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- **GOSFORD** 98.1 FM
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- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-SECOND PARLIAMENT
FIRST SESSION—THIRD PERIOD

Governor-General
His Excellency Major General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson
Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Nicholas Hugh Minchin
Deputy Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Hon. Christopher Martin Ellison

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. Nicholas Hugh Minchin
Deputy Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Leader of the Nationals—Senator Hon. Nigel Gregory Scullion
Deputy Leader of the Nationals—Senator FionaJoy Nash
Leader of the Australian Greens—Senator Robert James Brown
Leader of the Family First Party—Senator Steve Fielding
Government Whips—Senators Kerry Williams Kelso O’Brien, Donald Edward Farrell and Anne McEwen
Liberal Party of Australia Whips—Senators Stephen Shane Parry and Judith Anne Adams
The Nationals Whip—Senator Fiona Joy Nash
Australian Greens Whip—Senator Rachel Mary Siewert
Family First Party Whip—Senator Steve Fielding

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

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(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) 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—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—A Thompson
RUDD MINISTRY

Prime Minister: Hon. Kevin Rudd, MP
Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion: Hon. Julia Gillard, MP
Treasurer: Hon. Wayne Swan MP
Minister for Immigration and Citizenship and Leader of the Government in the Senate: Senator Hon. Chris Evans
Special Minister of State, Cabinet Secretary and Vice President of the Executive Council: Senator Hon. John Faulkner
Minister for Finance and Deregulation: Hon. Lindsay Tanner MP
Minister for Trade: Hon. Simon Crean MP
Minister for Foreign Affairs: Hon. Stephen Smith MP
Minister for Defence: Hon. Joel Fitzgibbon 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 Infrastructure, Transport, Regional Development and Local Government and Leader of the House: Hon. Anthony Albanese MP
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate: Senator Hon. Stephen Conroy
Minister for Innovation, Industry, Science and Research: Senator Hon. Kim Carr
Minister for Climate Change and Water: Senator Hon. Penny Wong
Minister for the Environment, Heritage and the Arts: Hon. Peter Garrett AM, MP
Attorney-General: Hon. Robert McClelland MP
Minister for Human Services and Manager of Government Business in the Senate: Senator Hon. Joe Ludwig
Minister for Agriculture, Fisheries and Forestry: Hon. Tony Burke MP
Minister for Resources and Energy and Minister for Tourism: Hon. Martin Ferguson AM, MP

[The above ministers constitute the cabinet]
RUDD MINISTRY—continued

Minister for Home Affairs
Assistant Treasurer and Minister for Competition Policy and Consumer Affairs
Minister for Veterans’ Affairs
Minister for Housing and Minister for the Status of Women
Minister for Employment Participation
Minister for Defence Science and Personnel
Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation
Minister for Superannuation and Corporate Law
Minister for Ageing
Minister for Youth and Minister for Sport
Parliamentary Secretary for Early Childhood Education and Childcare
Parliamentary Secretary for Defence Procurement
Parliamentary Secretary for Defence Support
Parliamentary Secretary for Regional Development and Northern Australia
Parliamentary Secretary for Disabilities and Children’s Services
Parliamentary Secretary for International Development Assistance
Parliamentary Secretary for Pacific Island Affairs
Parliamentary Secretary to the Prime Minister
Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion
Parliamentary Secretary to the Minister for Trade
Parliamentary Secretary to the Minister for Health and Ageing
Parliamentary Secretary for Multicultural Affairs and Settlement Services

Hon. Bob Debus MP
Hon. Chris Bowen MP
Hon. Alan Griffin MP
Hon. Tanya Plibersek MP
Hon. Brendan O’Connor MP
Hon. Warren Snowdon MP
Hon. Dr Craig Emerson MP
Senator Hon. Nick Sherry
Hon. Justine Elliot MP
Hon. Kate Ellis MP
Hon. Maxine McKew MP
Hon. Greg Combet AM, MP
Hon. Dr Mike Kelly AM, MP
Hon. Gary Gray AO, MP
Hon. Bill Shorten MP
Hon. Bob McMullan MP
Hon. Duncan Kerr MP
Hon. Anthony Byrne MP
Senator Hon. Ursula Stephens
Hon. John Murphy MP
Senator Hon. Jan McLucas
Hon. Laurie Ferguson MP
SHADOW MINISTRY

Leader of the Opposition

Deputy Leader of the Opposition and Shadow Minister for Employment, Business and Workplace Relations

Leader of the Nationals and Shadow Minister for Infrastructure and Transport and Local Government

Leader of the Opposition in the Senate and Shadow Minister for Defence

Deputy Leader of the Opposition in the Senate and Shadow Minister for Innovation, Industry, Science and Research

Shadow Treasurer

Manager of Opposition Business in the House and Shadow Minister for Health and Ageing

Shadow Minister for Foreign Affairs

Shadow Minister for Trade

Shadow Minister for Families, Community Services, Indigenous Affairs and the Voluntary Sector

Shadow Minister for Agriculture, Fisheries and Forestry

Shadow Minister for Human Services

Shadow Minister for Education, Apprenticeships and Training

Shadow Minister for Climate Change, Environment and Urban Water

Shadow Minister for Finance, Competition Policy and Deregulation

Manager of Opposition Business in the Senate and Shadow Minister for Immigration and Citizenship

Shadow Minister for Broadband, Communications and the Digital Economy

Shadow Attorney-General

Shadow Minister for Resources and Energy and Shadow Minister for Tourism

Shadow Minister for Regional Development, Water Security

Hon. Brendan Nelson MP

Hon. Julie Bishop MP

Hon. Warren Truss MP

Senator Hon. Nick Minchin

Senator Hon. Eric Abetz

Hon. Malcolm Turnbull MP

Hon. Joe Hockey MP

Hon. Andrew Robb MP

Hon. Ian Macfarlane MP

Hon. Tony Abbott MP

Senator Hon. Nigel Scullion

Senator Hon. Helen Coonan

Hon. Tony Smith MP

Hon. Greg Hunt MP

Hon. Peter Dutton MP

Senator Hon. Chris Ellison

Hon. Bruce Billson MP

Senator Hon. George Brandis

Senator Hon. David Johnston

Hon. John Cobb MP

[The above constitute the shadow cabinet]
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<th>Hon. Chris Pyne MP</th>
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<td>Shadow Minister for Small Business, the Service Economy and Tourism</td>
<td>Steven Ciobo MP</td>
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<td>Shadow Minister for Environment, Heritage, the Arts and Indigenous Affairs</td>
<td>Hon. Sharman Stone MP</td>
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<td>Shadow Assistant Treasurer and Shadow Minister for Superannuation and Corporate Governance</td>
<td>Michael Keenan MP</td>
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<tr>
<td>Shadow Minister for Ageing</td>
<td>Margaret May MP</td>
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<tr>
<td>Shadow Minister for Defence Science and Personnel; Assisting Shadow Minister for Defence</td>
<td>Hon. Bob Baldwin MP</td>
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<tr>
<td>Shadow Minister for Veterans’ Affairs</td>
<td>Hon. Bronwyn Bishop MP</td>
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<tr>
<td>Shadow Minister for Employment Participation and Apprenticeships and Training</td>
<td>Andrew Southcott MP</td>
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<td>Shadow Minister for Housing and Shadow Minister for Status of Women</td>
<td>Hon. Sussan Ley MP</td>
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<td>Shadow Minister for Youth and Sport</td>
<td>Hon. Pat Farmer MP</td>
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<td>Don Randall MP</td>
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<td>Shadow Parliamentary Secretary for Families and Community Services</td>
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Thursday, 28 August 2008

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers.

PRIVILEGE

Statement by President

The PRESIDENT (9.31 am)—Yesterday, during debate in the Senate on the motion for a reference to the Community Affairs Committee about the Exclusive Brethren, the Acting Deputy President Senator Carol Brown undertook to refer to me a point of order raised by Senator Bob Brown. He asked that I give a ruling on the accuracy of a statement by Senator Abetz, who refused leave for Senator Milne to incorporate a document, said to be a previously circulated letter to the Prime Minister, in Hansard. Senator Abetz stated:

But by giving leave, every senator in this place would be vouching for that information and allowing it to have privilege.

It is clear that, by granting leave to incorporate a document in Hansard, every individual senator does not vouch for the information in the document. While the publication of a document by the Senate, including by allowing its incorporation in Hansard, is protected by parliamentary privilege, the composition, content and any previous publication of the document is not protected by parliamentary privilege. The composition and content of a document is protected only where the document is composed for the purpose of submission to a house or a parliamentary committee. This is made clear by section 16(2) of the Parliamentary Privileges Act 1987.

NOTICES

Presentation

Senator Feeney to move on the next day of sitting:

That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sittings of the Senate, from 11 am to 2 pm, to review reports of the Auditor-General, as follows:

Wednesday, 17 September 2008
Wednesday, 24 September 2008
Wednesday, 12 November 2008.

Senator Bob Brown to move on 4 September 2008:


Senator Xenophon to move on 4 September 2008:

That the following bill be introduced: A Bill for an Act to limit ATM and cash facilities in licensed venues, and for related purposes. ATMs and Cash Facilities in Licensed Venues Bill 2008.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.34 am)—I move:

That the following government business orders of the day be considered from 12.45 p.m. till not later than 2 p.m. today:

No. 5 Protection of the Sea Legislation Amendment Bill 2008—Resumption of second reading debate
No. 6 Therapeutic Goods Legislation Amendment (Annual Charges) Bill 2008—Resumption of second reading debate

Telecommunications Interception Legislation Amendment Bill 2008

Question agreed to.

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (9.34 am)—I move:

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

(a) general business notice of motion No. 159 standing in the name of Senator Parry, relating to cost of living pressures; and

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

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 123 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, relating to an amendment to the reporting date for the Joint Standing Committee on Electoral Matters inquiry into the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, postponed till 3 September 2008.

General business notice of motion no. 162 standing in the name of Senator Siewert for today, relating to single aged pension, postponed till 1 September 2008.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Reference

Senator O’BRIEN (Tasmania) (9.35 am)—I move:

That the following matters be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 June 2009:

(a) whether the decision of the Australian Football League (AFL) Board of Commission to prioritise admission to its competition of teams from Western Sydney and the Gold Coast over a proposed team from Tasmania is fair and equitable;

(b) the capacity of the State of Tasmania to sustain a team in the peak national Australian Rules Football competition;

(c) the regional implications of the establishment of an AFL team in Tasmania for economic development;

(d) whether the AFL commissioners’ obligations to current supporters of the game override their desire to promote larger television audiences for it; and

(e) other related matters.

Question agreed to.

Economics Committee

Reference

Senator ELLISON (Western Australia) (9.36 am)—At the request of Senator Johnston, I seek leave to amend general business notice of motion No. 2.

Leave granted.

Senator ELLISON—I move the motion as amended:

(1) That the following matters relating to the Western Australian gas crisis be referred to the Economics Committee for inquiry and report by 14 October 2008:

(a) the economic impact of the Western Australia gas crisis, including but not limited to:

(i) the extent of losses faced by business and industry failing to meet production targets due to the lack of gas supplies,

(ii) the disproportionate disruption to industry in the south west of Western Australia, and
(iii) the nature of contractual arrangements forced on business and industry during the gas crisis and their status since the resumption of gas supplies from Varanus Island; and

(b) the government response to the Western Australian gas crisis, including but not limited to:

(i) the adequacy of the crisis management response,

(ii) the adequacy of reliance on one source supplies of gas for domestic markets,

(iii) the provision of reliable and affordable supplies of alternative energy,

(iv) the feasibility of developing emergency storage facilities of gas in depleted reservoirs or other repositories, and

(v) the justification for any refusals to release relevant facts and documents publicly.

(2) That, in undertaking this inquiry, the committee:

(a) call for the production by the Western Australian Government of all relevant correspondence, advice and reports; and

(b) take evidence in Perth and in major regional centres in Western Australia.

Question agreed to.

BUILDING AND CONSTRUCTION INDUSTRY (RESTORING WORKPLACE RIGHTS) BILL 2008

First Reading

Senator SIEWERT (Western Australia) (9.37 am)—I move:


Question agreed to.

Second Reading

Senator SIEWERT (Western Australia) (9.37 am)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—


These laws are some of the most pernicious ever to have passed through this place. They strip away internationally recognised rights of workers in the building and construction industries.

This bill is intended to ensure such laws no longer exist in Australia.

A consequence of the repeal of the BCII Act is the abolition of the Australian Building and Construction Commissioner (the ABCC). The ABCC has sweeping powers that have no place in the regulation of workplaces.

It is an affront to democracy to have workplace relations laws that take away the right to silence, deny people their choice of lawyer, provide powers to compel evidence with the possibility of gaol for non-compliance, and impose severe restrictions on the rights of workers to organise and bargain collectively.

The ABCC has coercive powers to compel a person to provide information, produce documents, or attend to answer questions at an examination. Persons face fines of up to $20 000 or a gaol term if they do not comply with a request from the ABCC. Lawyers have a limited role and the
Commissioner determines his own practices with a high level of secrecy.

Building and construction workers are being denied basic democratic rights to procedural fairness and natural justice that the rest of us take for granted. These workers - who have not been charged with anything and may only be suspected of knowing about an offence committed by someone else - are being treated with fewer rights than someone who has committed a very serious criminal offence.

It is not appropriate to regulate the relationship between employers and employees in a quasi-criminal way. If there is criminality on a building site it should be dealt with by the criminal law.

A consequence of the operations of the ABCC is that building workers may be too intimidated to speak out about health and safety issues for fear of being investigated. In an industry that has such a high rate of workplace injuries and death, any laws or regulations that provide a disincentive to speak out about safety issues are unacceptable.

The bill repeals both Acts in their entirety. There is nothing to be salvaged from these pieces of legislation.

The International Labour Organisation has repeatedly commented that the BCII Act breaches international labour conventions to which Australia is a signatory. The ILO is a tri-partite body and it has found these laws breach the right to organise and collective bargain and the right to freedom of association.

Sometimes it seems almost old-fashioned to talk about the human rights of workers in a time when our public narrative is so focused on economic indicators. But human rights do matter. They matter whether it is refugees being sent to detention centres, whether it is so-called anti-terror laws or whether it is our rights at work.

This is the former Government’s Work Choices agenda at its most extreme and no-one that purports to be bringing fairness back to Australian workplaces could support the BCII Act or the ABCC continuing any longer and certainly not until 2010.

The ABCC should be abolished and the building industry regulated just like any other industry—in a fair and just manner that balances the needs of productivity and the economy with the health and safety and democratic rights of workers.

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

Leave granted; debate adjourned.

COMMITTEES

Rural and Regional Affairs and Transport Committee

Extension of Time

Senator O’BRIEN (Tasmania) (9.38 am)—I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Committee on the implementation, operation and administration of the legislation underpinning Carbon Sink Forests be extended to 3 September 2008.

Question agreed to.

MISS YVONNE BUTLER

Senator SIEWERT (Western Australia) (9.38 am)—I move:

That the Senate—

(a) notes with sadness the passing of Yvonne Butler, a Townsville elder and a tireless campaigner for social justice and Indigenous rights;

(b) acknowledges the important role that Yvonne played in highlighting the injustice done to Aboriginal and Torres Strait Islander workers whose paid labour was controlled by the Government and which was instrumental in the establishment of the inquiry into stolen wages by the Legal and Constitutional Affairs Committee, and also led to an apology and reparations scheme from the Queensland Government;

(c) recognises Yvonne’s bravery in coming forward to tell her story and the stories of her family, the important impact of her tireless efforts to encourage others to do the same and acknowledges the unanimous finding of the committee report, Unfinished business: Indigenous stolen wages, that for many Indigenous Austra-
EMERGENCY WATER (MURRAY-DARLING BASIN RESCUE) BILL 2008
First Reading
Senator XENOPHON (South Australia) (9.39 am)—I move:
That the following bill be introduced: A Bill for an Act to provide for emergency measures to ensure the environmental and economic sustainability of the Murray-Darling Basin, and for related purposes.
Question agreed to.
Senator XENOPHON (South Australia) (9.39 am)—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) (9.39 am)—I present the explanatory memorandum and I move:
That this bill be now read a second time.
I seek leave to have the second reading speech incorporated in Hansard.
Leave granted.
The speech read as follows—
The Emergency Water (Murray-Darling Basin Rescue) Bill 2008 empowers the Minister to address the current crisis affecting the Murray-Darling Basin and ensures its environmental and economic sustainability by providing all the necessary powers to conduct an interim federal take-over of the Murray-Darling Basin.
The Minister will be empowered to make determinations on any matter necessary to give effect to its objects, including determinations about how best to allocate, share and manage Basin water resources and, importantly, determinations regarding all processes that may adversely affect Basin water resources.
In this respect, the Minister will also be responsible for determining the share of water that is needed to maintain essential system functions and water quality, the share of the remaining non-flood water to which a Basin State is entitled and, the share, if any, to be granted to the environment as a clearly identifiable and inalienable entitlement to a water allocation in the water resource plan area.
The effect of this will be to treat the Basin States and the environment as separate and distinct shareholders of Basin water resources.
The determinations of the Minister with respect to the sharing regime are critical to realising the intended purposes of the bill especially in terms of sustaining and protecting the environment.
The bill will enable the Minister to differentiate between what can be referred to as ‘tradeable’ and ‘non-tradeable’ water when giving effect to an Interim Basin Plan.
The bill will further ensure that when making a determination with respect to an Interim Basin Plan, the Minister has regard to factors which are critical to the sustainability of the Murray-Darling Basin including, the principles set out in the National Water Initiative, critical human needs and environmental needs and obligations amongst others.
The second important feature of the bill relates to regulating water trade.
The bill addresses this in several ways. Firstly, it prohibits persons or agencies of States from limiting or impeding the transfer or sale and purchase of water access entitlements, water access rights and water allocations among Basin States. The practical effect of this is to open up, with the approval of the Minister, the trade in water.
Secondly, it proscribes any State or Territory from acting in a manner inconsistent with an Interim Basin Plan or a determination made under the bill. Again, this will ensure that science, need and national policy, rather than local interest will determine the health of the system. This is vital if we are to have one river system with one set of rules.
Thirdly, the bill prohibits constitutional corporations from undertaking activities that impede the flow of water from the Murray-Darling or taking part in activities that divert or significantly intercept water from the system. Since the 1970s, the High Court of Australia has opened up the scope of the corporations power.

As is well known, the recent WorkChoices decision confirmed that the power now extends to directly regulating the business activities (including things done in preparation for, and in the course of, trade) of constitutional corporations. The bill directly empowers the Minister to prohibit future activities by corporations that would undermine the planned use of the waters from headwaters to the Murray mouth. This is vital because the rivers must run in the national interest, not any single corporate interest.

Fourthly, the bill allows the Minister to acquire, on just terms, a proportion or all of a water access entitlement or a water access right in a water resource plan area, or any land associated with an acquired water access entitlement or an acquired water access right if appropriate, for the purposes of maintaining the reliability of water access entitlements and water access rights or returning water use to sustainable limits.

The Basin is over allocated. The decisions of the past now threaten the very future of the rivers and the communities that adjoin them.

The Commonwealth Constitution gives power to the Parliament to acquire property on 'just terms'. This bill empowers the Minister, subject to the guarantee of just terms compensation, to acquire some or all of the water licences to enable the rivers to be managed responsibly. In the same way that land is acquired 'on just terms' for other infrastructure, so it should also be acquired for the river systems.

Fifthly, the bill addresses the issue of taxation schemes that are detrimental to the management of Basin water resources by requiring the ACCC to inquire into the effects of arrangements in the Income Tax Assessment Act 1997 on the water market and on the nature of irrigation practice and investment. This will ensure an independent and transparent process.

One of consequences of the promotion of agricultural schemes, through the taxation system is that large organisations, which have little or no regard for sustainable agriculture, is the further depletion of our water resources. This bill provides a mechanism whereby the Parliament and the Australian people can scrutinize these schemes.

Finally, the bill deals with States that fail to comply with an Interim Basin Plan by reducing their share in the Basin water resources by ten times the quantitative effect of that failure to comply with an Interim Basin Plan. It also enables the Minister to apply an injunction against a Basin State that continues to fail to comply with an Interim Basin Plan.

For decades the Commonwealth has used its financial power to bring about policy changes on the part of the States. It is regrettable that the States have been eager to demand more funding but are less enthusiastic to comply with national needs.

A failure on the part of the States to comply with the Interim Basin Plan is a failure to manage this precious resource, our river system. Under this plan, there will finally be consequences. The choice, however, remains with the States. It is a provision of the bill that should never be called into action.

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

Leave granted; debate adjourned.

EMERGENCY WATER (MURRAY-DARLING BASIN RESCUE) BILL 2008

Referral to Committee

Senator XENOPHON (South Australia) (9.40 am)—I move:

That the Emergency Water (Murray-Darling Basin Rescue) Bill 2008 be referred to the Rural and Regional Affairs and Transport Committee for inquiry and report by 30 September 2008, together with the reference to that committee agreed to on 27 August 2008.

Question agreed to.
Senator IAN MACDONALD (Queensland) (9.40 am)—I seek leave to amend general business notice of motion No. 163 standing in my name by, in paragraph (b) in the second line, removing the word ‘will’ and replacing it with the word ‘could’.

Leave granted.

Senator IAN MACDONALD—I move the motion as amended:

That the Senate—

(a) notes that:

(i) at 3 pm on Tuesday, 26 August 2008, there were 24 people who could not get a bed at the Townsville General Hospital because of overcrowding,

(ii) at the hospital ambulances are being used as makeshift beds in the first recorded case of ‘ramping’,

(iii) at 10 am on 26 August 2008 there were 18 patients in the emergency department waiting for inpatient beds, and

(iv) in August 2006 the then Labor Premier of Queensland made an election commitment to commence work on a new $85 million wing at the hospital in the 2007-08 financial year;

(b) acknowledges that the Government Medicare threshold rebate proposals could throw additional inpatient bed pressure on the Townsville General Hospital already incapable of dealing with current demand; and

(c) calls on the Commonwealth and Queensland Governments to urgently fund and commence construction of the promised new wing of the Townsville General Hospital.

Question agreed to.

Senator IAN MACDONALD (Queensland) (9.41 am)—I, and also on behalf of Senator Joyce, move:

That the Senate—

(a) notes that on 27 August 2008 a petition of 10300 signatures was presented to the Queensland State Parliament to stop the demolition of the National Trust listed (Endangered Building) and National Estate registered, Cairns Yacht Club; and

(b) calls on the Minister for the Environment, Heritage and the Arts (Mr Garrett) to accede to the Emergency Listing Request made by the ‘People Against Demolishing the Yacht Club’ for the Cairns Yacht Club under the National Heritage guidelines.

Senator LUDWIG (Queensland—Minister for Human Services) (9.42 am)—by leave—This is a short statement. The request to emergency list the Cairns Yacht Club was made to the Minister for the Environment, Heritage and the Arts on 3 July. For a place to be included on the National Heritage List under the emergency provision the minister must be satisfied that (a) the place has one or more national heritage values; (b) that any of those values is under threat of a significant adverse impact; and (c) that the threat is both likely and imminent. It would be inappropriate for the government to support any motion which would, in effect, prejudge the minister’s determination in respect of this decision.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.42 am)—by leave—I would like to have it recorded that the Greens supported that motion.

The PRESIDENT—that will be noted, Senator Brown.
TAX LAWS AMENDMENT (LUXURY CAR TAX) BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—GENERAL) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—CUSTOMS) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—EXCISE) AMENDMENT BILL 2008

Report of Economics Committee

Senator O’BRIEN (Tasmania) (9.43 am)—On behalf of the Chair of the Standing Committee on Economics, Senator Hurley, I present the report of the committee on the Tax Laws Amendment (Luxury Car Tax) Bill 2008, the A New Tax System (Luxury Car Tax Imposition—General) Amendment Bill 2008 the A New Tax System (Luxury Car Tax Imposition—Customs) Amendment Bill 2008 and the A New Tax System (Luxury Car Tax Imposition—Excise) Amendment Bill 2008 and related matters, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES

Economics Committee

Report

Senator O’BRIEN (Tasmania) (9.43 am)—On behalf of the Chair of the Standing Committee on Economics, Senator Hurley, I present the report of the committee on the provisions of schedules 1 and 2 of the Tax Laws Amendment (2008 Measures No. 3) Bill 2008 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

AVIATION LEGISLATION AMENDMENT (2008 MEASURES No. 1) BILL 2008

AVIATION LEGISLATION AMENDMENT (INTERNATIONAL AIRLINE LICENCES AND CARRIERS’ LIABILITY INSURANCE) BILL 2008

NATIONAL GREENHOUSE AND ENERGY REPORTING AMENDMENT BILL 2008

First Reading

Bills received from the House of Representatives.

Senator LUDWIG (Queensland—Minister for Human Services) (9.44 am)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have 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 LUDWIG (Queensland—Minister for Human Services) (9.45 am)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AVIATION LEGISLATION AMENDMENT (2008 MEASURES No. 1) BILL 2008

Australia’s aviation security system has a number of layers to ensure the travelling public and the aviation industry is safe and able to respond quickly against threats of unlawful interference with a plane.
This Bill makes amendments which will enable regulations to be made which will enhance one of these layers, namely the operation of the Air Security Office Program.

The Air Security Office Program involves the placement of covert, armed security officers on select domestic and international flights to protect the flight deck.

Currently, the Air Security Officer Program has underpinnings in the Aviation Transport Security Act 2004, the Aviation Transport Security Regulations 2005 and the Civil Aviation Regulations 1988.

These regulations, and the Acts under which they are made, effectively permit an Air Security Officer to engage in conduct necessary for the performance of duties that would otherwise be contrary to Commonwealth legislation (e.g. the possession of a firearm on an aircraft).

However, existing regulations do not allow an Air Security Officer to lawfully discharge a firearm in an aircraft without the risk of prosecution.

This problem is currently being addressed through periodic notices issued under regulation 144 of the Civil Aviation Regulations 1988, which effectively allow on duty Air Security Officers to lawfully discharge a firearm in an aircraft without the risk of prosecution.

There have been some concerns that the issuing of these exemptions under the Civil Aviation Regulations 1988 is inconsistent with the purpose of safety legislation as it inherently implies that it is safe to discharge a firearm on board an aircraft.

This Bill makes the necessary amendments to the Aviation Transport Security Act 2004 and the Civil Aviation Act 1988 which will allow the current exemptions to be replaced with new regulations under the aviation security legislation.

Under the regime established by this Bill, a lawful discharge of a firearm could only occur in the course of the Air Security Officer’s duties. Which might be, for example, preventing unlawful interference with an aircraft.

Of course, an unlawful discharge would risk prosecution – making the system broadly equivalent to that applying to police officers.

As such, the amendments made by this Bill will provide a more appropriate and permanent platform to deal with the lawful discharge of firearms by Air Security Officers.

One of the key amendments made by this Bill is to enable regulations to be made under the Aviation Transport Security Regulations 2005 which will operate extraterritorially.

Such regulations would only have extraterritorial operation if specified, and would only apply to Australian aircraft or aircraft engaged in Australian international carriage, and the crew and passengers on board these aircraft.

In effect, the proposed amendments will allow regulations to be made permitting Air Security Officers to lawfully discharge their firearms on board an aircraft in Australian territory or an Australian aircraft in foreign territory.

AVIATION LEGISLATION AMENDMENT (INTERNATIONAL AIRLINE LICENCES AND CARRIERS’ LIABILITY INSURANCE) BILL 2008

The Aviation Legislation Amendment (International Airline Licences and Carriers’ Liability and Insurance) Bill 2008 will improve and modernise two regulatory programs related to the aviation industry.

Those two programs are:

- The system of International Airline Licences; and
- The system of mandatory airline insurance.

The bill will overhaul the system of International Airline Licences so that existing licences can be reissued with standardised and consistent conditions. It will also enhance the Government’s ability to check that airlines are complying with Licence conditions, and rectify a range of administrative deficiencies.

The system of International Airline Licences is established under the Air Navigation Act 1920 and its accompanying Regulations. It ensures scheduled international air services are operated in accordance with bilateral agreements and arrangements between Australia and our international aviation partners. They also act as a final checking mechanism to ensure safety and security
approvals are in place prior to the commencement of operations.

There are several problems associated with the current administrative framework for International Airline Licences. For example, once a licence is issued it remains in force indefinitely unless an airline contravenes a provision in the Air Navigation Act, the Air Navigation Regulations or conditions in the licence itself.

As a result, many licences remain in force even though the airlines they were issued to have since ceased to exist or operate services to Australia.

The framework is also unnecessarily complicated by the regulatory structure of the Licence scheme. Currently, some aspects of the regulatory structure are contained in the Air Navigation Act, and other aspects are contained in the Regulations. This complicates the ongoing management and auditing of the Licence process.

This bill will move the entire regulatory framework for International Airline Licences into the Air Navigation Regulations 1947. The bill allows for the granting, variation, suspension and cancellation of international airline licences by the Secretary of the Department of Infrastructure, Transport, Regional Development and Local Government under Regulations.

Regulations will be drafted to update and rectify the current administrative deficiencies in the International Airline Licence system.

The bill also removes a range of redundant definitions in the Air Navigation Act.

The definitions relate to issues such as aviation security, which are now dealt with under the Aviation Transport Security Act 2004.

The second regulatory program overhauled by the bill is Australia’s system of compulsory non-voidable insurance for passenger carrying air operators.

Under the Carriers’ Liability Act, carriers are required to maintain minimum levels of insurance to protect passengers in the event of an accident. The scheme is supplemented by provisions in the Civil Aviation Act, which allow the Civil Aviation Safety Authority - or CASA - to enforce the requirements as part of their management of safety issues via the Air Operator’s Certificate.

The bill will improve the ability of CASA to pro-actively enforce insurance requirements for air carriers. It will also streamline administrative processes.

Under the new system, carriers will no longer need to obtain a certificate of compliance from CASA before flights are operated. Instead, operators will be obliged to provide CASA with a declaration indicating they have obtained insurance. Failure to notify CASA would incur a small administrative penalty. However, operators will continue to be authorised to operate services as long as they have an appropriate contract of insurance.

Amendments to the Civil Aviation Act will ensure that the authority to carry passengers under an Air Operator’s Certificate will only be valid while operators hold an appropriate contract of insurance.

If an operator allows its insurance to lapse, authorisation to carry passengers will automatically lapse, but can automatically be reactivated as soon as an operator secures appropriate insurance. If at any time an operator carries passengers without appropriate insurance, it will be subject to administrative and criminal sanctions.

Additional amendments will be made to provisions in the Civil Aviation Act relating to the short term approvals for non-scheduled international flights that are granted by CASA. In the case of these special approvals, the bill proposes that carriers which do not have a commercial presence in Australia will be required to prove that they have an appropriate contract of insurance before they are granted approval to operate the service. In such cases, the carrier will not be able to make a declaration after conducting the service. This is due to the increased difficulty of auditing a carrier that does not have a commercial presence in Australia.

The bill will improve carrier compliance with the insurance requirements. This is achieved by providing CASA with the necessary powers to regularly audit carriers, to ensure carriers have maintained appropriate insurance at all appropriate times. If CASA identifies an operator that has carried passengers without appropriate insurance, the carrier will be subject to a range of administrative actions and criminal penalties under the
Civil Aviation Act, in addition to criminal penalties that are currently imposed under the Carriers’ Liability Act.

These two regulatory proposals have been the subject of significant industry consultation. When a discussion paper was released some three years ago in 2005, no objections to the proposal were raised.

A Regulation Impact Statement relating to the proposal to reform the system of IALs was prepared in 2006 and is included in the Explanatory Memorandum.

The expected financial costs to the Government to implement this bill are anticipated to be minimal.

Although the Regulation Impact Statement anticipated a small administrative impost to Government, this estimate has since been revised, and it is now expected that any additional financial impact will be able to be absorbed by current resources.

The bill provides long overdue and significant improvements to two important regulatory systems that promote a safe and efficient Australian aviation industry.

———

NATIONAL GREENHOUSE AND ENERGY REPORTING AMENDMENT BILL 2008

The purpose of the National Greenhouse and Energy Reporting Amendment Bill 2008 is to make a number of minor amendments to the National Greenhouse and Energy Reporting Act 2007, to improve the administration of the Act and to make modifications to what information can be published by Government under the Act.

The National Greenhouse and Energy Reporting Act 2007 was introduced by the previous Government and enacted on 28 September 2007.

It establishes a framework for mandatory reporting of greenhouse gas emissions and energy production and consumption by industry.

Corporations which exceed certain thresholds are required to apply to register under the system by 31 August 2009, and to provide data concerning their emissions and energy use, commencing with the 2008-09 financial year. The first corporation reports by industry are due by 31 October 2009.

Data collected by the National Greenhouse and Energy Reporting System (or NGERS) will facilitate policy making on greenhouse and energy issues.

A goal of the system is to eliminate duplicative industry reporting requirements under the existing patch-work of state, territory and Commonwealth greenhouse gas and energy programs. It provides a repository for data which may potentially serve the needs of all Australian governments. The Government is working with the states and territories through the Council of Australian Governments (COAG) to identify opportunities for streamlining national reporting requirements via this system.

In addition, the system aims to underpin the introduction of an emissions trading scheme, and will assist the Government to meet Australia’s international reporting requirements.

The amendments set forth in this bill are, for the most part, administrative amendments to improve the functions of the Act. They do not impose new regulatory burdens on industry. The measures will not have a budgetary impact.

In some cases, the amendments are required to better reflect the original policy intent behind the Act when it was introduced. In other cases, these administrative amendments will increase flexibility for business to comply with the Act.

An example of the greater flexibility provided by these amendments is the area of registration of corporations under the Act. The proposed amendments will ensure that a corporation may apply for registration well in advance of meeting one of the emissions or energy thresholds specified in the Act, as opposed to waiting until the day a threshold is met. In addition, it will no longer be necessary for a corporation to provide evidence that it has met a threshold at the point of registration. This will significantly reduce the red-tape burden imposed on industry at the start of their involvement with the scheme.

Another administrative amendment set out in this bill is to clarify the distinction between reporting of projects leading to reductions and removals of greenhouse gases, and reporting of offsets. Currently, the Act allows a corporation to report on offsets arising from a project undertaken by itself.
or a member of its group. This would prevent a corporation from reporting offsets which could be generated by activities carried out beyond the corporate boundaries of the group. A new provision inserted by this bill will allow separate reporting of offsets and other types of projects.

The bill clarifies that a member of a corporation’s group must provide assistance to an external auditor during audits of the corporation’s group. This will assist in ensuring that the external audit regime imposed by the Act is robust.

The one area where the amendments proposed by this bill go beyond existing policy is in the area of public disclosure. Even here, the amendments do not impose a new reporting burden on corporations. Instead, the effect of the amendments will be to increase the amount of information collected by the system which may be publicly disclosed.

The bill will ensure the public and investors have access to information on both a corporation’s Scope 1 (direct) and Scope 2 (indirect) greenhouse gas emissions. This distinction has been added following public consultation. Corporations will benefit from a greater public understanding of how their emissions profile is composed, rather than from the publication of a single total. In some sectors, Scope 2 (indirect emissions) can compose a significant share of a corporation’s total greenhouse gas emissions footprint.

The bill also allows corporations to disclose to the public the methods used to measure their emissions, and for the accuracy rating of methods to be disclosed publicly. This will lead to far greater transparency concerning the accuracy and reliability of data published.

This bill will make the National Greenhouse and Energy Reporting System simpler to administer, and provide clarity for industry on administrative procedures.

Debate (on motion by Senator Ludwig) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Legal and Constitutional Affairs Committee

Report

Senator O’BRIEN (Tasmania) (9.46 am)—On behalf of the Chair of the Standing Committee on Legal and Constitutional Affairs, Senator Crossin, I present the report of the committee on the provisions of the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Community Affairs Committee

Reference

Debate resumed from 27 August, on motion by Senator Bob Brown:

That the following matters be referred to the Community Affairs Committee for inquiry and report by 26 November 2008:

(a) exemptions for the Exclusive Brethren and its members from Australian laws or administrative decisions;
(b) public funding, tax or other arrangements which do or may advantage the Exclusive Brethren over other community organisations;
(c) the activities of the Exclusive Brethren or its members which threaten or harm families, in particular, the best interests of children;
(d) the covert, as against overt, activities of the Exclusive Brethren or its members in the political process in Australia; and
(e) any related matters.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.47 am)—This is a very straightforward and direct motion to have a Senate investigation into the plight of certain Australians who are repressed and dispossessed of their rights. Those rights include the fundamental rights of youngsters to education, the rights of
women to take part equally in the workplace and the rights of people to be free from outside interference in their relationships with their own families—not least their partners, their children, their siblings, their parents and their grandparents. The Exclusive Brethren sect is infringing on those rights and those freedoms on a broad plane within the Australian community.

In a very lacklustre defence of the Exclusive Brethren position peppered with regret that even he could not support them, Senator Abetz yesterday failed to put a case against this inquiry proceeding. It ought to proceed. In particular, the government, which has not meaningfully contributed to this debate, ought to be supporting this inquiry.

While it is not taking enormous energy from the important matters and issues of the day, which the Greens will be applying ourselves to, we will pursue the matter of government funding of educational institutions run by the Exclusive Brethren. We will be pursuing the political connections between the coalition parties and the Exclusive Brethren. We will be pursuing the alleged breach of the Commonwealth Electoral Act by the Exclusive Brethren's funding of the coalition's 2004 election campaign through back-door methods. We will be pursuing the matter of the rights under Work Choices and other industrial relations legislation of the Exclusive Brethren to exclude unions from 30-plus workplaces in Australia—even if the workers in those places might want the unions to have access—because the hierarchy of the Exclusive Brethren can do that. We will be pursuing these gross infringements of the rights of women, especially married women, to be in the workforce if they wish to and, in particular, the rights of women in workplaces where they have management of male members of that workforce, as happens in workplaces all over Australia. In particular, we will be pursuing the right of thousands of youngsters to be able to get a tertiary education.

I said of Prime Minister Howard that I could not believe that he could turn a blind eye to the activities of the Exclusive Brethren, this destructive removal of the rights of youngsters to a tertiary education in this country. And I am amazed that with the change of government nothing seems to have changed there. However, that is the business of government. With the big parties failing in their duty to properly investigate this destructive sect, it will be up to my colleagues and me to continue to pursue this matter of the Exclusive Brethren—through the committee system, through the question system and through the scrutiny of bills, when appropriate ones come along.

I say this because we have, as ever, members of the Exclusive Brethren hierarchy listening to this debate in the chamber today, in the public section of the chamber. That is not unique to this chamber; it happens in every chamber—the Tasmanian parliament, the South Australian parliament, the Victorian parliament and so on.

The light of day needs to be shone upon the activities of this powerful, self-interested sect run by men who do not give women or youngsters within that group a fair go in 2008 in Australia where everybody should have their rights. A story told to me by a young man who has left the sect, and who was considering suicide just last week, is another poignant indicator of the need for us to be guardians of the interests of all Australians, without fear or favour, and that is what is required here.

On the business of the document that Senator Abetz, on behalf of the opposition, blocked from being incorporated into Hansard—when I was told I could read that out some other time—I can tell you that that will be the case: it needs to be on the public re-
cord. The assisted cover-up of the activities of the Exclusive Brethren by Senator Abetz and colleagues on that side of the parliament is quite untoward in a chamber which values freedom, which values light being shone into dark places and which values the right of all Australians to know what is going on when public moneys—I am talking here about tens of millions of dollars—are extended to a group which removes the rights of the people who live within that group or have either been expelled from it or had the courage to move outside it and face awesome, lifelong punitive action from the men who run this group.

Finally, let me point to a challenge to Senator Abetz and the members on the coalition side of this chamber: have some dialogue with the ‘Elect Vessel’, Mr Bruce Hales, who flies around this country in a Lear jet and who is the only religious leader that I am aware of—of any shape, size, colour, denomination, avocation or belief system—who never, ever allows himself to be brought to public scrutiny. Not one person in the press gallery here, indeed no journalist in Australia, has got within cooee of this man. This is in Australia in 2008, and the opposition, and indeed the government today, is helping the cover-up of his activities, his infringements of the norms of our society, his removal of the rights of thousands of Australians—in their schools, in their workplaces and in their homes—and his personal interference in the rights of families, with such negative impact.

The government and the opposition do not support an inquiry into this, although, as we have seen this morning, they will support an inquiry into all sorts of much lesser matters being brought forward. That is the way of politics; that is the way of influenced politics. The Exclusive Brethren have enormous influence on the coalition parties and will continue to do so. No doubt Senator Abetz and his colleagues would not want to exchange that influence for the benefits that would come to society as a whole if this inquiry were to proceed. This is just another chapter in the opening of a book which should be there for all Australians to read.

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

The Senate divided. [10.00 am]
(The Acting Deputy President—Senator SP Hutchins)

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NOES

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| Bilyk, C.L. | Birmingham, S. |
| Boswell, R.L.D. | Boyce, S. |
| Brown, C.L. | Bushby, D.C. |
| Cameron, D.N. | Cash, M.C. |
| Colbeck, R. | Eggleston, A. |
| Evans, C.V. | Farrell, D.E. |
| Feeney, D. | Ferguson, A.B. |
| Fielding, S. | Fierravanti-Wells, C. |
| Fifield, M.P. | Fisher, M.J. |
| Forshaw, M.G. | Furner, M.L. |
| Humphries, G. | Harley, A. |
| Hutchins, S.P. | Johnston, D. |
| Joyce, B. | Kroger, H. |
| Ludwig, J.W. | Lundy, K.A. |
| Macdonald, I. | Mason, B.J. |
| McEwen, A. | McGauran, J.J.J. |
| Moore, C. | Nash, F. |
| O’Brien, K.W.K. * | Parry, S. |
| Payne, M.A. | Polley, H. |
| Pratt, L.C. | Ryan, S.M. |
| Scullion, N.G. | Sterle, G. |
| Troeth, J.M. | Williams, J.R. |

* denotes teller
Thursday, 28 August 2008

SENATE

3995

Question negatived.

Australian Commission for Law Enforcement Integrity Committee Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mr Chester to the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity.

MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2008

In Committee

Consideration resumed from 27 August.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The committee is considering the Migration Legislation Amendment Bill (No. 1) 2008 and amendments moved by Senator Evans on sheet PD344. The question is that amendments (1) to (2), (4) to (5), (7) to (11) and (13) be agreed to and that schedules 1 and 5 stand as printed.

Senator XENOPHON (South Australia) (10.05 am)—With your indulgence, Mr Temporary Chairman, I will make a brief contribution in relation to the Migration Legislation Amendment Bill (No. 1) 2008 and raise some issues. I had the opportunity to have a brief but very useful discussion with the minister yesterday. My consideration of this bill has raised concerns about inconsistencies in relation to time frames for judicial review, but before I address these I will speak briefly on the substance of the bill. I appreciate that it is an omnibus bill that is to tidy up and rectify impracticalities within the Migration Act, the Australian Citizenship (Transitionals and Consequentials) Act and the Customs Act, and I support the general thrust of the bill: improving the effectiveness of migration and citizenship legislation by addressing and rectifying a range of problems that have been identified in the legislation over the years. Therefore, I am sympathetic to and supportive of the broad intentions of this bill.

I wish to note aspects of the first schedule of the bill which the government proposes to remove by amendment. Items 30 to 35 sought to amend the time limits imposed on applications for judicial review from 28 days to 35 days. I am pleased that the government proposes to remove these items, as I would not have been able to support them. But that leaves uncertainty around the matter of time limits and extensions. I have been informed that the government will address these matters in future legislation. It also raises issues about the history of judicial review of migration decisions in Australia. For many years the legislation has excised judicial review of migration decisions from the Administrative Decisions (Judicial Review) Act and placed it within the Migration Act. In doing so, the right to judicial review for applicants was significantly constrained. Most notably, tight time lines were introduced for submitting applications for review, with no exemptions or consideration of other factors. However, the changes in this legislation will still not permit the courts to allow an application to be lodged outside the set time period. I refer the committee to the High Court ruling in Bodruddaza v Minister for Immigration 2007, which relates to the issue of time limits. It reads:

... the limitation structure provided by section 486A does not allow for supervening events which may physically incapacitate the applicant or otherwise, without any shortcoming on the part of the applicant, lead to a failure to move within the stipulated time limit.

This points to an unfair situation, which the government must fix substantively rather than administratively. This could result in an inconsistency, as time extensions can be granted for consideration by the Administrative Appeals Tribunal—which handles visa issues related to business—but cannot be
granted for the Refugee Review Tribunal, which handles refugee visas, or the Migration Review Tribunal, which handles migrant visas. We have a situation where there is provision for extension for applicants for review of any decision made by any Commonwealth department unless they are a refugee or migrant. I want to make it clear that I am not advocating for changes to the criteria by which refugee or migrant status is granted. What I am calling for is a fair go, for there to be an onus on the government to explain why migration judicial review decisions have different conditions from those of any other department.

I have been approached by the Circle of Friends group in my home state, who have highlighted the cruel edge of this policy inconsistency. I have informed the minister’s office in broad terms in relation to this case and today I will forward the specific details to the minister and request an urgent response. The man in question was assisted to escape Afghanistan by his mother and uncle in 1999 and now resides in Australia. In retribution for assisting him in his escape, the Taliban executed both his mother and uncle and then took his orphan brother captive. After many years this man, with the assistance of the Red Cross, was able to locate the boy in Pakistan and in July 2004 instructed his migration agent to lodge the documentation for a subclass 117 orphan relative visa. What followed was a series of acts of incompetence by the migration agent—the details of which I will also forward to the minister—which ultimately resulted in the migration agent being suspended for three years. Most importantly, the migration agent’s negligence included failing to lodge applications for appeal within time.

Due to the lack of provision for any time extensions, the Migration Review Tribunal now cannot hear this case. While the man has the right to sue the migration agent, this is little comfort while his orphan brother is left in Pakistan. With this man, we do not see a case for changing the criteria for refugee or migrant status; we see a case for the criteria we already have being amended. This man wants not favouritism but a fair go. His is a situation where bureaucracy and inconsistency are adding to a family’s pain and may well be putting a young life at risk. That is the nub of the concerns of Circle of Friends, and I appreciate that the minister will be looking at this as soon as those details are forwarded to him. I look forward to the minister’s response, if not in the committee stage then at some subsequence stage, to this and other matters. I thank the committee for its indulgence.

