The liquefaction is unbelievable. Driving is hazardous as you do not know where the holes are. People are even putting wheelie bins around the dangerous parts.

It is going to take a long time for Christchurch to recover from this, and the central city will never be the same again. They will just about have to build from the bottom up, and heritage buildings may be but a thing of the past.

I am not sure how I feel—kind of numb I guess. I just feel for the folk who were hit so hard last time, and now they are far worse off.

Listening to today's update by the Christchurch Mayor, Mr Bob Parker, who has had to shoulder a really heavy load during the last eight days, it is just amazing, with the coordination in the city of all the different organisations and emergency workers involved, how much has happened in re-establishing the services in Christchurch. It is really hard to believe but, today, 30,000 chemical toilets are being distributed throughout the suburbs. That is 30,000 toilets; it is an awful lot of toilets. It really does

make you realise just how far this devastation has spread. And the power for 85 per cent of residents has now been reconnected. That has just been such a mammoth task by the electricity people. I know that we had Australian people over there helping with this.

The schools are going to be closed for at least another week, but something that the Prime Minister, John Key, came up with today was that he still wants to have the Rugby World Cup in Christchurch. He said, 'My strong preference is to hold the cup in Christchurch if we can, because I think it sends a very strong international message that Christchurch is going through a rebuilding phase. Equally, if we do not, sadly the message is not as good as it could be.' So they are working very hard. Their stadium has not suffered very much damage, but accommodation may be a problem, but they are already looking at cruise ships. Because rugby is so dear to the hearts of the New Zealand people they are trying to get that back and definitely have it in Christchurch, where it was to be.

It seems to be terribly unfair the way the weather has played havoc. Today the wind is very high and the dust is just about like our Western Australian farm in the middle of summer. They are trying to deal with the dust and the rain; it is certainly hampering their operations because some of the buildings are unstable. Just looking at the suburb of Sumner, they had to evac 60 houses this afternoon because the cliffs started to crumble and fall down with the winds.

But something that, I think, is very positive is that they held bus tours for 400 families from New Zealand and overseas. They took them into the area of the devastation so that they could actually see where their loved ones had been or still are or had been injured. It was very difficult, but I think that it

will help those people with closure of the problems they have, especially those from overseas. They were given support so that they could see just what happened. Speaking as a mother, my son was competing in the coast-to-coast marathon a few days beforehand and was actually staying right next door to the cathedral and the square. I was very fortunate in that he left Christchurch before this happened. But for those mothers, fathers and families from overseas who were wondering what is going on and how things have happened, it must be very hard and my heart goes out to them.

Defence, fire services, the Maori wardens and all the essential services people, including the urban search and rescue teams, have worked and worked. The people out at Burnham involved with the identification have a makeshift morgue at the army base, which I know very well. I feel for them, too, because the job they have to do is not pleasant, and it is going to take them so long.

To those people in New Zealand: as I have said, there are so many New Zealanders here in Australia and I am sure that their thoughts go—as mine and I am sure those of everyone here do—to the recovery phase of this disaster. If those people in New Zealand want anything, I am sure that the Australian government will certainly help them in any possible way.

The death toll tonight, unfortunately, has gone to 160, and it is still thought that it will be around 240 as people work their way through the buildings. As I said, the weather today is not very pleasant. I have been in Christchurch when the wind blows. It is not a very good place to be. Our thoughts are with our New Zealand friends and colleagues and all those people who are still trying to locate their loved ones.

Food Security

Senator XENOPHON (South Australia) (7.23 pm)—I rise this evening to address an issue which I believe is of extraordinary national significance. I believe it is vital that as a nation we ensure that we never lose access to fresh, healthy, natural, locally produced food. Australia enjoys some of the cleanest, greenest food stocks in the world. Our farms are the envy of many nations and, sadly, a growing number of our farms are also the property of other nations. I will say more on that later.