Senator Chris Evans (Western Australia—Minister for Immigration and Citizenship) (10.12 am)—I will sum up the debate. I thank Senator Ellison and Senator Xenophon for their contributions and their cooperation in progressing what is quite complex legislation made more complex by the government moving its amendments. I wanted to make a couple of points. I am happy to take up—as I indicated to Senator Xenophon—the individual case of the Afghan citizen that he raised. Circle of Friends I know are very active in arguing for and supporting refugees and refugee issues. I have a lot of correspondence from them and we have a lot of interaction with them. It is always good that people take an interest in these matters and advocate on behalf of those in need of support. I am happy to have a look at that particular case and deal with it on its merits.

On the question of effective time limits: as Senator Xenophon quite rightly pointed out, proposed government amendments (2) to (7), which dealt with these issues, were withdrawn. I want to make it clear, though, that we are still very committed to having effective time limits in the legislation. They are
important for an efficient and cost-effective litigation system. They provide a balance between giving the applicants an opportunity to seek judicial review of migration decisions and ensuring timely handling of these applications.

One reason we have people in long-term detention is that they have pursued extensive litigation. They are people who, I think on any measure, ought not be allowed to remain in Australia. They are often people with criminal and other histories, not those that people would traditionally regard as refugees. Some have been in detention for three, four or five years as a result of their pursuit of litigation. It is a real issue for me, for the department and for the system to see that litigation does not lead to long-term detention. It is a complex matter.

Quite frankly, a series of recent court decisions have largely made the Migration Act’s current time limits ineffective. We think reinstating the effectiveness of those time limits is important and does act as a disincentive for people to take advantage of litigation delays and to wait until removal is imminent before lodging an application review. In many instances people wait until they get the notice that they are about to be removed in two days time and then they lodge another application. We want to give people fair process but we do have to have the capacity at some stage to reach a final decision and for the law to be effective. So it is about a balance between time limits and procedural fairness, and we will come back to this issue at a later time in another piece of legislation. We have been affected by the fact that the recent Sales decision has created an urgency about this bill, most particularly schedule 4. Therefore we want to proceed with the bill and we have withdrawn those issues that relate to the time lines.

In summing up, I remind the Senate that schedule 4 to the bill amends the Migration Act so that the character cancellation provisions in section 501 apply to all temporary and permanent transitional visas. Under section 501 of the act, where a visa applicant or visa holder does not pass the character test I have been given the direction to refuse or cancel a visa. This section and this power have been much in the news in recent times. In exercising this power I have a responsibility to the parliament and to the Australian community to protect the community from criminal or other reprehensible conduct and to refuse to grant visas or to cancel visas held by noncitizens whose actions are so abhorrent to the community that they should not be allowed to enter or remain within Australia.

It has always been intended that the minister’s powers under section 501 to refuse or cancel a visa on character grounds would apply to all visas. There was no doubt about that at the time of the bill’s introduction. Doubt has been cast on this by comments in the May 2007 full Federal Court decision in Moore v Minister for Immigration and Citizenship. The full Federal Court decision in Sales v Minister for Immigration and Citizenship on 17 July 2008 gave effect to these comments in Moore. As part of what was a highly technical judgement, the full Federal Court found in the Sales case that a transitional permanent visa cannot be cancelled on character grounds because it is a visa that is held rather than granted. These visas are instead held by operation of law. For the nonlawyers this is terribly confusing but as a result of this decision in Sales some 20-odd people, including Mr Sales, were released from immigration detention. The department, based on legal advice, decided not to appeal the judgement in the Sales case. The advice was that that was not a wise course of action. However, the amendments in schedule 4 an-
ticipated this difficulty and ensure that the character cancellation provisions apply to all temporary and permanent transitional visas and provide validation of all past character cancellation decisions in relation to such visas. This maintains the minister’s ability to protect the Australia community.

I have spoken previously on the government amendments and the rationale for them, and I thank the Senate for its support for those amendments. As I indicated, because of recent court decisions this bill is now quite urgently needed to allow us to administer migration law in this country in the way I think the public would require of us. It is certainly my view that these amendments are very necessary. I appreciate the contribution of senators and their cooperation in dealing with this bill. I appreciate the wider issues raised by Senator Xenophon. Obviously, it is not appropriate to try to deal with some of those highly legal issues on the run. His legal skills will probably be tested when we get to test those issues because migration law—I think Senator Ellison made this point—is as complex as the tax act, and as a result employs thousands of lawyers and migration agents in very comfortable circumstances around the country. It is very frustrating for the minister and at times for the parliament more generally.

I intend to bring a series of pieces of legislation before the parliament that fundamentally look at reform of the act. I think there is a case for a major overhaul of the Migration Act. We have had amendment after amendment built on each other. The complexity now and the interaction of 20-odd years of amendments have made the case for major reform of the act. In addition to that, of course, the Labor government has a very large reform agenda in detention and migration policy that will be reflected in legislation we hope to have this parliament carry. I can assure senators that there will be plenty of opportunity in the next couple of years to debate migration issues and to address any concerns they have as we seek to bring fundamental reform to migration policy in this country. I thank senators for their support. I apologise for the need to make extensive government amendments to our bill and I look forward to its passage.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The question is that amendments (1), (2), (4), (5), (7) to (11) and (13) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that schedules 1 and 5 stand as printed.

Question negatived.

Bill, as amended, agreed to.

Third Reading

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (10.22 am)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (10.23 am)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 3 (National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008).

I understand that this is to accommodate speakers on the other bills and it has been agreed with the opposition.

Question agreed to.
NATIONAL HEALTH AMENDMENT (PHARMACEUTICAL AND OTHER BENEFITS—COST RECOVERY) BILL 2008
Second Reading

Debate resumed from 27 August, on motion by Senator Faulkner:
That this bill be now read a second time.

(Quorum formed)

Senator COLBECK (Tasmania) (10.26 am)—To continue from where we were yesterday in the debate with respect to the National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008, I was talking about, in particular, the concern of the committee and many in the medical profession in relation to the use of pharmaceuticals off label. It was quite disturbing to hear in that inquiry, in the day of hearings, that in paediatrics nearly all medicines are used off label. I acknowledged the work of the advisory groups in working with palliative care particularly to the extent where once upon a time in palliative care nearly all medicines used were off label. That is now down to something in the order of 50 per cent. But there still remains a lot of work to be done for Indigenous people.

Obviously if a medicine is not licensed to be used for a particular indication, the pharmaceutical companies cannot promote a medicine for that particular use. That does not mean that a doctor cannot necessarily provide a prescription for that medicine, and that is quite often the case, but technically under the Pharmaceutical Benefits Scheme it should not be provided under the scheme for those off-use indications.

So you have in paediatrics almost all medicines used being off label; in palliative care it is 50 per cent; and there is an unknown number—but most, I think—with respect to Indigenous people. Again, I commend this government, the previous government and the PBAC for the work that they are doing to try to resolve that, but I do express some concern that fees for the additional indications may provide a significant disincentive for companies to put some of these products up for additional approvals.

It is also important to note that it is not just the pharmaceutical companies that provide submissions for these indications. You are put in a situation where sometimes small groups of individuals in the community or professional bodies decide that it is important that they put a submission in for listing for a medicine for a certain use, and at this point in time it is not specifically clear how those are going to be treated.

We know that there is some discretion in the regulations. The committee has had those regulations only for a week and, as I mentioned earlier in my presentation, the committee was effectively prohibited from completely interrogating this measure because the real workings of it are in the regulations. Even the industry, which has had them for only a week, has not had a chance to look in detail at the regulations, so they cannot tell us yet what their implications will be. That again demonstrates quite a disturbing element in this whole process.

The government seems to be very keen to have this legislation passed; as we heard during the inquiry and as has been indicated during the debate so far, it was announced without warning and without consultation on budget night for implementation on 1 July. The government is now trying to have the legislation passed through the Senate when the real workings of the measure are in fact in the regulations, which we received last Friday afternoon after the report that criticised the government for not releasing the regulations or using the regulations in their consultations with industry was tabled. The
question on notice came to the committee after the report was tabled. Now the government wants the legislation put through the parliament this week without the opportunity for the industry, much less the parliament, to effectively scrutinise the regulations. It is very disappointing that we have been put in this position. The consultation was, I think, insufficient. I do not believe that the government could simply pick up this measure as if nothing had happened. The only indication the industry had from the government was the statement from the minister that I read out earlier.

The other concern is how this measure fits in respect of cost recovery. There were a number of submissions from industry, not necessarily from the manufacturers but from the College of Physicians, Palliative Care Australia and the Pharmacy Guild, who indicated their concerns about how this particular measure fits in with the government’s cost recovery guidelines. The government obviously continues to maintain that it does, but I think that good evidence was given to the committee that it does not meet the cost recovery guidelines. It certainly does not meet the cost recovery guidelines when it comes to consultation because one of the key elements in the cost recovery guidelines actually relates to consultation with industry. So the government clearly have not done that. They seem to be trying to rely very heavily on guidelines from the Productivity Commission rather than on their own published cost recovery guidelines. I find that of concern. Cost recovery guidelines have been submitted for consideration by the public, by industry and by people who might have those measures imposed on them, and yet the government are relying on some guidelines put out by the Productivity Commission—and that is relied on very heavily in their report.

I believe that the government needs to give the industry some time to satisfactorily look through the regulations. I would not rule out the possibility that the Senate will want to have another look at the regulations. That could be potentially a reasonable aspect for us to consider. I know that we were not able to properly consider this measure when it came before the committee because we did not have the regulations. Effectively, all we had was the product of some consultation between government and industry since the budget. There were some promises to consider these particular matters—things like additional indications being registered and the way that certain medicines would be considered with respect to fees—but all of this leads to considerable uncertainty, particularly for those who are looking for quick access to the pharmaceuticals.

I am not convinced that this additional layer of costs will not prohibit medicines from being brought to the market or to the PBS in a timely way. I think that this additional layer of red tape is going to take additional time, despite the department saying that they do not believe that it will. I do not believe that that is the case. Any additional work that has to be done and any negotiation over what classification the medicines may have when applications are submitted will take additional time.

On my reading of the regulations at this point in time I think that there is scope for them to be amended. I know that the Senate does not have the opportunity to amend the regulations; that has to be done through a negotiated process between the government, the industry and perhaps even the Senate itself. We can disallow parts of a regulation or disallow or approve the whole regulation, but we cannot amend them. This approach of putting up a bill that allows for the implementation of regulations really does prevent the Senate from doing its job in respect of making modifications to the measure. I
would like to see the industry given some time.

I am not sure exactly what the government’s intentions are with respect to the legislation at this point in time, and I would appreciate their letting us know that. I think we need more time for proper assessment of the regulations that were released but, as I said earlier in my presentation, I do give the government credit for doing that. I would have appreciated it having occurred much earlier in the process so that we could have looked at it through the Senate process. That would have been very helpful. But we do need time to understand properly what the impact of these regulations will be if the legislation is passed. I would prefer that the legislation not be passed until we and the industry have had the opportunity to properly interrogate the measures. In that circumstance, I indicate that the opposition will not be supporting the legislation at this time. We believe that there is real scope for additional work to be done on this particular measure, and that needs to be done before we could support it.

Senator SIEWERT (Western Australia) (10.37 am)—The National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008 seeks to amend the National Health Act 1953 to allow the recovery of costs incurred by the process of listing medicines on the Pharmaceutical Benefits Scheme, commonly known as the PBS. The Australian Greens have a long history in this chamber of defending the public health system and its three main pillars: public hospitals, Medicare and the PBS. It is a firmly held belief of the Australian Greens that we need to enhance and protect the Pharmaceutical Benefits Scheme. The PBS have a long history in this chamber of defending the public health system and its three main pillars: public hospitals, Medicare and the PBS. It is a firmly held belief of the Australian Greens that we need to enhance and protect the Pharmaceutical Benefits Scheme. The PBS is an essential pillar of the public health system, and it must remain viable so that it continues to deliver to the community the drugs and medicines that we require to maintain our health, to treat serious disease and to reduce suffering. These drugs must be accessible to all in the community who need them.

The Australian Greens also wish to see the ongoing independence of the Pharmaceutical Benefits Advisory Committee, commonly known as the PABC, and we believe it must be able to operate in a transparent way that inspires confidence in its integrity. We therefore frame our concerns regarding this move towards cost recovery measures in the context of our commitment to the public health system and the guaranteed availability on the PBS of listed drugs to people who need them. The Australian Greens commitment to preserve and enhance our public health system and to guarantee the necessary medicines are listed on the PBS and are available to those who need them is fundamental to our approach on measures that affect the public health system. Our evaluation of these measures and the concerns we express about the implementation of this scheme are firmly grounded in these key objectives.

Treasury spending projections indicate that the cost of the PBS will grow over the next 40 years to become the single greatest item of health expenditure. That was articulated in the Intergenerational report of 2007. The people of Australia have every right, therefore, to know and expect that the money is being spent wisely and to the benefit of those who need those items. Any change that may impact on the viability and the integrity of the PBS must therefore, we believe, be very carefully considered. As the Minister for Health and Ageing explained in her second reading speech on 29 May this year, gaining a listing on the PBS delivers a high degree of commercial certainty to pharmaceutical companies. According to the minister, the top 20 pharmaceutical companies in Australia each receive, on average, $223 million from each product successfully listed on the PBS scheme. The Australian Greens therefore welcome the move towards cost
recovery in the case of high-volume commercial applications for drugs and medicines, believing that that is a cost of producing the drug.

However, pharmaceutical companies are also involved in developing other medicines that are less commercially successful but are of great need to our community. These drugs may be of benefit to only a small proportion of the population, often those people who are the most vulnerable in our community and those who would be least able to meet the full cost of these medicines if they were not listed on the PBS. They may be people, for example, who need a specialist drug in palliative care. They may be Indigenous Australians, many of whom live in remote areas that do not have good access to ongoing medical care and need their medicine delivered in different forms. Or they may be children suffering from rare forms of cancer. These drugs are specialist drugs and are only made in low volumes. We do not want to put those people’s health and wellbeing at risk, and we expect our government to make sure that they are not put at risk by the move towards cost recovery.

The Senate Community Affairs Committee inquiry into the bill heard evidence from Palliative Care Australia, who were understandably concerned for the people they represent. Their submission stated, in part:

Palliative medicines, and palliative care, have some important differences from many other medicines and types of health care, in that their purpose is fundamentally not to seek a cure, but to seek relief from pain and other symptoms associated with terminal conditions.

The Australian Greens want to be, and through the inquiry process sought to be, reassured that the development and availability of drugs such as these are not put at risk by the imposition of application fees. To this end, the Australian Greens support an approach to cost recovery that recovers costs from profitable pharmaceuticals but protects the availability of those less commercial medicines that are of great need to the community—in other words, those highly specialised, low-volume and, we acknowledge, sometimes very high cost medicines. We still think that they should be made available.

The Greens sought to scrutinise this legislation so that we could be reassured that these measures were in fact in place. Unfortunately, as Senator Colbeck has articulated, from the time of the inquiry up until only last Friday—six days ago—the draft regulations were not available. Committee members sought availability of those draft regulations through the inquiry process and they were made available on Friday afternoon. Therefore, the industry, the committee and the broader community did not have time to properly read those regulations. I acknowledge the fact that the minister subsequently provided a briefing on the draft regulations and I thank the minister.

It became apparent when we were reading those draft regulations that if you were knowledgeable and understood the dialogue and previous history then you could probably read the regulations. However, even some people in the industry had some misinterpretations of the draft regulations. So the Greens will seek from the government reassurance on record about some of the interpretations of those draft regulations. So the Greens will seek from the government reassurance on record about some of the interpretations of those draft regulations. I understand that the explanatory memorandum or explanatory material that goes with the draft regulations is not available. That causes the Greens concern because if we pass this legislation only on an understanding that we have been given on the draft regulations, how are we to be reassured that in fact that will be what happens?

So we are seeking on record an interpretation of those draft regulations. For example, what does ‘substantive change’ mean in the
draft regulations? This is a fundamental point in respect of drugs that are being put in for assessment through this process. What do ‘major change’ and ‘minor change’ mean? We are told, and I have no reason to doubt the department, that they are clearly understood by the industry. It sounds as if they are not clearly understood by some players in the industry, and they are certainly not clearly understood by community members. So we would like to be reassured as to what a major change and a minor change are, and we seek that on the public record.

As with much legislation in this place, and increasingly so, the trend is for details of legislation to be encompassed in the draft regulations. Unfortunately, as happened in this case, most of those draft regulations are not available for us to comment on at the time we were dealing with the legislation. I think it is a fundamental flaw in the legislative process that so much is now done by regulation and the legislators do not get to see the draft regulations. It was impossible to judge through the committee inquiry process on this legislation whether the issues that were raised and the issues that senators had with the bill were legitimate or whether the concerns were in effect unfounded.

The reason bills are referred to committees is so that we senators can look at them and see if there are unintended consequences and if they actually deliver the policy outcomes that the government is saying they are trying to deliver. How can we do our job properly as senators and as committees of inquiry—I have articulated this issue before—if we do not have all the information available? It also makes it a waste of time. Many people are now very deeply concerned about some of the implications of this bill. We are told that they are unfounded concerns; we have all been ‘getting our knickers a knot’, as they say, around some of these changes. The concerns could quite easily have been resolved if we had had the draft regulations at the time. We would potentially have been much further along in this debate and we could have dealt with the legislation in a much more expeditious manner.

The Greens were, as I have said, very concerned that the draft regulations were not available to the committee inquiry. As the majority report stated: ... in the absence of the regulations which contain the detail of the implementation and operation of the cost recovery arrangements, it has been difficult to appropriately assess the possible implications of the legislation.

As I have said, we do not believe this is good practice. As legislators we need to be assured that legislation is doing what it is supposed to do and not have unintended consequences. Fortunately, the regulations were provided, but only six days ago; not even a week. I hate to point that out to Senator Colbeck but it has not been quite a week since we saw the draft regulations. We have since heard, and I hope that this will be clarified during the ongoing debate, that the regulations are now to be made available for public consultation. I understand it was originally to be for two weeks but I think it is now to be for four weeks of consultation with the appropriate stakeholders, which is a very significant step in the right direction. This is an improvement, but it still means that in this place we are yet to be reassured publicly and on record that our concerns have been met.

I appreciate the fact that the government has given reassurances that orphan drugs and lifesaving drugs will not be affected by the move towards cost recovery. Orphan drugs are extremely low-volume, highly specialised drugs and are already protected by the TGA process. However, we are seeking to clarify the availability of some of the non-orphan drugs. These are particular drugs that do not automatically achieve orphan status but whose economic viability may be threat-
ened by the imposition of application fees because they are being used for other purposes that are not necessarily those for which they were originally listed. They are subsequently used for other purposes and are extremely important, as I have said, for palliative care, rare cancers and those sorts of things. We are seeking to be reassured that those drugs will have protections under the draft regulations. Their use might benefit only a small population and at low volume, so they may not be commercially viable in that particular formulation or that particular use. The problem arises when these drugs are required to go through a second listing process when another use for these drugs is found.

Under these circumstances, while it is clearly in the interests of a small number of patients for the drugs to be listed, it might not be of commercial interest for pharmaceutical companies to go through this next process. So we are seeking a commitment from government that these drugs will also be covered under the regulations if this legislation is to pass prior to those regulations being finalised. I understand that the instrument is a disallowable instrument but, as I think Senator Colbeck also articulated, it is not amendable by this place. We can either disallow a regulation or let it go through. That is a very blunt instrument. I would prefer to see that the regulations were right from the start. Therefore, we are seeking reassurance from the government that these drugs will be protected. We need to be reassured about definitions of substantive change. While I understand the process, some in the community do not. We seek reassurance that there is a proper definition for what are major and minor changes, and that these particular types of drugs will be protected.

One of the other issues that came up during the committee process was the independence of the PBAC. We mentioned that in our minority report on this bill. We are reassured that there is a separation from the department in this process in terms of the independence of the PBAC. We would like to make sure that that is protected in the future. We have circulated an amendment in the chamber because we think that these changes could have some implications for the costs of drugs, which was raised during the committee inquiry. We are proposing that there be a review of this new process on the second anniversary of these changes and that review would look at the impact of the implementation of the cost recovery measures.

There are a number of issues listed that we think should be reviewed. We want to make sure that the cost recovery measures that are implemented are not having an adverse impact on the less commercially viable non-orphan drugs. We seek to make sure that in fact the cost recovery measures are not having an impact on the costs of medicines. That was raised in the committee. The department and the government say that it is not going to have an impact. We think that we need to review that to make sure that it is not having an impact into the future. We would also like to get the review to ensure the continued integrity and transparency of the PBAC. We also want to allow the community to have input into that review.

I will reiterate our concerns to ensure that the non-orphan, low-volume, high-cost drugs that are needed for specialist conditions are protected. We seek that assurance from government. We also seek a commitment from government to review this process in two years time to ensure that the policy outcomes the government desires to see from this legislation are achieved with no negative impact on the PBS or on those sections of our community that are the most vulnerable and need these low-volume, high-cost drugs. We need to ensure that they have been adequately protected by this legislation. If the government
is confident that this legislation will do that, I do not see any reason why it would not support such a review to ensure confidence in the PBS, which every Australian places such a high value on.

Senator STERLE (Western Australia) (10.53 am)—I rise to speak in support of the National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008. This bill amends the National Health Act 1953. Its purpose is to provide authority for the cost recovery of services provided by the Commonwealth in relation to the exercise of powers for listing medicines, vaccines and other products or services on the Pharmaceutical Benefits Scheme, the PBS, and designation of vaccines for the National Immunisation Program.

The PBS, which was a Labor initiative 60 years ago, is a vital element of Australia’s national health system. The PBS has been an outstanding success story. It has played an enormous part in ensuring that all Australians have benefited from the therapeutic advances in prescribed medicines and other PBS listed drugs that have occurred over the past 60 years. It is a scheme that has ensured that taxpayers’ money has been well spent.

Apart from the therapeutic benefits provided by the PBS, the scheme has been an essential factor in ensuring that the cost of prescribed pharmaceuticals in Australia has remained significantly lower than in many other developed nations. Figures published by the Department of Health and Ageing show that Australia’s pharmaceutical expenditure, as a percentage of total health expenditure, is only approximately 13 per cent compared, for example, with that of Canada, where the cost of pharmaceuticals makes up approximately 18 per cent of that country’s health expenditure. On a per capita basis, expenditure on pharmaceuticals in Canada is approximately 30 per cent higher than in Australia, and in the USA it is over 80 per cent higher. Similar levels of expenditure in Australia would add several billion dollars annually to Australia’s health budget and would undoubtedly put pressure on the funding of other essential health service needs.

In Australia, a new medicinal drug must gain approval for supply in accordance with the requirements of the Therapeutic Goods Act 1989. Approval is also required to extend the indications of an established drug. Applications are dealt with by the TGA, the Therapeutic Goods Administration. For prescription drugs, advice is sought from an expert committee known as the Australian Drug Evaluation Committee, the ADEC.

Once a prescription drug is approved for marketing, the company concerned usually applies to the Pharmaceutical Benefits Advisory Committee to have the drug listed on the PBS. The PBAC is an independent statutory body established under section 100A of the National Health Act 1953. Its members are selected from consumers, health economists, practising community pharmacists, general practitioners, clinical pharmacologists and other specialists. This remains unchanged.

The role of the PBAC is to make recommendations and give advice to the minister about which drugs and medicinal preparations should be made available as pharmaceutical benefits. No new drug may be made available as a pharmaceutical benefit unless the committee has so recommended. The committee is required by the act to consider the effectiveness and cost of a proposed benefit compared to alternative therapies. In making its recommendations, the committee, on the basis of community usage, recommends maximum quantities and repeats, and may also recommend restrictions as to the indications where PBS subsidy is available.
When recommending listings, the committee provides advice to the Pharmaceutical Benefits Pricing Authority, the PBPA, regarding comparison with alternatives or their cost effectiveness. It is the task of the Pharmaceutical Benefits Pricing Authority to negotiate the PBS price of the drug with the sponsor company. The Pharmaceutical Benefits Pricing Authority consists of government, industry and consumer representatives.

After agreement is reached, the Australian government considers the advice of both committees and makes a decision on whether the drug will be listed on the PBS. The processes for listing a drug on the PBS are rigorous and detailed, as they should be. These processes have served the Australian public exceedingly well over many years and are processes that the pharmaceutical industry is now well attuned to. They are of course not without significant cost to government.

For the pharmaceutical industry, achieving a product listing on the PBS is very valuable and provides a high level of commercial certainty to a company in relation to that product’s sales. It is worth noting, for example, that in 2006-07 the top 20 pharmaceutical companies, by total cost of payments, each received, on average, $223 million from the Commonwealth via the PBS subsidy. The government has therefore decided that the time has arrived when these costs should be recovered and should no longer be an impost on the taxpayer.

Cost recovery is not a new policy. Cost recovery arrangements have been applied with success to many departments and agencies at state and federal level including, for example, the Therapeutic Goods Administration, the Civil Aviation Safety Authority and the Australian Prudential Regulation Authority. The Productivity Commission has commented that, by ensuring those who use regulated services bear the costs, cost recovery can promote economic efficiency and equity by instilling cost consciousness among agencies and users. In this case it is expected that cost recovery will provide benefits to both government and industry—for example, potentially increasing the compliance of submissions with the PBAC guidelines and reducing time and costs associated with re-submissions.

Revenue from PBS cost recovery will depend on the number and type of submissions brought to the PBAC for consideration. As a general rule, the more complex and time consuming the evaluation and price negotiation, the higher the fees. Once fully operational, annual revenue from fees is expected to be about $9 million in 2008-09, rising to around $14 million a year in following years. It is expected that fees will be indexed annually and a full review undertaken within five years, in accordance with cost recovery guidelines.

The amount of cost recovery fees with respect to the listing of drugs on the PBS needs to be measured against the cost to government in providing subsidised medicines and fully funded vaccines to the Australian community. In 2006-07 the Commonwealth paid $6.4 billion to approved pharmacists, hospitals and medical practitioners for the subsidised supply of medicines under the PBS. This expenditure amounted to approximately 84 per cent of the total cost of prescribed PBS listed medicines. In this regard it is worth noting that over 70 per cent of the cost of the PBS is for the provision of prescribed medicines for the least well off in our community, including aged and disability pensioners. Without the PBS many people would not be able to obtain the drugs they need. In addition, in 2006-07 the Commonwealth provided a further $280 million to the states and territories for the fully funded supply of vaccines under the National Im-
munisation Program within their respective jurisdictions.

There has been some comment about the ability of drug companies to pay the fees to be set under PBS listing cost recovery arrangements without detriment to the availability and supply of prescribed pharmaceuticals. The pharmaceutical industry is by most standards a very profitable industry. In this regard it is relevant to compare the levels of drug company expenditure on what the drug companies refer to as ‘education events’ with total expected PBS cost recovery fees. Publicly available information suggests that in any one year drug companies spend well in excess of $60 million on educational and promotional activities. These activities are viewed by many people as being more akin to direct and active marketing to the medical profession of particular drugs than to simply educate. This expenditure has drawn the attention of the ACCC, which moved in 2006 to require much greater transparency from the pharmaceutical industry with regard to this expenditure.

A study undertaken in 2006 by University of New South Wales researchers, and reported as being the most comprehensive research ever conducted into the link between Australian medical professionals and drug companies, found that ethical guidelines were often breached. The survey of 823 medical specialists from across the country found that 96 per cent received offers of food, 94 percent were offered items for the office, 51 per cent reported offers of gifts for personal use and 52 per cent were offered travel support to attend conferences. As well, one in 20 reported offers of personal gifts or activities that were in clear breach of the guidelines, such as offers of wine, flowers, tickets to entertainment or sporting events and funds in exchange for accepting promotional visits. Other findings included that 52 percent of respondents were offered travel expenses to both international and national destinations, with a mean value of $7,559 for international travel and $1,395 for domestic travel. In some cases business class and first class airfares were provided. It was found that 15 per cent of specialists requested financial support from pharmaceutical companies for activities and items including conferences, travel, educational activities, salaries and donations to specific funds; and 18 percent were offered equipment, including video editing technology, cameras and blood pressure monitors. The lead author of the study commented:

Even though the majority of gifts and requests for support do comply with the guidelines, this research shows that the relationship between pharmaceutical companies and medical specialists is a very cosy one indeed.

He went on to say that previous research showed that doctors are influenced in their prescribing by gifts, even when they think they are not.

In 2006 the ACCC, in authorising Medicines Australia’s code of conduct, imposed a new requirement making it compulsory for Medicines Australia to provide six-monthly reports on behalf of its members detailing an itemisation of health professional educational events and expenditure. The latest report for the six months to 31 December 2007 shows that in total drug companies spent over $31 million on these events, including over $16 million on hospitality. While I am not suggesting that there is anything improper regarding this expenditure, it does indicate that there should be more than enough scope within the drug companies’ bottom lines to meet the costs associated with obtaining PBS listings. It is also worth noting as a matter of interest that in 2006-07 the Medicines Australia code of conduct committee imposed fines of approximately $1 million for breaches of the code of conduct. This money was used to defray the cost
of monitoring the code of conduct—in other words, Medicines Australia, within its own operations, is committed to cost recovery and the user pays principle.

For its part, the Rudd Labor government is very attuned to the importance of a strong and growing pharmaceutical industry in this country. The Australian pharmaceuticals industry is Australia’s second largest manufactured goods exporter, with exports of almost $4 billion a year. The industry employs 34,000 people, spends $752 million a year on R&D and has a turnover of over $18 billion.

Senator Kim Carr, the Minister for Innovation, Industry, Science and Research, recently announced the establishment of a Pharmaceuticals Industry Strategy Group. The strategy group will be headed up by Dr Brian McNamee, the Chief Executive Officer of Australia’s largest pharmaceuticals company, CSL. The strategy group will examine the drivers and barriers to attracting new internationally competitive and sustainable manufacturing and R&D investment in the pharmaceuticals sector. It has been asked to present a draft report to the minister by September and a final report by the end of the year. Members of the strategy group will be drawn from all segments of the biopharmaceuticals value chain. Leaders from the pharmaceuticals, biotechnology and generic medicines industry have asked to participate, along with union representatives. The chief executives of Medicines Australia, AusBiotech and the Generics Medicines Industry of Australia will be members of the group.

As well, Senator Carr together with the Minister for Health and Ageing have committed to reconvening and revitalizing the Pharmaceuticals Industry Working Group to become the premier forum of pharmaceuticals industry policy advice, which regularly discusses strategic issues and develops solutions to the challenges of tomorrow. In summary therefore, this bill needs to be seen in the context of the Rudd government’s commitment to the rigorous economic management of government funded health services and particularly the PBS, alongside its very strong commitment to encouraging and supporting the future development of Australia’s pharmaceutical manufacturing industry.

Finally, in the model reflected in the bill the independence of the PBAC is guaranteed. The government will continue to directly fund all the activities of the PBAC and its subcommittees. The PBAC will have no role in setting fees and it will not receive any revenue from industry. All revenue collected from cost recovery will be paid directly into consolidated revenue. As the minister in the other place has said, this bill is all about ensuring that the PBS continues to be able to provide reliable, timely and affordable access to a wide range of medicines for all Australians. I commend the bill to the Senate.

Senator HUMPHRIES (Australian Capital Territory) (11.09 am)—I rise to indicate a much greater level of uncertainty and concern about the National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008 than Senator Sterle seems to feel about it. I see a piece of legislation which has not been well consulted on, the effect of which is likely to be felt in the hip pockets of Australian consumers of pharmaceuticals, and which has not been handled in a way which I would consider to be a model for the way in which legislation should be brought forward. I am referring there particularly to the way in which the government has handled the question of tabling regulations—that they should give, in this case, the Senate Standing Committee on
Community Affairs confidence that what is being done is appropriate and within the government’s own guidelines for cost recovery. I will come back and explain what I mean by that in a moment.

I will start by making the observation that before the federal election last year Labor made a great deal of its capacity to attack the waste and inefficiency in the way the Howard government ran agencies and departments. It claimed that there was a great deal of wasted expenditure, that we were spending profligately and that the cost of government could be reduced substantially by cutting back on this waste and efficiency without affecting the quality of services delivered to the Australian community. What we saw in the first Rudd-Swan budget was the eschewing of the clinical, surgical removal of fat. Instead, they went for the cutting off of whole limbs—measures which were crude, direct and which simply took out operations, irrespective of their efficiency or effectiveness—and the imposition of an increased efficiency dividend which, of course, was imposed equally on inefficient and efficient areas of government.

This legislation is an example, I think, of that crude policymaking. The previous government looked at the question of cost recovery. It undertook consultation to see whether cost recovery was a good idea. It came to the view, listening to that consultation and looking at all the evidence, that it was not a good idea and that it was not going to work.

Senator McLucas—You didn’t tell anybody.

Senator HUMPHRIES—Well, it did not proceed. We undertook the consultation in 2005 and there was no cost recovery pharmaceutical benefits bill, Senator. So I think it is fair to assume that we came to the view that it was not a good idea.

Senator McLucas interjecting—

The ACTING DEPUTY PRESIDENT—Senator McLucas, you have made your point.

Senator HUMPHRIES—I am surprised Senator McLucas could not work that out, but that is what happened. If Senator McLucas had sat through the evidence that was presented to the Senate Standing Committee on Community Affairs she would have seen very clearly that the stakeholders in this industry were concerned. I do not mean just the pharmaceutical companies themselves but people like those in the Australian Medical Association were concerned about the direction of this legislation and the impact that it might have on the availability particularly of low-volume drugs in the Australian marketplace and the off-label uses of a number of those drugs in all sorts of settings in Australian medicine. We discard or put aside those concerns expressed by industry at our peril.

Obviously the government has put forward legislation which seeks to increase the cost of delivering medicines to the marketplace. That is the inevitable effect of this legislation. The question is whether that additional cost will be absorbed by the pharmaceutical companies themselves or whether it will be passed on to the consumers. It would have been nice to hear, in the course of today’s debate—from the government that it has assurances of some sort that these measures will not translate into higher costs of medicines and that it has discussed this with the industry and has obtained such an assurance or that it has some other understanding of the economic modelling at work here which would lead us to believe that there would not be higher costs. But I have not heard that evidence as yet, and I frankly do not believe that evidence is available, because I do not think there is anything that
would lead us to expect that these costs will not be passed on, ultimately, to Australian consumers.

As I have mentioned, the bill was analysed by the community affairs committee. The absence of draft regulations made it difficult to complete that task appropriately and to the standards which that committee has set in the past, and made it difficult to assess the extent to which the new arrangements would be capable of delivering medicines without increasing costs. One has to be just a little bit cynical about the timing of the tabling of the regulations. Had they been tabled a few days before last Friday, it might have been possible for the committee to look at those regulations and make some comments about them, however rudimentary. Had the regulations being tabled a few days after they were actually produced, it would not have allowed the committee to make the point that the inquiry was done without the exposure of the regulations. By tabling them on the day that the committee report was tabled, out of session, it allowed the government to say: ‘Oh, the regulations are there; we’ve made them available. We just didn’t get them to the committee in time for it to have a look at them as well.’ One can be a little bit cynical about that kind of process.

The other point about consultation that needs to be made is that since November 2007 there has been no indication, none whatsoever, that the government was going to change its policy on cost recovery or introduce this element of cost recovery into the operation of the Pharmaceutical Benefits Scheme—in fact, quite the contrary. The only public policy statement by the government prior to the budget announcement—which did not support the implementation of cost recovery—also places the measure at odds with the guidelines. Although the scheme was considered previously, in 2005, as I have said, the lack of consultation with industry in this case I think reinforces concern about whether this is actually based on a properly considered and consulted-on model or on an ideological view that the industry can just wear these extra costs, on a hope and a prayer that the costs will not be passed on to consumers.

Of course, since the former government undertook its consultation in 2005, there have been a number of key changes in this area. There has been a renegotiation of the prices that the government pays for PBS medication, for example. It was interesting to see the submissions and the line-up of witnesses to the inquiry almost unanimously opposing what the government was trying to do. There was one supporter of the government’s proposals, Professor Tom Faunce—one—and even he made it clear that he felt that this was only going to work if the savings or extra revenue the government generated by this measure were ploughed back into measures to do with better health outcomes. The government has offered no assurance that that is going to be the case at all, and simply pointing to another area where more money is being spent is hardly the kind of hypothecation that I think Professor Faunce was really getting at.

A major concern is the lack of detail in the proposals, as mentioned by previous speakers, including Senator Colbeck. Drugs used for paediatrics, palliative care and in Indigenous settings may be hardest hit, as they often fall into the low-volume indications. Medicines Australia have indicated that the cost recovery measures may run counter to the government’s own cost recovery guidelines, including lack of consultation on them and their cost-effectiveness, and the fact that they would create an unnecessary delay in bringing drugs to market and stifle competition through exacerbation of ‘free-ride’ effects. Exemptions granted for listings for low-volume drugs or indication expansions
might be passed on to other, non-exempt submissions, thus hiding the disincentive of this measure from the Australian public. As exemptions are in the regulations, the committee’s inability to scrutinise the regulations before the report was brought down was of concern.

And that is why the opposition has decided that it will not support this legislation. It is not simply a question of poor process, with the government having left the guts of the legislation off the table until it was too late for the parliamentary scrutiny process to do its job. It is also because fundamentally it betrays the concept of a Pharmaceutical Benefits Scheme which is capable of delivering medicines at the most affordable rates to the Australian community in a timely way—because, whatever you might say about this arrangement, it is an added cost to the cost of bringing a drug to market and, in my view, it is simply inconceivable that these costs will not be passed on to Australian consumers.

The fact is that this legislation betrays two elements of Labor policy announced before the last election. One was that Labor was going to look after Australian consumers. It was concerned about the rising cost of living in Australia. It wanted people to have some relief from the way in which costs were rising. Now, if this move does result in higher costing medicines—and it would be very hard indeed to measure; no-one can say with any certainty that it will, no-one can say with any certainty that it will not—then Labor has betrayed that promise it made to the Australian community about those costs. The other is that Labor made a quite explicit statement about its concern about the proposal for cost recovery in this area. The now minister said, on 31 May last year, when she was shadow minister:

The PBAC needs to be independent of government and of industry, and we cannot see the justification for this move to the cost-recovery model.

I have asked the government to reconsider this approach given the risk to the independence of the PBAC, or even to consider if cost sharing, perhaps between the government and industry, being the major stakeholders in the PBAC, would be more appropriate. I note the AMA has recently backed this call to ensure that independence is maintained.

If independence were simply a matter of making a small change to the legislation then presumably the then opposition would have done that, or suggested or proposed that, but as far as I am aware they did not do that.

Senator McLucas—There was no legislation to do that.

Senator HUMPHRIES—Well, you did not put forward suggestions as to how you might do it, did you? You did not say, ‘We will support legislation—'

Senator McLucas interjecting—

Senator HUMPHRIES—You could have gone back to the minister and said, ‘We will support legislation if you build in the independence of the PBAC.’

Senator McLucas—What, blanket approval?

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order, Senator McLucas and Senator Humphries!

Senator HUMPHRIES—I have to say that I think that the government, the then opposition, wanted to obtain the assurance of the sector that it was against this dreadful cost recovery measure, wanted to neutralise opposition to it perhaps at the last election and then bring this measure forward subsequently when it was in government. It suddenly needed to find those dollars that it had promised were somewhere else, salted away in the bowels of an inefficient department of health, and then it discovered the dollars were not there at all when it got to the government benches. The other point of course is that this measure, to the extent that it adds
to the cost of medicines, will fuel inflation. It has also claimed to be the low-inflation party. We have seen no indication of it actually honouring or supporting that claim in anything that has been done in its first budget.

I note that the Australian Greens have moved some amendments to the legislation. The opposition will be supporting those amendments. I am not sure that Australia needs another review but that is what an amendment does deliver. I will point out, however, that in reviewing the things that this amendment foreshadows—such as the average number of times a submission is presented before gaining approval, the average cost of submissions by type of submission, the number of applications received for non-orphan drugs et cetera—it does not, and obviously cannot, encompass a review of the number of drugs which are not presented for exemption. It cannot find out, by such a process in any case, how many times drug companies decide that particular drugs are too low-volume to warrant taking to the marketplace, if they have to meet a cost in actually bringing them to that marketplace.

I note that these late regulations provide a capacity to waive fees, and that is good, but my reading of these regulations—and perhaps the minister can indicate whether I have misread them in some way—is that the fee has to be paid at the time that the application is made, or shortly thereafter, and a decision is made independently as to whether the fee can be waived. If the fee is not waived after the application is made, there is no capacity by the applicant to withdraw the application on the basis that it would not be economic to proceed with that particular application. In other words, if you are a drug company and you have a low-volume drug that you want to introduce to the marketplace for a handful of people who happen to need that drug and you think, ‘It might be worth putting this forward, but we don’t have any certainty that we’re going to end up with the fee being waived,’ you might just as well say, ‘In that case, let’s not worry about it. It’s only a handful of people that this would benefit. We will leave the drug off the market altogether.’

The regulations say the department may waive a fee payable if the application involves the public interest and the payment of the fee would make the application financially unviable. I would like to know why the government has not said it will waive the fee in those circumstances. If it is in the public interest, why not make it compulsory to waive the fee? If it is in the public interest and the fee would make the application financially viable, why shouldn’t an applicant have the certainty that they will have the fee waived? I think this is an issue which again reinforces the sense that the government is after the money; it is not interested in the long-term Australian patient who uses drugs and the effect of the measures that it has introduced into the Senate.

I am concerned about this. I think that this is a leap in the wrong direction. It was considered by the previous government; it was not proceeded with for very good reasons. I think it is a little bit galling to have the new government, which continually criticised our lack of consultation and our inability to consult with people, now telling us that our consultation, which led to us not proceeding with this measure, was satisfactory for them to make a decision now, three years later, that this measure can go ahead, despite the obvious lack of support from any of the stakeholders in the sector. The Senate should reject this legislation. If it does support it, it should certainly support the amendments and should consider what direction the Labor Party is taking with these sorts of measures. Is it grabbing for the dollars or is it trying to improve health outcomes for the Australian
people? The former conclusion is very hard to resist.

Senator CAROL BROWN (Tasmania) (11.27 am)—I rise to contribute briefly to the debate on the Pharmaceutical Benefits Scheme, the PBS, which was an initiative of a Labor government and has been operating in Australia for over 60 years. It was designed to facilitate affordable and timely access to prescription medication. The PBS has become a key feature of the modern Australian healthcare system on which Australians rely heavily. The aim of the PBS remains the same as it was when the scheme was first introduced by Labor over 60 years ago: to ensure all Australians have access to affordable, high-quality medication. Indeed, the very concept of the PBS finds its foundations in the long-held Labor notion of universal health care: that affordable health care, including services and products, should be available to all Australians, not just those who can afford to pay a given price. In light of this, the PBS, by subsidising the cost of an array of prescription medicines, has operated to facilitate the implementation of universal health care when it comes to access to medicines. The positive effect that the PBS has had should not be underestimated. Hundreds of thousands of Australians suffering from a wide variety of health conditions—including those suffering from chronic illnesses such as asthma and arthritis—have unquestionably benefited both physically and financially from the ability to access subsidised prescription medication.

The same can be said for the hundreds of thousands of Australian men, women and children who have benefited from being immunised under the National Immunisation Program. It would not be unreasonable to suggest that countless lives have actually been saved because of the operation of the NIP, which provides fully funded vaccines for major preventable diseases. Indeed, it is through the operation of the government health initiatives such as the PBS and the NIP that this country has been able to establish a reasonable, basic standard of health and wellbeing for a majority of Australians. The government recognises the immense value of the PBS and the NIP and is dedicated to ensuring that initiatives continue to operate to ensure that all Australians enjoy a decent standard of physical health and well-being.

The specific purpose of the bill we are debating here today is to amend the National Health Act 1953 by introducing provisions allowing the Commonwealth government to implement cost recovery arrangements for the services and activities related to listing medicines on the PBS or designating vaccines for the National Immunisation Program. On 25 August, the Senate Standing Committee on Community Affairs handed down its report on the bill. The majority report recommended that the bill be passed, with an additional recommendation that the regulations contained in the bill:

... should incorporate specific measures, whether through exemptions or waivers or some other form, to ensure that there is no disincentive for companies to lodge applications to list low-volume medicines, or to change or extend the indications of listed medicines.

I fully endorse the recommendations contained in the majority report. During the course of the inquiry the committee heard evidence from a number of stakeholders regarding the possible impact cost recovery may have on the PBS listing process. At present, to be listed on the PBS a pharmaceutical must receive marketing approval from the Therapeutic Goods Administration—the TGA—and obtain a positive recommendation from the Pharmaceutical Benefits Advisory Committee, or PBAC. This recommendation goes to the Pharmaceutical Benefits
Pricing Authority—the PBPA—and then to the minister for final approval.

Until this point, the costs associated with lodging an application for PBS listing, regardless of whether the application succeeded or failed, were borne by the Australian taxpayer and not the pharmaceutical company lodging the application. When combined with the actual cost of providing subsidised medicines and fully funded vaccines under the PBS and the NIP, this equates to a significant financial outlay for the Commonwealth government and taxpayers. Indeed, in the 2006-07 budget cycle the Commonwealth government paid $6.4 billion to approved pharmacists, hospitals and medical practitioners in the form of subsidies for the supply of medicines under the PBS. A further $280 million was provided by the Commonwealth to fully fund the supply of vaccines under the NIP. Undoubtedly it is this large financial outlay by the Commonwealth government which led witnesses during the inquiry, such as Associate Professor Thomas Faunce, to highlight the importance of the introduction of cost recovery arrangements to ensuring the long-term sustainability of the PBS.

Under the proposed amendments contained in the bill, the onus of the costs associated with lodging an application for PBS listing will be shifted to the companies seeking the listing. Under the changes, the Commonwealth government will be entitled to recover both the costs associated with lodging a submission to the PBAC and, subsequently, the costs of the processes that arise from those submissions in relation to new listings or changes to existing listings. Under the model contained in this bill, as opposed to that proposed by the previous Howard government, all revenue collected from cost recovery will be paid directly into consolidated revenue, guaranteeing the independence of the PBAC, which will have no role in the setting of fees and will not receive any revenue from the industry.

It is important to note that the government was in opposition when the previous government sought to introduce cost recovery for the PBS and NIP. At the time, we shared some reservations with some of the stakeholders about the previous government’s proposal—in particular, the possibility that the independence of the PBAC could be threatened. However, as I have mentioned, under the model contained in this bill the independence of the PBAC is guaranteed. Under our model, cost recovery will not affect the structure or the operation of the PBAC, nor will it compromise the independence of the committee decisions.

Once the legislation is fully operational, it is estimated that the annual revenue regained from cost recovery fees will be around $9 million in 2008-09, increasing to around $14 million in the following years. It is important to note in saying this that the government is committed to ensuring that there is due process to make sure that the fees that are levied are fair and reasonable. The government believes that this is not an unreasonable burden for pharmaceutical companies to bear in light of the significant financial benefits which such companies enjoy if they are successful in having a product listed on the PBS. Indeed, pharmaceutical companies have had years to prepare for the introduction of PBS cost recovery fees, since the previous government, despite its delay in introducing the initiative, never once told the industry that it was off the policy agenda. It is likely that making pharmaceutical companies, rather than Australian taxpayers, accountable for the costs associated with lodging a submission will encourage companies to prepare better quality submissions.

There were some concerns raised during the course of the inquiry that the addition of
cost recovery fees to the process of listing medicines on the PBS may present companies with a disincentive to develop and list new medicines—specifically, low-volume medicines. However, as the Minister for Health and Ageing pointed out, cost recovery is not a new process. Indeed, the experience of the TGA, where cost recovery fees have been applied successfully for the past 15 years and new products continue to be registered, highlights the viability of the cost recovery process. The department noted in their submission to the committee that the financial incentive of being listed on the PBS, in most cases, outweighs any disincentive in relation to cost recovery fees. However, it also noted that niche products designed for a smaller market will, under the legislation, be given consideration under the cost recovery arrangements which would allow for a discretionary waiver of fees on those grounds. In its final report the committee recommended that the bill be passed, but it also recommended:

... that the regulations should incorporate specific measures ... to ensure that there is no disincentive for companies to lodge applications to list low-volume medicines, or to change or extend the indications of listed medicines.

While the bill in its current form provides some scope for a waiver of cost recovery fees where it may be in the public interest, the proposed amendments would simply make it absolutely clear that there will be no disincentive whatsoever to smaller pharmaceutical companies lodging submissions or for any company to lodge submissions for lower volume medications.

The government agrees with the committee that the regulations should provide for the protection from fees for applications seeking to list orphan or low-volume products. The minister has released the draft regulations, and I understand that the period for consultation on the draft regulations will continue until 19 December. A number of drugs will be granted exemption from cost recovery fees. For example, TGA designated orphan drugs and drugs approved for temporary supply will attract automatic exemption. Medicines used in palliative care, medicines used to treat conditions common to Aboriginal and Torres Strait Islander populations and paediatric medicines will also be exempt. The draft regulations show that the department can waive fees where it is in the public interest and where the payment of a fee would result in the application not being financially viable.

The Productivity Commission has pointed out that, by ensuring that the pharmaceutical companies that are regulated bear the costs associated with making a submission, cost recovery under the PBS can promote economic efficiency and equity by promoting cost consciousness among agencies and users. Obviously, by passing on the cost burden in the majority of cases these measures also promote the longevity and sustainability of the PBS, which has served the Australian community for over 60 years. Therefore, under these measures Australian men, women and children will continue to enjoy affordable and timely access to a wide variety of medications. Indeed these measures will ensure that the PBS—which has become the keystone of the Australian health system—continues to promote, as far as possible, universal access to quality health care in terms of both products and services. The measures contained in this bill are in line with the Rudd Labor government’s broader commitment to improving access to affordable quality healthcare services in this country. The government introduced these measures in its May budget and their implementation has already had significant financial consequences. The opposition is being completely hypocritical by not supporting this bill. As I have said, I support the recommen-
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...ations of the Senate community affairs committee majority report and hence the passage of the bill.

Senator BOYCE (Queensland) (11.39 am)—I was interested to hear Senator Carol Brown tell us that the government is committed to due process in this move on PBS cost recovery. The government has a reputation for being all about process, for being about reviews, inquiries, workshops and talkfests. Yet, the opposition’s objection to this bill is about the lack of process. There are no draft regulations and still there is no explanatory memorandum for the draft regulations. Witness after witness when they spoke at our inquiry said that they had no idea what this was going to mean in practical terms. How was it going to work? No-one knew. Where were the draft regulations? It is a fundamental flaw in the legislative process of this government that there are no draft regulations. You only need to look at the government majority report from the Senate Standing Committee on Community Affairs inquiry. It says:

The committee shares stakeholders’ concerns that the proposed regulations, containing the detail of the implementation of the cost recovery arrangements, were not available for examination during the course of this inquiry. As a result, it has been difficult for the committee to appropriately assess the implications of the proposed arrangements.

Yet the government happily claims that it would be hypocritical not to vote for this legislation. The government majority committee report says, ‘We cannot appropriately assess the implications of the proposed arrangements.’ The report from the government members of the community affairs committee goes on to say:

The committee has raised concerns in previous reports regarding over-reliance on subordinate legislation to implement significant amendments and reform, and has ... noted the importance of timely provision of subordinate legislation for committee scrutiny.

Unfortunately—or perhaps I should say fortunately—the opposition is not about to simply accept the government’s view that they are committed to due process. The government say: ‘Don’t you worry about that. The regulations will be all right because we tell you so.’ As Senator Colbeck pointed out, there has not been time to properly scrutinise the regulations, nor were any of the witnesses in a position to comment on what they might have perceived as flaws in those regulations. These are the people who have some expertise in appearing before the PBAC and making submissions to the PBAC. They were all very concerned about what it would mean. For instance, I turn to comments by Professor Ravenscroft, from Palliative Care Australia. He said:

My personal comment is that to leave this open for the bureaucracy to make these decisions—that is, about what constitutes an orphan drug, about what small volume drugs should have extensions to their indicator use—may end up producing a result that is less than satisfactory for the patients who need these drugs.

The problem that has developed is that we have no idea how any of this will work in practice. The people who have the best expertise and the best chance to tell us how this would work in practice had no opportunity to tell us this information because it was not available. We are, I am afraid, somewhat cynical about the government telling us: ‘Don’t you worry about that. We’ll get it right.’

I would like to talk a little about the effects of this on the smaller groups such as the palliative care part of the health industry in Australia. There are 135,000 or so deaths in Australia every year. About 100,000 of those are related to people who have had an illness before they die. We know that presently...
40,000 to 50,000 people a year in Australia need care in the terminal phase of their illness. Of those people, 25 per cent die at home being cared for by their families and loved ones. A perhaps more disturbing figure is that 80 per cent of those 50,000 people would like to stay at home, they would like to be treated at home, and yet only 25 per cent are. These are people suffering from a wide range of terminal illnesses and certainly in need of our support, our empathy and our help.

There was some evidence given during the inquiry that told us that many drugs that are currently used in large population groups, such as for epilepsy, could be of benefit being used for pain management purposes in the palliative care market. To do this requires a new submission, for an extension of the indicators, to the PBAC. Right now there are people with terminal illness being treated in hospitals because the drugs they need cannot be administered anywhere except in hospital because they are not on the PBS. We have that problem right now. How much worse can that get when orphan drugs, drugs for low-population groups, may in fact not get to be submitted to the PBAC? Yet this is a situation that we currently have no clarity whatsoever around. What is the public interest? Who decides? Where is the transparency in the draft regulations that are currently in place?

Professor Ravenscroft explained the situation to the committee. There are many drugs that currently exist to help palliative patients undergoing palliative care but the clinical studies for those drugs have not been done for palliative care purposes. There needs to be new data generated, at a cost. There need to be trials of the use of the drug, at a cost. If and when enough data is generated then these drugs go to the TGA for extension, at a cost. They go to the PBAC potentially, at a cost. Who is going to do this when we are talking about a low and disparate population group? We are talking about roughly 50,000 people. They have numerous problems—numerous needs for numerous different drugs. So we are talking about very, very small population groups that are not going to attract the attention or the funding that is needed from the drug companies.

There was also evidence given that community and industry organisations are free to bring submissions for listing with the PBAC to the PBAC. From the evidence given it appears that this has never happened. The palliative care medical profession at one stage investigated doing this because of the need for drugs in the palliative care industry and the fact that it is such a low-volume industry, but they could not get the funding needed to undertake the work that had to be done.

So the PBAC assessment process means that, in fact, most medicines are submitted to the PBAC for their major indicator. It is the first thing sought by the companies. There are many examples where drugs that have been used in palliative care are used off licence by palliative care physicians because the drug, whilst registered for the PBAC, still has not been through the regulatory mechanism for use by people having palliative care.

Two examples given during our evidence are worth bringing to the Senate’s attention because, in my view, they put a personal face, a real human aspect, to the sorts of issues we are currently talking about. The drug gabapentin is a reasonably new anti-epilepsy drug that is used for resistant epilepsy in the broader Australian community. It has proved to be a good drug for pain control in some areas. Currently, the palliative care group are asking whether, as an orphan drug, this drug would be able to work its way through the system. Will it be allowed to go through the
system in a free way? We do not know. That is the point—we do not know. They cannot tell. No-one knows whether this would go through the system or not.

A second drug is octreotide, which has been approved for growth hormone treatment and for the treatment of a specific type of tumour. It is not available to the palliative care market, except in this off-label way. It is used much in the palliative care market for treating terminal gut obstruction where the patient has a tumour that is blocking their intestines and therefore causing the person to vomit copiously and to be in severe pain most of the time. The only place someone can get that drug right now is in a hospital, and a regular dosage of it outside the public system would cost well over $300 a week.

We are talking about one group of people here. Gut obstruction in the palliative care area affects about 10 per cent of those 50,000 people we were talking about before. This is not a group that any drug company is going to be seeking to make a submission about to the PBAC. In fact, we were given evidence that whilst the palliative care industry had asked the company to submit on this basis they were not prepared to do that, even now in the current system, because of the cost to the company. We need a lot more certainty than we currently have about what will be considered an orphan drug or a low-population drug and therefore will be able to be put through at someone’s discretion. We are not entirely sure whose discretion it will be. It will be discretionary, but at whose discretion we do not know.

The other thing that witnesses were concerned about was the stage of the process at which they would know whether there would be costs involved with submitting to the PBAC. Why would a drug company go through the effort of putting up submissions, for instance, around what they considered to be an orphan drug or a low-population drug to subsequently discover that it was not to be assessed in that way? At what stage, at what point in the cost cycle, would companies know whether they had to fork out for their submission or not?

I suggest that the government might like to consider some of the other ways that companies in other countries go about putting medication into the system. There is, for instance, a process under the FDA where companies are given priority for listing low-population or orphan drugs depending on the work that they have done in the larger and wider community. A company might look at listing a low-population or orphan drug to potentially earn brownie points towards the listing of another drug which is going to be more profitable and therefore a way for them to write off or subsidise the costs of putting the orphan drug or the low-population drug into the system.

The coalition, as Senator Colbeck has pointed out, will not be supporting this legislation. We certainly accept that the PBS has ever-increasing costs and that these must be recouped, must be controlled and must be monitored. These costs will continue to rise. However, it is irresponsible to say: ‘Let’s worry about controlling the costs irrespective of the processes. We do not care what this is going to do or how it is going to do it. Let’s just get it in. Trust us. It will all be all right in the end because we say so.’ We would say to the government, a government so keen on process: ‘Sorry, get the process right and then this legislation will be very worthy of consideration—but when the process is right.’ Without careful analysis of the regulations, especially by those bodies that will have to live and be assessed under these regulations, it would be hypocritical of the government, I would suggest, to think that rushing this through makes some sort of positive difference to the PBS system.
Clearly, a delay in here to do this properly would have cost very little in monetary terms. It would have given a lot of comfort to the industry and it would have been a very sensible way to progress this issue.

Senator MOORE (Queensland) (11.57 am)—This is a threshold issue in terms of change in legislation and it is important just to remind people about the scheme of which we are talking. There is no disagreement in this place or indeed, I think, in the community about the value of the Pharmaceutical Benefits Scheme. The committee had on evidence the honour and the respect with which the Pharmaceutical Benefits Scheme is treated by the industry, by the people who are using the system, by the pharmaceutical industry itself, by the health system and also by a number of people who are consumers. We heard valuable evidence in our inquiry about just how convinced people were that the system needed to work well, how it needed to be well resourced and how there also needed to be a sense of engagement with the system. This shows us that for about the 60 years in which the Pharmaceutical Benefits Scheme has been in place it has served Australia well.

Consistently in this place over many years I have heard arguments from both sides of the chamber, in particular from the then government, about the rising costs of the Pharmaceutical Benefits Scheme, how we had to be careful and how we had to be sure that this scheme was well resourced by government. There was always some concern that the ever-increasing expenses relayed to the dynamic industry of pharmaceuticals would have some impact on the ability of the Pharmaceutical Benefits Scheme to supplement the cost for consumers.

That is a given. There is no doubt that the rising cost of the scheme over the years has been of deep concern to the government and, I believe, to governments. There has got to be some ongoing acknowledgement that the scheme itself continues to need to be reviewed closely and that there needs to be ongoing commitment from all parties involved to ensure that there is effective funding for this scheme. We know that last year over $6 billion was spent on the Pharmaceutical Benefits Scheme alone in this country and that anticipated costs into the future will grow. In a number of contributions to this debate we have heard about the marvellous scientific advances that have occurred and the growth in the capacity of medication to adapt and also to respond to the illnesses that people are working through in their lives.

Senator Boyce has just given us examples of drugs that have come onto the market in the recent past. Our committee received evidence, both in writing and at the inquiry, from a number of the large pharmaceutical companies that are members of Medicines Australia, the umbrella organisation, about the horrific—and I use this term deliberately—cost of research and development for medications. They also told us about the fact that for the few major successes in the field, of which people speak with great pride—and we in this place have heard about major successes where drugs have been researched and come on the market and provide immense benefit to people—many years of research and trials can be put into the development of drugs that do not result in a good product coming forward. But that is part of the industry.

In terms of understanding this industry, we believe that it is an industry based on research and on decisions that are made, almost on a daily basis, about effective profit margins. We are not talking about some form of charity in the pharmaceutical area. We are talking about effective and highly successful business decisions. Within that business environment, there is no doubt that the range of
costs that must be contributed to ensure that a final result is received is built in. The National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008, which we are considering here today, looks at inserting one level of cost into the bank of costs that must be seen by the industry as they make their daily business decisions about what they are going to do in the market. And it is not an overwhelming cost. Indeed, there will be a cost; that is what the legislation is about. No-one has run away from that. It is not a new concept. It has actually been in discussion in this country since 2005.

The previous government had on record a proposal in previous budgets to bring forward a very similar costing proposal. There were a range of discussions at the time, as the department explained to us at the inquiry, about the interaction with the industry, with consumers and with the various people who have interests in the Pharmaceutical Benefits Scheme and the National Immunisation Program. And there are a range of people who share the interest in the industry. The discussion has been going on for a couple of years and we have indications of where it occurred and what the basis of the discussions was.

It is fair to say that in 2005 the industry did not like the introduction of a costing program, and they do not like it now, because it inserts a realm of costs. But the argument that the government is putting forward is that this is part of the contribution that players in this market must make to ensure that the program continues to be strong, well resourced and effective and provides what Australians have come to believe is their right—that they will have access to the best possible medications and that they will have certainty that they are safe, that they are well tested and that their government, whatever the government of the day is, will provide effective financial support so that the cost will be supported.

We know that at the present time a large percentage of the drugs and medications available on the Pharmaceutical Benefits Scheme are directly supported by the government. We also know that patient contributions make up about $1.15 billion of what is provided. If I had the figures I would work out what that would be if there were no PBS. I am sure people will do that. We have heard in this place on a number of occasions just how much individuals are prepared to pay for medications that will provide a cure or support or alleviation of symptoms and also contribute towards having as strong and as healthy a life as they possibly can. The Pharmaceutical Benefits Scheme, which we support in Australia, gives certainty to consumers that programs are there for them. Indeed, across the world the Australian Pharmaceutical Benefits Scheme is the envy of many countries. Stories about the way it operates have actually been written up in industry papers.

One of the core things, I think, that came out of our inquiry was the strong desire that regulations be available with the legislation so that the actual detail of the costing regime would be available for everybody. I agree completely. The best possible process when we are looking at primary legislation that is supported by a range of secondary legislation and regulations is that we would have in front of us all of that information when we are making our decisions. The reality is that for the very short time of six years during which I have been in this position and working on this committee I have never seen regulations provided to any community affairs legislation or reference committee along with the primary legislation that it was considering. We have of course asked for it.
I share the opposition’s view in their strong statement in the committee report and in today’s debate about it being essential that we always have regulations or guidelines in front of us when we are looking at legislation. I support their position entirely. That unfortunately has not been their position for the last six years. I welcome their coming on board so that in future debates of this kind we will be able to say this with certainty to the departments supporting our debate and the various bodies working to develop the legislation, and to come forward with all the information we have. We will be able to say that if we as a considering committee are truly going to see the full detail of the impact of any new legislation, it would be very, very welcome to have all the regulations.

When asking the department during Senate estimates and in many other committees whether or not we could see regulations at that stage of the consideration—I do not recall the number of committees but I do recall asking this in committees on which you sat, Acting Deputy President Hutchins—we were consistently told that, from the department’s point of view, it would be quite likely that the regulations would be formulated with the legislation and most particularly after the legislation is agreed so that all the details can then be put in place for implementation. With great politeness, various departmental officers have told me that they would take note of our concern and that they would see what they could do and would get back to us.

I am so pleased that we now have the regulations for consideration. It would have been better if we had had them longer; nonetheless, we are talking about people who are very skilled in this process. I hear concern from various industry groups and people from the opposition about how they would like to have more time to look at the regulations in detail and to consider them. I understand that the people who are saying this have significant resources and have the ability, the knowledge, the interest and the commitment to this system to be able to have a look at these regulations and immediately respond. With them having years of experience in working in the area, if there is something there that concerns them at this stage—and I know, having talked with the departmental officers over many years, that regulations evolve—the department will work with industry, with the government, with opposition and with anyone interested in the process to make sure that the process is as effective and as responsive as possible.

The Senate Community Affairs Committee totally agree that to have full knowledge of how this legislation will work, down to the detail of how the process will operate, it is an advantage to have the regulations, and in future it would be good to have them at the time of the committee inquiry process. But we have them now, and I have looked at the regulations and had discussion with departmental officers about the issues that were raised in general during the committee, including how various delegations would operate; how orphan drugs—which is a term that I do enjoy saying; they are the kinds of medications not linked to major pharmaceutical companies that have quite small areas of use—will be considered; how people will be able to waive fees.

The committee heard evidence from the department and from a range of experts in the field, and it was quite clear that everybody at the committee inquiry understood that this is not a one size fits all; that there would be the ability to respond to the different kinds of medication brought forward, that there would be flexibility and that there clearly would be the ability of the delegate—the trained, professional, aware delegate—to provide waivers when a case put forward listed all the things that we have heard about in debate in the last day or so. Those are all
things that are a part of this business: the special need, the particular area, the overwhelming cost.

Everybody will be aware of the rules, and in fact the rules themselves have not changed. What we have is a pricing regime put into the process at this level of getting approval for pharmaceutical assistance, the PBAC process. So whilst it is an impost, it is not something of which people are ignorant. People are all too well aware of what this means. They understand where they fit into it, and now that we have had the regulations provided we will be able to see the detail of exactly how it will work, which is something that we have not seen in many other pieces of legislation.

One of the really positive elements of the committee—and it continues to astound me and make me very proud to see—is the way that our legislation engages a range of people in the discussion and how deeply they care for the process. From hearing evidence from people like Carers Australia and the palliative care association and from reading statements from people who work in Aboriginal and Islander health you become aware that they are all very involved in the process. And what they asked when they came before the committee was: would their particular need be taken into consideration during this new pricing regime? The government can say, with absolute authority: yes. People’s individual circumstances will be taken into account when they apply for any process through the PBS, exactly as is done now. A whole range of issues will be taken into account.

Whether people will get the answer that they want all the time, I cannot say; that is part of the decision-making process. But to presume that this is some uncaring, separate process which will be put in over the top and not take into account any of the issues about how this process operates now is just not accurate. That tends towards a scare campaign to get people worried about how it will work and to take the real object of the process off the agenda. The object is to ensure that our system remains well resourced and strong into the future. We hope that we will be able, through this process, to get an agreement on an element of contribution from the major pharmaceutical companies when they apply to go onto the assistance scheme. When they have gone through the process of getting their drugs approved for safety and for being able to be efficiently used and they are looking for government sponsorship so as to mitigate costs for consumers, there will be a cost involved. The details of that are in the regulations. It will operate as people put forward their applications.

The committee was made most aware of the concerns raised by the pharmaceutical area about where their future would be and also of the concerns raised by various specialist groups. In our recommendation, which is in the report, we say that the regulations should incorporate specific measures, whether through exemptions, waivers or in some other form, to ensure that there is no disincentive for companies to lodge applications to list low-volume medicines or to change or extend the indications of listed medicines. That was a clear recommendation in the majority committee report. That has been taken on board by the drafters of the regulations.

I know now that there has been an extended time for people to consider the regulations. We now need to move effectively forward so that there will be understanding and security. We have heard the word ‘security’ a number of times in the debate. It will be security for all participants in the process about exactly what their responsibilities are, what their charges will be and what their
responsibilities will be in the future of medicines in this country. I was deeply concerned by the response from some of the pharmaceutical companies. They tended to say that if this charge came in they would have to seriously consider their availability and their ability to provide this service into the future. That is of concern; we have to look at business need. But we also have to look at community need, and in this debate we are looking at ensuring that safe medications are available, that we have the best possible medical research and that Australian consumers can be secure that their PBAC system is well resourced, strong and engaging for all participants.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.15 pm)—The Pharmaceutical Benefits Scheme is a world-leading scheme that we can all be proud of. The scheme helps protect Australian families from the soaring prices of prescription drugs that we see in other parts of the world. The affordability of the scheme for the family needs some more attention, and I should note that Family First expressed concerns about changes to the safety net threshold levels under the previous government which increased costs for families.

With regard to this bill, the National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008, Family First does support the concept of cost recovery outlined in the bill. That is a principle that Family First supports, but the detail is also important. We have heard throughout this second reading debate from both sides of the chamber about the regulations having only come out since the Community Affairs Committee report on the bill was finalised. Family First has concerns with some of those regulations. The issue here is that even the committee report found that there was concern about making sure there were no unintended consequences. What this gets down to is: will there be some drugs in the future that will not be available for vulnerable Australians because making applications to get those drugs on the PBS could be cost prohibitive to the company applying? That would be of concern especially in Australia where we have a sense of a fair go. I understand about the orphan drugs, but I am worried about things falling in the gap and whether there will be unintended consequences through these regulations. Now that we have the regulations I wonder whether we should actually have a good look at them and see whether there is some way of bridging that gap or hole.

It is very hard for us when we get information last Friday night and then are in here debating a bill that actually unfolds the regulations that follow it. It would be very good for this Senate and for Australia to look at those two items together. That way we can get off on the right step rather than doing a half step with a few holes probably into the future. I am going to leave this problem for the government to solve. As it stands, Family First is looking for—I hate to say it—the topic that the Rudd government likes, which is another inquiry. I would hate to be the first person to stand here today and say, ‘Family First is suggesting an inquiry.’ But these regulations came out last Friday, and even the committee report was seeking government assurances:

... the regulations should incorporate specific measures, whether through exemptions or waivers or some other form, to ensure that there is no disincentive for companies to lodge applications to list low-volume medicines, or to change or extend the indications of listed medicines.

All that is gobbledygook to a lot of people. What that basically says is that there could be some Australians missing out on getting drugs through the PBS because of this cost recovery principle—and, while we agree with the principle, we need to make sure that
somewhere in the regulations we have some way of making sure that does not happen. I will not go through suggestions; I will let the government come up with suggestions. However, I think we need a short, sharp inquiry into the regulations that came out on Friday, as we have already had the bill looked at and a report that came out on Friday—just to make sure that when we pass this bill we understand the regulations that we are passing along with it. We have heard in debate here today that when the regulations go forward we can change them through disallowance. That is a very, very messy way of doing it. This is a significant change and I think we need to make sure we are actually on solid ground moving forward. So I appeal to the government that they support—even propose themselves—a short, sharp inquiry into these regulations because without that inquiry Family First cannot support this bill as it stands.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.20 pm)—I thank all senators for their contributions in this debate. I hope in my summing-up that I am able to respond to a range of questions that have been raised in debate. Senator Fielding, I know you may want to go from the chamber but I will canvass the issues that you have raised. Can I also offer you the opportunity to speak with my advisers so you are assured that those issues you have raised will be addressed and give you the opportunity to rethink your indication about how you are intending to vote on this bill. I take the point that you made in your opening that you essentially support cost recovery in this area, and we are pleased about that. The concerns you have raised I will address in my summing-up speech, but I also offer you that opportunity to be able to receive information from my advisers in the next few minutes.

I thank all senators for their contributions and hope that I address all of the questions or points that have been made. The National Health Amendment (Pharmaceutical and Other Benefits—Cost Recovery) Bill 2008 amends the National Health Act to provide authority for the cost recovery of services provided by the Commonwealth in relation to submissions for the listing or amendment to a listing of medicines, vaccines and other products on the Pharmaceutical Benefits Scheme, the PBS, and the National Immunisation Program, the NIP. These amendments will ensure that applicants, mostly pharmaceutical companies, may be charged fees when they seek services from the Commonwealth in relation to the exercise of a power by the minister under section 9B of the act in relation to the designation of a vaccine on the NIP or a provision in part 7 relating to listings or a change to listings for a medicine or other product on the PBS.

As we have heard this morning, the bill has been subject to a detailed examination by the Senate Standing Committee on Community Affairs, which took evidence from a range of stakeholders. I thank on the record all people who submitted and gave evidence to that inquiry. After careful scrutiny of the evidence presented to that inquiry, the committee has recommended that the bill proceed in its current form.

The government agrees with the Senate committee and notes its findings that the regulations supporting the legislation should provide for the protection from fees for applicants seeking to list orphan drugs or low-volume products with small patient populations. This finding accords with the government’s own thinking. The minister has circulated the draft regulations showing that they will contain provisions to exempt from fees applications that seek the listing of orphan drugs. That is part 4, sections 14 and 15 of the regulations.
The regulations also show that the Department of Health and Ageing can waive fees where it is in the public interest to do so and where the payment of the fee would result in an application not being financially viable. The government has provided a copy of a draft version of the regulations to the Senate committee, the contents of which demonstrate the government’s intent to minimise the impact on fees upon the listing of orphan and low-volume products. It has also provided them to interested stakeholders, mainly the industry.

I note Senator Fielding’s concern that drugs may not become available as a result of the application of cost recovery. Senator Fielding, that concern is shared by the government. That is why we have taken a lot of trouble in those two parts of the regulations, which I am happy to provide to you, to ensure that the application of this cost recovery regime would not in fact lead in any way to a limiting of access to medications by anyone in the Australian community. I am quite sure that the way in which the regulations have been formulated provides that protection.

I also thank Senator Moore for her history lesson about the provision of regulations to committees. I thank Senator Moore for indicating to the Senate that, in her time as chair and member of the Senate Standing Committee on Community Affairs in its various forms, she has not known regulations to be provided to that committee. I thank her for acknowledging that this government has provided those regulations for the committee’s use. We acknowledge that it would have been terrific to have been able to get them to the committee earlier. However, they were provided when it was possible to do so. We are keen to be open and transparent. We are keen for there to be scrutiny of this legislation. We are keen for comment.

In that vein, within the next week, the department will release to stakeholders a draft explanatory statement for the regulations. That will further assist with understanding the issues that Senator Siewert has raised. Stakeholders and any other interested party will be able to provide comment on the draft regulations and the draft explanatory statement until 19 September—that is, the consultation period will be four weeks from around now.

Examples of low-volume drugs where exemptions from fees would be granted are medicines used in palliative care, medicines used to treat conditions common to the Aboriginal and Torres Strait Islander population and paediatric medicines—issues that have been raised by a number of contributors to the debate and concern for which is shared by the government.

A number of contributors talked about a concern that the independence of the PBS might be threatened. Senator Xenophon has raised that privately with me as well. In the 2005-06 budget, the previous government sought to introduce cost recovery of services associated with listing on the PBS and the NIP. We shared at that time the reservations of some stakeholders about the model that was proposed by the previous government. It was arguable at that time that the independence of the PBAC could be threatened if it was reliant upon the pharmaceutical industry for its funding. However, now in opposition, the originators of this proposal purport to be concerned about the impact of cost recovery on the independence of the PBAC.

The PBAC’s independence is now guaranteed in the government’s model, which is reflected in this bill. The inquiry found and the government affirms that the expertise, integrity and sense of propriety that PBAC members bring to their task will not change as a result of cost recovery. The PBAC will
continue to provide expert advice on medicines, independent of government and of industry. The arrangements for funding the PBAC directly through the budget will continue and the PBAC will have no role in setting fees and will take no part in discussions with companies over fees. Cost recovery will not affect the structure or the operation of the PBAC and nor will it compromise the independence of PBAC decisions. Cost recovery has been implemented successfully in many government agencies, including the TGA, without any loss of independence.

The cost of providing subsidised medicines and fully funded vaccines to the Australian community is a significant financial burden to the Commonwealth. In 2007-08, the Commonwealth paid around $7 billion to approved pharmacists, hospitals and medical practitioners for the subsidised supply of medicines under the PBS. A further $543 million was provided by the Commonwealth to the states and territories for the fully funded supply of vaccines under the NIP within their respective jurisdictions.

Australian pharmaceutical manufacturers and distributors with medicines or vaccines listed on the PBS and the NIP receive considerable financial benefits from the supply of their products to the Australian community. The Senate committee heard evidence that the proposed cost recovery fees would impose a financial burden on industry. I think we should put this into a bit of perspective. We are talking about a revenue gain from an industry that has an annual turnover of more than $18 billion. The cost recovery impost on that annual turnover of $18 billion is $14 million. To those people listening, yes, those figures are very large, but let us again put that into perspective. The cost recovery is 0.008 of a per cent of the annual turnover. People should think about the maths. They should think about their grade 7 schoolteacher’s advice when they are making the assertion that this would place a financial burden on industry that would be too big to bear.

We also have to remember that the pharmaceutical industry spends a lot of money informing and educating medical practitioners. There has been some discussion about how appropriate that is. The cost of that informing and educating of medical practitioners on an annual basis is $60 million. That is $60 million for conferences, dinners and events where doctors and other medical practitioners are educated. We are talking about a cost recovery impost of $14 million compared to that expense of some $60 million. Eight one-thousandths of one per cent of the annual turnover is the figure that we are talking about.

Pharmaceutical companies receive much by way of benefits from the Australian taxpayer once products are listed on the PBS and they have considerable financial capacity to absorb these charges. It is not unreasonable that they contribute financially towards maintaining the architecture of the PBS. Achieving a product listing on the PBS provides a high level of commercial certainty to a company in relation to that product’s sales.

Fees will reflect the amount of effort required in evaluating submissions. The more complex and time-consuming the evaluation and price negotiation, the higher the fee. Of course, the major determinant for the fee structure, whether a submission is minor or major, where the submission includes substantive change, is very well known to the industry and simply reflects both current practice and PBAC guidelines.

The Senate committee also heard concerns about access to and affordability of medicines for ordinary Australians, whether they be hardworking families or the frail elderly near the end of their lives. I assure the Senate that the government is committed to ensuring
that the PBS is accessible to those who need support while remaining affordable to taxpayers. It is important to note that as a result of this measure the Australian community, the beneficiaries of the PBS, will not be required to pay any extra for PBS medicines or vaccines. Patient co-payments are currently $5 for concession card holders or up to $31.30 for general patients. They will not be affected by cost recovery arrangements, which will be administered separately to the PBS.

The opposition argue that the measure is being introduced without consultation with industry. I am afraid that it becomes a little bit laughable when they are arguing that position on that side. The pharmaceutical industry has had plenty of time to prepare for the introduction of cost recovery, which was first introduced in the 2005-06 budget. In addition, extensive consultation occurred with pharmaceutical companies in 2007. In respect of Senator Humphries’s claim that this issue was taken off the former government’s agenda, at no time did the previous government ever tell the pharmaceutical industry that cost recovery was off the agenda and the Department of Health and Ageing has continued to consult with them since the budget announcement.

In accordance with Australian government cost recovery guidelines, the department will introduce ongoing monitoring mechanisms to ensure that fees remain based on efficient costs. The department has also met with industry and agreed to establish a consultative mechanism with industry on cost recovery. A full review of the fees will occur in 2010-11. The government is committed to ensuring that there is due process to ensure that fees are levied in a fair and equitable way. The regulations will therefore provide for a review of administrative decisions made in relation to cost recovery. In consultations with industry there was broad agreement on a simple, internal dispute resolution mechanism for negotiations between the parties. In the first instance, if a matter cannot be resolved through discussion, the department will ask someone in the office who was not part of the original decision to review the case and make a fresh decision. If this still does not satisfy the company, they will have the right to take their case to the Administrative Appeals Tribunal.

Revenue from PBS cost recovery will depend on the number and type of submissions brought to the PBAC for consideration. If the measure had started on 1 July 2008, as the government intended, revenue from fees in 2008-09 was expected to be around $9.4 million, rising to about $14 million in the following years. However, the referral to the committee meant that this measure did not commence on 1 July as planned. The delay has caused disruption to the government’s implementation plan and the government acknowledges that some pharmaceutical companies who had planned for the introduction of cost recovery have experienced confusion as a result of the referral of the bill to committee. The government has therefore asked the Department of Health and Ageing to liaise with industry before finalising an implementation date. That also takes into account the consultation process that will occur on the explanatory statement that goes with the regulations that I mentioned earlier.

The minister will announce the date of implementation, following passage of the legislation, as soon as practicable to allow industry time to prepare. The financial consequences of not implementing this measure as originally announced are significant, with savings identified in the budget through this measure being short by several million dollars.

There are a couple of other issues that various senators addressed in their contribu-
tion, which I want to respond to. Senator Humphries suggested that pharmaceutical companies would not apply to have medicines or vaccines listed on the PBAC, the PBS or the NIP at all if they did not know, prior to the application, if the fee would be waived. Can I put his mind at rest. The application for a waiver is made at the same time as a submission is made. The department would then consider and advise the applicants of the waiver of a fee if it was applicable, and then the applicant has 14 days, from the advice about whether the fee will be applied, to withdraw their application. In terms of that suggestion, I do not think that is an issue that would stop anyone accessing a medicine or anything being listed. He also asked the question, ‘Why do the regulations say that the fee may be waived?’ He was suggesting that it should say in the regulations that the fee ‘must’ be waived, rather than, as it says currently, that it ‘may’ be waived. Part 4, section 14 indicates what fees are exempt, and section 15 indicates where the waivers will be. I say to Senator Humphries that that is normal drafting language; that is what you say. We cannot say that you must waive a fee without doing an assessment of the application. I think that Senator Humphries is trying to find another argument to fill up his page rather than something that truly is a problem. You cannot say that you will waive a fee without doing an assessment of the application.

Senator Siewert requested an interpretation or a definition of the words ‘substantive’, ‘major’ and ‘minor’ change. I direct Senator Siewert to pages 2 and 3 of the regulations, in the listing of the definitions, where the words ‘minor’, ‘major’ and ‘substantive’ are indicated. These words come directly from the PBAC guidelines of several years, and industry is very familiar with them. The Department of Health and Ageing and industry, in fact, developed these guidelines together. Finally, this is an important piece of legislation—(Time expired)

Question put:
That this bill be now read a second time.
The Senate divided. [12.45 pm]
(The President—Senator the Hon. J.J Hogg)

Ayes........... 36
Noes........... 36
Majority....... 0

AYES
Arbib, M.V.  Bilyk, C.L.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Cameron, D.N.
Carr, K.J.  Collins, J.
Conroy, S.M.  Crossin, P.M.
Farrell, D.E.  Faulkner, J.P.
Fenney, D.  Forshaw, M.G.
Furner, M.L.  Hanson-Young, S.C.
Hogg, J.J.  Harley, A.
Hutchins, S.P.  Ludlam, S.
Landy, K.A.  Marshall, G.
McEwen, A. *  McLaws, 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.  Wong, P.
Wortley, D.  Xenophon, N.

NOES
Abetz, E.  Adams, J. *
Barnett, G.  Bernardi, C.
Birmingham, S.  Boswell, R.L.D.
Boyce, S.  Brandis, G.H.
Bushby, D.C.  Cash, M.C.
Colbeck, R.  Cooman, H.L.
Eggleston, A.  Ellison, C.M.
Ferguson, A.B.  Fielding, S.
Fierravanti-Wells, C.  Fifield, M.P.
Fisher, M.I.  Heffernan, W.
Humphries, G.  Johnston, D.
Joyce, B.  Kroger, H.
Macdonald, I.  Mason, B.J.
McGauran, J.J.J.  Minchin, N.H.
Nash, F.  Parry, S.
Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.49 pm)—I seek leave of the Senate to make a very short statement.

Leave granted.

Senator McLUCAS—In my summing up speech I referred to the cost recovery as a percentage of overall revenue—the $14 million cost to the industry as opposed to overall revenue of $18 billion. Unfortunately, the calculator was broken and I said 0.008 per cent. The figure was actually 0.078 per cent or 0.08 per cent rounded up to two decimal places. It is not a lot of money in the scheme of things, but the calculation was incorrect and I wanted to correct the record.

PROTECTION OF THE SEA
LEGISLATION AMENDMENT
BILL 2008
Second Reading

Debate resumed from 26 June, on motion by Senator Ludwig:

That this bill be now read a second time.

Senator IAN MACDONALD (Queensland) (12.51 pm)—The Protection of the Sea Legislation Amendment Bill 2008 is supported by the coalition. It is a particularly important piece of legislation. It has been through the lower house and received the support of all parties there. I will not go through the terms of the bill in full, but it does implement in Australia the protocol of the 2003 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, generally known as the Supplementary Fund Protocol. It also introduces amendments to the Protection of the Sea (Prevention of Pollution from Ships) Act, known as the MARPOL amendments. It has amendments to the ship levy legislation relating to the definitions of an ‘Australian port’ and ‘collector’.

We as a country have every reason to be a signatory to the international maritime conventions ensuring adequate compensation is in place in the event of an oil spill in Australian waters. The introduction of a third tier of compensation will ensure adequate compensation is available. Compensation liability is currently limited and has in instances proved insufficient for major oil spills. The supplementary fund will be financed through levies on public or private entities in receipt of more than 150,000 tonnes of contributing oil per year in contracting states, but levies, interestingly, will only be collected after the oil spill has occurred and after the first two tiers of compensation are exhausted. There was some discussion upon whether collecting the levies after the event is the appropriate way to do it, but I understand that after lengthy debates at the international level the world community has been convinced that those who would have to pay would pay after the event.

Why I particularly wanted to speak on this bill was to again highlight how important the protection of our sea is to Australia. We are an island continent, we have one of the largest coastlines of any country in the world and by world standards our waters are clean and pristine. Although some in Australia would at times denigrate the efforts of various governments—most notably the efforts of the last government—to protect the marine environment, it is acknowledged worldwide that the waters in Australia are amongst the best protected anywhere. And thanks to former
environment ministers Senator Hill, Mr Kemp and Senator Campbell we have, over the last 11 years, built up a series of pieces of legislation and arrangements to protect our very pristine waters. There is still more that we can do. One of the great initiatives of the Howard government was the setting up of marine national parks around Australia. These were not without controversy and they were not without some opponents, but we proceeded with that in what is again an international first. And the number of marine parks we will have around Australia over the next decade or so will be a leading example to the world of Australia's innovation in protection of the sea.

It is particularly important that we do that for places like my own state of Queensland, which relies very heavily on the tourism attracted to our marine assets—particularly the Great Barrier Reef. But I hasten to add that the beaches of the Gold Coast and the Sunshine Coast in Queensland, plus the Great Barrier Reef and the adjacent towns and communities, are real magnets to international tourists. For all of those reasons it is essential that we do what we can to protect and enhance those fabulously attractive and pristine beaches and marine ecologies. Fishing, pearling and coastal communities are also all dependent upon our marine environment and an oil spillage would have enormous financial and environmental implications for Australia. It is when you are faced with a situation like that that you realise the implications and the vulnerability of our seas, our marine environment and our coastline. And it is times like that that we understand why we, as a parliament and as a nation, must be prepared to make a commitment to sign up to protocols like those that are the subject of this bill. Australia has very busy ports and shipping channels and we have the fifth largest shipping task in the world, so it is essential that we become involved in these areas.

I mentioned the beaches of the Gold Coast and the Sunshine Coast. Quite substantial shipping comes into the Port of Brisbane, but those of you who understand the Brisbane port will realise that on coming out of the Brisbane River the ships turn north and go along the inside of Moreton Island, up to Caloundra on the Sunshine Coast, before they turn west and out into the open sea. Real care needs to be taken to ensure those shipping lanes are maintained in the very best manner, in the very best way. Right along the coast we have enormous shipping, both inside and outside the Barrier Reef. There is even domestic shipping coming from Weipa, around the top of Cape York and down to Gladstone carrying the very precious raw commodity that ends up as aluminium. It is very important that we have pilots, where necessary, both inside and outside the reef. It is very important that we take on all of these measures.

This bill shows Australia's commitment to cleaning up any oil spills if they should ever happen. We hope and pray that there is never an oil spill, that there is never any need whatsoever to call upon this fund to clean up after an oil spill. We would hope that all of our precautions have ensured that oil spills do not occur, but if they do occur anywhere around Australia's pristine coastline then we need to have the funds necessary—and enormous funds would be required—to ameliorate the impact of a spillage from an oil tanker. This bill does have the support of the coalition, it is a bill that I think will have the support of all Australians and I commend it to the Senate.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime
Minister for Social Inclusion) (12.59 pm)—In summing up the debate on this important piece of legislation, I thank Senator Macdonald for his contribution and for his acknowledgement that the Protection of the Sea Legislation Amendment Bill 2008 is being supported by all parties. It is an important piece of legislation and one that needs to be put in place. The supplementary fund protocol was adopted in 2003 by the International Maritime Organisation, and it entered into force internationally on 3 March 2005. It goes without saying that it is a long time between 2005 and this legislation actually coming into the parliament. It is a piece of legislation that this government was certainly keen to ensure was enacted as quickly as possible.

The bill will ensure that compensation to Australian victims following an oil spill from a tanker incident is maximised and that adequate financial resources are provided for clean-up costs, economic loss, property damage and to help with the natural recovery of Australia’s affected marine environment. From a global perspective and for our international reputation, it is important that Australia becomes a contracting party to the supplementary fund protocol because our ratification will add support to the protocol and will encourage more countries to become parties—so it is a very significant piece of international legislation from our perspective.

We are very fortunate, as Senator Macdonald said, that we have not had any oil spills in Australia on the scale of some of those that have occurred overseas. The two most significant incidents involved the *Princess Anne Marie* off the Western Australian coast in 1975, where approximately 15,000 tonnes of oil were spilt, and the *Kirki*, also off the Western Australian coast, in 1991, where approximately 18,000 tonnes of crude oil were spilt. Since that time we have been free of those kinds of disasters and we certainly want to ensure that, in the unfortunate circumstance such an oil spill were to occur again, we have comprehensive arrangements in place to respond. Yet, in spite of the dedication and professionalism of the men and women involved in response activities, there is still the potential for significant pollution damage and for this to affect a range of industries and, of course, our pristine marine environment.

The bill, as we have heard, creates a third tier of compensation for damage resulting from spills of oil from an oil tanker so that the maximum amount payable increases up to 750 million special drawing rights—approximately $1.3 billion per incident. The bill also ensures that compensation to Australian victims following an oil spill from a tanker incident is maximised and that adequate financial resources are provided for clean-up costs, economic loss, property damage and to help with the natural recovery of Australia’s affected marine environment. The bill also amends the Protection of the Sea (Prevention of Pollution from Ships) Act 1983 and the Navigation Act 1912, giving effect to those MARPOL amendments, and it amends the ship levy legislation relating to those important definitions of what is meant by ‘an Australian port’ and a ‘collector’, and to that end it is very good legislation for our environment and I certainly commend it to the Senate.

Question agreed to.
Bill read a second time.

**Third Reading**

Bill passed through its remaining stages without amendment or debate.
Debate resumed from 27 August, on motion by Senator McLucas:

That this bill be now read a second time.

Senator COLBECK (Tasmania) (1.04 pm)—The Senate is considering the Therapeutic Goods Legislation Amendment (Annual Charges) Bill 2008. The bill amends the Therapeutic Goods Act 1989 and the Therapeutic Goods (Charges) Act 1989 in relation to the imposition and collection of annual charges and also the exemption from paying a charge. The Therapeutic Goods Administration, or TGA, conducts a range of activities in order to ensure that medicines and medical devices available here in Australia meet acceptable standards and to ensure that Australians have access within reasonable time to therapeutic advances. In doing so, the TGA has responsibility for compiling and maintaining the Australian Register of Therapeutic Goods, or ARTG, where medicines must be either registered or listed, and where medical devices are included. As of 23 May 2008, there were approximately 54,000 products on the register and accordingly I am sure that we can certainly appreciate the volume of work that is undertaken by the TGA to maintain such an extensive and necessary register. I must emphasise again that this work is completed with the aim of protecting Australian consumers while also demanding high standards within medicinal and therapeutic innovation and advancement.

Under the current legislation, annual fee payments are set as the date of entry of production in the ARTG or the date that the manufacturing licence was granted and then the anniversary of that date annually. One part of the proposed amendment will change this to legislate for a uniform date—1 October—for all annual payments. It is proposed that this change to the payment schedule will result in much greater administrative efficiency for the TGA, though I do note the Bills Digest, and in turn the Therapeutic Goods Administration’s own website, indicates that this legislative change simply brings the legislation into line with what is current administrative practice for the TGA. Currently the Therapeutic Goods (Charges) Act and the Therapeutic Goods Act contain provisions for a reduction or waiver of annual charges. This bill repeals the provisions from the Therapeutic Goods (Charges) Act and inserts them into the Therapeutic Goods Act for the purposes of consistency and readability. The power for annual charges to be reduced or completely waived for goods or devices which now have low volume and low value ensures that sponsors are not discouraged from registering or listing goods and devices that can bring benefit and relief to consumers but which, for certain reasons, face challenges in the commercial world.