Over the years it has become harder to know what you are eating and whether the food you are eating is actually Australian made. Our current food-labelling laws are a joke. Whereas ‘Product of Australia’ means a product is 100 per cent Australian, the clearer sounding term ‘Made in Australia’ is significantly less clear cut. The current consumer laws state that goods can be represented as ‘Made in Australia’ if ‘substantial transformation’ or a ‘significant component’, which is over 51 per cent of the value of production, occurred here in Australia. That is, ‘Product of Australia’ is quite clear; it needs to be wholly Australian sourced product. But for ‘Made in Australia’ it only has to be 51 per cent of the value of the production that occurred here in Australia.

This means that the packaging on a meat pie, for example, could read ‘Made in Australia’. The pastry, the gravy and the plastic wrapping are included in whether something is made in Australia, whereas the meat could be 100 per cent from another country. Yet you could still call that meat pie ‘Made in Australia’. And, speaking of packaging, believe it or not, packaging counts towards that 51 per cent transformation under our current laws. I do not know about you, Mr President, but I do not eat the box my fruit juice comes

in. Why it counts towards whether a product is Australian or not is beyond me.

I had high hopes for the federal government's Blewett Review of Food Labelling Law and Policy. Neal Blewett is an eminent Australian and was a very capable health minister in the Hawke and Keating governments, but to say that I was disappointed with the result of that review would be an understatement. It was an opportunity lost. All the report recommended when it came to country-of-origin labelling was that 'a framework be developed'. That position is almost as weak as our current labelling laws. Consumers just want to know straightaway whether the product they are about to buy is actually made in Australia and, if it is not, where it has come from and what proportion of it has come from where. 'Made in Australia' should not mean anything but 100 per cent made in Australia.

In my time here in this place I have introduced three private senator's bills. A couple were co-sponsored by both Senator Barnaby Joyce, the Leader of the Nationals in this place, and Senator Bob Brown, the Leader of the Australian Greens, so this is something that transcends ideology. This is about being genuine and about ensuring that consumers have the information that they deserve. I have also introduced bills for the full and accurate labelling of palm oil and products containing genetically modified materials with my colleague Senator Rachel Siewert, from the Australian Greens. It should be noted the Blewett review did recommend that manufacturers should be required to specifically label palm oil—a small mercy, I suppose, but it is something.

I have also had real concerns about the lack of labelling of genetically modified organisms in food. Once again, on this issue, the Blewett review was very much found wanting. It failed to close a significant loop-

hole when it comes to labelling GMOs. Currently, manufacturers can claim it was an 'accident' if traces of genetically modified material are found in their products. Based on the recent cases where genetically modified material was found a number of times in baby formula 'by accident' over a number of years, this is an issue that favours the big food manufacturers and not the consumer.

Our food security is also, I believe, at issue due to levels of foreign investment. I am not a protectionist; I believe that Australia should be an open economy, but I think we ought to know the extent of foreign investment that we have in our agricultural farms. In farms that produce agricultural produce, I think it is important that there be a level of knowledge that just does not exist now. Under current rules for a foreign owned company, the threshold for the Foreign Investment Review Board to have any involvement is \$231 million, or a billion dollars if it is from the US. That contrasts with New Zealand, where anything over five hectares is subject to a level of scrutiny and approval.

I think the fact that we do not know the extent of foreign ownership of our agricultural assets is something we should be concerned about. There is not a single government department that monitors who owns what, and that is not good enough, especially when we know that many of these corporate entities can be state-controlled entities—that is, foreign-government-controlled companies are buying up agricultural assets. Why are they doing that? Because they are governments that are better at planning for the future.

It is estimated that the world's population will double by 2050, so what is our government going to do to plan for the future in the way that other sovereign nations are? To date, it has done very little, and this is a problem that has existed for many years. It is

welcome that the Assistant Treasurer, the Hon. Bill Shorten, has agreed to conduct an audit into the foreign ownership of Australian agricultural assets, which is a good start. At least for the first time we will know the extent of the problem we are tackling. Right now, to quote a former US Secretary of Defense, it is very much a 'known unknown'.