Despite the clear merit of the exemption and waiver provision, I do welcome the amendments to this bill, which are aimed at improving the scrutiny, accountability and transparency associated with such applications. I note the concerns raised by the Australian National Audit Office in its financial statement audit report for 2006-07 for the Department of Health and Ageing in relation to the lack of third-party confirmation. Under the amendment there will now be the ability to request additional information from applicants seeking an exemption and from those already granted an exemption. There will also be the ability to cancel exemptions and require payment of the annual charge. These provisions will ensure the exemption mechanism is not abused by unscrupulous applicants while at the same time ensuring that the TGA obtains all charges to which it is
entitled. With those remarks, I advise that the opposition will be supporting the bill.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.08 pm)—I thank Senator Colbeck for his remarks, his contribution to the debate and his indication that the opposition is supporting this legislation. The Therapeutic Goods Legislation Amendment (Annual Charges) Bill 2008, as we have heard, amends the Therapeutic Goods Act 1989 and the Therapeutic Goods (Charges) Act 1989 to provide administrative efficiency for both the TGA and its stakeholders in the way annual charges are imposed and collected and to provide more transparency and accountability in the granting of exemptions from liability to pay annual charges because of the low-value turnover of the therapeutic goods.

The bill makes a number of changes to the existing regime relating to the imposition and collection of annual charges by allowing for the setting of a uniform date for the payment of annual charges. These amendments will, for example, allow sponsors of therapeutic goods that are entered in the Australian Register of Therapeutic Goods to pay all annual charges on one particular date instead of on different dates within the financial year that are based on the anniversary dates of the entry of those goods. The bill introduces changes to the current exemption from liability to pay annual charges because of the low-value turnover of the therapeutic goods. The changes include requiring persons applying for, or who have already been granted, an exemption to provide evidence certified by an approved person to support their eligibility for such an exemption. The bill also provides for the making of regulations that will set out additional details on the processing, granting and cancellation of the exemption.

These amendments will therefore provide greater clarity, transparency and accountability in the processing and the granting of an exemption.

The bill also makes other technical and consequential amendments and includes a clarification that an annual charge can actually be set at a nil amount. On that basis, I commend the legislation to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2008

First Reading

Bill received from the House of Representatives.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.11 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.11 pm)—I move:

That this bill be now read a second time.

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

Leave granted.
The speech read as follows—

TELECOMMUNICATIONS INTERCEPTION LEGISLATION AMENDMENT BILL 2008

The main purpose of this bill is to amend the Telecommunications (Interception and Access) Act 1979 (the TIA Act) and Surveillance Devices Act 2004 (the Surveillance Devices Act) to ensure officeholders can validly authorise others to act on their behalf in performing certain legislative functions.

The bill also implements several technical amendments.

This bill does not alter or expand any powers of security or law enforcement agencies in relation to telecommunications interception, stored communications, access to data, or surveillance devices.

Both the TIA Act and the Surveillance Devices Act contain several definitions that are intended to confer power on designated officeholders to authorise others to act on their behalf.

For example, in relation to the Australian Federal Police, the term ‘certifying officer’ in subsection 5(1) of the TIA Act includes the Commissioner and a Deputy Commissioner of Police. The term also includes a senior executive AFP employee who is a member of the AFP who is authorised in writing by the Commissioner of Police.

Reference to an officer being authorised in writing also appears in the terms ‘certifying person’ and ‘member of the staff of a Commonwealth Royal Commission’ in subsection 5(1) of the TIA Act and the definitions ‘appropriate authorising officer’ and ‘law enforcement officer’ in subsection 6(1) of the Surveillance Devices Act.

In the Hong Kong Bank case (Hong Kong Bank of Australia Ltd v Australian Securities Commission (1992) 108 ALR 70), the Full Federal Court considered that a similarly worded provision in the Corporations Law could not be read as providing the source of power for the relevant authority to make the authorisation referred to in the provision. Rather, some other source of power, such as an express authorisation making power, was needed.

While the relevant definitions in the TIA Act and the Surveillance Devices Act can be distinguished from the section examined in the Hong Kong Bank case, there is some risk a court could find that the affected provisions do not confer power to make an authorisation. This could mean that actions taken by a purportedly authorised person are invalid.

Such an outcome would undermine the effective operation of the Acts and could expose persons who believed they were acting in accordance with the legislation to legal challenge.

The bill addresses this issue by inserting express authorisation powers in order to establish a clear and separate legislative basis for office holders to make authorisations and for authorised persons to perform the functions associated with their designated role.

The bill also ensures the validity of actions taken by authorised persons under the existing provisions by inserting new sections that treat persons authorised to act under the current provisions as if they had been authorised under the Act as amended by this bill. These provisions will ensure that all authorisations whether past or present are made on a consistent legislative basis.

The bill does not expand interception and surveillance powers available to agencies, nor does it increase the range of office holders who are authorised to undertake certain functions under the TIA Act or the Surveillance Devices Act.

The bill also includes several technical amendments to the TIA Act that will improve the effective operation of the Act by updating references in the Act to the Victorian Office of Police Integrity and correcting drafting errors. Again, these amendments do not expand the powers of law enforcement or security agencies.

The Victorian Government is in the process of establishing the Office of Police Integrity as a stand alone authority under new legislation. In order to preserve the capacity of the Office to exercise its powers under the TIA Act once the new Victorian Act is proclaimed, this bill will substitute references to the current Act with the details of the new legislation.

The bill also corrects two drafting errors.

The first is to substitute an incorrect reference to the term ‘certifying person’ with the correct term, ‘certifying officer’.
The second removes a reference to several sections of the TIA Act that were repealed in the 2006 Amendment Act.

These technical amendments will ensure that the TIA Act is clear and relevant in the obligations and powers it confers on telecommunications carriers and law enforcement agencies.

In conclusion, this bill will ensure that the legislative framework for obtaining telecommunications and surveillance based information necessary for law enforcement and national security purposes is relevant, clear and effective.

I commend the bill.

Senator BRANDIS (Queensland) (1.11 pm)—The Telecommunications Interception Legislation Amendment Bill 2008 amends the Telecommunications (Interception and Access) Act 1979 and the Surveillance Devices Act 2004 to ensure that certain office holders can validly authorise others to act on their behalf in performing functions under those acts. The bill also proposes a number of minor technical amendments which tidy the telecommunications interception and access regime so that it is current and accurately reflects the status of related regimes.

The genesis of the bill is a decision of the full court of the Federal Court in the case of Hong Kong Bank of Australia against the Australian Securities Commission, a decision of that court as long ago as 1992. The court held that a provision of the Corporations Law that defined a ‘prescribed person’ to include a person authorised by the commission to perform certain functions could not be construed so as to confer the power to make the initial authorisation.

The bill proposes to amend the acts to correct a lacuna by including definitions of ‘certifying officer’, ‘certifying person’ and ‘member of the staff of a Commonwealth royal commission’. Each category of person may now be authorised to perform functions under the acts. There is some uncertainty as to whether those definitions might fall foul of the rules of construction outlined by the court in the Hong Kong Bank case. The bill seeks to amend the acts to include specific powers to authorise the relevant persons to perform the defined functions. The bill also makes some technical amendments to maintain the currency of the telecommunications interception and access regime and to support the new Victorian Office of Police Integrity. There are two main provisions within the amendment: schedule 1, which relates to the Surveillance Devices Act 2004, and schedule 2, which relates to the Telecommunications Interception Act 1979.

The only mystery about this bill, which is uncontroversial, is how it came to be that an anomaly in the legislation which was created by a judicial decision as long ago as 1992 was not detected before now. I consulted the Bills Digest prepared by the Parliamentary Library and they merely tell us that a drafting direction in 2006 which generated this bill was the result of provisions coming to the attention of drafters at the Office of Parliamentary Counsel while preparing a prior bill. The Attorney-General’s Department subsequently moved to eliminate the risk that the Office of Parliamentary Counsel identified. I think the parliament is indebted to the alert legislative draftsmen who spotted a lacuna that had lurked beneath the statute law of the Commonwealth like a sunken battleship for some 16 years, imperilling litigants passing across its still waters, and have now at last eliminated that lacuna from the law. The opposition supports the bill.

Senator LUDLAM (Western Australia) (1.15 pm)—I would like it noted that this is not officially my first speech. I apologise for the quality of my voice—it may not be any kind of speech! The Australian Greens acknowledge that the amendments proposed by the government through the Telecommunications (Interception and Access) Amendment Bill 2008 are non-controversial. The
amendments provide clarity and substantial detail about exactly who has the authority to issue evidentiary certificates to listen in on the phone calls, voicemails, text messages and emails of Australians.

However, the surveillance activities covered by the legislation are highly controversial, as is clear through past debate in this place about the effectiveness of the checks and balances to ensure that privacy rights are upheld. I would like to take this opportunity to note that this week is National Privacy Awareness Week, which the Privacy Commissioner has deemed ‘an opportune time to review your practices and procedures for handling personal information’.

On 14 May this year an amendment was proposed by Senator Bartlett for an independent and periodic review of the implementation and oversight of the act—an amendment that was rejected. This legislation, which the government had serious concerns about when they were in opposition, should be reviewed to ensure that it is consistent with Australia’s international treaty obligations. The Australian people should be provided with evidence that this level of surveillance is actually necessary and is being used in successful prosecutions. It should also be reviewed to ensure that necessary, lawful and proportionate access by law enforcement agencies to telecommunications data is balanced with the public’s right to communicate free from surveillance.

Privacy is protected in this act in two ways. Firstly, authorities that issue warrants are required to take privacy into account before they issue these warrants, and they are not to be issued if alternative means of investigation are possible. Secondly, there are several requirements as to what may be done with the content of intercepted messages. However, it is very concerning that only a very small number of warrants are rejected or withdrawn on privacy grounds. Of 3,287 warrants sought in the year to June 2007, only seven were rejected or withdrawn. The total number of warrants issued in 2006-07 is greater than that in the previous reporting period and actually exceeded the number of warrants issued in the United States. Over the same period, 2,929 warrants were issued in Australia as compared to 1,839 in the United States.

This means that an Australian telephone is 23 times more likely to be bugged than an American telephone. Why is that? Does the government believe that there is something in the Australian character that demands such a high degree of surveillance and eavesdropping? In the US, only judges may issue telecommunications warrants, but in Australia almost all are issued by nonjudges, as we can see from the list of authorised personnel listed in the legislation before us today.

Australians should be able to communicate with their friends and colleagues without a range of organisations listening in. It must only be in extraordinary circumstances when that right to privacy is denied. And who exactly is being spied upon? Too often it has been people who are working for peace and human rights or organising using their democratic right to free expression that we hold dear in this country. Why are these people under surveillance? In conclusion, the Greens recognise that these are sensible and non-controversial amendments to some deeply troubling and controversial legislation.

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.19 pm)—I would like to thank the senators for their contributions to the debate on the Telecommunications Interception Legislation
Amendment Bill 2008, and I particularly thank Senator Ludlam for his first contribution to a legislative debate. In terms of the issues that have been raised, can I advise Senator Ludlam that the Telecommunications (Interception and Access) Act has been the subject of extensive review in recent years—including most recently the Blunn review—and it incorporates considerable safeguards, including robust reporting and monitoring oversight. In advising him of that, I would like to acknowledge his privacy concerns but assure him that this government is not intent on unduly intervening in people’s privacy where that is not appropriate.

The bill is important in maintaining the effectiveness of the legal framework that underpins the lawful interception of telecommunications and surveillance activities. Replicating the existing authorisation powers in stand-alone provisions does not alter or expand any powers for security or law enforcement agencies under the Telecommunications (Interception and Access) Act. The amendments to the references to the Victorian Office of Police Integrity will ensure that that office can continue to exercise its existing interception powers following the establishment of the office as a stand-alone agency under the Victorian Police Integrity Act 2008. The bill also removes redundant references to provisions in relation to communications carriers, reporting obligations that were repealed following the passage of the Telecommunications (Interception) Amendment Act in 2006. These technical amendments to the interception regime will improve, clarify and simplify the operation of the TIA Act. In doing so, the bill is a further step in the ongoing modernisation of Australia’s laws for accessing telecommunications information for law enforcement and other national security purposes.

In relation to the issue raised by Senator Brandis—well spotted, Senator Brandis!—the express powers issue was flagged during the drafting of the last TIA bill, and prior to this the relevance of the outcome in the Hong Kong Bank case had not been identified. Now that it has been, we have moved quickly to address the issue to maintain the effectiveness of the legal framework that underpins the lawful interception of telecommunications in surveillance activities. I commend legislation to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator STEPHENS (New South Wales—Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion) (1.22 pm)—I move:

That government business order of that day No. 4 be called on and considered until not later than 2.00 pm.

Question agreed to.

GREAT BARRIER REEF MARINE PARK AND OTHER LEGISLATION AMENDMENT BILL 2008

Second Reading

Debate resumed from 27 August, on motion by Senator McLucas:

That this bill be now read a second time.

Senator IAN MACDONALD (Queensland) (1.23 pm)—This is a very important piece of legislation because it deals with a truly Australian icon, one of the wonders of the world. It deals with the Great Barrier Reef, the world’s largest and arguably most complex ecosystem—some 2,900 individual reefs, 760 fringing reefs around islands or
mainland, and some 900 islands within the marine park. It is managed for multiple uses, including a very important tourism industry which provides the means for 1.9 million visitors from Australia and around the world to experience one of the most spectacular ecosystems on the planet. It is worth nearly $6 billion a year to the regional and Australian economy. The reef supports a diverse fishing industry—important commercial line, net and trawl industries—and is widely used by fishers, including many families, along its more than 3,000 kilometres of coastline. The recreational fishing industry generates some hundreds of millions of dollars of income for communities along the Barrier Reef and for our nation.

As well, the reef has particular cultural significance to Australia’s Indigenous peoples and we have a profound responsibility to manage the environmental, social, cultural and historical contexts of the Great Barrier Reef and also to manage very carefully the evolving pressures as more and more people wish to access the reef. The outcomes of the 2006 review of the Great Barrier Reef Marine Park Act 1975 are aimed at delivering modern legislation for the Great Barrier Reef Marine Park to ensure that we are capable of the long-term protection needs of the future.

This is a bill that evolved during the management of the previous government and it started way back in Dr David Kemp’s time as minister and even before that when Senator Robert Hill was the minister. Certainly the bulk of the work was done by Dr David Kemp and was carried on by Senator Ian Campbell. A lot of work was done by the environment department and Mr Borthwick, its secretary. The review was a very complete one and one which suggested certain amendments to enable the proper protection of the reef. So, quite clearly, the coalition will be supporting the general thrust of this bill and nearly all of the amendments.

However, at this stage, for the convenience of the government, the Greens and the two Independent senators, I want to very briefly indicate the way that the coalition will be dealing with this piece of legislation. Later on, Senator Scullion, the Leader of the National Party in the Senate, will be moving a second reading amendment to refer the bill to the Standing Committee on Environment, Communications and the Arts for inquiry and report. Senator Scullion will speak to that later. I will not say any more except to alert the chamber that that will be raised later as a second reading amendment.

When the bill gets to the committee stage the coalition has several amendments that we will be moving. I appreciate that at this time in debate I do not need to alert the chamber to what we are doing, and some may say that it is unwise to do that—that it is always useful to catch your opponents off guard—but I think this is such an important issue that I want, in this second reading debate, to alert others to what is happening so that they can be properly informed and can properly assess the approach the coalition is going to take.

There is an amendment that I just wish to mention briefly. In relation to the board of the Great Barrier Reef Marine Park Authority, the proposal in the bill is that the number on the board be increased from three to five. Of course we support that. One of those members, according to the legislation before us, is to be an Indigenous person. We will be moving an amendment to say that, as well, one of those board members should be a person with experience in the tourism or another industry associated with the Great Barrier Reef.

This amendment has come forward after consultation with those who are vitally involved in the proper management of this Australian icon, and it is an amendment that I would hope would find support from the
government as well as from the minor parties and Independents here. I think it is essential, in making sure that we have the best people in charge of the authority, that we have a wide range of experience, and I think it would be remiss of the parliament if we did not insist that those in whose interests it is to make sure the reef is very carefully managed are given a say on the board. I appreciate it is not a representative board; it is a board of people with skills to do the right thing—but we are signifying an Indigenous person there, and I think we should also ensure that one of the appointees is someone with experience in tourism or one of the other businesses that deal with the reef.

The other coalition amendment that I will be moving, also on behalf of Senator Boswell, is again an amendment that I would hope would find favour with the government, if not the Greens. I certainly hope it would find favour with the Independents as well. It relates to the early stages of the rearrangement of the Great Barrier Reef. I will go into this in more detail when we are dealing with the amendments at the committee stage, but I just wanted to alert people to where we were going.

When the new zoning arrangements to the reef came in just prior to 2004, I think it was, it meant a whole new range of zones were put in place in the Great Barrier Reef Marine Park. They ranged from green, no-take zones to yellow zones, which allowed some recreational fishing—different zones for different things, in accordance with what is seen as best practice in managing a very fragile marine environment like we have in the Great Barrier Reef Marine Park. They were very controversial in some cases, and I know my colleagues Senator Boswell and Senator Joyce will be talking, among other things, about the impact those zones had on the fishing industry, on the lives of many families and on the economies of many communities up along the coastline that hosts the Great Barrier Reef. They were controversial. They were subject to a lot of discussion, a lot of arguments, but they were eventually implemented by regulation in this parliament, and the regulation was never disallowed by this parliament, so they stood.

There was a lot of angst about the management of those zones—and, again, others will tell you about them in the course of the debate. But I want to briefly go to the issue of enforcement. Once these plans came in, there were a number—the figures vary—of charges laid against people who were alleged to have breached the rules for these new zones. In many cases, in accordance with the legislation, fines were imposed and convictions were recorded. Although some of those charged disputed they had done anything wrong, the general feeling was that if you have to go to court and have to engage a lawyer it will cost you an arm and a leg, and the fines were not thought to be particularly large, so a lot of people just let them go through to the keeper.

One person did challenge them many years after the event, and a court determined—and I speak very broadly here; I am not going into the detail—that determining someone’s position on the ocean via GPS was not a proper substantiation of their entry into a zone where they should not be, and the court ruled against the conviction in that instance. Now, if any others had decided to challenge those charges in court, they might have had the same result. But a lot of them did not, and that is understandable; it is very difficult at times to justify the financial burden of taking these issues to court.

However, many people—in fact, I would suggest, most people—did not realise that the offences with which they had been charged were indeed criminal offences, which had the result of giving them a crimi-
nal record. To that in itself you might say, ‘So what,’ although it does have some implications when applying for jobs. But it does have a more serious consequence in that we received reports that people convicted of these offences who applied for visas to foreign countries had been knocked back on the basis that they had a criminal conviction. This was far from the intention of the legislature, of the government, and, I am sure, even of the prosecutors when these offences were recorded. So there has been this unintended and quite serious consequence, a record of criminal conviction, for actions which, although they might have been offences, are a bit like speeding offences almost.

So as a result of a lot of work by my colleagues, particularly, I have to say, Senator Boswell, this issue was raised and we have been trying to work out how we can ameliorate the effects of these convictions. During estimates in May of this year I raised these issues with both the Minister representing the Minister for Home Affairs, who deals with pardons, and the Minister representing the Minister for the Environment, Heritage and the Arts, and sought their advice on how you can go about getting pardons. I want to be fair; I do not want to verbal them and say that they agreed that, yes, we should do this; but the answers I was given in estimates suggested to me that it was appropriate for these people to apply for pardons and that if applications for pardons were made they would be seriously considered. To that end, I put a proforma on my website, inviting people to use it as an application to the minister. I have no idea of the outcome; it is a matter between the convicted person and the minister. I have no idea how many applied or even whether they applied. Senator O’Brien, I think it was, mentioned yesterday that there were only four who had applied for pardons, and I accept that he is telling the truth on that. I understand, although this has not been confirmed, that none of those applications have been successfully dealt with or acceded to by the Minister for Home Affairs—but, again, I do not know that.

Anyhow, the coalition will move amendments to this act to try and ameliorate those very harsh and, I suggest, unintended consequences of convictions under section 38CA of the Great Barrier Reef Marine Park Act 1975 by expunging the records of convictions. I say this deliberately to alert the government and the minor parties to the fact that I have circulated two amendments, the first of which will call for those who were convicted during that period, under that section, to receive a free and absolute pardon by the Governor-General in the exercise of the royal prerogative of mercy. I would hope that that amendment will attract the support of the majority in this chamber and, indeed, in the other chamber. I have circulated an amendment to give other parties time to consider it, look at it and perhaps alert me if we have not covered all of the legal implications that adoption of that amendment might bring. In all fairness, to try and get to a result in this issue, I speak briefly about that now.

I also have what I would call a foreshadowed amendment. If for some reason the majority of the Senate is not prepared to go as far as a pardon, I have a foreshadowed amendment which asks that those convictions be treated as spent convictions, under part 7C of the Crimes Act, meaning that, although the convictions stand, the record of those conditions will be expunged from the record so that they do not have to be disclosed by anyone. Whether that will have an impact on foreign countries dealing with visa applications, I do not know—that is a matter for the law of other countries—but I think it is the best we can do. I hope the pardon amendment will receive favourable consideration; if not, there is a fallback position. I mention those openly in advance so that
other parties, including Independents and the Greens, can have a look at those issues.

With those amendments, the coalition will be supporting the bill. As I mentioned earlier, and Senator Scullion will speak more about this, we hope that a committee of the parliament could have a closer look at the bill. I know Senator Joyce has concerns about some definitions, and he will no doubt tell the Senate about that later. It is something that could be looked a little more closely without interfering with the appropriate passage of the bulk of this bill, which I think all the parties do support.

In conclusion, I make the point that the Great Barrier Reef is part of our environmental heritage and it is part of who we are as Australians. It is our responsibility to protect it. All Australians—Indigenous and other Australians—are custodians of the reef and we have to play our part in ensuring that it is properly protected. The bill, as I said, introduced by the current government, has taken four or five years to draft and present to the parliament. Even after all that time, it still has issues that need to be further addressed, and they will be addressed by my colleagues in speaking to the bill. Ultimately, it is legislation which the coalition proposed and it has been adopted by the current government, with some amendments. It is the result of the desire of all of us to ensure that the Great Barrier Reef continues to be maintained in the best possible way. I commend the bill to the Senate and urge the Senate to seriously consider the amendments that I have foreseen for the bill.

Senator JOYCE (Queensland) (1.43 pm)—I want to bring to the attention of the Senate some of the issues that are contained in the Great Barrier Reef Marine Park Authority or those adjacent to the Great Barrier Reef but also for those who live adjacent to the coastline— in fact, adjacent to any fishing area—and those who have an interest in the law itself.

I just go back to the start of where GBRMPA comes from. As everybody knows, in 2002 the Democrats held the balance of power in the Senate. As a result, they negotiated an agreement which would allow the government to go ahead with the GST in return for a one-third closure of the reef and the removal of sulphur from diesel. The decision to close a large portion of the Great Barrier Reef was not based upon scientific or economic analysis; it was based upon a needs analysis and was based purely upon a deal. At that time the Great Barrier Reef was being fished at a level that was under one per cent of the UN’s recommended sustainable level. The level of fishing has reduced further since. The decision came at a cost to taxpayers of about $220 million when it was initially anticipated that it would cost GBRMPA about $2 million to pay out certain fishing licences and compensation.

The Barrier Reef bill, as it stands, still refers to the enjoyment of the area for social and economic activities. As such, you would suspect that it would still have recreational and commercial fishing as part of it. The reef is a huge renewable resource and, as it is adjacent to the people of North Queensland, it is absolutely vital that it not be turned into some sort of total exclusion zone, leaving those people totally isolated from one of their most important means of recreation. You have to remember that in this area there are stingers, which preclude a lot of people from swimming in the area. We have the effect of crocodiles in the estuarine area. If you take away the joy of fishing, you start to take away a whole means of recreation for those people. It would be like banning surfboards
at Bondi Beach, but we have started to head towards it in this bill.

There are a couple of things that I find completely onerous in this piece of legislation, and I would like to bring three of them to the attention of the Senate in detail. The first is item 9 of schedule 6, an amendment to section 3(1) of the Great Barrier Reef Marine Park Act 1975, which is the definition of ‘fishing’:

\[
fishing \text{ means any of the following:}
\]
\[
\begin{enumerate}
  \item searching for, or taking, fish— not actually catching it, but searching for a fish—
  \item attempting to search for, or take, fish;
  \item engaging in any other activities that can reasonably be expected to result in the locating of … fish;
  \item placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
  \item any operations at sea directly in support of, or in preparation for, any activity described in this definition;
  \item aircraft use relating to any activity described in this definition except flights in emergencies …
\end{enumerate}
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Let us just think about it. Let us take out the word ‘fishing’ and, for the sake of argument, put in the word ‘kissing’: \“’Kissing’ means any of the following: searching for a partner; attempting to search for a partner; engaging in any other activities that could reasonably be expected to locate a partner.’ You see how ridiculous, all-encompassing and onerous this definition is. It is not a case of catching somebody doing something wrong; it is a value judgement as to whether you think they are doing something wrong. It is a value judgement as to whether you consider that they might be going to do something wrong. Yet the Greens are going to support this, and this is the sort of stuff that would leave our terrorism laws for dead. This is an absolute ripper, where I can go up to you and determine that you might have a thought in your head that involves fishing, and therefore you may end up with a criminal conviction for what you thought.

I do not care if you take fishing away from this whole scenario. In that structure, this amendment to section 3(1) is onerous on its own and should be knocked out, not because of fishing but because it is a contemptible paragraph in our legislation books that I think should be struck out. If you make an excuse to put that sort of thought-police material into a piece of legislation, you have created the imprimatur for it to go into other places. That is one of the concerns that have worried me deeply about this legislation, and I expressed the same to the joint party room the other day. I really wonder if even the Greens agree with this piece of legislation. If they and other members in this chamber agree with this amendment to section 3(1), they should be called to account, especially if, at a later stage, they find contentious other things that regard the security of the nation and that would possibly mimic that. You can all see the sort of mimicry that could be attached to that with regard to terrorism offences, and you can see how we leave ourselves wide open in an area which we should be ever vigilant against—that is, the area of thought police.

This idea of the thought police is further enhanced in item 12 of schedule 1, another amendment to section 3(1) of the Great Barrier Reef Marine Park Act 1975, with the so-called precautionary principle: \textit{precautionary principle} means the principle that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible … damage.

All of the end sounds flowery and wonderful, but the front end of that clause is the part that stings. It means that the principle is that
lack of full scientific certainty—that is like saying ‘lack of full evidence’—or lack of the capacity to prove an issue is a reason to convict. The precautionary principle is not precautionary; it is dangerous. If you cannot prove something on environmental or socio-economic grounds, you cannot just say, ‘Because I have an inherent fear, it is an issue.’ I think that is something that is of major concern, and that is a part of the drafting of this legislation which should, at the very least, be the subject of an inquiry and of wider discussion and ventilation so that the people of Queensland and the Australian people in general can have their say about this issue.

I was disappointed—given that we talk about the process of the Senate, respecting the Senate and all these things—that, when there was an inquiry suggested before, it was knocked out. It never got through. Why? Because the Greens did not vote for it. The Greens, the people who put themselves up as the arbiters and protectors of freedom, voted against an inquiry. It is amazing how the worm turns. The Greens voted against an inquiry that would, in essence, deal very seriously with the issue of the insertion of the thought police into our legislation. It is an interesting world we live in. The Greens voted against an inquiry that would talk about a section of the legislation amending the Great Barrier Reef Marine Park Act 1975 to create section 61AEA, ‘Directions limiting access to Marine Park’. This is the so-called ‘three strikes and you’re out’ clause.

Legislation similar to this would suggest that, if you were caught committing three driving offences, you would not be allowed to drive a car again ever. That is the sort of legislation that is currently being devised in this chamber, and it is going to go to the Australian people without an inquiry and without any further discussion. I want to read to you some information on the criminals we are catching with this sort of legislation:

Fact: D was a master of a vessel with one passenger. He was fishing but didn’t catch anything. A passenger, his grandson, was not fishing. He was aware of the zoning but couldn’t understand it. He did not own a zoning map. He thought he was in the right zone to fish. That man ended up with a $1,000 fine and a criminal conviction.

There must be something wrong with that. Surely that rings a bell somewhere. Surely the punishment should be something similar to a speeding ticket rather than a criminal conviction. That gentleman now could be precluded from obtaining a passport. That is the sort of legislation that the Greens do not want an inquiry into. We must be completely vigilant about this. We are going to make another attempt to see whether the Greens have an issue with the thought police. We are going to make another attempt to see whether the Greens believe that a grandfather and his grandson should get a criminal conviction for accidentally fishing in an area. It was probably just adjacent to the coast where the grandfather lives. We are going to make another attempt to find out whether the Greens want an inquiry into the ‘three strikes and you’re out’ clause. We will make another attempt to find out whether the Greens believe in the precautionary principle—that is, the so-called ‘even if you can’t prove it, it doesn’t matter’ principle.

This is so important. If we let this legislation pass here it will become the legislation for Tasmania, it will become the legislation for Western Australia, it will become the legislation for other fishing grounds and it will become the premise for the creation of other like legislation for other areas. I do not know whether this should go to the Senate environment committee; I think it should go to the legal and constitutional committee. They should look at it in the area of, ‘Look at what we’ve devised today.’
We have to see this for what it is. The Great Barrier Reef Marine Park is a park, not a zoo. For tens of thousands of years there has been interaction between the people living adjacent to the reef and the resources of the reef. I will also inform the Senate that some of the people who have been convicted were convicted when they were teaching their sons to spear fish, so we are looking at something that involves members of the Indigenous community. We have changed the whole nature and concept of the way the Great Barrier Reef has worked for tens of thousands of years. We in the south have, by our own mechanisms, made a decision for another part of our nation that probably has not taken in—in any way, shape or form—the reality, the custom and the practice of how the reef has worked.

It is going to be an interesting vote, and I hope that those who are following the debate know that this is not just a debate about the Great Barrier Reef Marine Park Authority. This will be a vote about jurisprudence, about a new direction in law. When onerous clauses like this come into our legislation there is always a noble purpose. There is always a wonderful purpose as to why we should put greater caveats on the freedom of the individual. That is so much so now that we are putting caveats on how people think. It will be interesting to see whether those who in the past have risen in this chamber as ardent protectors of a greater breadth of freedom and have admonished laws, especially around things such as terrorism, will in the same breath—and this is not so much about whether they vote for a law that is about thought police—not allow a committee of inquiry to discuss it further.

Senator BOSWELL (Queensland) (1.57 pm)—The time is short—in fact, there are probably only two minutes—but I will endeavour to fill in that time. It is very good to follow Senator Macdonald and Senator Joyce. They both analysed this legislation very well and indicated primarily that this is a path we should not be going down. Some time ago the coalition decided that they would do a review of this legislation, and that was done on 14 December 2006. Prior to that, this legislation was introduced after GBRMPA came around and saw members of parliament. It said to them: ‘We only want 25 per cent of the reef. Yes, we’ll put in these biodiversity zones and zones that people aren’t to fish in. Don’t worry about it, Senator Boswell. We’ll look after you. We’ll go and talk to all the fishing people. We’ll find the particular areas where they fish and we’ll let fishing continue.’ So everyone was lulled into a false sense of security.

I took GBRMPA at its word, which is the worst thing I ever did. That was the biggest mistake I have made in this parliament. When the maps came out, we found some terrible failures of GBRMPA to honour their commitments to the fishing industry and the amateur fishermen. They took 33 or 35 per cent of the reef. We were then forced to go and reduce the fishing effort, because you cannot lose a 35 per cent area and still have the same effort.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Budget

Senator CASH (2.00 pm)—My question is to the Minister representing the Minister for Resources and Energy, Senator Carr. I refer to Minister Ferguson’s spokesman’s comments on Woodside’s possible investigation by the ACCC as reported in the Australian yesterday. Given the huge impost all Western Australians will face from Labor’s condensate tax grab, can the minister advise on what basis the government will be directing the ACCC to review the appropriateness of the North West Shelf Venture partners joint marketing arrangements?
Senator CARR—Thirty years ago a few companies got a tax exemption for condensate. I repeat: that was 30 years ago. That proposition is no longer needed and is now delivering windfall gains not available to anyone else. These are windfall gains that belong to the Australian people. After 30 years of this tax exemption, the North West Shelf project is now mature and profitable, and the companies benefiting from this concession are enjoying huge profits from rising international oil prices. There are members opposite—Liberals opposite—who seem to care more about the windfall profits that are gained from one project than they do about lowering inflation and interest rates for working families who are doing it tough. For example, the windfall gain between 2001-02 and 2006-07 was around $1.4 billion and would now, on present-day figures, be even higher. If Woodside had paid the condensate tax this year their profit would have been $950 million instead of $1 billion. That is still $340 million more than its profit this time last year.

The proposition is simply this: the measure that the government has proposed removes a tax exemption for condensate which is not, as was stated yesterday, a tax on gas. Those opposite have been told this measure will not be putting up gas prices. The CEO of the North West Shelf Venture told the Senate: ‘Our current domestic contracts are in place and will be honoured—and that is for many, many years; they are long-term contracts.’ The Treasury have made it clear to the Senate Economics Committee that they do not expect there to be any impact on prices outside those contracts.

Senator CASH—Mr President, I ask a supplementary question. Minister, thank you for the history lesson but isn’t this just a case of the government standing over the North West Shelf Venture partners and threatening them because they are daring to, like any other business is entitled to, pass on taxes to their consumers?

Senator CARR—The position, as I have outlined, is that there are long-term contracts in place which Woodside said it will honour. This was a particular exemption given to Woodside effectively over 30 years ago which only a few companies were able to attract and is no longer needed. The proposition that these arrangements will be passed on to others strikes me as in contrast to what the company itself has said about its own long-term contracts.

Budget

Senator CAMERON (2.04 pm)—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry. Can the minister please update the Senate on why, now more than ever, it is critical that the government’s budget measures are passed in full?

Senator SHERRY—That is Senator Cameron’s first question, and a very important question it is. Global market financial turmoil is still creating considerable uncertainty in the global economy. What is known as the US subprime crisis, which has caused financial markets and indeed share markets around the world to decline rapidly and in some areas to go literally into meltdown, is still continuing. When I was in the United States—Washington and New York—last week, all the signs were that that is going to continue. We are going to have a continuing period of global financial market uncertainty. It is in this context that we need a strong budget surplus to provide a buffer against global turmoil. We need to ensure that the Reserve Bank in Australia has room to move, we need to finance critical national building investments for the future and we also need to keep downward pressure on inflation. That is why we have built a strong budget surplus for this financial year of some $22 billion.
That is very, very necessary in the context of the reasons that I have outlined.

Part of this budget surplus of $22 billion over the four financial years identifies savings of some $33.3 billion. The Labor government have identified savings of some $33.3 billion, including $7.3 billion in savings in this financial year. We are proud to boast that we are fiscal conservatives. We have taken the current state of economic circumstances very seriously indeed. It is the height of economic irresponsibility for the Liberal opposition to be tampering with this budget surplus, vandalising the budget surplus—

Senator Minchin—$20 billion!

Senator SHERRY—I am just going to get to some remarks by Senator Minchin. Senator Minchin is laughing, of course. A former finance minister in the Liberal government is laughing. I want to go to some comments by Senator Minchin yesterday. Yesterday Senator Minchin asked a question about what difference—and he is shrugging his shoulders—$1.5 billion makes to the budget. He said:

How on earth can a reduction in the surplus from $21.5 billion to $20 billion possibly be described as ‘vandalising the surplus’?

Senator Minchin has lost all connection with reality and fiscal responsibility, if indeed he ever had any. He certainly had it at the beginning of his period as finance minister but it very quickly evaporated in the latter part of his period as finance minister. Senator Minchin, $1.5 billion is a considerable sum of money and a considerable part of the budget surplus that we believe is necessary to contribute to a substantial budget surplus, given the current economic circumstances we face.

Senator Minchin—Out of $1 trillion of revenue!

Senator SHERRY—Senator Minchin scoffs at $1.5 billion, but that is just the impact in this financial year. The ongoing impact would be $6.2 billion off the budget over the next four years. Senator Minchin continues to interject and shout and try to make the argument that this is of no consequence to the Liberal opposition. He just shrugs his shoulders—$6.2 billion off the budget surplus. It is of no consequence to Senator Minchin and the irresponsible Liberal Party vandals who are attempting to substantially reduce the budget surplus.

Small Business

Senator KROGER (2.09 pm)—As a former small business owner and operator, my question is to the Minister representing the Minister for Small Business, Independent Contractors and the Service Economy, Senator Carr. Will the minister confirm that small business attitudes and confidence in federal government policies are at their lowest ebb in the 15-year history of the authoritative Sensis small business survey? Senator Carr, don’t these figures prove that the Rudd Labor government is now considered by small business to be the worst government ever?

Honourable senators interjecting—

The PRESIDENT—Order! This is question time, not banter time across the chamber. Senator Conroy, I put out a general reminder to the question committees around this place that questions should be addressed to the chair and not across the chamber to the individual ministers.

Senator CARR—Thank you, Mr President. The NAB monthly business survey from which I presume—

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Conroy, let Senator Carr answer the question.
Senator CARR—Thank you, Mr President. I presume the senator is referring to the latest business survey. The business conditions clearly indicated in that survey had deteriorated in July. Business confidence remained ‘steady’ with the NAB noting that ‘confidence remains significantly above recessionary levels’ and that trade conditions and the employment index were at their ‘lowest levels since 2001-02’ and the business confidence index has remained at the same levels since 2001. Business expectations for the December 2008 quarter have deteriorated and concerns have been expressed about fuel prices remaining high, with 47 per cent of respondents nominating it as the ‘single most important influence’, and interest rates. However, concerns about wages growth have eased. Many of these results of course are at their lowest levels since 1992. Issues of most concern to business relate to global developments. The consumer sentiment bounced back in August but remains below both the 33-year and the 10-year averages. The index remains close to its lowest level since June 1993.

US consumer sentiment, I might point out on the other hand, if we look at the international comparisons, has fallen to its lowest levels since 1980. Japanese consumer sentiment has fallen to its lowest levels since 1982. The United Kingdom consumer sentiment has fallen to levels not recorded since 1974, and in Europe and the United States business confidence has slumped to 1972 levels.

So it is quite clear that there is a period in which we are now seeing that business is worried about rising fuel prices, increased interest rates, the consumer downturn, lower consumer confidence and decreased business. And in the context of the legacy that has been inherited by this government as a result of the failure of the Howard-Costello government, is it any wonder that there was a softening in business confidence? Business conditions indexed in the June quarter were at their lowest levels since these surveys have been undertaken. However, the availability of suitably qualified staff has either been the biggest or the second biggest constraint on investment for all businesses. So there is a long-term problem here as a result of the previous government’s failure to deal with some of the fundamentals within the Australian economy, and this is precisely what this Labor government is seeking to do to deal with the legacy that has been left to us by the previous Howard-Costello government.

Senator KROGER—Mr President, I ask a supplementary question. Senator Carr is most welcome to come back to my office and I will brief him about the fact that there is a Sensis small business survey, which his advisers seem not to have advised him about.

The PRESIDENT—Order! This is not a debating time. Please ask the supplementary question.

Senator KROGER—Doesn’t this record high disapproval rate for Labor’s small business policies prove that the former Labor leader, Kim Beazley, was so right when he infamously admitted that Labor has never pretended to be a friend of small business?

Senator CARR—I am not altogether certain that there is much to be answered in that supplementary question. Frankly, there may well have been an invitation, which I will not be responding to. The simple fact of life is this: the Australian economy is facing difficulties and these are inherited difficulties that have come as a result of the failure of the previous government to face up to the simple facts of life when it came to the capacity constraints in the Australian economy, to eight interest rate rises in a row, to serious skills shortages that had been developing for quite some time and to its failure of will to
It has been put that there is a particular difficulty with consumer confidence. By international standards, Australian conditions are very strong. The global credit crunch that we are now facing—(Time expired)

**Education**

Senator BILYK (2.17 pm)—My question is to the Minister representing the Minister for Education, Senator Carr. How will the government’s agenda for school reform affect teacher quality?

Senator CARR—I thank the senator for her question. The question we face is this: how do we ensure that all Australian children fulfil their potential in a time of great economic, social and environmental change?

Senator Abetz interjecting—Senator Abetz may not be interested in these fundamental issues facing this country and it is a pity he does not pay greater attention to this. The question remaining for this parliament is: how do we ensure that all Australian children fulfil their potential in a time of great economic, social and environmental change?

Senator CARR—Senator Abetz, may not be interested in these fundamental issues facing this country and it is a pity he does not pay greater attention to this. The question remaining for this parliament is: how do we ensure that all Australian children fulfil their potential in a time of great economic, social and environmental change?

One of the most effective ways we can redress this disadvantage is by giving all students access to quality teachers. That is why this government is working through COAG to establish a national policy partnership on quality teaching that will raise overall performance by improving the pathways into teaching, especially for high-achieving graduates, by improving recruitment and retrenchment policies and rewarding outstanding teachers' performance and by the allocation of the right teachers to schools with high needs by providing the right incentives and support. That is why we are offering HECS remissions for maths and science graduates who choose teaching as a career.

The next step will be to offer a new scheme, based on the United States’s Teaching for America program and the United Kingdom’s Teaching First program, which will give talented graduates an accelerated pathway into teaching. It will place them in the most challenging school environments and pay them at a higher rate. Australian teachers are critical to everything this government is trying to achieve in social justice, in productivity and in innovation. It is essen-
tial that we achieve teaching excellence in every school. That is what the government’s agenda for school reform is all about.

**Fuel Prices**

Senator ABETZ (2.21 pm)—My question about the urgency for releasing an interim report on Fuelwatch is directed to the chair of the economics committee. What was the urgency for releasing an interim report on Fuelwatch?

Government senators interjecting—That requires leave!

Senator Ellison—Mr President, on a point of order: leave is not required. When you look at standing order 72(1), you see it states:

... questions may be put ... to other senators relating to any matter connected with the business on the Notice Paper of which such senators have charge.

When you look at page 43 of the Notice Paper, you see that there is an inquiry which is extant, and Senator Hurley is chair of the committee which is writing that report. In support of that, I refer to standing order 38(5), which says that the chairman of a committee shall sign such a report and is responsible for that. That reinforces the fact that Senator Hurley indeed has charge of a matter related to business on the Notice Paper. So certainly 72(1) allows a question to be put to other senators relating to any matter connected with the business on the Notice Paper of which such senators have charge. On the basis of those two arguments, Senator Abetz’s question is in order.

Senator Chris Evans—Mr President, on the point of order: it is obviously for you to rule on the standing orders, but in my experience in this chamber when a question of a chair has been sought to occur the courtesies have required that the questioner notify the chair prior to the meeting. If someone is genuinely seeking information, one would provide the normal courtesies. If one has run out of ideas after two questions to ministers, it just looks like a stunt. It looks like a stunt because it is a stunt, Mr President, and I ask you to urge the senator to follow proper process and courtesies.

Honourable senators interjecting—

The PRESIDENT—Order! When people are on their feet they are entitled to be heard in silence, and I do not care which side of the floor they are speaking from.

Senator Minchin—Mr President, on the point of order: there is no convention, practice or procedure such as Senator Evans refers to. That is a fiction of his imagination. It is perfectly legitimate under standing order 72(1), to which Senator Ellison referred, for a senator, in questions without notice, to refer a question to another senator relating to any matter connected with the business on the Notice Paper of which such senator has charge. This is a perfectly proper question. There should be no opposition or angst from the Labor Party. It is perfectly proper for the chairman of the committee to respond to this question and I ask that you rule accordingly.

Senator Ludwig—Mr President, on the point of order: standing order 72(2)(a) states: A question may be put to the chairman of a committee relating to the activities of that committee, provided that:

(a) unless leave of the Senate is granted for the question to be asked without notice, it may be asked only on notice.

There has been no indication from Senator Abetz that notice has been given in respect of this question so, without that, it does require leave of the Senate for the matter to be sought.

The PRESIDENT—On the point of order, I rule that the question is not in order. I have taken advice from the Clerk, and I believe that the advice that has been provided to me and my reading of the standing orders
are correct. I will review the matter after question time and take further advice and I will report back to the chamber at a later time.

Senator Abetz—Mr President, I do not seek to canvass that approach, but I seek leave to ask the question.

The PRESIDENT—I have ruled on the point of order. You did ask the question and, you having asked the question, I have ruled on the point of order that the question was not in order.

Senator Abetz—Mr President, on a point of order: with great respect, what you have ruled is that no question can be asked. You have not ruled the question out of order. We have not even got to that first base. You are saying in your ruling, as I understand it—and I do not want to canvass that—that I cannot ask a question without leave. Therefore, I am now seeking leave. You have not ruled the question out of order as offending against the provisions of the standing orders.

Senator Minchin—Mr President, on the point of order: I think what you indicated was that you were not prepared to allow Senator Abetz to ask the question under standing order 72(1). Senator Abetz now quite properly, and in response to your ruling, is seeking to ask the question under standing order 72(2), under which a question may be put to the chairman of a committee relating to the activities of that committee in accordance with leave being granted.

Senator Chris Evans—Mr President, on the point of order: I do not know how many cracks Senator Abetz will get at trying to ask the question. He got the call. His question was ruled out of order. It seems to me that we ought to give the call to the next questioner.

Senator Ellison—Mr President, on the point of order: even those opposite in the government were saying that leave needed to be sought and that was the proper process to adopt. Senator Abetz is now doing that, as Senator Minchin has pointed out, in accordance with standing order 72(2)(a). That is the authority for this course of action. It is now an entirely different process.

Senator Faulkner—Mr President, on the point of order: as has been pointed out, standing order 72(2)(a) indicates: ... unless leave of the Senate is granted for the question to be asked without notice, it may be asked only on notice. Now we have the situation that the shadow minister is requesting leave of the Senate. I submit to you, Mr President, that it is clearly within the spirit and letter of this standing order for either leave not to be granted or, if leave is granted by senators in the chamber, the relevant chair of a committee to take the matter as a question on notice.

Senator Joyce—Mr President, on the point of order: I refer to standing order 72(1), where it states that questions may be asked of: ... other senators relating to any matter connected with the business on the Notice Paper ... I ask, Mr President, can questions connected with the business on the Notice Paper still be asked?

Senator Bob Brown—Mr President, on the point of order: clearly the sequence is that Senator Abetz, knowing that if he were to be allowed to proceed should have sought leave, did not do so. He asked the question without seeking leave. You ruled that the question was out of order and it remains out of order. You made your judgement and it was too late then for Senator Abetz to go back and seek leave. Maybe the next questioner should try that option.

Senator Ferguson—Mr President, on the point of order: we seem to be debating a point of order in relation to the fact that Senator Abetz sought leave to ask a question.
As I understand it, a senator is allowed to seek leave at any time to speak in this chamber.

Honourable senator—The President did not put that point in the chamber.

Honourable senator—Yes, he did.

Honourable senator—No, he did not.

The PRESIDENT—Excuse me! I think the President will say what the President said—from either side. Can I say that in the first instance Senator Abetz rose to ask a question of the chair of the economics committee. That question was put without notice and I was asked to rule on that point. I ruled that the question was out of order because it was not in compliance with the standing orders. The standing orders as I read them and on the advice of the Clerk provide that ‘unless leave of the Senate is granted for the question to be asked without notice’, and that was not sought in the first instance, ‘it may be asked only on notice’. It was on that basis that I ruled the question out. To those who are putting the case to me that it was sought in the first instance, I do not think that that was put to me; it was subsequently sought by Senator Abetz that leave be granted. I would say that in the first instance the opportunity for the question to be asked was given, the appropriate standing order was applied, and this is a second time at asking the question. I would therefore move on to the next question and that is the question to be asked by the Greens.

Senator Abetz—On a point of order, Mr President: I would ask you to have a very, very close look at that ruling because many, many a time honourable senators from all sides seek the call and start talking. When they are then told by the chair, ‘Sorry, you need leave to ask or to proceed down that track,’ the senator is then given the opportunity to seek leave from the Senate. That is the procedure.

Honourable senators interjecting—

The PRESIDENT—Order! Senator Abetz is entitled to be heard.

Senator Abetz—That is the long, time honoured tradition that I have followed. In the event you are seeking to rule otherwise, when people ask for a personal explanation or something and forget to ask for leave in the first place, they will be sat down and will not be allowed to continue. I personally think that would be a very dangerous precedent not because of the question I am seeking to ask—albeit a very important one—but because of the precedent it will set for every other senator.

Senator Fielding—Mr President, on the point of order: I would suggest that given that there would be quite a few Australians listening to this debacle, not debate, a bit of leniency with regard to allowing the question to be asked on seeking leave would make sense. Frankly, we are wasting time.

Senator Faulkner—Mr President, on the point of order: I really do believe, as you consider your ruling, which I think is an accurate and sage ruling—

Senator Ian Macdonald—Thanks, John. That helps us!

Senator Faulkner—I am glad you appreciate it too and I am glad that you are listening at this stage—it is unusual for you. Standing order 72(2) says:

A question may be put to the chairman of a committee relating to the activities of that committee, provided that:

(a) unless leave of the Senate is granted for the question to be asked without notice, it may be asked only on notice.

We know in relation to this, Mr President, that through ignorance the Deputy Leader of the Opposition in the Senate, who did not have an understanding of the standing orders of the Senate, did not comply with the stand-
ing orders of the Senate when he asked his question. As a result, quite properly, Mr President, you ruled that question out of order, as you should have. That is the status we have at the moment. I thought in my earlier point of order I outlined the options that were available to the Senate. I also might say in support of this point of order that I admit—

The PRESIDENT—You are now debating the issue, Senator Faulkner.

Senator Faulkner—Let me conclude my point of order by saying that in the 19 years I have been here this, of course, is absolutely unprecedented and I suggest that members of the opposition look at the precedents their colleagues established during the life of the previous government when they acted very differently on these matters.

Senator Bob Brown—Mr President, on the point of order: a piece of advice that you may concur with is that the question has not been received, because you did not allow it, by the senator to whom it was aimed. You are making a considered ruling on the way in which that question was put. Were the opposition to now put the question seeking leave then the legitimate form of approach would be made and we could proceed.

Senator Minchin—Mr President—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Minchin, I cannot ask you to proceed whilst your colleagues are interrupting.

Senator Minchin—Mr President, on the point of order: I would put to you that you have denied Senator Abetz the opportunity to ask his question of the chairman of the economics committee as a result of your interpretation of standing orders 72(1) and (2). I would therefore submit to you that it is proper that you now give Senator Abetz the opportunity to ask a question of a minister.

That is the proper order of events. You denied him the opportunity to ask his question properly of the chairman of the economics committee. Now it is proper that you give the opposition the opportunity to ask a question according to the standing orders, under your interpretation, of a minister.

The PRESIDENT—On the last point of order, there was no attempt at any time to deny Senator Abetz the right to ask his primary question—at no time. Senator Abetz received the call, stood up and asked his question. That is what Senator Abetz did. I called him as I call everyone. The other thing that I want to address very briefly is that I said that I would take this away and consider it and come back with further comments to the chamber. This is not a precedent for any other part of the operation of this chamber. I completely refute that. This is simply about keeping order in question time.

Before question time, I am given a copy of the order of questions in question time. The order of questions in question time—and I can read it out for those who would like it read—reasonably distributes questions between the opposition, the government, the minor parties and the Independents in this place. It is still within the province of the opposition, having had that question ruled out of order, to have a member who will receive the call at a later stage in question time ask that question. It can be asked at that stage with a request for leave in the first instance, as it should have been asked—in my view—by Senator Abetz.

Senator Abetz interjecting—

The PRESIDENT—Senator Abetz, I am not going to debate it with you. I have ruled on the first issue. I ruled that the question was out of order. The opportunity still remains. The debate that is taking place at this stage, while very interesting, is not helping, I believe, the conduct of the business of this
chamber. I will continue to stick with my initial ruling. I am not going to change that. I said that I would take it away and look at the situation, and I will come back with a more detailed response to the chamber. I would advise those in the opposition that if they want to raise that question subsequently in this question time they should do so by leave. I would then have no problem putting that question to the chamber. But I believe that in the first instance Senator Abetz did have the opportunity to raise the issue by leave and chose not to. He chose to go down the path—

Senator Abetz interjecting—

The PRESIDENT—Senator Abetz, you had the opportunity. You chose not to take it. I was then asked to rule on a point of order, and I have done so. I will proceed to the next question, which is a question—

Senator Joyce—Mr President, I would also like you to give a ruling on the question that I asked, which was, in the first instance, about section 71(1) and about whether Senator Abetz had leave to ask the question, because it was a matter connected with business on the Notice Paper of which other senators have charge.

The PRESIDENT—We will get a ruling on that for you as well.

Indigenous Communities

Senator SIEWERT (2.41 pm)—My question is to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, Senator Evans. I note that Minister Macklin announced the welfare suspension truancy trial in the suburb of Cannington. Can the minister confirm whether this trial site is in fact restricted to the suburb of Cannington or whether it in fact extends across the Cannington Centrelink district, which includes the suburbs of South Guildford, Burswood, Victoria Park, South Perth, Queens Park, Belmont, Bentley, Rossmoyne, Welshpool and Canning Vale, to mention several of them? What support services are in place for the families that have had their payments suspended, particularly for those that have more than one child—in other words, children other than the ones involved in the suspension of payments? What is the expected increase in demand for charity and other services in this region, as they will be forced to cope with the families that have had their payments suspended?

Senator CHRIS EVANS—I thank Senator Siewert for the question. I acknowledge her interest in these matters. I will help her to the extent that I can; I will have to take the rest of the question on notice. As Minister Macklin and the Deputy Prime Minister, Ms Gillard, have made clear, we believe stronger measures are required to ensure school attendance. We know that school attendance is necessary for good outcomes in children’s lives and that if they do not attend school their chances for success later in life are much poorer. We need to find ways of encouraging greater parental responsibility so that parents make clear their expectation that children go to school.

I know that we have debated this previously in the context of Indigenous children and the very poor school attendance rates in many Indigenous communities. The whole Senate would join me in acknowledging that tackling that problem is very important to those children’s life chances. It is one of the reasons why this government has invested in the nought to five years of children’s lives and made them such a priority. We know that the investment early in their habits will have a huge pay-off in their later life but also in terms of their connection with the education system. As the Deputy Prime Minister and Minister Macklin made clear, the question of dealing with the trial of measures linking school attendance to welfare is a trial in eight
communities across Australia affecting 3,300 children. One of those is in the senator’s home state of WA, in Cannington.

I want to stress, though, that the measures are a last resort. They are designed to encourage parents to take positive steps towards improving their children’s education. A decision to withhold a parent’s income support will not be taken lightly. It will be a last resort where it is shown that, despite help from the principal, teachers and Centrelink, the parent is continuing to fail to exercise their basic responsibility as a parent to ensure their child is enrolled and attending school. There is a reason why we have compulsory schooling in this country. We think it is a public good. We think every child should have the opportunity to have proper schooling. That is why it is compulsory in this country. If parents are failing to meet their obligations to ensure their children attend school, you do have to do something; you do have to take measures. As we know, in a range of areas, we have just failed to get some parents to take on those responsibilities.

There are a range of issues that you have quite correctly pointed out that go to supporting this program, to ensuring that it does not unfairly impact on the children themselves when we deal with the welfare payment issue. Those will be put in place, and I am happy to get further information for the senator on those. But I also say that in terms of her first question as to whether the measure is purely in the suburb of Cannington or in the Centrelink area of Cannington I have to say that I do not know the answer to that. It is not included in my brief. I will get the senator an answer to that specific question as soon as I can. Also, I will get her further information on the question of the support measures being put in place.

Senator SIEWERT—Mr President, I ask a supplementary question. I thank the minister for his answer. On the support services, could the minister clarify if in fact only one financial officer will be available for that district? What is the total support program that is available? Centrelink is going to be provided with a list of non-attendants, as we understand it, at school. Will the school be given a list by Centrelink of those who are on income support in their region in order that the school can inform Centrelink of who is not attending school?

Senator CHRIS EVANS—I thank the senator for the supplementary question. I think it is best that I take those issues on notice and get a detailed response for her. Clearly notification from the schools as to non-attendance is a key part of making the system work—identifying those who consistently do not attend school. In my day we had truancy officers, and I do remember being contacted by one on one occasion during a certain rebellious stage of my life. But it will require close coordination and I will get further information for the senator.

Unemployment

Senator NASH (2.48 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. What is the budget’s predicted increase in unemployment in the current financial year? Is this figure being revised upwards?

Senator CONROY—The information you are seeking—

Senator Abetz—It’s not even on your laptop.

Senator CONROY—It actually is. The employment forecasts are: in 2007-08, 2½; 2008-09, 1¼; 2009-10, 1¼—

Senator Brandis—She asked you about unemployment, Stephen.
Senator CONROY—Yes, I am giving you the employment figures.

Senator Brandis interjecting—

Senator CONROY—I will get to that. I have a lot of statistics here that are excellent—

Senator Colbeck—How about relevant? Relevant would be better.

Senator CONROY—If I can finish the answer to my question before you start interjecting—1¼ and 1¼. Now, unemployment—

Senator Coonan—What is the next one?

Senator CONROY—is 4¼ per cent by June 2009. That is just so that you have some perspective on it. Now I have satisfied those opposite with the statistics.

Senator Brandis—No.

Senator CONROY—The Rudd government is focused—

Senator Brandis interjecting—

Senator CONROY—Let us be clear. There were two parts to the question.

The PRESIDENT—Order! Senator Conroy, just address the chair!

Senator Brandis interjecting—

Senator CONROY—I just answered you.

The PRESIDENT—Order! Senator Conroy, address the chair. Those on my left, be quiet.

Senator CONROY—The Rudd government are focused on delivering sustainable jobs growth well into the future. We openly acknowledged in the budget, and have regularly acknowledged, that a combination of slowing global growth and eight rate rises in three years courtesy of those opposite means that we are likely to see a slowing in employment growth. We have actually stated that up front. Due to global uncertainties, the legacy left to us by the highest inflation rate in 16 years and the fact that, when in government those opposite ignored 20 Reserve Bank warnings about the consequences of their slack—

Senator Fifield—Mr President, a point of order on relevance: Senator Nash’s question was very clear. Senator Nash asked for the forecast increase of people unemployed. The minister has given us percentages of unemployment. The minister has not given us the figure for the number of people the government forecast will become unemployed.

The PRESIDENT—There is no point of order. I draw the senator’s attention to the question. You have one minute 26 seconds in which to answer the question.

Senator CONROY—You should not be surprised to see the combination of global difficulties and the impacts of monetary policy flowing through to indicators like employment. We have been upfront and honest about this all along.

Senator Brandis interjecting—

Senator CONROY—It is written right there. Around the world today governments are dealing with the most challenging global economic conditions since the early 1990s. The global credit crunch and spiking higher oil prices have buffeted confidence and share markets all around the world. Global share markets have fallen by an average of around 20 per cent in developed economies since the global turmoil began. Countries such as Japan, France, Italy and Canada have all recorded negative growth in their most recently reported quarters, and consumer confidence across the OECD nations has fallen to its lowest point in 30 years. We must recognise that Australia is not immune to these global developments. (Time expired)

Senator NASH—Mr President, I ask a supplementary question. Perhaps I could help the minister with the figure he was struggling so hard to find. It was 134,000.
Given that the budget has predicted that a massive 134,000 extra Australians—

Honourable senators interjecting—

The PRESIDENT—So long as there are people talking across the chamber it is not possible to hear the supplementary question being asked by Senator Nash. I do not care who is on their feet; they are entitled to be heard.

Senator NASH—Given that the budget has predicted that a massive 134,000 extra Australians will be unemployed because of Labor’s policies, can the minister advise how many more Australians will be added to that number?

Senator CONROY—As I have indicated, we have made it absolutely clear that there will be an increase—and it is an increase that lies at the feet of those opposite. Let us be clear about this. Let us not try and pretend. Let us not take an amnesia pill at five to two every day when parliament is sitting. Let us not take an amnesia pill. Let us be clear: you ignored 20 warnings from the Reserve Bank. They responded to your irresponsible economic policies—

The PRESIDENT—Senator Conroy, address your comments to the chair and not across the chamber.

Senator CONROY—Those opposite responded by ignoring the Reserve Bank and the Reserve Bank were forced to deal with the economically irresponsible budgets brought down by the highest spending, highest taxing government in the last 30 years by putting up interest rates. (Time expired)

Climate Change

Senator FARRELL (2.55 pm)—Mr President, this is my first opportunity to congratulate you on your election. I thoroughly endorse your comments about that great trade union, the SDA. My question is to the Minister for Climate Change and Water, Senator Wong. Can the minister advise the Senate of the response to the government’s green paper on the Carbon Pollution Reduction Scheme?

Senator WONG—I thank Senator Farrell for his question and welcome him to the Senate. He is another senator from our great state of South Australia. I am sure he will make an outstanding contribution to the Senate. Senators will be aware that on 16 July the government released its green paper on the Carbon Pollution Reduction Scheme. The purpose of that is to provide a vehicle for further consultation on this important economic reform—an important economic reform that is all about preparing this nation for the current and future challenge of climate change, something those opposite ignored in government for nearly 12 years.

I can advise the Senate that there is broad consensus in Australia on the need for this scheme and on the need to get the balance right. I suggest that it is well understood that in getting that balance right there are some difficult decisions that the government need to make. That is well known to business and environmental groups, and it is increasingly being discussed amongst the Australian people more broadly. Can I say that it is the case that tackling climate change will not be easy. The government are very clear about that. We are very clear about the scale of this reform.

In relation to discussions with business, it is clear that business knows that the best way to reduce carbon pollution is to spread the work across the economy so that all sectors of the economy and industry are doing their bit. Many in business and certainly those in this government are acutely aware of the consequences of decisions to take one sector or another sector out of the scheme. What it would mean is that those remaining would have to work harder. Business and the com-
community do understand that Australia is vulnerable to climate change and they know we need to act now for our children’s future and to protect the Australian economy. It is the responsible thing to do.

It is unfortunate that those opposite, the alternative government, are squibbing this issue. What we know is that those opposite are all over the place when it comes to climate change. They are caught by the troglodyte sceptics who ran the Howard government and ignored the issue of climate change. One of the interesting things to have observed over the break was the different positions taken by the opposition when it came to the Carbon Pollution Reduction Scheme. They have had, on my count, around about 15 positions on when or if to have an emissions trading scheme.

I will just take you through a few highlights. First, what we know about is in the past, when they were in government and they actually cared about economic responsibility. The then Treasurer, who is still supported for leadership, so I see, by a great many on the other side, said this:

And we are talking about getting it up and running by 2010.

So Treasurer Costello, when in government, said he wanted it up by 2010. We then had Senator Johnston saying, in June, that 2010 was completely unrealistic. We then had Mr Hunt saying:

We remain committed to at least 2012 ... we’ve always been absolutely committed to that ...

My personal favourite was Dr Nelson in his doorstop of 29 July:

... we should proceed to implement an emission trading scheme no sooner than 2011 and no later than 2012 ...

‘No sooner than 2011, no later than 2012.’ That is decisive leadership from those on the other side, the alternative government, squibbing it! (Time expired)

**Budget**

**Senator XENOPHON** (2.59 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Does the government agree with the principle that cutting funding to the offices of the Commonwealth Ombudsman and Auditor-General undermines government accountability?

**Senator CONROY**—I thank Senator Xenophon for his question. The budget was framed in difficult economic circumstances—

**Opposition senators interjecting**—

**Senator CONROY**—by a government that was dealing with global uncertainty.

**Opposition senators interjecting**—

**Senator CONROY**—The ‘magic pudding’ argument being advanced by the economic illiterates on the other side—

**Opposition senators interjecting**—

The PRESIDENT—Order! Resume your seat. Senator Conroy. Senator Conroy has the call.

**Senator CONROY**—The argument being put by those opposite is: ‘It just doesn’t matter; chop the budget surplus by $1 billion, $6 billion—it doesn’t matter.’ Is that the sort of economic responsibility that this country needs and the Australian public is calling for? As I said earlier in question time, we have substantial global uncertainty, we have rising oil prices, so the budget was framed in that context. A number of hard decisions have had to be made, and they have been shared across many areas of the public sector. My own department has had to make savings. Treasury, Finance and all of the ancillary organisations have had to accept the efficiency dividend. So the budget was framed in a way that would deliver downward pressure on interest rates—and I am sure Senator Xenophon, and occasionally those opposite, would agree that the chal-
The challenge in the economy at the moment is to reduce pressure on interest rates. That means reducing pressure on inflation so that we are able to assist in that fight—not like those opposite, whose main interest is cheap political points.

Senator Ian Macdonald—Can you get on to the Ombudsman now?

Senator CONROY—The Ombudsman, like all those other agencies I have already mentioned, has had to take the dividend cut. So let us be clear about this: the budget was framed in tough economic circumstances and we have had to apply cuts right across the board, including to the Ombudsman. So those opposite, who continually interject, try and pretend that there is a magic pudding—that is the level that those opposite have sunk to: continual interjections—because they do not think that $6 billion has any impact. This comes from those opposite, who are going to seek to block measures in this country which will reduce the chances for the Reserve Bank to lower interest rates.

Opposition senators interjecting—

Senator CONROY—To those opposite who continue to make that case, good luck to you, because the Australian public are awake to those who seek to play short-term political games at the expense of taking the fight up to inflation and reducing interest rates. All of those agencies, including the Ombudsman, have had to accept these cuts.

Senator XENOPHON—Mr President, I ask a supplementary question. How does the minister explain the comments by the Auditor-General to a parliamentary inquiry last week, when he said the government’s so-called efficiency dividends had gone beyond efficiencies and started cutting programs, forcing a reduction by five performance audits this year? Isn’t that a false economy?

Senator CONROY—The JCPAA has held two public hearings in support of an inquiry, and they were on the 20th and 21st. The government are aware that a number of smaller agencies have made submissions to the JCPAA inquiry, including agencies like the APSC, the ANAO and the Ombudsman. So the government will review the report of the JCPAA carefully and consider any recommendations that it may make. However, the government are also confident that all of our agencies will be able to deliver the outcomes we require within whatever financial constraints the government believe are necessary and appropriate.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Indigenous Communities

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (3.05 pm)—I can provide some additional information to Senator Siewert in relation to the question she asked me earlier today about the Cannington welfare trial. Minister Macklin’s office has sent me a note to tell me that the Cannington trial will cover an area comprising the suburbs of Beckenham, Cannington, East Cannington, Kenwick, Queens Park, Wattle Grove and Wilson. If there is further information pertaining to her question made available to me I will make that available as soon as possible.

Budget

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.06 pm)—I would like to provide additional information to Senator Cormann as a result of a question he asked me yesterday in my capacity as Minister representing the Minister for Resources and Energy in regard to Woodside’s statement on our new tax on gas. The answer to the senator’s question is that there is no new tax on gas; therefore, the
questio
ng is based on a false premise, and the supplementary question of course followed along those lines.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Budget

Senator JOHNSTON (Western Australia) (3.06 pm)—I move:

That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Cash today relating to the proposed condensate tax and the North West Shelf project.

There are very, very few business operations in this country that could deal with and survive a $2.5 billion tax take over four years without notice. In fact, you could probably count them on one hand. This government has perpetrated the most direct picking of the pockets of Western Australians in Federation history. This company, Woodside, on the North West Shelf, and its joint venture partners have absolutely no alternative but to pass on this $2.5 billion slug. The only recipients of its domestic gas supplies are the people—including the mums and dads, and the pensioners—of Western Australia. They will be paying for this slug from Canberra. There is absolutely no doubt.

Can I say that, since the Varanus Island crisis, whereby the gas supplies to Perth were seriously reduced by virtue of a fire, Woodside has had to increase its output of domestic gas into the Perth market to make up for the shortfall. There is a shortfall of gas, and Western Australia is more dependent on energy generated by gas than any other state. Accordingly, the people of Western Australia are going to have to foot the bill for this tax slug. You cannot attack the bottom line, the balance sheet, of any corporate entity’s operational project without expecting them to pass it on. The really important issue is that, in every boardroom and on the desk of every CEO of every large oil and gas developer and explorer there has been a massive shudder, because until now our great country was viewed as a reliable sovereign risk in competing with Qatar, Kazakhstan, African countries and South-East Asian countries—but no longer.

Two very important things have happened in the very short nine months that the Rudd government have had the chequebook. They have single-handedly and successfully undermined Australia’s international reputation as a safe haven for large investment projects. Where in the world would you, without notice, see a government on a budget night simply go to a project, saying, ‘We’re taking $2.5 billion out of your bottom line, and you are also going to have to deal with our emissions trading scheme and we’re not going to provide you with any comfort in terms of you being a trade affected industry.’

Liquid natural gas is the best way to immediately reduce our carbon emissions. It is the best way to reduce the carbon emissions of China, Japan, Taiwan and South Korea. And what have we done? We have done the same as we are doing to the rail industry: we are giving it no assistance in the face of this green paper. So on two fronts, to the boardrooms in the United States, Japan, Europe and China, we are saying: Australia is now very questionable as a reliable place to build oil and gas projects. We have over $100,000 billion of investment on the table for places like Gorgon and Browse, projects at the North West Shelf. Investment in this country has stalled since this government was elected.

Senator Mark Bishop—It’s at record levels and you know it.

Senator JOHNSTON—It has absolutely stalled. It has stalled because the boardrooms of these companies have no possibility of
working out what their cashflow bottom line is, given the question mark of an emissions trading scheme and given the conduct of this government.

Senator Mark Bishop—Rubbish. There are record investments coming into this country and you know it.

Senator JOHNSTON—This government is a group of people who just see a cash cow and reach their hand in and grab it—a most dishonest—

Senator Mark Bishop interjecting—

Senator JOHNSTON—And a senator from Western Australia is defending them. Of course, that is the problem: there is no proper representation in this place from the government, from Western Australia. That is the issue. They have not stood up for us for one second and, accordingly, these tax-hungry Labor politicians from Canberra—

(Time expired)

Senator CROSSIN (Northern Territory) (3.12 pm)—I rise in response to the taking note motion by the opposition. I start by saying that this opposition failed when it was in government to move this country forward in terms of productivity, innovation and excellence. It never really had a grip on actually managing this country to the best of its ability. It showed that today in question time when it was not even able to get its ducks in a row and ask questions properly to us here in government. It wasted question time like it wasted its many, many years in government. Not only that, it either did not know the standing orders or refused to abide by the standing orders by seeking leave to ask a question of the chair of the economics committee. It really goes to show that the people in opposition, and rightly so, do not really have a handle on what is best for this country. I would have thought question time would be an ideal opportunity to ask questions of the minister, and if you choose to ask questions of committee chairpersons at least do the Senate the courtesy of abiding by the standing orders. We had question time wasted today, like we have had years in government wasted by the Liberal and National parties.

But we cannot have it both ways. The Liberal Party cannot have it both ways if it wants to raise this issue. Let me just put on the table some facts for people about this whole propensity that goes to the fact that Western Australian families will be paying higher gas prices, which is not right and is quite contrary to what happened some years ago. Thirty years ago, we had a few companies getting a tax exemption for condensate that is no longer needed. It delivered them windfall gains not available to anyone else. An agreement was struck 30 years ago on a tax exemption that applied then and still applies now. These are windfall gains that actually belong to the Australian people.

After 30 years of this tax exemption, the North West Shelf project is now mature and profitable—in fact, extremely profitable—and the companies benefiting from this concession, particularly Woodside, are enjoying huge profits from rising international oil prices. It is quite evident from the questioning today from the Liberal and National parties on the other side of this chamber that they care much more about the windfalls gained from one project than about lowering inflation and about interest rate rises that affect families who are doing it tough. They choose to waste their question time asking us questions about this, which is really not an issue that needs to concern us if you have a look at the history and the facts. The windfall gain between 2001-02 and 2006-07 was around $1.4 billion and would be even higher now. So, if Woodside had paid condensate tax this year, its profit would have been not $1 billion but $950 million. That is
still $340 million more than its profit at this time last year.

Let me say that this measure removes a tax exemption for condensate. It is not a tax on gas. Those opposite have been told that this measure will not put up gas prices but, of course, they will not believe or accept it and want to raise this as an issue when it is not an issue. Even the CEO of the North West Shelf Venture told the Senate that our current domestic contracts are in place and will be honoured. The contracts are all for many, many years and are long-term contracts. The Treasury told people on the public record, at the Senate Standing Committee on Economics hearing in Canberra on 11 August, that they would not expect it to have an impact. In case anyone is starry eyed about these companies, back in 2001 there was a tax cut worth $460 million that was not passed on as lower prices to consumers. You cannot have it both ways. This government believes that it is fair enough to have incentives to get major resource projects up and running, but once they are up and running the Australian people must have fair value from them, and we make no apologies for making sure that that happens. As everyone knows, there is no justification for Woodside to claim that domestic prices will increase as a result of this tax, and the ACCC, under the Trade Practices Act, has the power to investigate prices and anticompetitive conduct. (Time expired)

Senator EGGLESTON (Western Australia) (3.17 pm)—Congratulations, Mr Deputy President, on your election. Gas seems to be the theme of what we are talking about in taking note of questions today, and I would like to speak about gas issues coming from the federal government and gas issues affecting the state Labor government in Western Australia. Senator Johnston talked about the impact of the decision to impose a tax generating $2.5 billion in revenue on condensate as it affected Woodside. It is absolute nonsense for Senator Crossin—who, I see, is fleeing from the chamber—to suggest that an impost of $2.5 billion on any company could not be passed back to the consumers and customers that that company serves. It is total nonsense to think that Woodside could do anything but plan to pass on that $2.5 billion impost, which has come out of the blue in the first budget of the Rudd government.

As Senator Johnston said, this is a breach of a financial agreement. There is no doubt at all that, when the North West Shelf project was set up, the agreement was that Woodside would be exempted from condensate tax as a means of helping the project get underway. In return, I understand, the joint venture partners said that they would provide gas at cost price, or a low price, to the domestic consumers of Western Australia. The federal government appears to have broken one side of the bargain, so in view of this decision of the federal government I do not see anything wrong at all with Woodside charging increased prices for the gas that they supply to domestic customers in Western Australia.

Senator Johnston talked about the fact that there was a sovereign risk matter in this decision. Australia has always had a great reputation as a very safe place to invest and a place where government agreements would be honoured. This decision undermines that reputation, and I think the Rudd government should hang their heads in shame for having been the government which broke the reputation of Australia as being a good country for sovereign risk.

We now have a situation where, contrary to all that the ALP said about their greenhouse credentials, they are going to tax condensate, which is a relatively greenhouse-friendly energy source compared to many others. It seems to me to be a little bit incon-
sistent that this government should be imposing this tax on condensate.

The other matter which I want to refer to is the Varanus gas explosion in the north-west of Western Australia and the total and utter incompetence of the Carpenter government in Western Australia in dealing with this terrible event, which the Chamber of Commerce and Industry in Western Australia estimates will have cost the Western Australian economy no less than $6.7 billion when all costs are assessed and when the gas is restored. The story of the Varanus Island gas explosion is very much a story of incompetence by the Carpenter government. This incompetence covers the failure of the government to heed warnings. The Carpenter government was given warnings by the Department of Industry and Resources in Western Australia according to Elizabeth Gosch, writing in the *Australian* on 13 August. There were repeated ‘warnings that Apache Energy was not complying with safety standards at its Varanus Island facility’, and the Department of Industry and Resources was asked to write to the operators of that facility asking them to carry out inspections on their facility.

That was not done. The Carpenter government failed to provide an alternative supply of energy in Western Australia, even though they knew that the gas pipeline could be compromised. They were incompetent in the way they dealt with the matter and have sought to delay the report on the explosion, which was due on 27 August, until after the state election. Politics comes into this because the Carpenter government have got a lot to hide. But they will not be able to escape the consequences of this. *(Time expired)*

**Senator MARK BISHOP** (Western Australia) *(3.22 pm)—Mr Deputy President, before making a contribution to this discussion, let me offer my best wishes to you on having been elected Deputy President of the Senate. It is no mean feat to retain the support of your party room both as President and as Deputy President, so I give my best wishes to you for the duration of your term.

Having opened with those pleasantries, let us now turn to Senator Johnston’s motion. I think the first question to ask is this: who are the owners of the North West Shelf project? From memory, the three principal companies that have been involved in the development and exploitation of that project for many years are Royal Dutch Shell, Chevron and Japan LPG. There are one or two other foreign companies, but they have been the mainstays of the operation for the best part of 25 years. If one looked at their balance sheets from any time in the last 20 years, you would see that each of those companies is well capitalised, is well diversified and has continuously given exceptionally high returns to shareholders over many years. Indeed, when you break it up further and go into the bowels of their annual reports, you will see that the returns from the North West Shelf project for many years have been a significant contributor to the welfare of those companies.

One only has to look at how well major companies—in the resources, infrastructure and finance sectors—in this country are doing. Over the last two or three weeks we have had annual reports from BHP Billiton, Rio, Woodside, Woolworths, CBA and ANZ, to name a few. Without exception each of those companies has been in a high investment phase, a high return phase and a high growth phase. Business is doing well in this country and will continue to do well under the Rudd Labor government. Resource companies in particular—whether they be BHP, Rio, Woodside or any of the whole range of juniors in Western Australia, Queensland, South Australia and the Northern Territory—are doing well under the regime that allows
exploitation and development of natural resources. In that context it is fair to note that yesterday’s profit result from Woodside—from memory—was up by over 80 per cent on the previous year. The figure of more than $1 billion is extraordinarily welcome, and I am sure it will be very welcome to their shareholders when they pass on the dividend in the next month or so. Clearly, from those introductory remarks, Australia is a wonderful place for business to invest. It is a wonderful place to invest. It has been for many of the past years and continues to be, particularly in the resources sector in the key states of Western Australia, Queensland, South Australia and, increasingly, the Northern Territory.

Let us now turn to the issues raised by previous speakers. One must observe that the issue of condensate and of whether or not Woodside want to pay the extra figures to the government is being highlighted for one reason and one reason only—that is, up until Saturday week we are in the process of a four-yearly election campaign in Western Australia. For some unknown reason the opposition seem to be of the view that they can make some headway on this issue when they did nothing in the 10 to 12 years they were in government. Senator Johnston referred to sovereign risk. Apparently sovereign risk is attacked when a government imposes a new or a different tax regime on a particular industry or company. I happen to recall that last October and November both major parties went to the people promising fundamental change in the areas of emissions trading regimes and carbon taxes, and both major parties gave an undertaking that there would be consequential financial and structural changes introduced which would have an immediate impact on companies. (Time expired)

Senator ELLISON (Western Australia) (3.27 pm)—I wish to take note of the answer given by Senator Carr to the very good question from Senator Cash in relation to the tax grab on the North West Shelf joint venture project. At the outset, when Senator Carr attempted to rewrite history, we should note what the CEO of Woodside said. Mr Don Voelte said in an announcement:

This is not a loophole which is being closed, or a free ride which has come to an end. This is a negotiated fiscal arrangement which formed the basis of Australia’s largest resource development ...

Over 31 years there has been a regime in place where royalties, excise and taxes have been paid quite properly. This government has without notice moved those goalposts and said to the industry, ‘You now have a $2.5 billion tax.’ One can only imagine how that affected potential investors in LNG, oil and other resource projects in Australia. There is a projected increase of 83 per cent in demand for LNG in the Pacific basin. Right in the middle of that, we are well placed to provide those resources. But we will not be able to if people think that Australia has a government that will change the goalposts. Indeed, APPEA, the Australian Petroleum Production and Exploration Association, in evidence likened that to an act more in line with those of the governments of Venezuela and Trinidad. So at the outset we sent a clear message to people: do not invest in Australia.

More important is the fact that this will be passed on to the consumer and it will increase gas prices in Western Australia. Gas, of course, is used for the generation of electricity. We will see electricity costs rising across the board and average Western Australians will be affected by this cost for essential power. We only have to think of pensioners and those who are least able to afford
this increase to realise the impact that it will have on the community in Western Australia.

The question by Senator Cash related to the statement by the spokesman for the Minister for Resources and Energy, Mr Ferguson. That statement was reported today as saying that any price increase by the North West Shelf venture partners to offset the loss of the condensate subsidy could justify an ACCC action. That is an outrageous attempt to stand over a group of companies that have brought wealth and employment to this country and have given Australia the sound economic base which we enjoy today.

We have to ask: is the minister threatening an ACCC investigation if the joint venture partners pass on an increase in their costs? He is part of a government which has just imposed $2.5 billion of tax on them. Is he now saying that he will send them off to the ACCC to investigate that passing on of the cost? Mr Ferguson himself has said that the North West Shelf partners jointly market between 60 and 70 per cent of WA’s domestic gas. Presumably he is alleging that the decision to pass on the cost of the loss of the subsidy somehow amounts to a price-fixing arrangement. Is he saying that under section 45A(2) of the Trade Practices Act this is a matter which requires investigation? Similarly, is he saying that the decision to pass on the costs of the tax being imposed on industry is something else which should be investigated?

If this is not what he is suggesting, he must clarify what issues he would be asking the ACCC to investigate and he has to outline exactly to the resources industry of this country whether this government is pro development of resources for the benefit of all Australians or whether it is about imposing on the resources industry a tax which will not only be inflationary but impede further important investment in this country.

Question agreed to.

Indigenous Communities

Senator SIEWERT (Western Australia) (3.32 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Siewert today relating to welfare payments and truancy.

I was very pleased that Senator Evans came back at the end of the session to tell me the suburbs that were included. It demonstrated that the government has been giving the community misleading information because the Minister for Families, Housing, Community Services and Indigenous Affairs—and I watched her media conference—stated very clearly on a number of occasions that it was the suburb of Cannington when, in fact, it was the suburbs of Beckenham, Cannington, East Cannington, Kenwick, Queens Park, Wattle Grove and Wilson. That is a much bigger area than the suburb of Cannington. What they are talking about is the Centrelink designated area of Cannington, I suspect. So this is affecting a much bigger area than was implied by the minister in the media.

I am also really looking forward to the answers I get back from the minister on the support services that are going to be given to families who have their welfare payments suspended. As I said in this place yesterday, the legislation also allows the payments to be cancelled. Under what circumstances those payments will be cancelled and what will happen to those people and those children is beyond me. At this stage the government cannot tell us what support services are available. I want to know what community based organisations and charities the government have consulted in these areas, because we know very well that the families that have their payments suspended will have to go somewhere for support.
I also want to know what the government are going to do about the future of the other children in families that have their payments suspended when one child in the family is truanting. Let us say it is an older child—14 or 15 years old. We all know how very difficult it is to get children of that age to obey their parents and go to school. Even when you drop them off at the front gate, they can go out the back gate. What happens when that family’s payment is suspended because that one child is truanting? What happens to the other kids, who are in school? How are those kids going to be supported? They are obviously going to need support from charities and community based organisations. Have those community based organisations been consulted? Have they got the resources? Are they prepared for the increase in demand? The answers to those questions, unfortunately, are unavailable. What I have heard is that for that suburb of Cannington, which we now know is in fact seven suburbs, at the moment there is one financial counsellor planned at a budgeted cost, as I understand it, of $90,000. I would absolutely love it if I have been given incorrect information and the resources are better than that for financial counselling.

But, of course, these families will need more than financial counselling. For a start, they will need a roof over their heads, they will need food and they will need their basic needs met. Then they will need counselling support to address the dysfunction, the crisis and the chaos that they are already facing but will be facing even more when their payments are cut off.

Anybody who understands violence and domestic violence will also be very worried about the impact this is going to have on these families. As families are put in these crisis situations and are having to confront their children about truancy, certainly a number of people who I have spoken to already about this issue are very concerned about the resultant chaos and potential for an increase in domestic violence that this mechanism may cause.

It is quite clear that the government do not have the answers to these questions and have not thought through the implications of this particular piece of legislation. I hope they come to their senses very soon because it is going to have a dramatic impact—and not the impact that they think. The minister in giving his answer said that the chances of success are much poorer if children do not go to school. I would say that the chances of success are nil if you take away people’s resources and their income support and that, in fact, this is not dealing with the causes of truancy.

I am yet to have explained to me where the evidence base is for this grand trial. How do they know that it is going to work? Why aren’t they dealing with the underlying causes? Why aren’t they dealing with the issues that cause children to truant in the first place? These include school programs that do not meet their needs and that are not culturally appropriate or the fact that there is bullying and harassment going on in school and that there is often racism at school. There are a whole range of issues that cause children not to go to school. When is the government going to address these issues?

(Time expired)

Question agreed to.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT—I table documents providing details of travelling allowance payments made by the Department of the Senate to senators and members during the period 1 July 2007 to 30 June 2008, and travel expenditure for the Department of the Senate during the same period.
PARLIAMENTARY ZONE
Proposal for Works
Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (3.38 pm)—Mr Deputy President, I congratulate you on your creating history, as it was described yesterday. In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone, together with supporting documentation, relating to the design of the pavement artwork at Reconciliation Place. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator CONROY—I give notice that, on 3 September 2008, I shall move:
That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the design of the Pavement Artwork at Reconciliation Place.

COMMITTEES
Community Affairs Committee
Membership
The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (3.39 pm)—by leave—I move:
That Senator Lundy be discharged from and Senator Furner be appointed to the Community Affairs Committee.

Question agreed to.

COST OF LIVING
Senator BERNARDI (South Australia) (3.40 pm)—At the request of Senator Parry, I move:
That the Senate notes:
(a) that many Australians are worse off today than they were in 2007;
(b) that many Australians are experiencing difficulties due to increasing cost of living pressures; and
(c) the Government’s failure to address these difficulties.

Whilst we call these types of discussions debates, there should really be no debate about this motion. I say that because there are some irrefutable facts. The motion reads firstly that many Australians are worse off today than they were in 2007. Even the Prime Minister himself has acknowledged this. He has said that Australians are worse off than they were under the previous government.

The list of ways in which they are worse off is extensive and it is felt by every family, by every carer, by every pensioner and by every child in this country. What does the Labor government do? It fiddles while Rome is burning. It has inquiries, it has reviews and then it does the Pontius Pilate and washes its hands of any responsibility. It passes the buck. It makes a mockery of the phrase ‘the buck stops with me’ that Mr Rudd trumpeted around so often in opposition. He has not mentioned it quite so frequently in government because he knows he leads a do-nothing government, a government all about spin and rhetoric and little about delivering tangible results.

The second part of this motion states that many Australians are experiencing difficulties due to increasing cost-of-living pressures. Once again, there can be no reasonable or coherent debate refuting this statement because the cost-of-living pressures that are affecting families, the mums and dads of Australia, those on fixed incomes, those reliant on pensions and carer payments and those in particular difficulties are eroding
and eating away at their lifestyle, at their options and, in some instances, at their very ability to function above a stressful level.

The third part of this motion notes the government’s failure to address these issues. As hard as the members on the other side—the government—will try and refute this part of the motion, they really have done very little. They are in the process of having 150 inquiries, inquiries into inquiries and reviews. They have had summits. What they have not had is any coherent plan to resolve the financial crisis that the Australian people are being placed in by this government. Some of the examples which I and other speakers will give, and I am sure the government will put their best spin doctors on to refute, will be horrifying.

In my state of South Australia, we have a wonderful organisation called Meals on Wheels. Meals on Wheels today were forced to increase the price of all the meals that they supply to the thousands of pensioners and other people who are doing it tough, thereby eating into the fixed income of the single pensioner which this heartless government has refused to confront in its very first budget, a budget where they have attempted to plunder $23 billion from the Australian people—and for what purpose?

Was it to pay back debt? No, there was no government debt when they came into government. Was it to assist with additional measures? No, it was not, because they cut funding from important areas. They tried to cut one-off bonus payments to pensioners. They tried to slash programs, all the while squirreling away money that the Australian taxpayers have earned and so desperately need to compensate for the inactivity of this government. Inactivity might be a bit cruel because, as I have mentioned, they have had many reviews—150-plus reviews. They have created such meaningful venues for disseminating information as the ‘grocery watch’ website where, for the privilege of 13 million taxpayer dollars, the Australian public can now look at what prices were like in the good old days—a month ago—before they started to go up.

We have a government that is intent on looking in the rear-view mirror. After nine months of looking in the rear-view mirror and seeing how good things were, the great emperor himself decided yesterday to wander down to the Press Club and give his vision for the future. I thought the Australian people had heard Mr Rudd’s vision for Australia’s future in the election campaign last year, but he has realised that spin and rhetoric could only carry him through nine months and now he has had to enunciate another vision. It is another series of reviews; it is another Mythbusters. In fact, on this side of the chamber, I think we should get those people from Mythbusters in here because that is what we have to do. We have to continue to bust the myths that have been put out by the poison spin doctors in the government’s ranks.

The government come in here and say they have inherited a mess. It is simply not true. They have handed down a budget where they have plundered money from the Australian people that they need to spend—$22.8 billion. Mark my words: the budget surplus will be even higher again when the final figures are handed down because they are taxes of stealth. On this side of the chamber, we want to relieve this burden from people. We want to ensure that people can make decisions with their money that are in the best interests of their own family because we believe that individuals are best placed to do this—not the collective wisdom, not the almighty combination of the union movement that now resides in the executive office.
This government is already having a profoundly negative impact on the Australian way of life. It is consumers that are feeling the pinch. It is small businesses that are feeling the pinch. It is employees—or should I say former employees—who are feeling the pinch because people are losing jobs as our economy slows down. It is an engineered slowdown—in fact, a swan dive—engineered by Mr Rudd and more than ably assisted by Mr Swan and the other comrades in the government that just want to take more money from the Australian people because they believe they, rather than the Australian people themselves, have the answers about what they should be spending their money on.

There is a problem when governments increase taxes, or take consistently more than they need to either protect the economy or to repay Labor’s financial ineptitude, such as we were forced to do when we inherited a $96 billion debt and a $10 billion black hole. We fixed all of that up and now we have a government that was elected under a mandate of saying they wanted 1.5 per cent of GDP as a surplus. Now in their first budget, they have upped that to nearly 2.3 per cent of GDP. That does not sound like much, but it is $6 billion or $7 billion a year. It is an enormous amount of money. They have increased spending programs on things they do not need to and ignored real need.

This is a government that has chosen not to give any additional money to pensioners outside of election commitments, which they aped off the coalition, but has decided to spend $100 million on marginal seat pork-barrelling. This could have helped Australians with their cost of living pressures. What have they done? Nothing about it at all. This is a government that really does not care. It is an extraordinary indictment on how far the Labor movement have fallen. When they get into power, they cannot help themselves. They can preach financial and fiscal responsibility, but when it comes to actually delivering, they cannot. They cannot do it because they are not designed for it. They are not equipped to deal with financial matters in an appropriate, open and transparent manner.

We have seen this on so many occasions. We have seen the myths put out by the Labor government not only about the alleged problems they inherited with the economy. We have seen Mr Rudd wash his hands of the ‘buck stops with me’ approach. We are going to hear a whole bunch of nonsense from people on the other side in a moment because there is no logical way they can say that Australians are not worse off today than they were a year ago. Even your own Prime Minister has said that. I would be very interested to hear Senator Hurley, Senator Hutchins and the other spear-carriers’ speeches. As I have said in this chamber once before, they are going to be overcooked asparagus spears that you are going to be throwing at us because they are going to have absolutely no penetration with the Australian public. Stand up and take responsibility for your own decisions later on rather than pass the buck.

The government also cannot dispute the fact that many Australians are experiencing difficulties today. You watch. They will trot out their compassion and their mantra, ‘But we have done all we can; we cannot help any more.’ That is what Mr Rudd said. He said: … we have done as much as we physically can to provide additional help to the family budget.

He has given up already. Mr Rudd, of course, being the leader of possibly the worst government in 30 years, said:

What I can say to carers and pensioners right across Australia—there is no way on God’s earth that I intend to leave them in the lurch.