This is one of those issues where it seems that the laws of this nation have been out of step with the people. Australians get this. It is a fact borne out in the letters and the phone calls my office receives whenever this issue is raised. This is something that resonates with people. People stop me in the street and want to talk about this. The level of public concern can also be seen in the enormous success of the 'Don't Sell Australia Short' campaign on Facebook, being spearheaded by Adelaide Radio FIVEaa's Leon Byner—a campaign that has attracted thousands of supporters from right around the country. I recommend, Mr President, that you and honourable senators look at that Facebook site and see the quality of the comments by so many people from around the country expressing concern about issues of food labelling and food security. These are big issues. Even today, on the lawns outside Parliament House, the Australian bee industry was having a campaign in relation to concerns about diseases from overseas. I know that Senator Colbeck, who is in the chamber, has been outspoken on this issue, because if our bee industry is decimated the consequences will be far-reaching for Australian agriculture.

Another area of great concern when it comes to ensuring Australian producers get a fair go relates to our woefully inadequate antidumping laws. Recently Kimberly-Clark was forced to close two tissue mills in Millicent and it will close its pulping site in Tantanoola unless a buyer is found. These closures involve something like over 200 jobs.

There is a real issue about Indonesian toilet paper being found to have been dumped at between 33 and 45 per cent below value. In December 2008, the then Minister for Home Affairs, the Hon. Bob Debus, imposed dumping duties on Indonesian and Chinese tissue products following an investigation by the Australian Customs Service which found Chinese imports were being dumped on the Australian market at two to 25 percent below their value on the domestic market. And, as I said, Indonesian toilet paper was found to have been dumped at 33 to 45 percent below value.

Unfortunately, this decision was overturned in 2009 under our current framework of dumping laws. That is why it is important that those laws are reviewed and changed. Too many Australian jobs have been lost as a result of unfair competition and goods being dumped in the Australian market. In international trade forums, we are regarded as mugs by some countries because we have a framework in place that does not protect our manufacturers from unfair competition and the dumping of goods. We need to make it incumbent upon the company suspected of dumping to prove that it is not dumping, rather than the current system which puts the onus on Australian companies to prove, at great expense, that the goods are being dumped in the marketplace.

We also need to make it easier for Australian companies to appeal a decision and include additional information in any such appeal. On this issue, and so many issues when it comes to food security and the protection of our jobs, we need to get smarter. If we are what we eat, we have a right to know what we are eating. We should be selling the milk and not the cow, the food and not the farm. We should take pride in what we produce and label it properly. Our jobs, our health and our national prosperity are depending on it.

International Development Assistance

Senator CAROL BROWN (Tasmania) (7.32 pm)—Before I begin my contribution, I would like to put on record my support of Senator Adams's very personal and thoughtful contribution here tonight on the New Zealand earthquake and to join her in sending my condolences, thoughts and support to the New Zealand people in this extremely difficult time.

I am here tonight to talk about the importance of Australia's foreign aid program and our role in fulfilling the Millennium Development Goals. In the past few weeks, in this parliament and in the public sphere, the debate about Australia's aid program has gained momentum. The opposition reignited the debate when they proposed to cut Australia's foreign aid contributions to vital programs such as the education partnership program in Indonesia. The idea of cutting all foreign aid to Africa was mooted and thankfully not continued with. Notwithstanding that, the aid cuts were proposed as an alternative to this government's proposed flood levy.

Announcing aid cuts as the coalition alternative to a one-off flood levy is simply a tactic, I believe, to perpetuate a myth that Australians cannot afford to support our own citizens as well as our less fortunate neighbours. Let it be said: we are capable of and we will continue to uphold our role as an international citizen. The proposed cuts to foreign aid show a fundamental disregard for Australia's role as an international citizen. To look to aid cuts as a quick fix or budget saving mechanism is completely against our national interest and goes against our commitment to achieving the Millennium Development Goals.

This government is looking to the long-term future. We are committed to meeting the agreed target of increasing our aid con-

tribution to 0.5 per cent of GNI by 2015, with a view that we will go to 0.7 per cent after our budget returns to surplus. We have in the interim, since coming to government, doubled our overseas development assistance budget over the last five years. This is a \$4.3 billion investment in global development so that we may all enjoy a better and brighter future. This government aims to double that investment again over the next five years.

Given the increase this government has made to the aid program, I would like to take this opportunity to highlight the crucial role that Australia can play as a middle power with global interests. The situation in the Middle East, for example—what is happening right now in Egypt and Libya—highlights Australia's role in international diplomacy and why it is so crucial that we continue to invest in our aid program. Australia is a direct stakeholder in the global repercussions of the democratic movement unfolding in the Middle East. Foreign Minister Rudd has said that our security interests, our national economic interests and our international humanitarian interests, together with our most basic consular interests, will be significantly affected by developments in Egypt.

Given the changing world stage, it follows that we are moving into an international political climate where we will be increasingly required to play a role that promotes stability in our region and beyond. It is essential that we continue our diplomatic and aid efforts to support and empower developing communities and to promote international peace and prosperity. We are awaiting the outcome of the first independent review of Australia's aid program since the Simons review in 1996. I look forward to the recommendations the panel will put forward and to how we can enhance our aid efforts to provide effective and sustainable support to communities worldwide. The review will assist us to

maximise aid effectiveness to achieve real development outcomes against the MDGs. The recommendations will assist us to make the best evidence-based decisions, to better understand local needs and to expand our role in partnership with the UN, UN agencies, NGOs and international financial institutions.

We all recognise that there is more that can be done to eradicate poverty and promote tolerance, justice, human rights, gender equality and sustainable development. We are doing what we can with the resources we have available and we will do better and more into the future. Notwithstanding that, we often focus too much on what more needs to be done and forget to acknowledge some of the achievements we have made. There are some success stories we can share. Over the past 40 years, solid progress has been made in the struggle to eradicate extreme poverty. We can be proud that Australia's aid contribution has formed a part of: reducing a woman's chance of dying during or after childbirth by 50 per cent; halving the chance of an adult not being able to read; and increasing the average life expectancy in developing countries by 20 years.

We have made a huge difference through our aid commitment in the Asia-Pacific region. We are internationally recognised for our leading role in the region, particularly in PNG and the Pacific. This contribution is vital, particularly given that two-thirds of the world's poor—some 800 million people—live in the Asia-Pacific yet they receive less than one-third of global aid. Australia's aid program also provides assistance to Africa, the Middle East, Latin America and the Caribbean. Our aid to Africa has increased significantly in recent years and now represents around five per cent of the aid program. Progress is being made and we will continue our commitment to supporting those struggling in our region and beyond.

Our foreign aid commitment is something which mobilises huge sections of our community. I receive many items of correspondence from constituents pushing for Australia to increase our aid commitment and to do more to assist developing communities. I have also taken the time to meet with various groups who have lobbied for the expansion of Australia's development assistance. These groups have shared with me their recommendations for Australia's aid program as well as other issues to do with population and development. I am pleased that there are so many passionate and dedicated people working in our own community to raise support and awareness to assist our neighbours overseas. There are also many people from my own community I know of who are themselves giving their time to work on the ground in developing communities. I am proud that as Australians we are willing and able to support those in need, both at home and overseas.

It follows that it is important to dispel some of the recent criticisms of Australia's aid contribution. On 15 February, in my home state of Tasmania, we had the privilege of Foreign Minister Kevin Rudd coming to Hobart to host a forum on Australia's foreign aid package. The forum was titled 'A Fair Go for All: Australia's Foreign Aid Program' and was an overwhelming success. The Stanley Burbury Lecture Theatre at the University of Tasmania was packed out as over 400 Tasmanians gathered to hear Minister Rudd. The crowd also came equipped to ask their own questions about Australia's aid commitments. Attendees at the forum were able to engage in an informed, rational and worthwhile discussion about Australia's aid package. Questions were answered and people were pleased that they had the opportunity to be heard. Most people also seemed pleased with the responses to the concerns they raised. The positive feedback we have received in

relation to the forum has been phenomenal. We also know from the feedback that many attendees left the event with a new appreciation of Australia's role in development assistance and with confidence in the aid package.