Let me tell you: the carers and pensioners of Australia have been left in the lurch. They have been left in the lurch because where
they have been relying on Meals on Wheels they now suddenly have to pay a little bit more. There has been no increase in the basic pension for them. The cost of living has gone up 4½ per cent. Many of them are now unable to drive their cars, or are unwilling to drive their cars, because the choice of putting petrol in the tank or having a meal is a very real and stark one. It is a cold and dark winter—

Senator Conroy—Why did you drive interest rates up?

Senator BERNARDI—made all the darker—

Senator Conroy—Why did you ignore the Reserve Bank’s warnings?

Senator BERNARDI—by the Labor Party coming into power and shutting off the power for pensioners. They have not been able to turn their heaters on and they have not been able to keep themselves warm during the cold and dark winter, and that goes to the essence of the cold and dark heart that lies at the very centre of this government.

Senator Conroy interjecting—

Senator BERNARDI—Last time I checked, Mr Rudd had failed at every single turn. He presented himself as a credible alternative and now the veneer of credibility has simply disappeared.

Senator Conroy—I’ve just done a Hansard search and you have never mentioned ‘pensioner’ in the whole time you have been here!

The DEPUTY PRESIDENT—Order! Senator Conroy, if you wish, you may have a chance to speak later on, but I will have Senator Bernardi heard in silence, please.

Senator BERNARDI—Thank you, Mr Deputy President. I would say to you that it is unlikely Senator Conroy will say anything in this debate because it is a debate about the cost-of-living pressures and would require a working knowledge of economics. I am sure they have trotted out Senator Hutchins and Senator Hurley to do this.

I return to the fact that, as credible as what I say in this chamber is, of course it is going to be refuted. But there are some things the government will be unable to refute—that is, the simple fact that the cost of living has risen by 4.5 per cent. It is a cost-of-living increase that we have not seen since we radically reformed the taxation system that made this country function much more efficiently and much more appropriately thereby giving greater revenue to the states. This figure is a product of nine months of very, very poor decisions and a lack of important decisions by the Labor Party. I will name some of the cost-of-living increases. Financial insurance services have increased by 9.9 per cent over the last 12 or so months. Transportation has increased by 6.9 per cent. Every family has suffered at the hands of these sorts of increases. Health and alcohol and tobacco have each increased by 4.8 per cent. These are increases that impact upon so many Australians.

We all require health and we on this side want to see private health insurance taken up and encouraged because it will keep premiums down for everyone and relieve a burden on the Australian public health system. But what does the government do? The government tries so hard to reinvent itself and then cannot help but fight the class war against private health insurance. We are going to see about one million people reduce their private health insurance if the government gets its way, which I sincerely hope it will not. We are going to see an increased burden on the public health system, which is going to see an increase in costs for private health insurance.

What does the government do about the cost increases for alcohol? The fact is they
whack up another tax. They try to grab another $3 billion under the guise of a health measure. This has been disproved time and time again, but the simple fact is they want another $3 billion. They want $3 billion, so they look around and they think: ‘How can we do this? Let’s tax the men and women of Australia, who probably enjoy a ready-mixed drink on the weekends around the barbecue.’ They have put up taxes in all sorts of ways and accordingly are adding to inflation. Inflation is measured by the consumer price index. When prices go up in the basket of goods on which CPI is measured, inflation rises. This seems to have been lost on some on the other side.

I want to go back in history to a noted commentator—noted by those of us who are interested in history—who in 1605 was asked to give advice to the king on how he could maintain his treasury.

Senator Hutchins—Which king? James I?

Senator Conroy—Uh oh!

Senator BERNARDI—This noted theological philosopher—

Senator Conroy—Come on, name names.

Senator BERNARDI—His name was Juan de Mariana. He was a Jesuit priest.

Senator Conroy—Which king?

Senator Hutchins—He definitely wasn’t one of the Stuarts!

The DEPUTY PRESIDENT—Order!

Senator BERNARDI—He gave enormous advice—

Senator Conroy—To who?

Senator BERNARDI—to King Philip II, Senator Conroy, but it is timely advice that should be retained by governments over the course of time. The first of these bits of advice was that the king cannot demand tribute from his subjects without their consent. The fact is, that is exactly what this government has done. It has gone out there and it has demanded more money from the Australian public without asking for their consent at an election. Contrary to the previous government, where taxes were reformed but with the aim of reducing them, this government, at its very first chance, has sought to advance them and increase the cost of living.

The second piece of advice was, and this is what I suggest for those opposite, that the king should reduce his budget by reducing his spending. But that is not Labor’s way. This is a government that increases its spending. His third piece of advice was that the king should also reduce the size of the gifts given to those who serve him. This is what Father Mariana wrote. The simple fact is that the Labor Party are simply enriching those in their own court by increasing burdens on Australians. You are taking money from the pockets of Australians, which they need to assist them to tackle their increased cost of living, to run a $23 billion surplus. This is a very simple process. The fact is that we need to hold to account the jesters that reside in the king’s court on that side of the chamber—because Australians demand it. This is a grotesque abuse of the trust that the Australian people placed in this government. They are struggling and this government simply does not care about their needs or their welfare. It is time for this government to get its act together. You will get thrown out because the Australian people deserve much, much better than they have received from you.

Senator HURLEY (South Australia) (4.00 pm)—That was quite interesting, going from a perfectly proper discussion about the rise in the price of Meals on Wheels—a basic necessity for older people in our society—to talking about the need to reduce tax on alcopops. I think there is a bit of a disconnect there. I am not quite sure where it was on the
road to Damascus that the opposition had the heavens open and they discovered that working families are doing it tough. It is a bit ironic, after 11½ years of neglecting the cost of living pressures, that the opposition should now introduce this matter of urgency. The opposition had 11½ years to address issues that could have helped working families but they signal failed to do so. They did not even seem to realise that working families were doing it tough. In 2006 the member for Wentworth told families that the highest inflation in 16 years was a fairy story and that they were over-dramatising interest rate rises, and only last year the former Prime Minister told Australian families that they had never been better off. Only last year the opposition was telling Australian families that they had never been better off! It was Kevin Rudd who was pointing out to the then government that families were doing it tough, that people were feeling cost of living pressures and that the government was ignoring them. The result of that was that people voted Kevin Rudd in as Prime Minister because they saw that he understood that families were finding life difficult with cost of living pressures. It illustrated quite clearly to the electorate that the government was completely out of touch with what was happening in the real world, and they voted the Labor Party into government.

The opposition have made it clear that they did not understand the impacts of higher inflation and interest rates on family budgets and on consumer confidence. They kept ignoring warnings about this. They kept ignoring the pleas of families. But this government understands that many families are doing it tough with interest rates, high global oil prices, high food prices and the effect of the global credit crunch on family budgets. This government does understand it very well and all the opposition can do is to castigate the Prime Minister for recognising this. The fact of the matter is that every economy in the world is facing tough economic conditions—and that is the cold, hard reality of the matter. Working families, working Australians, pensioners and carers are doing it tough, and the cost of living pressures are significant. We know this. We understand this. We are in touch with the community. It is wonderful that now they are in opposition the coalition parties have discovered this fact and want to move this motion. Slower world growth, global financial turbulence and higher interest rates are slowing our economy. One of the most significant pressures we are facing is the high inflation rate that we inherited from the previous government—an inflation rate at a 16-year high—that has pushed up interest rates. The former government, ignoring warnings from the RBA about inflation and spending, had pushed inflation to its highest level in 16 years and we have interest rate rises as a result of that. It is an incontrovertible truth that that is exactly the parting gift that was left to us by the former government, and we have to deal with it. It is a result of their reckless spending and their inaction on important issues like infrastructure.

Those opposite let inflation build. They ignored the warnings from the Reserve Bank of Australia and, despite 11 interest rate rises in a row, told working families that they had never been better off. It should not come as a surprise, then, that consumer confidence has been affected—after eight interest rate rises in the three years following the reckless spending of the previous government, the highest inflation in 16 years, sky-high global oil prices and the ongoing condition of the global financial market. It is important to look at the world situation and at where Australia stands in the current world conditions. The global credit crunch that everybody has been hearing about has sent shockwaves around the world and has affected not only...
the United States, where it seems to have originated, but also Europe and, of course, Australia and Asia. That global credit crunch, as well as a global oil price shock, has impacted on confidence right around the world—we are not alone. It has pushed up borrowing costs for households and businesses right around the world. Global share markets have fallen by an average of around 20 per cent in developed economies since this turmoil began. Stock markets around the world have also been affected by the global financial crisis and by a slowing world economy. It makes sense. Consumer confidence across the OECD economies has fallen to its lowest level in almost 30 years.

Over the weekend we learned that the UK economy did not grow at all in the three months to June. Japan, Germany, France, Italy and Canada have all recorded negative growth in their most recently reported quarters, and the impact on the US economy is well known. We are hearing time after time of the impacts of the mortgage situation on the housing market over there. So, overall it is likely that economies around the world have not grown, and we should not be surprised that these global difficulties, together with eight official rate rises in three years, are slowing our economy. But we do need to put this in perspective.

Although we confront the most difficult global circumstances in a quarter of a century, the fundamentals of our domestic economy remain strong. That is the important message that our Labor government has been sending—that confidence should be strong because our economy is strong. In response to these difficult world economic conditions, we have built a strong budget surplus. That acts as a buffer and gives us the flexibility we need in difficult global times. The government did warn that it would be a tough budget because we do need that buffer—because we have to withstand the global conditions and the legacy that was left to us by the former government of high inflation and high interest rates. It is very important that we tackle those twin problems.

Developing economies in our region, however, continue to grow and commodity prices are still at generational highs, so we are relatively well placed. We have a strong, well-regulated financial sector and do not face the same problems being experienced in the US housing and subprime mortgage markets. So, while we are not immune to global difficulties, we are far better placed than most countries to withstand the fallout. We are confident that with the right policy settings we will come through difficult global times in a stronger position than other countries. That is what the government set out to do with this budget, with its emphasis on long-term planning.

So, while these global challenges are beyond Australia’s immediate control, the government is focusing squarely on the things that it can influence. We have been responsibly addressing domestic inflation. We inherited it at 16-year highs, and it is now made worse by global factors. That is why we have budgeted for that strong surplus. It gives the Reserve Bank room to move. It will ensure our economy is buffered against the global turmoil. It is a responsible and balanced budget—yet in that tough budget we have made room for a $55 billion package for working families because we do understand that they have been doing it tough. That package includes $47 billion of tax cuts over the next four years. We are helping people to buffer their families against the effects of high inflation and high interest rates as well as looking to Australia’s economy. That is what the government is doing.

Other measures in the budget include the increase in the childcare tax rebate from 30 per cent to 50 per cent—a very important
issue for working families with young children. That is what we mean by helping working families. One suspects that sometimes people opposite do not even understand what working families are doing and the kinds of pressures that they are under. But the Rudd government does. We also implemented the education tax refund in the budget. We have removed—or we are trying to remove—a slug on middle-income earners by increasing the Medicare levy surcharge threshold, something which the opposition is opposing. Unlike those opposite, the government is standing up for families, not ripping away their wages and working conditions like those opposite did.

Senator Coonan—We don’t support increased taxes that hurt working families.

Senator Hurley—It is interesting to hear the opposition bleat about the pressures of price rises on working families when, through their Work Choices legislation, they were trying to squeeze down those wages and conditions. The Rudd government, on the other hand, not only has given people security in their working conditions but is trying to help families find a better deal at the bowser, at the checkout and at the bank, despite the opposition refusing to support some of those measures.

The government is also investing responsibly in nation building. It has laid the foundation for $40 billion worth of responsible investment in nation building and growth for the future. That includes the government’s commitment to invest $4.7 billion to facilitate the rollout of a high-speed national broadband network. It was a signal failure of the former government to sit back on the proceeds of the resources boom and play the blame game with the states rather than get in there and build the kind of infrastructure that was required to enable this country and this economy to go ahead. Our budget balanced the need to address inflation pressures with the need for vital investment in future growth. The Rudd government will ensure Australia’s long-term prosperity. It will not be content to sit on the benefits of a resources boom whose length we do not know. The government has been investing that money in the future and will continue to do so.

One of the other important factors in this is our financial services—how we sit in the region and how we perform in that regard. The Prime Minister and other ministers have indicated that they see Australia as a very significant financial services player. They have already taken measures to ensure our future in that area. We have implemented the Financial Stability Forum recommendations in full and are encouraging their implementation internationally. We have taken steps to support liquidity in the government bond market to ensure broader financial markets operate more effectively. We are strengthening protections for deposit holders in the unlikely event that any of our financial institutions get into trouble. We are improving transparency around covered short selling and reviewing the disclosure requirements around equity derivatives.

Senator Bernardi—That’s going to help pensioners, isn’t it!

The Acting Deputy President (Senator Mark Bishop)—Order!

Senator Hurley—It is going to help position Australia as a strong financial services provider in our region. If those in the opposition do not understand why that is important to our country and our economy and how it affects everyone in our society, then they have learned very little so far.

The government strategy combines relief for families with long-term investment in growth, which is the best way to respond to the global challenges that we are faced with.
We will not make the same mistake as the Liberals made in government, which was to celebrate prosperity but never do anything to sustain it into the future. They frittered it away on the kind of pork-barrelling that the Auditor-General’s office uncovered. We have very little infrastructure investment to show for it and we have a lot of these pressures on working families that those opposite now claim to be worried about.

The focus on responsible economic policies was demonstrated in the government’s first budget. It struck the right balance. We have made room in the budget to deliver tax cuts and the much needed support to low- and middle-income households, who we know were doing it tough. This approach has been strongly endorsed by the IMF, which stated:

The reduction in public spending growth in the latest budget illustrates the government’s commitment to help reduce inflation.

The IMF went on to say:

Saving some of the revenue from the commodity price boom in three new funds will take pressure off monetary policy in the near term and enable increased infrastructure investment over the medium term.

If only the shadow Treasurer would heed the advice from the IMF. If only the opposition would heed the advice from the IMF. Instead, what are they doing? They are opposing some of the government’s key budget measures that will enable that surplus to buffer us against the global economic situation and enable us to yet deliver some relief, some buffer, to working families. The opposition is being completely irresponsible in blocking some of the measures that would enable us to develop that surplus. And for what? So that luxury cars will be cheaper? So that alcopops will be cheaper? Is this the kind of measure that they see will help those people who are having to pay more for their Meals on Wheels meal? The logic of it completely escapes me and I am sure that no-one in the opposition would be able to carry through any of that logic. The Liberal Party demonstrate by this that they will always choose cheap short-term politics over responsible economic management.

The government has taken a responsible approach to addressing domestic inflationary pressures and the challenges of global uncertainty. Yet it is faced with an opposition trying to blow a $6.2 billion hole in the budget surplus—a surplus that the Australian economy needs. It is nothing more than a political stunt by the opposition, nothing more than the use of their numbers in the Senate while they still have them. The opposition should get out of the way and pass the budget that will help fight inflation and in turn ease the cost of living pressures felt by working families. It is all very well to come into the Senate and move motions that express support; the concrete thing that the opposition can do is move support for responsible budget measures that will ensure that working families and pensioners are better off and that they do not have to face higher prices, inflation and interest rate pressures. This is what the opposition can do to ensure that the many Australian families that are starting to feel the cost of living pressures will be relieved of those pressures.

Families are struggling to make ends meet after 11½ years of reckless spending by the former government. That is why the Rudd Labor government is working hard to address these challenges and ease the pressures on working families. Our predecessors lacked the foresight to invest in our economy’s future and deal with those inflationary pressures before they gathered pace. And that was all for short-term political advantage. This led to the highest inflation in 16 years and eight rate rises in the last three years.
We on this side acknowledge the challenges. Unlike those opposite, we have a plan to deal with them. We are focused on long-term plans for the economy and we will not be deterred by the short-term politics practised by those opposite. The government is taking practical actions to help by modernising our economy so it is strong enough and flexible enough to meet future challenges. The major challenge for the opposition is to have the courage to support a reasonable and responsible budget so that the many Australians who are experiencing difficulties due to increased cost of living pressures will have some hope for the future with a government that is prepared to take the hard decisions to address those economic challenges in our own country and use our strong economic situation to buffer ourselves against the economic challenges abroad.

Senator COONAN (New South Wales) (4.20 pm)—I rise to support this motion that notes that many Australians are significantly worse off today than they were just last year; that many Australians are facing difficulties due to increasing cost of living pressures; and that the government has spectacularly failed thus far to address these difficulties. In these kinds of debates obviously discussion ranges far and wide, but the Senate does have an obligation and I believe that individual senators have an obligation to make their comments and remarks at least factually accurate. Senator Hurley on three occasions in her remarks to the chamber said that the so-called inflation inherited by the Rudd Labor government was the highest in 16 years. That is just factually wrong and should be corrected. In 2000-01 inflation was 6.1 per cent due, the Senate will recall, to the biggest ever reform of our taxation system. It is simply not correct to continue to repeat as a mantra something that has no factual basis.

In 2007, Mr Rudd ran very hard on promises: he was the one who had the magic wand to keep grocery prices in check; he was the one who would keep the lid on petrol prices. Mr Rudd led the Australian people to believe that they would be better off under a Rudd Labor government. They were sorely mistaken.

When he became Prime Minister in November last year Mr Rudd’s government inherited an economy with a healthy surplus, the envy of course of most other developed nations, characterised as the ‘wonder down under’ by the renowned publication the Economist. I should say that it was an economy that had withstood many shocks and was superbly managed by the former Treasurer, Mr Costello. But instead of using this auspicious head start and getting on with the job, Mr Rudd and the Treasurer, Mr Swan, have continued constantly to talk down Australia’s economic standing and with it of course—and we are now seeing the fruits of this—pulling down business and consumer confidence to historically low levels. This is dangerous ground that Labor is heading into.

It is clear now that, for all the talk, Mr Rudd cannot walk the walk and the rapid 2008 price rises in groceries and petrol are irrefutable proof that this nine-month old government has run out of answers. It is a government that is clearly having trouble accepting the responsibilities—and they are heavy responsibilities, as we know—that go with governing, with making decisions and taking sensible steps to keep the economy strong and growing. Mr Rudd’s failure to tackle difficult matters is evident in his government’s constant denial of any responsibility, choosing instead to blame someone—anyone but himself.

Mr Rudd is unhappily steering a rudderless ship on the economy. He has already admitted that prices are beyond his control. In rather extraordinary circumstances the
Prime Minister actually admitted a couple of days ago that Australians are now worse off under his government. And when faced with the reality that he is rudderless, what happens next? Yes, the blame game starts. Out of the coalition’s first 550 questions without notice directed to Labor, Mr Rudd and his ministers have answered 422 by blaming the former coalition government. We have seen that in Senator Conroy’s notebook he does it without even trying to answer a question. Put simply, that is 77 per cent of questions and issues that are just sitting in Labor’s too-hard basket—no answers at all.

This is from the party that promised 146 times to end the blame game. This is from Mr Rudd who, before the election last year, assured Australians repeatedly that ‘the buck stops with me’. But of course now Mr Rudd is singing a very different tune. We have a Prime Minister and a Treasurer who now acknowledge that Australians are struggling. We have heard this mantra repeated this afternoon. We have heard Minister Macklin admit that families are struggling and that they are worse off now than they were just a year ago. But their response is to endlessly watch, inquire, review, buck-pass and dither but never accept responsibility for their own inept fumbling of the economy.

I am interested to hear, I must say, who exactly the imaginative Labor machine will today blame to explain this morning’s findings of the lowest level of small business confidence in any Australian government—and that is recorded: ‘in any Australian government’. I went back and had a look at the way things stood in 1995 before the Howard government took office in 1996, and this attitude of the Labor Party is eerily repetitive of old Labor and theKeating government. I am reminded of what the former Prime Minister, John Howard, said to Mr Keating in 1995—and we could be listening to it today. He said:

The Prime Minister and the Treasurer should be ashamed of themselves because nothing will release them from the burden they bear for what they are doing to Australian families.

It is clear that in the lead-up to the election the Australian people were sold a pup or perhaps a whole litter of pups.

It has become obvious that the only plans Mr Rudd, Ms Gillard and Mr Swan possess have been poached from the coalition. Mr Rudd’s framework for schools announced yesterday is of course coalition policy. The transparency aspect was revealed by the Howard government in 2004 and announced, and the teacher retention and teacher quality facet was outlined by Dr Nelson as recently as this year’s budget reply. And of course Labor had no tax policy of its own and, with only minor changes, delivered the coalition’s tax cuts when it got into government. Once Labor runs out of our policies to copycat it fills the vacuum with yet another committee or inquiry. The Labor government has I think, sadly, become famous or infamous for its reviews, committees and inquiries, and it is not hard to see why. As my colleague Senator Bernardi said in his remarks, the Rudd government has announced over 150 of them since it came to office nine months ago.

This may be just a shifty way to avoid making a decision—or 150 of them—but for a party that was in opposition for almost 12 years you would be forgiven for thinking that they might have actually had a few thoughts of their own and that they would come into government with a few policy ideas of their own and not be entirely reliant on everyone else to help them out with some. Instead, they have delayed any action on the most crucial of issues such as those facing pensioners and carers. The matter of pensioners and pension rates has of course been sent off to be reviewed amongst the myriad of other concerns encompassing the Henry tax re-
view. The Henry tax review is not to be handed down until December 2009. It means that many of its recommendations will not even be implemented until the budget of 2010-11 at the earliest, at which point the Rudd government will have been in power for almost an entire term.

Do you get the picture here? The economy was booming under the coalition. It was Mr Rudd who tried to dismiss the Howard government’s achievements as being down to the mining boom: it all happened on the back of the mining boom and all of those proceeds were being squandered; any mug could run the economy; anyone could do it. Guess what? The mining boom is still there but under Mr Swan’s squawking there is now talk of a recession.

The sad thing is that by putting the inflation genie front and centre of their budget strategy and then bringing down an expansionary budget that inflames prices, the Labor government is hurting the hip pockets of working families, pensioners, carers and our seniors. It is these Australians who are worse hit than others. The Rudd government’s price increases on the back of tax hikes will be a difficult and unnecessary pill to swallow, considering that prices for employee households are already pushing well above the inflation rate—up 5.7 per cent in the last financial year.

The Senate should make no mistake about this. Under the Rudd government, Australians are hurting financially, but the most vulnerable sector of our community, the frail aged pensioners and their carers, are suffering most of all. Can a single pensioner existing on a fixed income of $273 per week eat a review? Of course not. What they need are dollars and cents—an immediate adjustment to assist them in meeting basic cost of living items. In contrast, under the Howard government pensions were under constant review.

Senator Bernardi—And they were increasing.

Senator COONAN—Yes, as Senator Bernardi says, we took action. We have heard nonsense from the other side about us doing nothing for 11 years. That is another patent falsehood that has been perpetrated during this discussion. Pensions under the Howard government increased by more than two per cent above inflation every year for 10 years, and we also introduced one-off payments to pensioners—pension bonuses and carer bonuses—when the budget could afford it. Because of our good management of the economy, we could afford to pay and did pay increased pensions every year for 10 years. That is what we did. Is that enough? Of course, with the effluxion of time, it is not. Pensions, in my view, are ripe for an overhaul.

Now let us look at what the Rudd government is not doing for pensioners and carers. Look at the Rudd review into payment levels to both pensioners and carers—the Harmer report. Yes, it will not report to the Minister for Families, Housing, Community Services and Indigenous Affairs until when? February 2009. And even then, unless there is a total change of direction by this government, pensioners might be lucky if they get an adjustment as of July 2009. But I suggest that a much more likely scenario is that they will not get anything until the conclusion of the Henry tax review, which, the Senate will remember, is not due to report until towards the end of 2009, which means that pensioners will not get any structural change in the base pension until the 2010-11 budget.

Our pensioners, who have spent their working lives contributing to this nation of ours, are being swept aside by the Rudd government’s total lack of both attention and
compassion to their daily plight. Which of us here in this chamber could live on $273 a week? I asked Senator Evans this question yesterday and he had no answer, although to his credit he acknowledged that more needs to be done. I thought that was encouraging. But I will ask the question again. Which one of us could live on $273 a week with the ever-increasing price rises they are facing since the Rudd government came into office? The answer has to be none of us. Frankly, if we have got the stomach to admit that, why is it that this government is forcing vulnerable, frail, aged people to do just that—subsist on a fixed income of $273 a week? It shows a lack of compassion that is breathtaking in its sheer callousness, and it sits squarely at the feet of the Rudd government.

To put that in context, let me give the Senate a couple of statistics that come from the government’s ‘Pension Review Background Paper’:

... 4.6 million Australians receive an income support payment of some kind from the Australian Government in the form of a pension or allowance ...

That equates to 27 per cent of the population aged 15 years and over, the paper states, and it goes on to state:

• 77 per cent of Australians over the age of 65 receive income support ...

The paper states that 59 per cent of those are women and 58 per cent are single. The paper further states:

Most pensioners have low incomes: over half have less than $20 a week of private income ...

... 30 per cent report having bank balances of less than $1,000 ...

Many pensioners rely on income support for long periods. The average total time on income support of current Age Pensioners is 13.1 years.

It is abundantly clear that the pension will need a substantial boost. What is the Rudd government going to do about it? You would think that an attentive and responsive government that was aware of the problem would be pushing now for at least an immediate one-off adjustment on the basis of the facts in this background paper alone. But what do we get? It is all too hard to do now, and more months of delay is Labor’s refuge.

When it comes to pensioners and carers and looking after our seniors, the Rudd government appears to have no policy direction and no ideas. Frankly, pensioners and carers come a dismal second when looking at Labor’s pecking order of working families. The only policy they have adopted is one where they have once again copied the Howard government, which introduced the carer payments, allowances and bonuses. Only after considerable public and media pressure did the Rudd government announce the continuation of those payments. And in relation to the Howard government’s utilities allowance, this government eventually decided to keep it.

The financial future and security of pensioners and carers is simply not sustainable on an ad hoc, afterthought basis, which is all they have got from Labor. Yesterday, in a press conference at Parliament House, the Chairman of National Seniors Australia, Mr Everald Compton, said:

This issue of the ageing of Australia and the cost of the ageing of Australia is a greater crisis than climate change.

But:

It’s not as sexy a subject as climate change ...

It is always difficult to rate big competing national priorities, yet the despair of pensioners after the budget in May caused groups of them to strip off their shirts in public in protest in the realisation that the very real claims for financial help that they had
submitted to the government had simply been ignored. What have we come to as a country when proud senior citizens are forced to take that sort of public protest action to draw attention to the fact that they cannot live on, let alone live adequately on, $273 a week.

Let us look at another fact. The recent inquiry of the Senate Standing Committee on Community Affairs into cost of living pressures on older Australians found that people on low incomes are disproportionately affected by rises in the cost of petrol, food, medical care and rental accommodation. All we have seen from the Labor government is their spectacular stunts: Fuelwatch and ‘grocery watch’. We know for instance that ‘grocery watch’ is now getting fewer hits on its website than an average amateur blog, and it is still costing the Australian taxpayer $13 million for the privilege.

So how can this be allowed to happen in this developed, wealthy country of ours? It is not as if we are talking about enhancing our comfortable standard of living. We are dealing with the failure to ensure just a basic, decent standard of living, and I think the pensioners and carers of Australia are entitled to nothing less. There seems to be a pattern emerging from the Rudd government—that is, a disposition to cold, callous indifference to the most vulnerable people in our communities: those who have contributed so much over their working lives and our fellow citizens to whom we owe so much. But it gets worse.

What that group of our vulnerable senior citizens is now facing is what the Rudd government has flagged as another change of policy. Not content to leave pensioners and carers out of the loop in the budget—out in the cold—this government has also taken a stick to the nation’s seniors, and 27,000 people are now at risk of losing their eligibility for the Commonwealth seniors health card. They are the very people who need the card most, and the government is penalising them while admitting that as the population ages there will be more demand on medical and pharmaceutical assistance for our aged folk to access concessional prescriptions as they get older. Yet some 27,000 of them are at risk of losing their Commonwealth seniors health card due to mean-spirited eligibility changes proposed by this government.

I could go on and on about consumer confidence. I could go on and on about how the pensioners who are so badly affected by petrol prices have been duped by useless policies like Fuelwatch. They are just smoke and mirrors, with the government wasting its time investing heavily in a fuel price-fixing program that will do nothing to bring down petrol prices. It is easy to see why consumer confidence is taking a hit, and it is time that the Prime Minister and the Treasurer took responsibility for the dramatic decline in consumer confidence rather than simply blaming it on everything else, including overseas. We know that there has been a reduction in household wealth, we know that small businesses are in a crisis in terms of lack of confidence and we know that the neediest Australians, our pensioners and carers, are crying out for help.

Labor truly are Australia’s economic vandals when you boil it all down. Australia is now worse off in wealth terms because of this government, which has run out of excuses. True leaders step up and take responsibility. All we have seen from Labor is overwhelming arrogance. They are out of touch and already out of puff.

Senator HUTCHINS (New South Wales) (4.39 pm)—Listening to Senator Coonan today, I think some of the coalition members probably need a bit of therapy to get over the fact that they are no longer in power. At least
Senator Bernardi was not a senior member of the government. He was not here for the full period like Senator Coonan.

Senator Coonan—Why can’t you face up to doing something about it?

Senator HUTCHINS—Senator Coonan, what you have to do is get over it. All we heard throughout most of her contribution is that she alleges that the Labor government has somehow or other adopted coalition policy. If the coalition are so good, why are they not in power? Why did the people kick them out so comprehensively in November last year? If they are so good, why are they not still in office? Even the Prime Minister lost his own seat at the last election. In this, a period of unprecedented economic prosperity the Prime Minister lost his seat. The last and only other Prime Minister to lose his seat at an election was Stanley Melbourne Bruce during a recession. So why did they get kicked out if they were so flaming good? I will tell you why. It is because the people knew that they were vandals. They are the economic vandals, not us.

I will have an opportunity in a moment to highlight exactly what they did in their 11 years in power. I was interested in one thing in Senator’s Bernardi’s contribution. I had my office look up that famous Jesuit priest and how he was advising Phillip II of Spain. As I think you might have been reminded by Senator Bernardi, Mr Acting Deputy President, Phillip II of Spain was one of those great architects of the Spanish Armada and somehow seemed to lose a lot of his gold and silver out of South America. But what this great Jesuit was advising Phillip II of Spain to do was to rein in public debt and also that: ‘The king should reduce his favours to his supporters.’ Does that sound familiar, Senator Bernardi? Maybe we should have highlighted that to the Auditor-General, because look at what you did in those last years of government: the regional rorts that were so spectacularly carried out by your government.

Senator Bernardi interjecting—

Senator HUTCHINS—I will supply you with a copy of this information so you can put it on your desk, Senator Bernardi, and you can look at what you should not do if you should ever get into power again. Follow this great Jesuit, and you may well find yourselves in power again.

But we know why the coalition lost the election. It was because they took their eye off the ball. After 11 years in power, what did they spend their last few years in office doing? They had unprecedented control of the country and its economy—unprecedented. They controlled this Senate. They could do whatever they liked. There were 39 of them and 37 of us on the other side. What did they spend their final years in office doing? You know what they were doing. They were spending their last years in office trying to stab the then Prime Minister in the back. The Costello supporters—and there are a few in here at the moment—were doing everything they could to undermine the then Prime Minister.

Senator Parry—How do you know that?

Senator HUTCHINS—From what I have read in reports. In fact, probably one of the most capable ministers in the previous government, the Leader of the Opposition in the Senate, Senator Minchin, the then Minister for Finance and Administration, did not have a conversation with the then Prime Minister for over 12 months. Why wouldn’t people say, ‘Let’s get rid of this mob’? Let me again tell you why that was, just to remind you—and, as I said, Senator Coonan and some of the others might need some therapy to get over the fact that they are no longer on this
side of the House because the Australian people did not want them anymore.

Let me remind you of some of the figures that we had in 1996 compared to in 2007. After 11 years of economic vandalism and neglect, Australians were not saving as much, their wages and salaries were not going as far as they used to and mortgage repayments were rising. When Howard was elected, Australians were saving $6.50 for every $100 they earned. When Howard left office—

Senator Parry interjecting—

Senator HUTCHINS—and took with him a number of your own colleagues, Australians were spending 40c extra for every $100 they earned. Get that in your minds: when Labor lost power in 1996 people were saving $6.50 for every $100 they earned; when you left office, after 11 years of neglect, working families were spending 40c more for every $100 that they earned. When Howard took office in 1996—

Senator Parry—I rise on a point of order, Mr Acting Deputy President. I have let this go three times: would the honourable senator please refer to the former Prime Minister by his correct title, not just by his surname?

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop)—Order! Standing orders apply to members of the other place and to members of the Senate. They do not apply to former members.

Senator HUTCHINS—When Howard came into office in 1996 national household debt was $289 billion. When he left office in April last year it was five times that. When Howard was elected to office in 1996 the average home repayment was $955, which was 28 per cent of the average wage. In September 2007 that figure was $1,949 or 36 per cent of the average wage. You ignored 20 Reserve Bank warnings about the way you conducted the economy. Between 1999 and 2004 the cost of living outstripped inflation by eight per cent. Between 2002 and November 2007 there were 10 consecutive interest rate rises. Under the Howard government, childcare payments doubled. One hundred thousand people were prevented from joining the workforce because they could not afford child care under your stewardship. Health care was affordable when you wanted to visit a doctor under the Keating government. It doubled when you were in power. The cost of a loaf of bread rose by 26 per cent over five years under your watch. Petrol prices have risen more than 53 per cent since 2001.

As Senator Hurley mentioned earlier, we are all aware that there is a global downturn. No-one is going to say that there are not responsibilities. I was reading Lloyd's List Daily Commercial News during question time and I read that there is a five per cent reduction in container freight into the United States so far this year. Considering the millions of containers that go into the United States, that is a significant downturn. We need to be well aware of that impact not just on the Americans but also in our own part of the world. We are also aware of the oil prices. Senator Bushby and I had the opportunity to visit our sailors and our airmen in the Middle East and we saw two of the oil platforms there that supply 14 per cent of the world's oil production. We do not produce the oil we need and have to bring it in from elsewhere, which is a fact of life.

Today we face many difficulties. The government understands that many Australians are doing it tough as interest rates, high global oil prices, food prices and the effect of the credit crunch impact on family budgets. That is why the government has been responsibly addressing domestic inflation pressures, which have been made worse by global factors. That is why we delivered a strong surplus to give the Reserve Bank
room to move. That is why we made room in the budget for a $55 billion Working Family Support Package. The government’s tax reforms outlined in the budget will provide $46.7 billion of personal income tax cuts over the next four years and they will provide significant additional relief to household budgets. For a taxpayer earning $50,000 a year the tax cuts will deliver an additional $19.23 per week from 1 July. This will increase to $25 a week from 1 July next year and to $33.65 a week from July 2010. When fully implemented, they amount to an almost 20 per cent reduction in their tax bill.

In addition to these tax cuts the government’s decision to increase the Medicare levy surcharge will provide significant additional assistance to those who cannot afford private health insurance. For a single taxpayer earning just over $50,000 a year the Medicare levy surcharge will result in a further saving of around $500 on their tax bill. Those with children also stand to benefit from the $4.4 billion education tax refund and the $1.3 billion 50 per cent childcare tax rebate.

I might add that these policies were not put forward by the coalition. Not even Senator Coonan could accuse us of doing that. A family on $58,000 with two children aged between four and six is worth an extra $1,630 a year or $31.34 a week on top of the tax cuts that they would also be entitled to. Extra help is on the way. The government is confident that these changes will make a real difference to working Australians who are struggling with higher petrol and grocery prices. The Rudd Labor government budget will be based on sound principles of fiscal discipline, just as Father Mariana would have it.

In opposition, the Prime Minister made a solid commitment to the Australian people. He said that he was an economic conservative who could be trusted with the Australian economy. The Prime Minister delivered on this promise. But, as we all know, the budget will not be delivered in an environment without challenges. In fact, the legacy of the time on the Treasury benches of those opposite is an inflation problem at its worst since the early 1990s. Government spending was out of control, with a cost of living legacy that is hitting working families hard right now. There was massive underinvestment in education, health and infrastructure and a complete rejection of the realities of climate change. None of this is good enough for a modern, efficient Australian economy. None of this can be ignored in our modern world.

Fighting inflation is the central challenge facing our economy today. The government’s five-point plan to tackle inflation is focused on fiscal restraint and improving the quality of government spending, expanding the economy’s productive capacity by addressing skills shortages and infrastructure bottlenecks, lifting national savings and lifting workforce participation.

Senator Bernardi—And pork-barrelling.

Senator HUTCHINS—You on that side know all about pork-barrelling. You got a gold medal in it over the last few years. Your Jesuit friend would not be very impressed with you. You would have to do a few Hail Marys for that, Senator Bernardi.

There is no doubt that working families are under tremendous financial pressure with rising food and petrol costs. The cost of living index figures released yesterday show that CPI for the 2007-08 period was 4.5 per cent. That reinforces the need for what we are doing to help families find a better deal at the bowser, at the checkout and at the bank; reinforces the need for a strong surplus to give the Reserve Bank room to move; reinforces the need for the room that we are making in the budget for a $55 billion Work-
ing Families Support Package; reinforces the need for the $47 billion worth of personal income tax cuts over the next four years as part of that package; reinforces the need for an increase in the childcare tax rebate from 30 per cent to 50 per cent; reinforces the need for our new education tax refund; reinforces the need to remove a tax slug on the middle-income earner by increasing the Medicare levy surcharge thresholds; reinforces the need for the government’s responsible approach to addressing domestic inflation pressures made worse by global factors; and reinforces the need for our approach to helping families.

That is why the opposition should get out of the way and pass our budget. But the Liberal Party is intent on opposing key budget measures which will blow a $6.2 billion hole in that surplus we need. This is the height of economic irresponsibility: vandalising the budget at a time of heightened global uncertainty. No responsible economic manager would choose to increase uncertainty at home at a time when we face significant uncertainties abroad. No responsible economic manager would choose to vandalise the surplus, making it harder for the Reserve Bank to cut interest rates.

Those opposite stand for lower taxes for luxury cars—isn’t that wonderful? Rather than lower interest rates for working families doing it tough, they stand for big oil, rather than standing up for a better deal for motorists at the bowser. They stand for higher taxes, rather than standing up for relief through our changes to the Medicare levy surcharge threshold. They stand for a windfall tax gain for one company rather than the responsible economic management that the government is providing.

At a time of heightened global uncertainty, the country needs a strong surplus, not short-term political games—something that I thought you might not have been involved in, Senator Bernardi. I thought that you might have had a bit more credibility, what with you quoting Jesuits, and would not go down this path. But it seems that you have been seduced by the dark side to pursue this short-term, politically opportunistic tactic. We are providing economic leadership. We are providing strong leadership in uncertain times. That is why they turned to us last year. That is why they will continue to turn to Labor. We know how to run things when things get tough.

What happened to those opposite? Let me just show you how much working families thought of the coalition at the last election, particularly those in the outer Western Suburbs of Sydney. In Lindsay, there was a 9.7 per cent swing; in Werriwa, there was a 8.3 per cent swing; in Parramatta, there was a 7.71 per cent swing; in Macquarie, there was a 6.5 per cent swing; in Macarthur, there was a 10.43 per cent swing. The member for Macarthur lives in Mosman now—you might know that, Senator Boyce. Once in a while he commutes all the way across the Harbour Bridge and gets down to Macarthur to visit his constituents. Finally, in Greenway, there was a 6.85 per cent swing against the coalition. Why didn’t they? One of the things that John Howard got hoisted on was something that he said at that election just highlighted how out of touch that government was. You may well remember this, Acting Deputy President Bishop. He said, ‘Working families in Australia have never been better off.’ Do you remember that? He said that working families have never been better off.

Senator Bernardi interjecting—

Senator HUTCHINS—They did not think that. I have just shown you that they did not think that at all. They showed him the door. They showed a lot of your colleagues
the door. And, if you continue to oppose our budget measures and you dare us, you will be shown the door as well—again and again and again. You may well get to be leader, Senator Bernardi, because none of them over there will be left. Minchin, Coonan and all those others will have gone. They will have gone to their therapy classes. But I tell you this: if you oppose our budget measures, you will be punished unmercifully by the Australian people.

Senator BOYCE (Queensland) (5.00 pm)—What an interesting little exercise we have just had from Senator Hutchins in the fascinating Labor Party strategy of empathise and ignore: ‘Oh, it’s a terrible problem; oh, we know people are doing it tough; oh, yes; oh goodhess; oh, gracious; there are all these rising prices; oh, dear, oh, dear; there are horrible problems; we’ve got all these problems but we’re going to inquire about how we may go about ignoring them!’ The empathise and ignore strategy goes on and on and on. Yes, as Senator Hutchins pointed out, there has been a drop in consumer confidence in Australia. The Prime Minister, Kevin Rudd, has agreed. He has empathised that, yes, it is a terrible problem, that there has been a drop in consumer confidence and that Australians are worse off than they have been. But, according to the Prime Minister, this is not the fault of the Labor government; he is not to blame. It is the economic downturn, the global economic slowdown that has done it and nothing to do with the Labor government. The only problem with that line, of course, is that, according to the latest AC Nielsen index on the subject, consumer confidence in Australia has dropped 11 points. The average global drop was 5.5 points. So we have double the drop in the consumer confidence index in Australia compared with internationally. I am not sure who we are going to blame for that extra increase because it obviously cannot be Mr Rudd and his government; he has told us that it could not possibly be him.

Having looked at consumer confidence, let us look at business confidence. The Sensis business index, which Senator Coonan referred to so ably today, shows that small businesses believe they have come to the lowest view of a government in the past 28 years. Small business in Australia has no confidence. They have declared the Rudd government the worst in the country in terms of their confidence. They say that Mr Rudd and Mr Swan have set a new record for the quick drop in small business confidence in Australia. So we have this wonderful record where they empathise with the problems—’Tsk, tsk, yes, there are global problems; Australians are doing it tough’—and then they go about ignoring them. This is the way they continue to carry on. We have figures, in fact, showing that the working families of Australia are paying 5.7 per cent more, on average, for their household goods this year than they were last year. These are the latest Australian Bureau of Statistics figures. The CPI has gone from 2.1 to 4.5 and, most chillingly of the lot, self-funded retirees and pensioners have had a cost-of-living increase of 4.3 per cent over the past year. Now we have Minister Macklin and numerous senators sympathising and empathising with the pensioners. They say: ‘Yes, pensioners are doing it tough; yes, self-funded retirees are doing it tough.’ Then they think: ‘We’ve done the empathise bit; now let’s do the ignore bit,’ and say, ‘Well, we’re going to have a review and we’ll let you know in February what we might or might not do about this.’ Minister Macklin has, in her empathy, told pensioners that we need to get this right for 2028—for 20 years time. I am sure that will be a useful piece of information to pensioners who are doing it tough right now.

I will pass on to you some of the information about the costs-of-living pressures that
Queenslanders—in my home state—are currently experiencing. Last month, in July, the insurance company AAMI found that three in five Australian drivers—that is, 58 per cent of Australian drivers—said that their overall standard of living had dropped because of higher petrol prices. Drivers in Brisbane were among the top three hardest hit, with 57 per cent of people in Brisbane saying that their overall standard of living had dropped. In Melbourne, it was 60 per cent; in Adelaide, 58 per cent. Rural drivers, with longer distances to drive, were even worse off. They were more likely to leave their car at home than any other drivers, with 63 per cent of them saying that they were more likely to stay at home. When we look at the effect this has on people in terms of their ability to socialise, particularly in remote areas, their ability to get involved in community events, their ability to volunteer and even their ability to undertake paid work, it is a very serious issue. Of course Australians are worse off than they were last year. They are experiencing huge difficulties with the cost-of-living pressures that have been meted out to them by this ‘empathise and then ignore’ government.

I would like to bring to your attention some of the 770 letters I have received recently from pensioners and self-funded retirees in the Brisbane area about their concerns and asking me to get Mr Rudd to give them a fair go. They listed as their top concerns petrol prices, grocery prices, healthcare bills and housing costs. Many of them went on in detail to explain what their problems were. One constituent from Mitchelton advised that he could no longer retain his private health insurance because of the costs he was experiencing at the age when he most needed it, yet we have the government proposing to create a situation where the premiums for private health insurance will increase dramatically when they attempt to push through their Medicare levy surcharge changes.

I had a letter from a pensioner constituent in Kelvin Grove who said that he did not have to worry about petrol prices any more because he had been forced to sell his car. He could not afford to put petrol in it. He could not afford to register it and he could not afford to insure it on the level of pension that is being empathised with by the government. A constituent in Spring Hill said that with increased rental costs they were not sure how much longer they would be able to keep a roof over their head. A constituent in Wilston wrote:

I cannot afford to eat properly due to the cost of fruit and vegetables.

I received a longer list from a constituent in Alderley:

I can’t afford to run a car. I always purchase old fruit and vegetables, and the rent is getting beyond me.

A constituent from Windsor wrote:

I can’t afford to buy new clothes or shoes that are badly needed. I do not have any superannuation or a car or a house, only a pension. I cannot even afford to die because I cannot afford a funeral.

I received a letter from Daisy Hill saying:

Thank you for caring about the problems.

Then we went onto the lists from people who wanted to speak directly to the Prime Minister, Mr Rudd. A constituent from Everton Park wrote:

I wonder if you—

—meaning the Prime Minister—

know how tough it is or if you really care.

A constituent from New Farm wrote:

We can’t wait till 2009 for help. I’ve worked all my life paying taxes and I voted for you.

—meaning the Prime Minister—

No more inquiries. Just do it.
So they are tired of the ‘empathise and ignore’ strategy of setting up an inquiry. The constituents of Brisbane and the voters of Queensland are tired of inquiries. A letter from Cornubia to the Prime Minister said:
I expected more from you.

Perhaps one of the most telling ones, from Mount Warren Park, said:
Are you hoping that we will die before February?

This was addressed to the Prime Minister. It would save money but the old ‘empathise and ignore’ strategy will not work with people like that. A constituent from Boronia Heights wrote:
I challenge you, Mr Rudd, to try and survive on $273 per week.

Following on from Senator Hutchins’ concerns about the voting patterns in the Sydney area, I would like to point out to him a comment from a constituent in Warren Park in Queensland:
I voted for you, Mr Rudd, in the federal election but never again.

From Edens Landing:
On $270 a week, can you do it, Mr Rudd?