The support that exists in the community for expanding our aid commitment is inspiring and I hope that this support only grows stronger. I also hope to personally play a role in contributing to the effectiveness of Australia's aid program through my membership in the Parliamentary Group on Population Development. I know there are colleagues in this chamber and in the other house from all sides of politics who are involved in the PGPD. For those of you who are not familiar with our group, we focus on building support which empowers women and girls. We hope to promote gender equality and the advancement of women in line with the ICPD Program of Action. Our group emphasises the importance of investing and concentrating our aid efforts to promote sexual and reproductive health, as well as education and economic opportunity for women.

We also believe it is vital that we continue to address discrimination and violence against women. As we celebrate the 100th International Women's Day next week and we reflect on how far women have progressed in the fight for equality, peace and development, we cannot forget we still have a long way to go. We cannot go backwards on our commitment to achieving the Millennium Development Goals and I look forward to continuing our contribution to communities in our region and beyond.

Senate adjourned at 7.42 pm

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.]

Banking Act—Banking (Prudential Standard) Determination No. 1 of 2011—Liquidity and Capital Adequacy [F2011L00325].

Civil Aviation Act—

Civil Aviation Regulations—Instrument No. CASA 42/11—Direction – number of cabin attendants for Fokker F100 aircraft [F2011L00334].

Civil Aviation Safety Regulations—Revocation of Airworthiness Directive—Instrument No. CASA ADCX 004/11 [F2011L00329].

Corporations Act—Accounting Standard AASB 2010-7—Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [F2011L00315].

Environment Protection and Biodiversity Conservation Act—Amendments of lists of—

Exempt native specimens—

EPBC303DC/SFS/2011/02 [F2011L00324].

EPBC303DC/SFS/2011/03 [F2011L00322].

Threatened ecological communities, dated—

4 February 2011 [F2011L00327].

10 February 2011 [F2011L00326].

Family Law Act—Select Legislative Instrument 2011 No. 15—Family Law Amendment Rules 2011 (No. 1) [F2011L00328].

Financial Management and Accountability Act and Commonwealth Authorities and

Companies Act—Select Legislative Instrument 2011 No. 14—Financial Framework Legislation Amendment Regulations 2011 (No. 1) [F2011L00313].

Fisheries Management Act—Select Legislative Instrument 2011 No. 7—Fisheries Management (Eastern Tuna and Billfish Fishery) Amendment Regulations 2011 (No. 1) [F2011L00314].

International Arbitration Act—Select Legislative Instrument 2011 No. 10—International Arbitration Regulations 2011 [F2011L00330].

National Health Act—Instrument No. PB 20 of 2011—National Health (Listed drugs on F1 or F2) Amendment Determination 2011 (No. 3) [F2011L00323].

Primary Industries (Excise) Levies Act—Select Legislative Instrument 2011 No. 8—Primary Industries (Excise) Levies Amendment Regulations 2011 (No. 1) [F2011L00333].

Primary Industries Levies and Charges Collection Act—Select Legislative Instrument 2011 No. 9—Primary Industries Levies and Charges Collection Amendment Regulations 2011 (No. 1) [F2011L00331].

Renewable Energy (Electricity) Act—Select Legislative Instrument 2011 No. 11—Renewable Energy (Electricity) Amendment Regulations 2011 (No. 1) [F2011L00332].

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2010—Statements of compliance—

Department of the Prime Minister and Cabinet.

Infrastructure and Transport portfolio.

Office of the Official Secretary to the Governor-General.

Old Parliament House.

Departmental and Agency Contracts

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2010—Letters of advice—

Human Services portfolio.

Immigration and Citizenship portfolio.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

**War Crimes Screening Unit
(Question No. 145)**

Senator Ludlam asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 28 September 2010:

- (1) (a) For each financial year since the last published figures in 2004-05, how many cases have been referred to the War Crimes Screening Unit (WCSU); and (b) of those cases referred, how many individuals were refused citizenship or a visa on suspicion of having committed war crimes.
- (2) Upon refusal of an application does the department notify the relevant state authorities in which the individual resides.
- (3) Does the Minister have plans to improve reporting of results of border screening by the WCSU.
- (4) (a) How many visas have been refused or cancelled in the past 10 years based on Article 1F of the Convention Relating to the Status of Refugees, that provides that an asylum seeker can be denied protection on the basis there are serious reasons for considering an individual has committed a 'crime against peace, a war crime, or a crime against humanity'; (b) how many of these decisions have been upheld by the Administrative Appeals Tribunal (AAT); and (c) of those cases upheld by the AAT, have all these individuals been removed from Australia; if not: (i) how many of these individuals remain in Australia, (ii) for how long have they remained in Australia since the AAT decision, and (iii) what action is the department taking in regard to these individuals.
- (5) For the past 10 years: (a) how many suspected war criminals have been extradited from Australia; and (b) on how many occasions has Australia rejected an extradition application from another country for a suspected war criminal.
- (6) For what reasons has Australia rejected applications for extradition from other states other than for the lack of prima facie evidence.
- (7) How many times in the past 10 years has a person's visa been revoked for suspicion of having committed a war crime, crimes against humanity or genocide.
- (8) (a) Does the department provide any specialised training to staff who conduct visa and refugee interviews to assist them in screening for potential war criminals; and (b) if training is provided, is it offered to all staff that process refugee and visa claims; if not, which staff receive the training.

Senator Carr—The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

- (1) (a) DIAC records indicate that, for the financial years since 2004-05, the number of cases referred to the WCSU were:
2005-06: 798
2006-07: 933
2007-08: 674
2008-09: 813
2009-10: 369
(b) The legislation that underpins visa and citizenship decisions (the Migration Act 1958 and the Australian Citizenship Act 2007) does not differentiate between war crimes and any other crimes. Departmental statistics identify where an application for a visa or Australian citizenship has been

refused due to character, but they do not identify the specific crimes or reasons why a person did not pass the character test.

My Department is looking at how it might enhance its reporting on war crimes screening, including the ability to collate figures identifying the number of persons who have been refused Australia citizenship or a visa specifically on the basis of their involvement in war crimes or crimes against humanity.

- (2) My Department does not liaise with state authorities about particular war crimes cases. However, my Department works closely with the Australian Federal Police on war crimes related matters.
- (3) My Department is continually seeking to improve its processes, including reporting on war crimes screening as part of Australia's border management strategy (see 1(b) above).
- (4) (a) Departmental records indicate that since July 1999, 38 people were refused their Protection visa (PV) applications on the basis of Article 1F(a) of the Refugees Convention and subsequently sought review by the Administrative Appeals Tribunal (AAT). Article 1F(a) is an exclusion clause in the Refugees Convention and operates to the effect that, where there are serious reasons for considering that the applicant has committed a crime against peace, a war crime or a crime against humanity, the obligation to not return is not owed. The figure of 38 comprises applicants who have been convicted of such crimes or have admitted to such crimes, or whose particular circumstances gave the decision maker serious reasons for considering that the applicant committed such crimes.

Departmental systems cannot easily identify those individuals who were refused a PV based on Article 1F(a) but who did not seek review at the AAT. The figure of 38 is, therefore, unlikely to present a complete picture of the total number of people refused a PV based on Article 1F(a). As applicants for protection, however, it is more likely than not that they would have exercised their right of appeal to the AAT.

(b) Of the 38 PV refusals, 22 decisions were upheld by the AAT and, where applicable, at judicial review.

In one of the 22 cases, the Department refused the individual's PV application on the grounds of Articles 1F(a) and 1F(b). The AAT, however, overturned the refusal decision on the basis of Article 1F(a) but upheld the refusal decision on the basis of Article 1F(b).

In 16 cases, the Department's primary decision was ultimately reversed.

(c) No. Seventeen (17) of the 22 failed PV applicants have subsequently left Australia, either as a removal under s198 of the Migration Act 1958 or as a voluntary return.