From Slacks Creek:
Try living on a pension, Mr Rudd.

And from Spring Hill, perhaps the most succinct comment of the lot:
Stop posing, Mr Rudd. Get real.

From Loganlea:
I’m sorry I voted for you—100 per cent sorry, Mr Rudd.

So if you want to look at voter intentions I would suggest to the Labor government that that is a good place to start. Probably summing up most succinctly the feelings of the pensioners and self-funded retirees of Australia, one constituent from Stafford wrote, ‘Not only do I feel that Mr Rudd cheated the pensioners, I think he has cheated the whole country.’ I have received over 770 of these letters in the past few weeks. I think they give us a very strong indication of how the voters of Australia feel. As Senator Hutchins pointed out, the government changed in November last year, but there are a lot of people who are very concerned about how they changed it and cannot wait to change it back. I think we need to look further at the recalcitrant attitudes of this government and their ‘empathise and ignore’ strategy.

They were handed information by National Seniors Australia. They have had five months since the Senate Standing Committee on Community Affairs inquiry into the cost-of-living pressures on older Australians was brought down, but what have they done in five months? They have announced that they will have an inquiry. They may very well not last long enough to do much more than have an inquiry. By February next year the current government will have been in for 15 months. They claim to have known before they even came into government how bad it was. They have had the evidence of the cost-of-living pressures on older Australians, an inquiry established by the Howard government, to build on the—

Senator McLucas—Hang on! No, it wasn’t

Senator Boyce—The inquiry was established by the Howard government.

Senator McLucas—Go back and check the Hansard!

Senator Boyce—The Senate inquiry by the community affairs committee into the cost-of-living pressures on Australians was established by the Howard government and completed after the change of government. Most of the evidence was taken—

The ACTING DEPUTY PRESIDENT (Senator Fierravanti-Wells)—Order! Senator McLucas, please address your remarks through the chair. Thank you.
Senator BOYCE—We may be arguing over semantics here, Senator McLucas. However, at a time when the Howard government was the government and had the opportunity to decide whether the inquiry went ahead or not, the inquiry proceeded with the approval of the then government.

Senator McLucas—That is the way it worked.

Senator BOYCE—I hope that satisfies the process aspect of this, Senator McLucas. But let us talk about those figures from the National Seniors Association. For instance, at present almost 800 Australians turn 50 every day, and by 2020 closer to 900 Australians will be turning 50 every day. This means that in the very near future there will be more people who are over 50 than under 50 in Australia. People over 50 will face the prospect of living a further 38.8 years, if women, and a further 34.4 years, if men. Let us look at those figures again—between 35 and 39 years after they turn 50. Let us go back to the sort of information that pensioners and others were giving us. It is going to be a very, very long 35 and 39 years if this government does not stop inquiring and start acting. Empathy is all very well, but it does not achieve anything if it does not help the people who we already know need help. It is very obvious that there is a case to be made for assisting pensioners and others on fixed incomes, particularly single pensioners, who currently receive 56 per cent of the couples pension. That has been obvious since the Senate Standing Committee on Community Affairs inquiry was completed in March and will continue to be obvious whether or not we get a result out of this inquiry.

Let us look at some of the other inquiries we have going on which are part of the good old empathise and ignore strategy. We are going to set up Fuelwatch so that it can standardise prices across Australia, with no opportunity for business initiative and no opportunity for anyone to drop prices. Probably the end result will be to drive independent stations out of business and therefore to put up prices.

Let us look at ‘GroceryWatch’. That is going to be a great winner! Almost no-one is using ‘GroceryWatch’—they had a quick look at it, decided it was useless and have given it away. But when the website was first established, I, like many others, got online to see what information I could get. There were four prices for four various baskets of grocery items in Queensland. I did not find it particularly useful to know what the average price of an item in Mt Isa or Cairns was, or what the average price of an item between Longreach and Gladstone was. Without specific useful information, it has achieved nothing. It is completely useless and it will not assist anybody—so more and more smoke and mirrors, and it goes on and on.

The empathise and ignore strategy has worn thin already, as I think has been pointed out by the comments that have been made here. The people of Australia want action on the cost-of-living pressures and they want the government to rightfully accept blame for the inaction that has been going on to date. Stop going through processes, stop inquiring, stop looking—just do something.

Senator McEWEN (South Australia) (5.19 pm)—May I say at the outset how pleasing it is to see yet another member of the class of 2004 in the big chair.

The ACTING DEPUTY PRESIDENT (Senator Fierravanti-Wells)—Thank you.

Senator McEWEN—I am pleased to speak to this motion because it gives me the opportunity to once again highlight the damage the former government did to Australian families and to highlight what the Rudd Labor government is doing to redress that dam-
Having said that, I have to say I would prefer that the time of the Senate was being spent in passing the many excellent budget initiatives that should be being passed by this chamber instead of being held up by the opposition. We should be doing that rather than spending time on these silly motions that I think have been put up mainly to improve Senator Bernardi’s standing in the South Australian branch of the Liberal Party.

There is no doubt that the economic challenges that we are facing in Australia today are significant. We have inherited an economy which has suffered nearly 12 years of neglect from those opposite, an economy that was hit with 10 interest rate rises in a row—including eight rises in three short years. Those 10 interest rate rises had a huge impact on the level of economic activity in Australia. Furthermore, when the Rudd Labor government was elected in November last year, inflation was running at a 16-year high, which brings to mind the unforgettable statement by the now shadow Treasurer, the member for Wentworth, who in 2006 told families that high inflation was a ‘fairy story’ and that they were overdramatising interest rate rises—and you wonder why they lost the election.

Unlike those opposite, those of us in the Rudd government have no intention of sticking our heads in the sand and hoping these challenges will go away. We have not hidden from economic challenges in the past and we will not hide from them today. Labor have made it clear to the Australian public that we acknowledge the various economic challenges we are up against and that we are determined to address them.

We have been and will continue to be up-front with the Australian people, giving them the honest answers they deserve because we have nothing to hide. Labor did not have a hidden agenda when it went to the election, as the now opposition did when it won an election and subsequently introduced Work Choices. As everyone in the chamber is aware, those regressive industrial relations laws were never mentioned to the public before the 2004 election. The former Liberal government was dishonest with the Australian people, and once it had the numbers in the Senate it rammed through laws without giving the public the opportunity to express their views, laws that people neither wanted nor asked for. Labor is determined not to participate in that kind of deceptive and arrogant style of politics.

An example of our straightforward approach to the challenges that face the nation is our attitude to climate change. That is not only an environmental challenge but also an economic one and it should be spoken about in this debate. Reducing our greenhouse gas emissions will not be easy and it will not be cheap. It will cost the economy initially, and we do not shy away from that fact because we know that this will be an investment that will ensure that we are able to maintain a modern, competitive and sustainable economy into the future. We will implement the carbon pollution reduction scheme in a way that secures the economy of today and the future in order to insure the nation against risk and to seize the future’s significant opportunities. That means implementing the scheme in the most economically responsible way, and that is why the government have made it clear that we will shield Australia’s most emissions intensive industries from the full effects of the scheme. We are talking to those industries on an ongoing basis about the best way to shield them without pushing the burden of reducing emissions onto the rest of the economy.

We will also help industry embrace low emissions technology. We will establish the climate change action fund to invest in innovative new low-emissions processes and pro-
jects. We will set a responsible national emissions trajectory. We will be guided by Treasury modelling to provide enough scope for new and existing businesses to lower their emissions while still fostering new world-leading low-emissions industries. Labor is upfront about addressing the issue of climate change and the economy with a vision for the future, although we know that that will not be without some level of pain for the Australian economy. It is an example of our willingness to tackle the hard issues instead of trying to buy our way out of trouble with exorbitant spending on government advertising, which the former government did and which the Australian people did not buy. We know they did not buy it because we know who won the election last year.

Global economic factors are another challenge that we are facing—the government do not ignore that we are a player in the global economy—and which is affecting us greatly. The government understand those global factors impacting on our economy as we face some of the most difficult global conditions that have been seen in many years. Those opposite are trying to pretend that that is not the case. They choose, as in this motion, to attempt to blame the current government for anything and everything, but it is a reality that there are significant pressures out there and it is difficult for a relatively small economy in the global scheme of things, like Australia, to deal with them. The global credit crunch, for example, and increasing oil prices have had a dramatic effect on the global economy. In turn, consumer confidence—not just in Australia but at the international level—is in a difficult situation, waning in some instances, and growth is slowing. As we know, borrowing costs for both domestic consumers and businesses are going up. Again, this puts a brake on spending and is causing significant issues in the economy. Global share markets have fallen by an average of around 20 per cent in developed economies since the global turmoil began. Stock markets around the world have been affected by the global financial crisis and a slowing world economy. And consumer confidence across the OECD economies has fallen to its lowest point in almost 30 years.

Over the weekend we learned that the UK economy did not grow at all in the three months to June this year. Japan, France, Italy and Canada have all reported negative growth in their most recently reported quarters. And the impact on the United States economy is well known and well reported. We should not be surprised that those global difficulties—together with eight official rate rises in three years—are slowing our economy. But we do need to put this into perspective: although we are confronting the most difficult global circumstance in a quarter of a century, the fundamentals of our domestic economy remain strong. We are able to recognise that, while we are unable to control some things, we can control others. That is what the government are doing; it is what we are focused on: doing what we can to control the things that we can. For example, we can put our money into investment funds which can drive the productive capacity of our economy and we can deliver a budget with a strong surplus of $22 billion. Of course, we cannot deliver it unless the opposition agrees to our budget initiatives and we sincerely hope they will. At the moment the signs are not looking promising. It would be the second biggest surplus in 37 years, a surplus that is being attacked by the opposition.

Through responsible fiscal policy and through the budget that we announced in May, this government has sought to put downward pressure on inflation and downward pressure on interest rates. They are the two most significant things we can do to relieve the economic pressure that Australian
families are facing. Interest rates are a huge problem in the real economy and have had an impact on confidence, but the Rudd Labor government are confident that our course of action is the responsible course of action to address the problems that the previous government left us. The irresponsible response to the problem would be to ignore it, which would just compound the problem. Of course, compounding the problem is what the former government did with their outrageous spending sprees that drove up inflation. When Labor came into government, government spending was running at between four and five per cent growth. We have reduced that to just on one per cent already. If we had continued with the irresponsible spending of the previous government at the same growth level that the previous government had it running at for the last several years, it would have cost taxpayers an extra $23 billion worth of outlays. That would have been $23 billion of taxpayers’ money—ordinary Australians’ money—blown away.

The Rudd government has taken a very different approach to that of the Howard government. Instead of going on spending sprees, we focused on savings. We have generated $33 billion in savings to ensure that our new spending initiatives of $24.7 billion were met from savings. While our first budget addressed the various economic challenges that I have outlined, it also will help to deliver to those who need assistance right now, helping them to be better off than they were in the years of the previous government. Those Australians who are struggling under financial pressure will benefit greatly from our budget, if indeed the opposition allows us to implement all our budget measures instead of vandalising our budget.

The rising cost of living has made life difficult for families during the last decade. We acknowledge that in the last two years rent has risen by over 10 per cent and that the price of fruit and vegetables has increased by 14 per cent. The cost-of-living index figures recently released show CPI for 2007-08 was 4½ per cent. We are addressing those issues, but the former government failed to assist families while those financial pressures increased. Instead, the coalition contributed to inflation by spending nearly $285 million—let’s not forget that figure, nearly $300 million—in the 2006-07 financial year on government advertising. They did not seek to assist Australians at all by that advertising. They did exactly the opposite—they used it to support legislation such as Work Choices, which made it even harder for working families to make ends meet. Contrary to what Senator Bernardi’s motion says, Labor is addressing the issues before us and working to assist Australians with cost-of-living increases.

We have delivered our first budget, and it is a budget that will deliver to working families. The centrepiece of it is our $55 billion Working Families Support Package. There are numerous facets to that package and I will outline a few of them. For example, we are increasing the childcare tax rebate from 30 to 50 per cent and implementing the new education tax refund. Then we have tax cuts totalling around $46.7 billion. The benefits of those tax cuts are twofold, as they will not just deliver benefits into people’s pockets but also, very importantly, encourage more Australians to enter the workforce.

The best way to alleviate financial pressures, particularly on low-income families, is to ensure that people get into the workforce and into employment that provides them with a decent, sustainable income. Under our new system Australians will be able to earn up to $14,000 for the next financial year without having to pay any tax. Effectively, that is $3,000 higher than the previous threshold. That will be of particular benefit to part-time workers—and we know many
part-time workers are women on lower incomes—who, according to the Productivity Commission, make up 29 per cent of the workforce.

The rising cost of housing has placed immense pressure on Australian families. That is why Labor has announced in its budget a housing package investing $2.2 billion over the next four years into boosting rental stocks, helping people save for their first home, lowering housing construction costs and building new homes for the homeless. The Housing Affordability Fund will invest $359 million in this budget period and a total of $512 million over the next five years to lower the cost of building new homes, with an emphasis on proposals that improve the supply of new entry-level housing.

Over the next four years $622.6 million will be used to create 50,000 new rental properties with our new National Rental Affordability Scheme, which will increase the supply of affordable rental housing and reduce rental costs for low- to moderate-income households. The government is also establishing first home saver accounts to help people save for their first home in which to live. Those accounts will provide a simple, tax effective way for Australians to save for their first home through a combination of a government contribution and lower taxes. These are extremely practical measures to assist particularly lower income Australian families to get into the housing market and thereby have some security and an ability to establish a financial base for their future.

I am very proud to say that the government in its first budget has also allocated $100 million over the next four years to provide homes for the homeless across our nation. There has been a lot of debate in this chamber over the last week about the luxury car tax and fuel prices. We should not forget that many Australians could not even think of purchasing any car, let alone a luxury car. Those people are our fellow Australians who are homeless. It is a great thing that we are able to do something to assist them in our first budget.

The Medicare levy surcharge thresholds are also a subject of debate in this chamber and possibly subject to obstruction by the opposition, who are opposed to core elements of our budget. Changes to the thresholds will be of significant benefit to some Australians. Under our plan, singles with incomes of up to $100,000 and families with incomes of up to $150,000 will no longer have to pay the surcharge. As a result, that will be money in their pockets. Why anyone would want to oppose that measure I do not know.

The government is also investing responsibly in nation building. We have laid a foundation of $40 billion worth of responsible investment in nation building and growth for our future. That includes the government’s commitment to invest $4.7 billion dollars to facilitate the rollout of a high-speed national broadband network. Our budget overall balanced the need to address inflation pressures with the need for vital investment in future growth. The neglect by the previous government of Australia’s infrastructure is probably one of its most appalling legacies. It will take some time for the Rudd Labor government to redress that neglect, but we are determined and we are already doing many things to ensure that that occurs.

It is unfortunate that we have seen again from the opposition the kind of arrogance that we saw in 2005 when they first secured control of the Senate numbers and used those numbers to foist an agenda on the Australian people that had not been asked for nor wanted. We now see that kind of arrogance
return as the coalition seeks to block four important measures of the Rudd government’s first budget. If they continue on that path it will only be to the detriment of ordinary Australians, will again put pressure on inflation and will vandalise the surplus that we are aiming to achieve in our first budget—a responsible surplus that provides a buffer for the nation, which is facing difficult economic circumstances, as I have outlined. Our first budget was very responsible, and it will be a great shame and of great detriment to the Australian people if the opposition continues on its path and fails to pass that budget.

We should stop putting up silly motions such as the one we are debating this afternoon—although it does give us a chance to talk about things we want to. We should stop obstructing budget measures that will lower inflation. Opposition members should stop defending lower taxes for luxury cars, stop standing there fighting against lower interest rates for families and stop standing there fighting for higher taxes. Let’s bring some sensible economic responsibility back into the chamber. Let’s pass the Rudd Labor government’s budget and let’s get on with it.

Senator TROETH (Victoria) (5.38 pm)—Senator McEwen’s words are eerily reminiscent of the Hon. Julia Gillard’s words last week when she told the opposition that they should simply get out of the way and let the government govern. Well, in the Westminster system, we take a different view. We believe that a responsible opposition should hold the government accountable—and that is exactly what we are doing this afternoon by pointing out the way in which cost-of-living pressures have adversely affected the Australian people under the wonderful new world of the Rudd Labor government!

In the lead-up to last year’s election, Prime Minister Kevin Rudd raised expectations among all Australians that he would help out with cost-of-living pressures. He raised expectations that he would do something about fuel prices; he raised expectations that he would do something about grocery prices. Mr Rudd’s idea of doing something is to create Fuelwatch and GROCERYchoice. I am an English teacher and I would have thought that ‘watch’ and ‘choice’ involve two very passive concepts. You can watch and watch, but you do not actually have to do anything. GROCERYchoice has not eased the cost-of-living pressures in Australia. In fact, the cost of living is higher than it was 12 months ago.

I would also like to point out that the words that Mr Rudd used before the election and the words that Mr Rudd used after the election are proving to be somewhat different. He talked a great deal about ‘opportunities’ and ‘working families’ et cetera. I will not tell you all about these again. But the Senate might like to take note of the fact that he used the phrase ‘fresh ideas’ 87 times before the election but has used it only seven times since. Perhaps we have not got any ideas and we are looking for fresh inspiration. He has proclaimed ‘the buck stops with me’ only once since November—perhaps he has now realised that he really is Prime Minister—although he declared that that would be the case 31 times in the lead-up to the election.

Mr Rudd’s way of working ‘the buck stops with me’ is to pass the buck even further on. One hundred and fifty-plus reviews, committees, commissions, working groups, inquiries, discussion papers, summits, audits and consultations are all wearing the brunt of ‘the buck stops with me’. But perhaps he is just too obsessed with getting out a message every 24 hours. The net result of that is that he has obscured the message overall. Mr Rudd may not realise this but the Australian public do. Most members of the Australian
public are in a week-to-week battle of paying food prices, grocery prices in general, fuel prices as they fill up their car, the mortgage, interest rates on that mortgage, private health insurance and so on. They are far too worried about where the next week’s money is going to come from to have a chance to think about Mr Rudd’s grand ideas.

Let us take Fuelwatch. The coalition opposes Fuelwatch. Fuelwatch calls on petrol stations to nominate the price they will charge for petrol the next day. This has been trialled in Western Australia. As we all know—those of us who do drive cars—fuel prices fluctuate during the week: they are often higher on the weekends, dare I say it, or before school holidays than they are on any particular day during the week. Motorists can make a choice about when they are going to fill up their car, and a lot of motorists choose the day on which fuel is cheapest. That normally happens once a week. Fuelwatch in Western Australia lengthened the fuel cycle from one week to two weeks, and that meant that there was only one cheap day in the fortnight. That forced consumers to purchase fuel at a higher price every other week. According to the Australian Automobile Association, 76 per cent of motorists buy fuel at least once a week, and 88 per cent of them are aware that petrol is cheaper on certain days. Well, if we go the full way with Fuelwatch, that will not be able to happen. Many of the motoring associations have indicated that they do not support a national rollout of Fuelwatch. The AAA—the Australian Automobile Association—the Royal Automobile Club of Queensland, the Royal Automobile Club of Victoria, and RAAA in South Australia have indicated that they do not support this. The Australian Automobile Association in their press release of 30 March 2008 stated:

Lower prices on Tuesdays, coupled with high volumes is a simple equation that translates to working families being able to save money each year by taking advantage of existing, predictable price cycles.

That will not happen under Fuelwatch. Indeed, information sourced from the ACCC indicates that, under Fuelwatch, proportionately more Perth motorists are buying petrol at prices greater than the average price for fuel over the cycle. There is no concrete evidence that Fuelwatch has lowered petrol prices in Western Australia and there is no guarantee that this scheme will temper petrol prices. Mr Rudd needs to explain to the Australian people—and his speech yesterday to the Press Club would have been a very good opportunity—how Fuelwatch will lower the cost of fuel. No motorist should be worse off under Fuelwatch, but we have yet to see that proven.

So we are watching prices, which is a very inadequate response. Australians expect their government—and this is what Senator McEwen and the other Labor senators on the other side of the chamber are now charged with doing—to come up with policies that will keep cost-of-living pressures under control, which is what the coalition did in its 11½ years in office. Home loan rates averaged 7.25 per cent, unemployment was down to a 30-year low and average real wages grew 21.5 per cent from March 1996 to June 2007.

Let us take the small item of private health insurance. With the new threshold that has been imposed by the Labor government, those who drop out of private health insurance because they feel they do not need to pay it anymore will be the young and the fit. The people who stay in private health insurance will be those people with families who want the best health care for their families and older people who are taking care of the illnesses they are encountering in their old age. They will bear the brunt of this private health insurance scheme because premiums
will undoubtedly go up with a smaller number of people in each scheme.

Real wages dropped $8 or 0.73 per cent from June 2007 to June 2008. It is not surprising that ordinary average weekly earnings are falling when you look into the average retail price of selected items. Some of the items that I am about to name have become less affordable to ordinary Australians due to price rises. From June 2007 to June 2008 the following goods rose: milk, 12.5 per cent; bread, 5.7 per cent; a kilogram of fresh chicken, 39.9 per cent; corn based cereal, 21.1 per cent; 500 grams of strawberry jam, eight per cent; a kilogram bag of potatoes, 15.8 per cent; and a litre of unleaded petrol, 17.1 per cent. Many people across Australia are really having trouble balancing their family budget. More and more people are weighing up what they will pay this week and what they will pay next week in order to get to the end of the fortnight or the end of the month without having a debit bank balance. I believe that Australians ought to feel deceived by Kevin Rudd because he raised expectations that the government would fix these problems.

As I mentioned before, one of the solutions Mr Rudd has come up with—the GROCERYchoice website—has failed to address this serious problem properly. People do think about what they are going to buy in the supermarket and if they find another supermarket in their neighbourhood that is offering cheaper prices they may go and shop there, provided that they do not have to drive too far to get there and thus spend more money on petrol than they would actually save on buying the groceries. With the GROCERYchoice website, the people who are most likely struggling the most to balance their budgets—pensioners and low-income families—are the demographics least likely to have the internet. You cannot access GROCERYchoice without an internet connection.

GROCERYchoice does not offer prices on individual in-store products, only categories of products. That is, the bread and cereals basket, which shows an overall raising or lowering of price, does not help you identify if Cornflakes are cheaper than Rice Bubbles. Also, so much of the information is not relevant. I logged on to the GROCERYchoice website today and I checked out the prices available to those people in Heywood in western Victoria, a small town of 1,200 people where I lived for nearly 30 years. The problem with GROCERYchoice if you are a resident of Heywood—and this applies to all the small towns in western Victoria, western New South Wales and western Queensland—is that it compiles the prices of products across western Victoria ranging from Warrnambool to Swan Hill. If you wanted to go to Swan Hill from Warrnambool, that would be a return drive of somewhere between 10 and 12 hours. If you found cheaper groceries in Swan Hill, are you likely to set out from Warrnambool to go and buy those cheaper groceries? I suspect not. You would need to refuel an average family car three times to get there and that cost would add up to more than the savings you would achieve on the grocery products. I know many people from Warrnambool and I can tell you that none of them travel to Swan Hill to do their grocery shopping. In fact, even the $1.19 saving that was identified in a supermarket in the neighbourhood would be eaten up by fuel consumption if I shopped at Coles instead of Safeway by the time I got down the road anyway. So how are we expected to take this seriously? Similarly for towns in eastern Victoria, where the website says ‘click on your region’, it identifies towns from Morwell in the Latrobe Valley to Wangaratta, which is near the Murray River. This is simply laughable.
GROCERYchoice and Fuelwatch, which look at prices instead of actually doing something about them, are substandard policies implemented by a government obsessed with reviews and spin rather than actually delivering tangible results for the people of Australia. Ultimately, the Australian people are going to look at Mr Rudd and say, ‘These were his promises before the 2007 election and nothing good—

Senator O’Brien interjecting—

Senator TROETH—No, I do not think so, Senator O’Brien. They will have woken up well and truly before then.

A few days ago the ABS released data on the cost of living. This is from the Herald Sun online on 27 August 2008 and an ABS report dated June 2008. Mr Rudd’s working families—and this is about the cost of living generally—are paying nearly 20 per cent more for some household items compared to last year. Financial and insurance services have risen 19 per cent; housing costs and transportation, seven per cent. Pensioners experienced an increase in the cost of living by 4.3 per cent over the past year.

We already know that both Mr Rudd and Ms Macklin feel very sorry for the pensioners, who must be finding it a great struggle to live when they have a pension of some $270 a week and who expect the Rudd Labor government to do something. Approximately 77 per cent of Australians over the age of 65 receive income support. The Rudd government intends to set up a pension review. But that pension review board will not report until February 2009 and this will then fold into Labor’s overall review of the taxation system which is due to report in late 2009. So, already, we are looking at a delay of some 12 months.

Senator Coonan—They can eat twigs in between!

Senator TROETH—That is correct, Senator Coonan. There will be no decision on pensions before the 2010 budget at the earliest, and, Senator O’Brien, that is creeping up towards the election. Is this what the government calls action? We, the coalition, forced the Rudd government to reinstate the lump sum seniors bonus which we had always given to pensioners, despite Labor’s attempts to scrap it in March this year. Labor’s first budget actually cuts support to older Australians. For example, changes to income tests will leave thousands of seniors without a health card when they need it most. Under the Howard government, pensions increased by two per cent above inflation every year for 10 years. Strong economic and budgetary management meant that pensioners were able to receive bonus payments and increases to a range of other support measures.

In addition to the percentage of Australians over the age of 65 who are on income support, 30 per cent of pensioners have reported having bank balances of less than $1,000. I spoke earlier of balancing the weekly budget: ‘If I buy this item this week, will I still be able to afford to buy something else or go to the movies for $15—or $9 on the pensioner concession card—or will I be able to have a counter meal at the local pub?’ Those are the sort of so-called luxuries that will have to go—many things that other Australians take for granted. Even Minister Macklin acknowledges that pensioners are suffering.

Many other government members and senators have acknowledged now and in the past that people are suffering from a higher cost of living. But what are you going to do about it? I was very sorry to see that Senator McEwen, who I admire very much, did not give one definite suggestion for what the Rudd government was actually going to do. It is fine to talk about programs and reviews
that are going to take place much later in the year. That does not help people now. We need action, families need action, pensioners need action and Australians want action. So what we are trying to do here is bring this government to account.

There was an apparent dichotomy in both Senator Carr and Senator Conroy today in question time attempting to convince both the coalition and the listening public that Australia has a strong economy under them and also that Australia has a weak economy because of the depredations that the coalition government apparently wrought, in spite of what I talked about earlier. How can you have it both ways? How can business and the general community have confidence in the economy when Mr Swan, your Treasurer, talks it down so much? He says both here and overseas that Australia is virtually a basket case. How would you expect business and the general community to have confidence in our own economy? No wonder people are watching prices. The general effect of government on your prices is to make them higher and higher, which puts so many items out of the reach of general Australians and makes the cost of living very difficult to bear.

Senator O’BRIEN (Tasmania) (5.57 pm)—I have a very short time to make a contribution to this debate. Looking at the motion which Senator Bernardi moved on behalf of the coalition today, I see that the complaint is the government’s failure to address difficulties—that is, the difficulties of Australians and their financial circumstances—and yet, for almost every move that this government makes to try and address those issues, the coalition stands in the way. The coalition is saying we should do more, but what are they going to do?

We want to put in place something like Fuelwatch, which Western Australian motorists—Perth motorists—love because it allows them to know, at three o’clock the afternoon before, what the price is going to be the following day and where that price is going to be available for the whole day. Motorists in Perth do not have the experience that, on their way to work, the petrol on the other side of the road is cheaper and then, by the time they are driving home and hoping to fill up, the price is up to the price that it was on the side of the road that they were traveling past on their way to work. They do not have the experience that prices will change five, 10, 15 or 20 times a day at a particular service station because there is a game being played by those service stations trying to bid the price up or trying to pull the price down, and so motorists never know where they are.

So the coalition is saying we fail to address this issue but, when we put something up to try and help the consumer, the coalition is saying, ‘Well, we’re not going to let you do that.’ Then, when we talk about the pressures on families and the fact that we want to increase the threshold for the Medicare surcharge, which has remained the same since it was introduced—at $50,000—to provide low-income earners who are on $50,000 with some tax relief, we cannot do that either. This is the hypocrisy that the coalition is putting up in this debate. There is hypocrisy about the government doing something when, every time this government tries to do something, they use this chamber and their position in this chamber to try and block it. They did so before 30 June and now they are trying to persuade other senators to join with them to continue doing it after 30 June. So Australians are missing out.

The PRESIDENT—It being 6 pm, the time for the debate has expired.
QUESTION TIME

The PRESIDENT (6.00 pm)—Order! I will now proceed to make a statement, as I said I would, in respect of the question by Senator Abetz during question time. At question time, there was discussion on points of order about a question asked by Senator Abetz. I undertook to consider the matter further and make a more detailed statement to the Senate.

Senator Abetz’s question, as recorded in the transcript, was:

My question about the urgency for releasing an interim report on Fuelwatch is directed to the chair of the Economics Committee. What was the urgency for releasing an interim report on Fuelwatch?

Senator Abetz subsequently indicated that he considered that his question should be treated as a question under standing order 72(1) under which a senator may ask a question of another senator about business on the Notice Paper of which the other senator has charge. The question could not be treated as a question under that provision, however, because there is no business on the Notice Paper relating to the committee report concerned. That report was presented yesterday. No motion in relation to it was moved and, therefore, there was no business relating to it on the Notice Paper. The listing of the inquiry under the list of committees at the back of the Notice Paper is not an item of business.

Also, the question was to the chair of the committee and concerned the presentation of the report of the committee and, therefore, was clearly a question about the activities of the committee. The question, therefore, has to be treated as one under standing order 72(2). Under that provision, a question may be put to the chair of a committee only on notice or by leave. It became clear that notice had not been given of the question. Leave had not been sought to ask the question. Therefore, the question was out of order and I ruled to that effect.

It was suggested to me that I allow Senator Abetz to make a second attempt to ask the question by seeking leave to ask it. That course would normally be followed where a senator is seeking to make a statement or otherwise speak in circumstances requiring leave. Question time, however, is a structured occasion in which the chair is expected to adhere to the customary order in giving the call for questions to be asked.

In that context, it is not appropriate for the chair, having ruled a question out of order, to give the senator concerned an immediate opportunity to ask the question again as it ought to have been asked in the first place. That would deprive another senator of his or her due turn in the order of question time and would disrupt the customary order of asking questions. The appropriate course for me, therefore, was to proceed to the next question, which would leave open the option for the question which was out of order to be attempted again later in the normal order of question time.

Senator ABETZ (Tasmania) (6.04 pm)—by leave—I move:

That the Senate take note of the statement.

Mr President, I thank you for the courtesy of providing me with a copy of your statement. I say at the outset that no-one should interpret my statement now as questioning in any way the integrity with which you have approached this issue. It is solely on the technical aspects that I seek to reflect.

Firstly, given the ruling as to the non-application of standing order 72(1) as it relates to other senators, it is, with respect, hard to imagine any circumstances where that standing order might apply. One wonders how that section would, in fact, ever apply. If examples cannot be provided then

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the standing order should be amended and I invite the Procedure Committee to examine the matter. In particular, I refer to page 170 of the 11th edition of *Odgers* where there is a heading ‘Questions to senators concerning business’. It says:

At the time provided for questions, in addition to questions to ministers concerning public affairs and to committee chairs, questions may be asked of senators concerning business of which they have charge (SO 72(1)).

Then it says what the questions cannot do. There is no requirement there that leave is required.

At the very best, what I would suggest is that the standing orders are unclear and therefore should be clarified by the Procedure Committee. I request them to do that because I believe those of us who do seek to read standing orders, even those of us with a legal background, interpret them in a particular way and then we have confusion in the interpretation of the standing orders by senators. I think just for the future for any senators that should be clarified.

The next issue is the precedent—and I think this is a very concerning and very dangerous precedent—of the chair not allowing a senator to seek leave. This afternoon I sought leave and the chair refused to put that request to the Senate. I believe that the Procedure Committee should have a look at that as well, because I believe we will be in a very unfortunate circumstance in the future if it is up to the chair to determine whether or not a senator is allowed to seek leave from the chamber in relation to a particular matter. I invite the Procedure Committee to have a look at that.

Further, I submit that, if there is a procedural requirement to seek leave and a senator fails to do so, it is a dangerous precedent for the chair to interpret that as a deliberate choice and therefore deny the opportunity to seek leave to address the formality issue. I can foresee circumstances—which have happened to senators on all sides of the chamber—where senators get on their feet, start talking and are reminded by the chair that to proceed they have to seek leave. The senator stops, seeks leave and if it is granted then things proceed. In the statement that the President has just made we are advised:

Senator Abetz subsequently indicated that he considered that his question should be treated as a question under standing order 72(1)...

I have perused the *Hansard*. At 2.21 pm I asked the question. We then had a flurry of points of order. Again in the *Hansard*, at around about 2.22.30 pm, I get to my feet and say:

Thank you, Mr President. I do not seek to canvass that approach, but I seek leave to ask the question.

At no time, on my reading of the *Hansard*, unless I have overlooked something, could it be asserted that I indicated that I considered that my question should be treated as a question under standing order 72(1). My good friend and colleague Senator Ellison said that, and that is fine. But my rights as an individual senator cannot be prejudiced by the intervention of another senator in relation to a point of order. What is more, I am respectfully saying that on my reading of the *Hansard* I did not indicate that I was relying on standing order 72(1). My good friend and colleague Senator Ellison said that, and that is fine. But my rights as an individual senator cannot be prejudiced by the intervention of another senator in relation to a point of order. What is more, I am respectfully saying that on my reading of the *Hansard* I did not indicate that I was relying on standing order 72(1). I asked a question. Opposition senators interjected saying, ‘Leave is required.’ There was a whole host of points of order. The President ruled on all those points of order. I then got up and said, ‘I don’t want to canvass any of that; I seek leave to ask the question.’ And then that was denied by the chair. I honestly believe that the factual—

**Senator Forshaw**—It wasn’t denied by the chair.
Senator ABETZ—Senator Forshaw interjects. I am trying to deal with this on a technical basis, not on a personal basis, Senator Forshaw.

The PRESIDENT—Senator Forshaw, cease interjecting. Senator Abetz, address your comments to the chair.

Senator ABETZ—What I say to the chair is that, with respect, I am not sure that it can be asserted, given my reading of the Hansard, that I indicated and considered that my question should be treated as a question under standing order 72(1). I at no stage engaged in that debate. Other senators raised points of order. When that was over I then sought leave and my request for leave was not even put to the Senate. I believe that that is a matter of concern because if that becomes the practice in this chamber then, when ministers or other senators forget to seek leave, the procedures will so tie down the Senate that it will become unworkable.

In relation to the President’s comments in the Hansard, there were a number of occasions where it was suggested that I chose not to seek leave. I would invite anybody to read the Hansard and see where at any stage during question time I said that I was choosing not to seek leave. In those circumstances, if simply the fact that you do not seek leave becomes the test—you do not seek leave, therefore it is deemed you have chosen not to seek leave—then we as an opposition might be asking those rulings apply to ministers in the future when they overlook to seek leave.

In the current circumstances it was my honest assessment of the standing orders that I did not need to seek leave. I am prepared to accept that that may be an incorrect interpretation. I would be willing to state my interpretation as being correct, but I accept that the President has made a ruling. But if the only problem with my question was that I had not sought leave—and that seems to be the basis, reading the Hansard, of the President’s ruling—then we have the unfortunate situation where if anybody does something in this chamber that requires leave but they overlook to seek leave, or they think they do not need leave but they do and that is pointed out, they are not given another go; they are sat down, ruled out of order and are not allowed to seek leave again. I think that would be a very dangerous precedent.

Having said all that, Mr President, can I repeat—lest there be any doubt—that I fully accept your personal integrity and the way that you have approached this matter, but I trust you will accept my integrity and that I respectfully disagree and have some concerns as to what these rulings will mean for the future conduct of the Senate. We are not going to be able to resolve that tonight but I would invite the Standing Committee on Procedure to have a very close look at this issue. I would also invite a reconsideration of the assertion that I personally subsequently indicated and considered that this question should be treated as a question under standing order 72(1), because nowhere in the Hansard can I find myself making that statement. I understand that Senator Ellison made that point and, if I may say so, I thought he did it very well, but he was ruled out and of course that is the way of the world. That is why, when I rose to my feet again, I said, ‘Thank you, Mr President. I do not seek to canvass that approach but I seek leave to ask that question.’ And that was when the chair intervened to say, ‘I will not even allow that to be considered by the Senate.’ I think that is a dangerous precedent, and I invite the Procedure Committee to look at those matters. I thank the Senate.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (6.16 pm)—I rise to indicate support for your ruling, Mr President. I think that it was ap-
appropriate. With due respect to Senator Abetz, I think he is missing the central issue. I think he genuinely believed that his question was in accordance with the standing orders in the way in which he put it together, but it turned out that he worded it inappropriately and you accordingly ruled him out of order. I agree with that approach and, having been ruled out of order in the formatting of the question, as senators on both sides would know—

Senator Abetz—It wasn’t the formatting of the question.

Senator SHERRY—Well, the putting together of the question. It was inappropriate with the—

Senator Abetz—No, no.

Senator SHERRY—Look, I did not interrupt you, Senator Abetz, so I would appreciate your not engaging in a cross-debate. There have been circumstances in the past on both sides during question time where individuals have posed questions, and indeed supplementary questions, in an incorrect way and they have been ruled out of order. They have been asked to sit down, they do, and the next question is brought on from whichever side that should be. I agree with the views that you have offered, Mr President. In terms of the Procedure Committee, Senator Abetz wants to refer it there. The Procedure Committee can deal with the issue if they so determine. I, on this side of the chamber, support your ruling and, with due respect to the opposition, frankly I think there are too many lawyers over there. We got ourselves into the position of a very lengthy debate which, unfortunately, wasted a considerable amount of question time—I think approximately 20 minutes; that is unfortunate, but people are entitled to give their views. But, unfortunately, that did occur. If the Procedure Committee wants to deal with the issue, then so be it, but I think you are to be congratulated on your ruling and it was appropriate and correct under the standing orders.

Senator IAN MACDONALD (Queensland) (6.18 pm)—Mr President, in speaking to the motion to take note of your statement I just want to raise another issue, one which I do not think quite arrived today from what has been said of the way this went—although I have not had the advantage of reading the Hansard. I think that someone was suggesting that if a senator sought leave to ask a question and leave was denied—and I am perhaps asking that you or the Procedure Committee might pursue this—then that senator has not asked a question and would then be entitled to then ask a question. In the instance this morning it was a question of the minister. So what I am just raising—and as I say I do not think this quite got to that although I, like many others, was confused with the various points of order and the rulings on them at the time—is that I do think it is worth getting a clear indication that if leave had been sought to ask a question, and if leave was denied, then a question had not been asked and it would not preclude that senator from then asking another question. I say that on the basis of your comments on the issue at hand: that you have an order and, if someone asks a question or does not ask a question that is ruled out of order it then passes on to the next one on the list. I think that would be inappropriate in the circumstances that where leave was sought, leave was denied—which means no question has been asked—and therefore that same senator would not be in breach of your ordered form if he then asked a question that did not need leave.

Senator O’BRIEN (Tasmania) (6.20 pm)—I do not propose to take much of the Senate’s time at all but I do feel compelled to respond to Senator Abetz’s suggestion that standing order 72(1) would have no application because there was nothing in the Notice

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that it might refer to. I simply suggest that if you look at the Notice Paper, for example, one might have asked Senator Barnett a question about his notice of motion that appears on page 18, a matter which he clearly has control of in accordance with that standing order, or Senator Wortley about a notice of motion on page 19.

Senator Ian Macdonald—So what is your point?

Senator O’Brien—The point I am making is that Senator Abetz suggested that, in the absence of the interpretation that he preferred earlier today about standing order 72(1), there was nothing in the Notice Paper that that standing order could apply to. The point that I make, Senator Macdonald, is that there clearly are a number of matters able to be pointed to in today’s Notice Paper on which a question might have been asked under standing order 72(1). I merely draw to the attention of the Senate the suggestion that it is not a correct proposition to suggest that there is nothing else in the Notice Paper that might apply to and therefore the standing order would be meaningless.

Senator Ellison (Western Australia) (6.21 pm)—Let us clarify one matter that Senator Sherry touched on in relation to Senator Abetz. On your ruling, Mr President, Senator Abetz’s mistake was not to seek leave at the outset of asking that question. That is really the issue here. He failed to seek that leave, and that is something which many senators in this chamber do. As a member of the Standing Committee on Procedure, I give notice that I want to raise the issue of seeking leave. I think at no stage and under no circumstance should a senator ever be stopped from seeking leave. That is a right that should exist for each and every senator in the chamber in all circumstances. Whether or not that leave is granted is another matter, but it should be made very clear in the standing orders. I think, with respect, the standing orders could be clearer. When I look at how standing orders 72(1) and 72(2) interact, I have some very serious questions indeed as to why you even have them. You could make the wording a lot clearer. In fact, the drafting is really not clear; I have seen much clearer drafting in my day, I can tell you. Why would you have a situation where senators can ask a question of other senators relating to any matter connected with the business on the Notice Paper and then go on to prescribe how questions may be put to a chairman of a committee? Is 72(1) precluding a chairman of a committee being asked?

Senator O’Brien—No, 72(2) covers that.

Senator Ellison—Then that is not clear, because the fact is this; if 72(2) pretends to cover the ground in relation to the chairman it should say that, and 72(1) should say ‘any senator except those in the capacity of committee chairman’. That is something that I want to raise with the Procedure Committee as well.

I take your point, Mr President, about what constitutes business on the Notice Paper, but the question that really troubles me
is that the standing orders provide for a situation where any senator can be prevented from seeking leave. All senators, under any circumstances and at any stage, should have the right to seek leave and it should then be up to the Senate as to whether that is granted or not. If the standing orders do not allow that, then we have a deficiency in this chamber which we should look to fix rather than perpetuate.

Senator FORSHAW (New South Wales) (6.25 pm)—Mr President, I think this is the first chance I have had to congratulate you on your election. I entirely agree with the comments of Senators Sherry and O’Brien that your ruling was correct. I listened to your statement closely and I support it fully. It seems that this issue may run on for a little bit of time, with senators indicating that they would like the Senate Standing Committee on Procedure to look at it, so we may well get an opportunity to have a fuller debate, and hopefully it is not one that is dominated by lawyers arguing about angels on the head of a pin—and I say that as a lawyer.

Senator Sherry—Another one!

Senator Ian Macdonald—Yeah, you’re right, there are too many of you in the place!

Senator FORSHAW—But I do not attempt to give a legal opinion, Senators! One of the mistakes that lawyers and others make is to engage in sophistry—false argument. You create a conclusion and then you try and develop a clever argument to lead you to that conclusion. In some cases what happens is that you actually leave out pertinent facts or pertinent material or evidence that should be put.

The assertion has been made, Mr President, that you denied Senator Abetz his right to seek leave. I regard that as a reflection upon the chair and I do not accept it. That may be debated more fully. My recollection of what happened during question time was that, as has been stated, Senator Abetz rose to his feet after being given the call as an opposition frontbencher in accordance with the list agreed between the parties and the whips of the order of questions for today. That is a very important point because Senator Abetz was given the call on the basis that it was the turn of the opposition to ask a question. That is a procedure that is agreed between the parties, as we know.

Senator Sherry—It’s not in the standing orders.

Senator FORSHAW—We also know that it is not in the standing orders, but it is a procedure that has been long followed in this place to ensure an orderly flow of questions across the chamber between the government, the opposition and the minor parties and Independents. It is to ensure that senators from the opposition particularly get a majority of the questions and a guaranteed number of questions per day. We also know, of course, that in the Senate, unlike the House of Representatives, we have a specific time laid down for the period of question time. There is no set procedure, because of agreements made some years ago, regarding the way in which question time runs in the Senate. You need to bear that in mind because these fine, technical, legal points—or sophistry, in my view—and interpretive points being made about the standing orders are made without having regard to the fundamental understanding on the way in which question time works.

Senator Abetz, as I said, rose to his feet. No-one else did; it was his side’s turn to ask a question and he clearly was on their list of questioners. He asked his question. It was ruled out of order, as Senator Sherry has said, as other questions have been ruled out of order in this place. I recall a question being asked about a particular political party and its policy and because the wording was
not quite correct it was ruled out of order. It happens with supplementaries, as we know. That is the end of the matter. You go on to the next person on the list on the other side of the chamber to ask the next question. That was what was going to happen. But there was a point of order taken by Senator Ellison endeavouring to argue that this supposedly clever question time tactic today was in order—and it clearly was not. The assertion that Senator Abetz, who, after some debate and shouting across the chamber, sought leave, was denied an opportunity to seek leave, is a false assertion. You, Mr President—and this is in the Hansard—made it very clear that the call for the next question was to go to the Greens in accordance with the understandings.

Senator Ian Macdonald—Excuse me, Michael, the President has another function—

Senator FORSHAW—If you want to throw the understandings out, come out and say that what you want in the future is a different system for question time. That is a whole new matter—that is where you are heading. You, Mr President, pointed out that you were going to give the call to the Greens. You also on a number of occasions pointed out that it would be open to members of the opposition, when their turn to ask a question came, to seek leave at that time to ask the same question and it would be considered. That is the entire context. That is the entire way in which these proceedings unfolded. I think it is completely disingenuous to stand up in the Senate and try to argue on the basis of one aspect of that whole debate that the chair deliberately denied a senator the opportunity to seek leave. And to go on and suggest that somehow this—

Senator Ian Macdonald—Mr President, I raise a point of order. I was trying to interrupt Senator Forshaw nicely but he has ignored me. My point of order is repetition. But the real point I want to get across to Senator Forshaw and everyone else here is that, Mr President, your presence is required elsewhere at the moment—you have other duties.

The PRESIDENT—Senator Macdonald, thank you for your intervention. There is no point of order. I thank you for your concern about my presence elsewhere.

Senator FORSHAW—Another correct ruling, Mr President! But I will wind up.

The PRESIDENT—Thank you, Senator Forshaw.