(c)(i-iii) Of the 5 who remain in Australia, one has had their immigration status resolved through the grant of a substantive visa issued in 2007 following intervention by the then Immigration Minister, Kevin Andrews. The length of time that the remaining 4 have been in Australia since the AAT decision ranges from 5 to 8 years (noting this group includes the individual whose PV application was refused on the basis of Article 1F(b) – refer to Question (4)(b) above). A number of factors have contributed to these periods, including the time taken by the individuals in pursuing review and Ministerial intervention opportunities. My Department is working to resolve the immigration status of these clients, including effecting removal where possible.

- (5) Australia has not ever extradited a person to face prosecution in a foreign country for alleged war crimes offences. Any extradition request received by Australia for an alleged war criminal is considered in accordance with Australia's Extradition Act and any applicable treaty.

As a matter of longstanding practice the Government does not disclose whether or not an extradition request has been received until the person whose extradition is sought is either arrested or brought before public proceedings, to ensure the person does not have an opportunity to flee the jurisdiction. To do otherwise would defeat the purpose of extradition and could compromise crucial police investigations.

It is a matter of public record that Australia has received extradition requests for three persons accused of war crimes offences:

- In 2000 Latvia made an extradition request for Mr Konrad Kalejs who was accused of Nazi war crimes. Mr Kalejs died in 2001, aged 88, before he could be surrendered.

- In 2005 Hungary requested the extradition of Mr Charles Zentai who is wanted to face prosecution for an alleged war crime. On 12 November 2009 the Minister for Home Affairs made a final determination under the Extradition Act that Mr Zentai should be surrendered to Hungary. Mr Zentai challenged the lawfulness of the Minister's determination in judicial review proceedings in the Federal Court on 27 and 28 April 2010. On 2 July 2010, Justice McKerracher of the Federal Court allowed Mr Zentai's judicial review application on three grounds. The Court reserved the making of orders to give effect to its decision pending submissions from parties as to the orders it should make.

- In 2006 Croatia requested the extradition of Mr Daniel Snedden (also known as Dragan Vasiljkovic), who is wanted to face prosecution for alleged war crimes offences. The High Court upheld an appeal by the Republic of Croatia, confirming the magistrate's order that Snedden is eligible for extradition. On 20 September, Mr Snedden filed an application in the Federal Court seeking a declaration that he is not an extraditable person under the Extradition Act, a declaration that he is unlawfully imprisoned, a declaration that Croatia only requires him for questioning and that he is not accused or charged with the relevant offences, a writ of habeus corpus, compensation and damages.

- (6) As a matter of longstanding practice the Government generally does not publicly disclose whether or not an extradition request has been refused or the reasons for any refusal, other than as a result of public proceedings.

Australia's extradition process involves a number of stages, including decisions by the executive government (the Attorney-General or Minister for Home Affairs) and by a magistrate who will independently assess the request against statutory requirements.

Australia may refuse an extradition request on various grounds if it does not meet the necessary statutory requirements or the requirements of any relevant treaty (for example, dual criminality is not established, or an extradition objection is able to be established).

The Extradition Act and relevant treaties contains a number of grounds for refusing an extradition request and ultimately whether or not a request is accepted, or whether or not a person is surrendered pursuant to an extradition request, involves the exercise of a general discretion by the Attorney-General or Minister for Home Affairs.

- (7) See response for (1)(b).

- (8) (a) - (b) My Department provides face to face war crimes screening training to staff who conduct visa and refugee interviews in Australia and to officers being posted overseas prior to departure. To resolve the issue of staff turnover, the training is supplemented by written guidance which is readily available on my Departments Intranet. The War Crimes Unit provides a helpdesk service to answer complex enquiries.

Commonwealth Scientific and Industrial Research Organisation

(Question No. 166 amended)

Senator Abetz asked the Minister for Innovation, Industry, Science and Research, upon notice, on 18 October 2010:

In regard to the Commonwealth Scientific and Industrial Research Organisation (CSIRO): For the past 18 months, what was the amount spent on entertaining by the CSIRO: (a) Chief Executive Officer; and (b) ICT Centre Director.

Senator Carr—The amended answer to the honourable senator's question is as follows:

For the past 18 month period (18 April 2009 to 18 October 2010), the amount spent on entertaining by the following CSIRO positions were:

- (a) Chief Executive: \$789.60 (GST inclusive)
- (b) ICT Centre Director: \$10,434.11 (GST inclusive)

Prime Minister and Cabinet

(Question No. 268)

Senator Humphries asked the Minister representing the Prime Minister, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:

- (1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
- (2) (a) How many mobile devices are provided to the Ministers office; and (b) what is the total spend on mobile devices for each office to date.
- (3) At what level is each staff member employed in the office.
- (4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.
- (5) What has been the total travel for all staff, by office.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator's question:

I am advised that:

- (1) The Department of the Prime Minister and Cabinet has not issued departmental credit cards to the Prime Minister, Cabinet Secretary and the Parliamentary Secretary to the Prime Minister.
- (2) (a) As at 29 November 2010, a total of 106 mobile devices were allocated to the three Minister's offices. (b) Between 14 September and 29 November 2010 the total spend on mobile devices was as follows: for the Office of the Prime Minister - \$53,085.85; for the Office of the Cabinet Secretary - \$2,544.62; and for the Office of the Parliamentary Secretary to the Prime Minister - \$2,910.56.
- (3) The employment of staff under the Members of Parliamentary (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010 the Department of Finance and Deregulation tabled with the Senate F&PA Committee a list of Government Personal Positions as at 1 October 2010.
- (4) The cost of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 is reported by the Department of Finance and Deregulation. As such, the cost of official travel for the period 14 September to 29 November 2010 will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report Parliamentarians' Expenditure on Entitlements Paid by the Department of Finance and Deregulation.
- (5) The costs of official travel by staff employed under the Members of Parliamentary (Staff) Act 1984 is administered by the Department of Finance and Deregulation. As such, the information sought will be included in the Minister representing the Special Minister of State's response to question number 308.

Ta Ann: Visas
(Question No. 386)

Senator Bob Brown asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 7 February 2011:

- (1) (a) How many 457 visas has the Malaysian company Ta Ann been granted for its Tasmanian operations since 2007; and (b) can a list be provided detailing the number of visas that have been granted in each year.
- (2) What are the skills the company claims cannot be found in the Tasmanian workforce to necessitate the application for 457 visas.
- (3) Did Ta Ann receive any of the pre 14 September 2009 regional employer concessions for 457 visa holders.
- (4) What process is in place for the department to inform Australian education and training providers of the skills that are listed in 457 visa applications.

Senator Carr—The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

- (1) (a) (b) Ta Ann has employed 34 Subclass 457 visa holders since 2007. The following table shows the number of Subclass 457 visa holders employed by year:

2007	2008	2009	2010
10	23	1	0

- (2) The occupations that these visa holders were employed in were:
 - Wood Machinist: 4
 - Mechanical Engineering Technician: 27
 - Production Manager (Manufacturing): 3
- (3) Ta Ann did not receive any of the pre 14 September 2009 regional employer concessions for Subclass 457 visa holders.
- (4) The Department of Immigration and Citizenship does not have a direct role in informing Australian education and training providers of the skills that are listed in subclass 457 visa applications. Most occupations designated as "skilled" under the Australian and New Zealand Standard Classification of Occupations (ANZSCO) are eligible for the subclass 457 program. These are usually occupations with Skill Level 1, 2 or 3. Skill Level 1 requires a bachelor's or higher degree; Skill Level 2 requires an AQF Associate Degree, Advanced Diploma or Diploma; and Skill Level 3 requires an AQF Certificate IV or Certificate III with two years on-the-job training.

The Department maintains close relationships with the Department of Education, Employment and Workplace Relations on matters concerning the subclass 457 visa program and how it relates to the training and employment of Australians.

In addition the Department distributes numerous information products to a variety of stakeholders, as well as statistics and trends on what skills needs are being met through the program.

Major reforms to the Subclass 457 visa program have been implemented since September 2009 to ensure that the program continues to provide the industry with needed skills, while safeguarding the rights of overseas workers and not undermining local employment and training opportunities.