Senator FORSHAW—I was planning to wind up, which is why I was ignoring Senator Macdonald. He may wish to seek leave for you to preside at another event, but you will not need that of course. I want to conclude by saying that I think it is disingenuous to put forward the argument that was put forward by Senator Abetz, and subsequently Senator Ellison, without having regard to all the understandings that exist in this place about how question time operates and without referring to all of the debate, including your clear advice and invitation to the opposition that they would be able to seek leave when their turn to ask a question came again. I think it was a reflection on your ruling to suggest that you denied a senator the opportunity to seek leave.

Senator ABETZ (Tasmania) (6.34 pm)—
To quickly sum up the debate, it is unfortunate that what was a very good technical debate about some issues of principle has been somewhat lowered by Senator Forshaw’s intervention. I note that he did not make a strong start by congratulating you on your election to the presidency of the Senate unopposed—but I think we now know whose vote was the informal one in that ballot! There was actually a ballot. And can I say publicly on the record, although it was a se-
cret ballot, I voted for President Hogg and I have no regrets about having voted for Senator Hogg, and any suggestion by Senator Forshaw that the allegation is that the chair deliberately ‘denied’—and words to that effect—and that there is a reflection on the chair, I repudiate. At the very outset I indicated that I did not in any way want to question the integrity of the President but I did want to join issue in relation to the technicalities.

Can I actually deal with those technicalities. There is nothing in Senator Forshaw’s contribution that deals with the technicalities. Senator Sherry suggested that the question had been ruled out of order and that leave had not been sought. But I think the principle that Senator Ellison outlined is a very important one. In relation to Senator O’Brien’s contribution, on reflection I think he may well be right. I would like to look at section 72(1), given the comments he made. He may well be right—which gets me thinking: I understand the Clerk is busily rewriting another edition of *Odgers* and if that, perchance, happens to be the case I would gratuitously suggest that these matters might be clarified at some greater length in *Odgers* so the confusion that occurred today can be overcome.

Now that I have had the opportunity of reading the totality of the President’s statement, I would like to draw issue with another point. The first one is in the third paragraph where it was suggested that I had indicated that I considered the question should be treated as a question under standing order 72(1). With great respect, I made no such point and sought leave.

In relation to the second last paragraph of the President’s statement, it says: Question time, however, is a structured occasion in which the chair is expected to adhere to the customary order in giving the call for questions to be asked.

Fully agreed; no objection to that. The statement goes on:

In that context it is not appropriate for the chair, having ruled a question out of order, to give the senator concerned an immediate opportunity to ask the question again.

Can I say with great respect, Mr President, my request to seek leave would not have been the chair giving me the opportunity to ask the question; it would have been the Senate granting leave that would have allowed that opportunity to arise. So in that respect I think that the statement also needs some reconsideration because it would not have fallen on the chair to allow an immediate opportunity to ask the question again; it would have been up to any one single individual senator to simply say, ‘Leave denied,’ and that would have been the end of the story. So in relation to that, I would also suggest that further reflection might make for a more robust statement, and I only say that because these statements are then used as guidance by other senators in the future. But there are, with respect, two major issues that I think on any objective analysis cannot be sustained.

Having said that, Mr President, unfortunately I need to repeat yet again that nothing in what I have said in taking note in my first speech or in summing up now is in any way, shape or form to be interpreted by anybody, including Senator Forshaw, to be a reflection on you or the way in which you conduct yourself in relation to your motives. This is only about the technicalities and, I think, clearing them up. That is why Senator O’Brien’s contribution I thought was a good contribution and it has got me thinking. I think that on these sorts of issues it is good to have dispassionate debates to deal with the technicalities. I thank the Senate for the
leave that was granted to allow me to move the motion.

Question agreed to.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! The time for general business having expired, the Senate will now proceed to consideration of committee reports, government responses and Auditor-General’s reports.

COMMITTEES
Foreign Affairs, Defence and Trade Committee
Report
Debate resumed from 26 August, on motion by Senator Nash:
That the Senate take note of the report.

Senator TROOD (Queensland) (6.41 pm)—I seek to make some remarks in relation to the Senate Foreign Affairs, Defence and Trade Committee’s report on peacekeeping. I am aware that other senators have made contributions in relation to the report but as the deputy chair of the committee I want to make my own set of observations.

The committee undertook this inquiry in the context of two very important trends in international affairs. The first was Australia’s own very extensive contribution to peacekeeping activities over a long period of time. Indeed, Australia’s experience here reaches back 60-odd years to 1947. Throughout that period of time we have had a regular involvement in peacekeeping activities in various places around the world over various periods of time and in a range of different kinds of guises using various elements of Australia’s capacity. We now still have 11 peacekeeping missions around the world and so we have made over a long period a very considerable contribution to peacekeeping as an activity of the international community.

The second broad trend which I think prompted the committee’s inquiry is the intensity of peacekeeping activities virtually since the end of the Cold War. The end of the Cold War provided an opportunity for the United Nations to reassert itself as an element or an instrument of peacekeeping, and we have seen over the last 10 to 15 years that the United Nations has sought to exercise that opportunity. It has declined somewhat in recent years but there has been an intensity in relation to the United Nations’ peacekeeping activities which has been one of the foundations of examining Australia’s own role in peacekeeping. These particular realities have been the foundations for this inquiry.

We received a relatively small number of submissions to the inquiry but they were, I think, of uniformly high quality. The consequence of that was that it has enabled the committee to make a very comprehensive set of findings with regard to peacekeeping activities. Indeed, we have examined the whole plethora in a report that was rather more extensive, perhaps, than I anticipated it might be when we began the inquiry. We have ended up with a report of some 375 pages with 38 recommendations, and because the report is so thoroughly comprehensive it is almost impossible to deal with it at any length in the time that is permitted to me. But I do commend it to the Senate because I think it covers a range of issues which are of vital importance to Australia’s security and certainly of critical interest to those who have an interest in the peacekeeping activity.

Perhaps I could just take the opportunity to mention a couple of issues that I think are of importance. The first of these is that the inquiry discovered that peacekeeping was an increasingly complicated activity. In the early years of peacekeeping it was often an activity that took place in the context of two states that had a conflict and had been separated for a period of time. A peacekeeping force was injected between them to lay the
foundations for, perhaps, further peace negotiations and a settlement further on.

Today, 40, 50 or 60 years on from that, we are in an environment where they are not just military activities. In fact, they are increasingly anything but military activities. They often involve the fortunes of failed or failing states and they are not just matters of military interest; they frequently involve questions of economics, of social structure and of aid activity. That is certainly true of some of the peacekeeping activities in which Australia is engaged in—in the Solomons, for example.

So they are increasingly complicated activities for any state that seeks to involve itself in peacekeeping activities. This means that mounting a peacekeeping operation is an increasingly complicated exercise. It is complicated from the perspective of the state in organising the elements of the force which will contribute to peacekeeping, but it is also complicated from the perspective of undertaking the peacekeeping mission itself.

The inquiry looked very closely at the range of new dimensions to peacekeeping. One of its encouraging conclusions, I think, was that Australia had adapted very effectively to the challenges that it now confronts as it becomes engaged in peacekeeping activities. The coordination of Australian agencies and the bureaucracy is very effective, the resources that are deployed to peacekeeping missions are substantial and the institutions that are involved in peacekeeping have adapted to the challenges. An example is the Australian Federal Police, where the International Deployment Group has become a very important element of the way in which Australia can respond to the challenges of peacekeeping. And, indeed, in AusAID, a new division, the Fragile States Division, reflects something of that change.

The second broad area I wanted to touch on relates to the particular challenge that peacekeeping poses for military establishments. In the early years this was a pretty straightforward situation. Peacekeeping activities required some kind of military intervention and states that were prepared to contribute used their military forces, which were generally structured around high-end missions in relation to the use of lethal force. They inserted those forces into those situations and they had virtually little alternative but to use that high-end lethal force capability. As peacekeeping activities have increased, military forces have increasingly looked at the need for, perhaps, doctrinal change or structural changes to force structures.

I think the general consensus of the inquiry is that, where countries have chosen to structure a force around peacekeeping particularly, it has been ineffective. Australia has resisted that choice and I think the committee was unanimously of the view that that was the correct decision for Australia. We support the decision that Australia continue to structure its defence forces around a very wide spectrum of missions, which includes high-end use of lethal force down to what might be called the low-end missions closer to which peacekeeping occurs.

The challenge for any military force, however, is how long it can engage in peacekeeping activities over a long period of time when it has a need for military forces for other deployments and activities. It seems to me that this is probably an activity that is going to require continuing investigation by military forces and, I think, by Australia’s military forces. We should resist any temptation we might have to restructure the Australian military establishment or the force structure around peacekeeping activities, but I think we need to be alert to the possibility that, if peacekeeping activities are going to
be an increasingly important part of the demands on the Australian military establishment, we might have to make more comprehensive arrangements for providing those force deployments.

The final thing I will mention is the need for increased understanding of the challenging nature of peacekeeping. Australia has a peacekeeping centre at Williamtown, but the new Asia Pacific Centre for Civil-Military Cooperation ought to be a foundation for expanding our deeper understanding of peacekeeping operations, for developing doctrine, for research, for training and for engaging with other countries that have similarly engaged in peacekeeping activities and, indeed, have peacekeeping centres around the world. *(Time expired)*

Question agreed to.

**Environment, Communications and the Arts Committee**

**Report**

Debate resumed from 26 August 2008, on motion by Senator McEwen:

That the Senate take note of the report.

**Senator IAN MACDONALD** (Queensland) (6.52 pm)—On Tuesday I was speaking on the report of the Standing Committee on the Environment, Communications and the Arts on the Save Our Solar (Solar Rebate Protection) Bill 2008 [No. 2] when time elapsed, and I want to continue to my remarks. I was saying at the time how grateful I was for a quote from Mr Dean Mighell, state secretary of the Electrical Trades Union, who said:

The Rudd Government does not appear to be serious about tackling global warming. Rudd’s claim that ‘climate change is the great moral challenge of our age’ has clearly been forgotten or blatantly disregarded.

That was a very perceptive comment by a very well known trade unionist, Mr Dean Mighell, a very well known player in Labor Party circles. He, like the rest of us these days, clearly understands that Mr Rudd’s words are never followed with action.

Nothing could be clearer in relation to the way the Rudd government has handled the means test on the solar panels rebate. Nothing was said prior to the election to indicate that this was going to be part of the Labor government’s first budget. In fact, all disinterested observers had the other impression. I think the committee’s report records that before the election Mr Rudd attended at the venue of a business that supplied and installed solar panels. Mr Rudd clearly gave the indication to the Australian voting public that he not only would be supporting the solar panels industry but would be actually trying to enhance it.

When my time to speak ran out on Tuesday I was talking about two businesses in the Townsville area, where I come from, who were in great distress because they had been building up their panels installation businesses over a period of two or three years. They both said to me that they had not made a lot of money to date but that they had everything in place for their businesses. Then suddenly, without warning, on budget night their businesses were just ripped from beneath them. They were very distressed, and I was saying that one of the business owners confessed to me that for the first time ever he had voted Labor because he had been impressed by Mr Rudd’s concern for the environment, particularly the indications of his very strong support for the solar panels industry. This person was dismayed and betrayed by the approach of the Labor government on budget night.

Throughout the day of the committee hearings that I attended, which was on the day in Melbourne, we had witness after witness come in and indicate how wrong this was, how their businesses had been shattered.
and how orders had been cancelled. Many of them gave the figures of the orders that were on their books that were cancelled on the day after budget night. The submissions that were made repeated that story. Again, the people calling my office in Townsville gave indications of the contracts that had been cancelled overnight. Yet I see from the report that in the following days of hearings, which unfortunately I was unable to attend, the department gave some quite startling evidence. They indicated that the number of applications for the solar rebate had increased since the budget announcement. I do not for a moment suggest that the departmental officials were not telling the truth, but it seems so at odds with the evidence given to the committee on the day I was there and in the submissions about the numbers of contracts that had been cancelled, how people were being put off and how businesses were in danger of folding because of this budget announcement.

One of the witnesses to the hearings did say that they believed that if the department’s figures were correct then one of the reasons would have been—and these reasons are quoted at length in the coalition’s report on this particular inquiry—that many people believed that the means test started in the new financial year, not the day after the budget, and so would have been trying to get their applications in before 1 July came around. That was given as one of the reasons for any possible increase. Another reason was that some families’ household incomes may have been below the new $100,000 threshold during the 2007-08 financial year yet they may have been expecting a higher than $100,000 payment in the 2008-09 year. They may have been expecting an increase in the following year so they were rushing in before the end of the year so that they did not go over the $100,000 mark and therefore become ineligible. There was also a suggestion that the outrage in the media, in letters to the editor and on talkback shows from the general public at this mean-spirited action by the Rudd government on budget night had publicised this to an extent that it possibly had not been before. I understand from evidence that the money that the Rudd government has made available in the budget, even though it reduced the means test to $100,000, is likely to run out in about November or December this year, which means that if you do not get your application in quickly it does not matter what your income is, you will not get the subsidies for the solar panels.

This whole disgraceful episode of the Rudd government on budget night is indicative of the vandalising approach that this government has taken to the environment. Here was a program that was encouraging people to use solar energy so as to save on carbon energy and lessen greenhouse gas emissions. We have had a lot of talk from the government about the emissions trading scheme to reduce emissions. Here was a way that this was going to happen through ordinary people who wanted to do their bit, yet the Rudd government just shattered this good way of allowing people to contribute. It is similar to the Rudd government’s approach to the environment generally. In the razor gang cuts at the beginning of the year most of the programs that were severely impacted upon were environmental programs. The natural resource management—the NHT and NAP—programs of the previous government were slashed. Less money was made available to those community groups who were doing good on-the-ground work. Their incomes were slashed by something like 40 per cent. That meant that, in many regional communities in my state where these organisations are based, many of the jobs that had been created around caring for the environment were lost overnight.
Senator Colbeck—And the Landcare program.

Senator IAN MACDONALD—Indeed, as Senator Colbeck mentions, Landcare is another program which the Rudd government has slashed. It shows the hypocrisy of the Rudd government in the field of environment, just as they are so hypocritical in the fields of inflation and economic management in their rhetoric about having a difficult time ahead with the budget. We all know that when the Howard government entered office they took over a debt of $96 billion. When the Rudd government took over they had, thanks to the Howard government, a surplus of $22 billion. It is hypocrisy the way they are carrying on. (Time expired)

Senator BIRMINGHAM (South Australia) (7.01 pm)—It is my pleasure to support Senator Macdonald in relation to the report of the Senate Standing Committee on the Environment, Communication and the Arts on the Save Our Solar (Solar Rebate Protection) Bill 2008 [No. 2] and to add to my remarks on this topic in this place. It has amazed me that the government members on this committee, the government overall and Mr Garrett in the other place the other day have sought to pretend that this means test has had absolutely no impact—in fact, not only to pretend that it has had no impact but to go further in some instances and argue it has had a positive impact. The government members serving on the Senate’s environment committee in their majority report stated:

... despite short-term concerns created by the budget decision, there has been no reduction in the desire of households to install photovoltaic systems, and no slowdown in the take-up of the rebates. The budget decision has not caused a dampening of demand for the services of the solar industry.

Mr Garrett has even gone further in some of his comments both in the other place and in the media, almost suggesting the means testing has had a positive impact on the industry, and that somehow by excluding more people from being eligible for a rebate will actually encourage more people into the market. Not only is the logic perverse, but it stands in total contrast to all of the evidence that was received during this inquiry. Some 157 submissions were received, overwhelmingly from individuals and small businesses—most had never participated in these types of parliamentary proceedings and chose to do so for the first time. And each and every one of them, barring the government submissions, reported negative impacts as a result of this decision. Let us look at a few of them. Blackmore’s Power and Water submission said:

Initially, I thought the means test wouldn’t deter families earning over $100,000, to continue to install solar power grid connect systems. However NOT one customer has installed or intends to install a system, that hasn’t applied for the $8000 government rebate.

They have not had one customer since the government introduced this means testing out of the blue on budget night. This is a business operator saying ‘not one customer’, despite the fact that government members wanted to conclude that there had been no reduction in the desire of households. Blackmore’s Power and Water had not had one customer who was ineligible for the rebate come forward. Sun Wise Electrics said:

The decision to means test the solar PV rebate has all but stopped my business in its tracks. Customer desire has almost disappeared over night.

I am currently considering what to do with my business as a result of the means test decision. We have hundreds of examples of businesses like this all around the country who say that there has been a very definite and very delib-
erate impact on their business. Self Sufficiency Supplies Pty Ltd said:
I, and I speak for many small business owners in the industry, feel that whilst the signing of the Kyoto Protocol was a nice symbolic gesture, when it came to doing something that really made a difference, the Government not only failed to do something that kept the status quo, but have gutted a scheme that made a positive difference to ‘working families’, to our solar industry and to climate change.

These are real people in real small businesses who genuinely know about the impact of this government’s decision on their industry, the solar industry. It is quite remarkable that we see the government trying to turn a blind eye to these people and trying to suggest for some reason that in fact they are not actually being affected at all by this decision to means test. The impact has not only turned so many people away from the industry but has also seen a further perverse outcome, and that is that people are getting smaller systems installed. Smaller systems are now being installed for the same sized government grant.

Senator Parry—What a waste!

Senator BIRMINGHAM—As Senator Parry says—and he made some remarkable contributions on this committee, and it is possibly my fault that he does not receive the credit that he should in the minority report—it is quite remarkable that the government is now giving away its $8,000 rebates to get smaller systems installed. We have Conergy saying:

The reduction in PV panels distributed around the country means the emission reductions occur at a greatly reduced rate. Isn’t the idea to have as many solar panels on rooves in order to reduce our emissions? Emissions are not means tested so why should the rebate be means tested?

That is a very valid question. Emissions are not means tested for households that may earn more than $100,000, so why should this rebate be means tested?

The industry could see, and feared, what would occur as a result of the means testing. They could see not only that you were shutting a large portion of the market out but also this impact of smaller systems being installed. Mr Ric Brazzale, from Green Energy Trading, told the committee:

We have a major concern that what will happen now is it will drive, if you like, the lowest common denominator, a roll-out of smaller, one kilowatt systems and it is not going to leverage customer demand.

That is exactly what has happened. The average size system under the rebate up until the means testing was introduced was a 1.57 kilowatt system. The average size system installed since the means testing was introduced is 1.24 kilowatts. That is a more than 20 per cent reduction in system size, on the government’s own figures.

The government want to claim that the means testing is a success and claim against all evidence that it has inspired more involvement. Not only has it driven many people out of the industry, but their own figures demonstrate that for each $8,000 that they spend today they are getting 20 per cent less renewable energy generated than they were previously. How on earth can the government claim that this is a successful policy?

They talk about certainty for the industry as well. The industry certainly needs some certainty. It had this policy of means testing dropped on it out of the blue in the budget, as Senator Macdonald was saying previously. Now the industry is concerned about the surge in bulk purchase schemes, and particularly with the Queensland government having effectively run a giveaway of one-kilowatt schemes. More than 1,000 households in Queensland are propping up the government’s numbers since the budget.
They have had 1,000 kilowatt PV systems installed for less than $200.

We see that the budget amount for these $8,000 rebates is likely to be exhausted by the end of September. So what is the government going to do now? Maybe it will reduce the means test again. Maybe instead of a $100,000 means test it will bring it down to $10,000. That might prolong the life of the program further. Maybe the government could revisit the commitment that former Prime Minister John Howard made in May of last year when he said that if demand outstrips the budgeted resources for this program the government will commit extra funds to it.

Senator Parry—Commendable.

Senator BIRMINGHAM—Yes, indeed. And why did he make that commendable commitment? Because the previous government, unlike this government, had a genuine commitment to growing our renewable energy sector, to growing the solar industry sector and to supporting photovoltaic systems. That is why in this report opposition members have sought to outline some plans for the future of the industry. We urge the government to step away from this means testing, to give a solid five-year commitment to funding and to start the transition pathway towards the introduction of feed-in tariffs, something that could provide some longer term sustainability for the industry. That is why we have offered a positive alternative to a government that wants to try to claim a policy that is obviously a total failure as a success. Unfortunately, after they have botched a successful policy of the previous government, we now find that we have to give them the way out and urge them to adopt our plans and change the means testing.

The ACTING DEPUTY PRESIDENT (Senator Fierravanti-Wells)—Order! Senator Birmingham, your time has expired.

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

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to committee reports and government responses were considered:


Legal and Constitutional Affairs—Standing Committee—Report—Rights of the Terminally Ill (Euthanasia Laws Repeal) Bill 2008. Motion of the chair of the committee (Senator Crossin) to take note of report agreed to.

Environment, Communications and the Arts—Standing Committee—Report—Sexualisation of children in the contemporary media. Motion of the chair of the committee (Senator McEwen) to take note of report agreed to.

Community Affairs—Standing Committee—Report—A matter relating to the PET review of 2000. Motion of the chair of the committee (Senator Moore) to take note of report agreed to.

Community Affairs—Standing Committee—Report—Ready-to-drink alcohol beverages. Motion of the chair of the committee (Senator Moore) to take note of report agreed to.

Environment, Communications and the Arts—Standing Committee—Report—The effectiveness of the broadcasting codes of practice. Motion of the chair of the committee (Senator McEwen) to take note of report agreed to.

Electoral Matters—Joint Standing Committee—Advisory report—Schedule 1 of
the Tax Laws Amendment (2008 Measures No. 1) Bill 2008. Motion of Senator Carol Brown to take note of report agreed to.

Legal and Constitutional Affairs—Standing Committee—Report—Stolen Generation Compensation Bill 2008. Motion of the chair of the committee (Senator Crossin) to take note of report agreed to.

Housing Affordability in Australia—Select Committee—Report—A good house is hard to find: Housing affordability in Australia. Motion of the chair of the committee (Senator Payne) to take note of report agreed to.

Privileges—Standing Committee—133rd report—Possible false or misleading evidence before the Legal and Constitutional Affairs Committee. Motion of the chair of the committee (Senator Brandis)—That the Senate endorse the finding at paragraph 1.31 of the 133rd report of the Committee of Privileges—agreed to.

Community Affairs—Standing Committee—Report—A decent quality of life: Inquiry into the cost of living pressures on older Australians. Motion of the chair of the committee (Senator Moore) to take note of report agreed to.

AUDITOR-GENERAL’S REPORTS

Consideration

The following order of the day relating to reports of the Auditor-General was considered:

Auditor-General—Audit report no. 2 of 2008-09—Performance audit—Tourism Australia. Motion of Senator Nash to take note of document agreed to.

Orders of the day nos 1 to 21 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Fierravanti-Wells)—Order! There being no further consideration of committee reports, government responses and Auditor-General’s reports, I propose the question:

That the Senate do now adjourn.

Torres Strait Islands

Senator BOYCE (Queensland) (7.13 pm)—Despite not being a member of the class of 2004, may I add my support for Senator McEwen’s comments about your new position, Madam Acting Deputy President Fierravanti-Wells. I appreciate that people have other engagements and other places to be, but I wanted to speak as soon as I had the opportunity regarding a visit I made to the Torres Strait region during the winter recess. As a Queenslander and as an elected representative of Queensland, I am ashamed to say that I had never visited our Torres Strait islands until after my election nine months ago.

During the November 2007 election campaign, I first had the opportunity to spend a short time in the Torres Strait. But during the winter recess I made an opportunity to return to this very remote part of Australia. The Torres Strait islands are just five kilometres from Papua New Guinea waters and they are 80 kilometres from Indonesia. The islands are now administered by two councils: the Torres Strait Islands Regional Council, covering the 15 outer islands of the strait, and the Torres Shire Council, which covers the most populous islands—Thursday Island, Horn Island and Prince of Wales Island.

Almost 9,000 people call the Torres Strait islands home. It is one of the most geographically scattered and remote areas of Australia. Because of its position, the Torres Strait plays an important strategic and quarantine role for the rest of the country, but from the attention the Torres Strait receives from the Queensland state government and from the federal government you certainly would not know it. On one interisland ferry trip recently, a Victorian tourist, kicking back, basking in the wonderful warmth and the great views, commented: ‘You might as
well be in another country.’ The trouble is the state and federal Labor governments seem to take the same view, that the Torres Strait is another country. There is chronic underfunding of services and training at almost every level.

The biggest scandal currently existing in the Torres Strait relates to the state government’s shameless use of CDEP—Community Development Employment Projects—funding to save on their wages bill for the Torres Strait. As senators would be aware, the CDEP is designed to assist unemployed Indigenous Australians transition to work and to undertake training that will assist them in working. But, in the Torres Strait, the Bligh state government are using CDEP funds to save themselves millions in wages. Of the 1,800 people employed by the two local councils of the Torres Strait, 417 receive CDEP funding with a top-up of their wages from the state government. This means that there are 417 Torres Strait workers doing the work of state government agencies and departments but their wages are being subsidised by CDEP funding. I was told by island leaders that, if an island community needs a full-time teacher’s aide, Education Queensland will say to them, ‘We’ll fund the position for two days a week, but tell the community to request CDEP funding for the other three days.’ I was told that CDEP funds subsidise the state government’s wages bill to the tune of $6 million a year.

Apart from this shameless approach, there are also the savings the government make by the fact that they do not pay superannuation costs and other on-costs associated with paying proper, full-time wages to these people undertaking state government work. CDEP employees in the Torres Strait who are providing basic services include teaching staff, health workers and community police—the only police on most islands. It is not a situation that would be countenanced in mainstream Queensland or the rest of Australia and it is a situation that I believe the Bligh state Labor government should be ashamed of. But, of course, the government seems to treat the Torres Strait as though it has a different set of rules, with a lower standard for the people of the Torres Strait.

Many of the people who are on the CDEP subsidised wages have been training for years without any chance of being given a real job by the state government unless they leave the Torres Strait. I was told that the police senior sergeant at Yorke Island had been in a CDEP position for more than 10 years and that he had been put in that position as part of a pilot program to look at improving policing on the island. A pilot program for 10 years—I think perhaps the state Labor government may have been able to work out by now whether that was successful and to pay and train properly and decently the people who serve the communities in the Torres Strait. Most of the island community police positions, as I said, are occupied by CDEP funded staff, with little opportunity for any one of them to gain real policing positions. Every island leader I spoke to raised the need for fully and appropriately trained police to deal with the issues that arise in the Torres Strait, but their requests fall constantly on deaf ears.

Despite the shocking neglect in this area, the most pressing issue of all that was raised by all the leaders I spoke to in the Torres Strait was the cost of living. On Thursday Island I did my own spot survey comparing the prices of a basket of groceries in August in the Thursday Island supermarket with the cost of that same basket of groceries in Cairns. I have a ShopSmart website that looks at prices in regional centres in Queensland. In Cairns the ShopSmart basket of groceries cost $64. On Thursday Island the cost for that same basket of groceries was $91. I think that is a small indication of the
extreme costs that people in the Torres Strait bear. You cannot find out any of this, of course, by looking at the government’s GROCERYchoice website because they give you the average price of goods from Mount Isa to Cape York to Cairns. It does not tell you much about costs of living in other centres.

Broadband also is almost non-existent in the Torres Strait, strangling private business initiatives. At Horn Island the private aircraft enterprises told me that it sometimes takes them up to eight hours to download tenders that they need to apply for to keep their businesses going. The lack of broadband also undermines council attempts to introduce efficiencies. The councils have now, as I said, been merged. You have 15 councils using dial-up trying to get pays done on Thursday Island on the same day. What it means often is that people are paid up to two days late on some islands because of the time involved in processing the pays.

There are many other examples of contributions to the high cost of living in the Torres Strait. I will not speak of those here. Local leaders have asked me to push for an inquiry into the complex factors affecting the cost of living in the Torres Strait. They suggest that perhaps a freight and passenger subsidy similar to the one that delivers $140 million a year to Tasmania might assist. We are ignoring and neglecting these 9,000 people. It is at the hands of the state Labor government that this is primarily happening. This is 48,000 square kilometres, an area bigger than Tasmania. It is an important strategic and quarantine area. They deserve better than they are currently getting. (Time expired)

Senate adjourned at 7.23 pm

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

*Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number*

- Appropriation Act (No. 1) 2007-2008—Determination to reduce appropriations upon request (No. 3 of 2008-2009) [F2008L03155]*.
- Appropriation Act (No. 3) 2003-2004—Determination to reduce appropriations upon request (No. 4 of 2008-2009) [F2008L03190]*.
- Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 10 of 2008—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2008L03192]*.
- Civil Aviation Act—Civil Aviation Regulations—Instrument No. CASA 425/08—Instructions – use of Global Positioning System (GPS) [F2008L03053]*.
- Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—AD/B737/341—Cracking of Cutout in Web of Body Station Frame [F2008L03197]*.
- AD/GBK 117/6 Amdt 5—Main Rotor Blade [F2008L03196]*.
| AD/HU 369/121—Vertical Stabilizer Control System Adapter Tubes [F2008L03219]*. | 0807603 [F2008L03141]*. |
| Customs Act—Tariff Concession Orders— | 0807798 [F2008L03140]*. |
| 0800981 [F2008L03009]*. | 0807819 [F2008L03139]*. |
| 0802073 [F2008L03010]*. | 0807824 [F2008L03138]*. |
| 0802635 [F2008L03012]*. | 0807948 [F2008L03146]*. |
| 0804267 [F2008L03102]*. | 0807950 [F2008L03119]*. |
| 0804284 [F2008L03207]*. | 0807952 [F2008L03145]*. |
| 0804285 [F2008L03101]*. | 0807991 [F2008L03144]*. |
| 0804286 [F2008L03106]*. | 0808038 [F2008L03156]*. |
| 0804289 [F2008L03096]*. | 0808039 [F2008L03125]*. |
| 0804294 [F2008L03097]*. | 0808177 [F2008L03143]*. |
| 0804329 [F2008L03020]*. | 0808190 [F2008L03150]*. |
| 0806080 [F2008L03103]*. | 0808303 [F2008L03210]*. |
| 0806082 [F2008L03107]*. | 0808539 [F2008L03161]*. |
| 0806085 [F2008L03110]*. | 0808661 [F2008L03123]*. |
| 0806089 [F2008L03108]*. | 0809491 [F2008L03160]*. |
| 0806298 [F2008L03114]*. | | 
| 0806299 [F2008L03118]*. | | 
| 0806361 [F2008L03113]*. | | 
| 0806480 [F2008L03133]*. | | 
| 0806481 [F2008L03132]*. | | 
| 0806482 [F2008L03117]*. | | 
| 0806483 [F2008L03116]*. | | 
| 0806486 [F2008L03112]*. | | 
| 0806491 [F2008L03111]*. | | 
| 0806496 [F2008L03130]*. | | 
| 0806527 [F2008L03115]*. | | 
| 0806623 [F2008L03122]*. | | 
| 0806940 [F2008L03129]*. | | 
| 0807191 [F2008L03147]*. | | 
| 0807267 [F2008L03137]*. | | 
| 0807295 [F2008L03136]*. | | 
| 0807377 [F2008L03135]*. | | 
| 0807440 [F2008L03121]*. | | 
| 0807511 [F2008L03120]*. | | 
| 0807512 [F2008L03153]*. | | 
| 0807600 [F2008L03152]*. | | 
| 0807602 [F2008L03151]*. | | 
| Defence Force Discipline Act—Select Legislative Instrument 2008 No. 172—Australian Military Court Amendment Rules 2008 (No. 2) [F2008L03188]*. | | 
| Veterans’ Entitlements Act— | | 
| Statements of Principles concerning— | | 
| Animal Envenomation No. 66 of 2008 [F2008L03182]*. | | 
| Animal Envenomation No. 67 of 2008 [F2008L03183]*. | | 
| Ascariasis No. 62 of 2008 [F2008L03178]*. | | 
| Ascariasis No. 63 of 2008 [F2008L03179]*. | | 
| Fibromuscular Dysplasia No. 60 of 2008 [F2008L03176]*. | | 
| Fibromuscular Dysplasia No. 61 of 2008 [F2008L03177]*. | | 
| Hepatitis B No. 52 of 2008 [F2008L03167]*. | | 
| Hepatitis B No. 53 of 2008 [F2008L03168]*. | | 

CHAMBER
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 2008—Letters of advice—
Agriculture, Fisheries and Forestry portfolio agencies.
Education, Employment and Workplace Relations portfolio agencies.
Health and Ageing portfolio agencies.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Foreign Affairs and Trade: Government Appointments and Grants**

*(Question Nos 124 and 125)*

**Senator Minchin** asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 12 February 2008:

With reference to Senator Minchin’s letter to the Minister representing the Prime Minister, dated 1 February 2008, can the following information be provided prior to each round of Estimates and for Additional Estimates by 13 February 2008:

1. (a) What appointments have been made by the Government (through Executive Council, Cabinet and ministers) to statutory authorities, executive agencies and advisory boards within the Minister’s portfolio; and (b) for each appointment, what are the respective appointee’s credentials.

2. How many vacancies remain to be filled by ministerial (including Cabinet and Executive Council) appointments.

3. What grants have been approved by the Minister from within the Minister’s portfolio.

4. What requests have been submitted to the Department of Finance and Deregulation to move funds within the Minister’s portfolio.

**Senator Faulkner**—The following answer has been provided by the Minister for Foreign Affairs and the Minister for Trade to the honourable senator’s question:

The honourable senator is welcome to attend Estimates hearings in future and request the information sought in this Question on Notice.

**DFAT**

1. Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.

2. As at 7 August 2008, the following advisory board vacancies remain to be filled:
   - Chairperson of the Australia Indonesia Institute (currently filled by Professor Timothy Lindsay as acting Chairperson). The Chairperson is an Executive Council appointee.
   - Chairperson and board member positions of the Australia-Malaysia Institute are all currently vacant (expired in April 2008). Vacancies are filled by ministerial appointment.
   - Chairperson and board member positions of the Australia-Thailand Institute are all currently vacant (expired August 2008). Vacancies are filled by ministerial appointment.
   - Chairperson of the Australia-India Council (expired 31 July 2008). The Chairperson will be appointed by the Executive Council.
   - The Australian National Commission for UNESCO has nine vacancies to be filled by ministerial appointment.

3. The Minister for Foreign Affairs approved the reallocation of $9,296 to the Australia China Council (ACC) during the mid-term review of the International Relations Grant Program (IRGP).

4. Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.
EFIC
(1) Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.
(2) Nil.
(3) Nil.
(4) Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.

Ausaid
(1) Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.
(2) Nil.
(3) Nil.
(4) Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.

ACIAR
(1) Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.
(2) Nil.
(3) Nil.
(4) Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.

Austrade
(1) Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.
(2) Nil.
(3) Nil.
(4) Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.

Same-Sex Relationships
(Question No. 269)

Senator Siewert asked the Minister representing the Treasurer, upon notice, on 12 February 2008:

(1) What costs would be incurred and what ramifications are there if the administration of the Medicare Levy surcharge was adjusted to ensure that it affects or is calculated for same-sex couples on the same basis as mixed-sex couples?
(2) In view of the Prime Minister’s statements in favour of ending discriminatory provisions, does the Government intend to address this deficiency?

Senator Conroy—The Treasurer has provided the following answer to the honourable senator’s question:
(1) The Medicare levy surcharge is payable when an individual does not have hospital insurance and has an annual income of more than $50,000 or if the individual is in a couple, where their income combined with their partner’s is greater than $100,000 and both members of the couple do not have
private hospital insurance. The Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008 which has been passed by the House of Representatives and is currently being considered by the Senate Standing Committee on Economics, if passed by the Senate, will raise the Medicare levy surcharge threshold to $100,000 for singles and to $150,000 for a couple. The fiscal impact on the Medicare levy surcharge of treating same-sex couples the same as opposite sex couples is estimated to be a small gain to revenue.

(2) The Government gave a commitment in the 2008-09 Budget that discrimination against same-sex couples would be removed from Commonwealth legislation. Legislative changes to the tax law are expected to take effect on 1 July 2009 with changes to fringe benefits law taking effect from 1 April 2009. It is intended that amendments to the Australian Government (defined benefit) superannuation schemes will commence on a date to be set by proclamation with amendments related to superannuation and taxation of death benefit payments having effect from 1 July 2008.

Australia 2020 Summit
(Question No. 479)

Senator Milne asked the Minister representing the Prime Minister, upon notice, on 4 June, 2008:

With reference to the appointment of Ms Linda Hornsey as Project Director of the 2020 Summit:

(1) (a) Who notified Ms Hornsey of the Project Director vacancy and when did this occur; or (b) when did Ms Hornsey approach the department to express an interest in being involved.

(2) Who else was advised about the vacancy.

(3) Why was the position not advertised.

(4) (a) Who determined the salary level; and (b) was it negotiated with the applicant.

(5) (a) Did the position go to tender; if not why not; and (b) how many people made the short list.

(6) Who made the decision to appoint Ms Hornsey as Project Director.

(7) What were the selection criteria that Ms Hornsey met as the successful applicant.

(8) What references or evaluations were cited as to Ms Hornsey’s effectiveness or fairness in the Tasmania Together process.

(9) What inquiries were made as to whether or not Ms Hornsey discriminated against anyone in the selection process for participants in the Search Conference which lead to the Tasmania Together process; if no inquiries were made, why not.

(10) Was the Prime Minister’s office aware, at the time that Ms Hornsey was appointed to oversee the 2020 Summit, that she had represented Tasmanian Premiers Jim Bacon and Paul Lennon on the Governor-General’s Awards Committee for almost a decade, during which time no Tasmanian environmentalist who took a view contrary to those of the Bacon and Lennon governments were recognised under any award; if so, why was Ms Hornsey appointed; if not, why was Ms Hornsey’s service to the Tasmanian governments not taken into account in assessing her suitability for the position.

(11) When did the Prime Minister’s office become aware of the scandal in Tasmania involving Ms Hornsey’s alleged interference in the appointment of a magistrate in Tasmania.

(12) Did Ms Hornsey have oversight as to who was excluded from those nominated to attend the 2020 Summit.

(13) What criteria were used to reject nominated individuals.
What guarantee do the public have that political opponents, or those with a different view from the Rudd Government, were not discriminated against during the selection process for the 2020 Summit participants.

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 advised the Senate Standing Committee on Finance and Public Administration of the circumstances of the appointment of Ms Hornsey to the non-ongoing position of Project Director, Australia 2020 Summit.

2. I am advised that a number of discussions were held in the Department of the Prime Minister and Cabinet about a suitable senior officer, but none were identified.

3. I am advised that due to the immediate requirement for senior project management skills, Ms Hornsey was appointed on a contract for a non-ongoing position consistent with the Commonwealth’s Procurement Policy Framework.

4. Ms Hornsey’s remuneration was determined after negotiations with the Department of the Prime Minister and Cabinet.

5. (a) See response to Q3.

6. The appointment was undertaken by the Department of the Prime Minister and Cabinet.

7. As former head of the Tasmanian Department of Premier and Cabinet, Ms Hornsey has extensive expertise in the government sector and knowledge of strategic planning, public communication, policy coordination, governance and management. I am advised that she was selected on the basis of her skills and senior management experience, having dealt with a similar project in Tasmania.

8. Ms Hornsey’s CV was examined. She was also well known to senior officers in the Department through her involvement in the COAG Senior Officers Group.

9. As above.

10. The appointment was undertaken by the Department of the Prime Minister and Cabinet.

11. The Prime Minister’s Office is aware of media reports containing allegations about matters that long predate, and have no relationship to, the Australia 2020 Summit.

12. No. Participants for the Australia 2020 Summit were selected by an independent Steering Committee, chaired by Professor Glyn Davis and participated in their own right.

13. All Australians had the opportunity to nominate or be nominated to attend Australia 2020 Summit. Criteria for selection for the 2020 Summit was based broadly on the objective of the Summit – to consider the best and brightest ideas put forward by a diverse range of participants reflecting the broad demographic.

14. More than 7,900 nominations were received through the public nomination process. Participants were chosen by an independent Steering Committee, chaired by Professor Glyn Davis and participated in their own right. People on all sides of politics were invited to participate.
Land Based Sector Consultative Group
(Question No. 500)

Senator Milne asked the Minister for Climate Change and Water, upon notice, on 17 June 2008:


1. Who are the members of the group, including their names, and what is their organisation affiliation and expertise.
2. Do the members of the group represent organisations or are they appointed because of their expertise.
3. What are the group’s terms of reference and role.
4. Can a copy of the minutes of the group’s meeting on 19 May 2008 and documents tabled at that meeting, other than those on the web page, be provided.
5. Why is ‘forestry’ defined as a sector rather than ‘land use, land-use change and forestry’.
6. What is the precise definition of the ‘forestry’ sector for the purposes of emissions trading and other proposed mitigation measures.
7. What consultation has been organised or is proposed for land uses other than agriculture and forestry with particular reference to those relating to the protection, management and restoration of native vegetation for conservation, cultural and amenity purposes (all of which are ‘anthropogenic’ under the Intergovernmental Panel on Climate Change rules).

Senator Wong—The answer to the honourable senator’s question is as follows:

1. Please find the list attached.
2. Members represent organisations across a range of agriculture and forestry sectors. Members were appointed for their technical expertise and to ensure representation as far as practical across the land-based sector.
3. The group’s role is to provide stakeholder feedback to the Government on land-based issues relating to the emissions trading scheme.
4. There are no minutes of the meetings, however agendas are provided on the Department of Climate Change website: (http://www.climatechange.gov.au/emissionstrading/consultation.html).
5. Land-use, land-use change and forestry is a category for reporting under international accounting protocols. Forestry in the context of the land-based sector group refers to the range of activities undertaken in this area including forest and plantation management and Indigenous forestry.
6. Please see question five.
7. The Department of Climate Change has undertaken consultation with a range of other organisations including Greening Australia and the Green Institute.
Forestry
(Question No. 514)

Senator Bushby asked the Minister for Innovation, Industry, Science and Research, upon notice, on 4 July 2008:

In regard to Commonwealth Scientific and Industrial Research Organisation (CSIRO) cut backs, the CSIRO has cancelled its Forest Biosciences group which the forestry industry believes was supplying invaluable research into renewable forestry resources:

(1) Does the Government have any plans to assist financially or otherwise, in the area of forest biosciences research.

(2) Has any modelling been done on the impacts on forestry research as a result of the disbanding of the Forest Biosciences group.

Senator Carr—The answer to the honourable senator’s question is as follows:

(1) The Government believes that research in the area of forest biosciences is very important and notes that CSIRO has not cancelled these activities. The merger of the Forest Biosciences group with other activities in the organisation will reduce CSIRO’s divisional administrative footprint, while maintaining its forest biosciences capabilities and project activities. About 50 staff involved in forest systems science will move into CSIRO Sustainable Ecosystems. About 55 staff researching in ligno-cellulosic materials and forest products will move into CSIRO Materials Science and Engineering (CMSE). About 30 staff involved in tree genetics will move to CSIRO Plant Industry. Two staff in forest biosecurity will move to CSIRO Entomology, and two in hydrology will move to CSIRO Land and Water.

(2) No.

Foreign Affairs and Trade: Printer Products
(Question Nos 526 and 527)

Senator Milne asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 14 July 2008:

(1) Does the department have a policy regarding the use of remanufactured printer products as opposed to buying new ones; if so, does the department assess the cost and re-useability of the product as part of its decision-making in regard to the policy.

(2) Does the department have a policy directive to use remanufactured printer products and, by doing so, lower the balance of payments through reducing imports.

(3) What environmental standard has the department put in place in regard to the disposal of printer cartridges.

(4) Is the Minister aware that several of the printer companies are now putting chips in printer cartridges so that they cannot be re-used.

(5) Does the department have any contractual arrangements with Lexmark or Epson; if so, is the department party to any ‘Prebate’ program.

(6) Does the department know what happens to the printer cartridges when they are empty.

(7) With whom does the department hold a printer supply contract and what are the conditions of the contract.

(8) How much does the department spend on printer cartridges each financial year.

(9) Does the department use Planet Ark to recycle cartridges.
(10) Does the department use foreign companies such as Corporate Express when purchasing printer cartridges.

Senator Faulkner—The following answer has been provided by the Minister for Foreign Affairs and the Minister for Trade to the honourable senator’s question:

(1) No.
(2) No.
(3) The Department of Foreign Affairs and Trade has implemented an Environmental Management System (EMS) with certification to the International Standard, ISO 14001:2004. The Department is committed to effective environmental management practices to protect the environment, reduce consumption and prevent pollution from activities under its control. This includes procedures to reduce waste to landfill and to increase recycling, including of toner cartridges, on a continual basis to deliver better environmental performance. The recent EMS Surveillance Audit by an external independent auditor found that the department was in compliance with all the requirements of the International Standard.
(4) I understand that the department is aware that some printer companies build microchips into their printer cartridges to reduce the use of third-party or refilled cartridges. The advice is that these cartridges can be reused by returning them to the original manufacturer.
(5) No.
(6) Empty printer cartridges are returned to the supplier for recycling.
(7) DFAT currently has interim arrangements in place for the supply of printers while the DoFD Coordinated Contract Policy is being developed.
(8) I decline to answer the question on the basis that the time and staff resources required to collect the information cannot be justified as it would require unreasonable diversion of resources.
(9) No.
(10) The majority of standard printer cartridges are purchased through our stationery supplier (OfficeMax Australia Ltd).

Defence: Printer Products
(Question Nos 528 and 549)

Senator Milne asked the Minister representing the Minister for Defence, upon notice, on 14 July 2008:

(1) Does the department have a policy regarding the use of remanufactured printer products as opposed to buying new ones; if so, does the department assess the cost and re-useability of the product as part of its decision-making in regard to the policy.
(2) Does the department have a policy directive to use remanufactured printer products and, by doing so, lower the balance of payments through reducing imports.
(3) What environmental standard has the department put in place in regard to the disposal of printer cartridges.
(4) Is the Minister aware that several of the printer companies are now putting chips in printer cartridges so that they cannot be re-used.
(5) Does the department have any contractual arrangements with Lexmark or Epson; if so, is the department party to any ‘Prebate’ program.
(6) Does the department know what happens to the printer cartridges when they are empty.
(7) With whom does the department hold a printer supply contract and what are the conditions of the contract.

QUESTIONS ON NOTICE
(8) How much does the department spend on printer cartridges each financial year.

(9) Does the department use Planet Ark to recycle cartridges.

(10) Does the department use foreign companies such as Corporate Express when purchasing printer cartridges.

Senator Faulkner—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) and (2) Defence does not have specific policy on the use of remanufactured printer products, however the Defence Procurement Policy Manual states:

“Consistent with Commonwealth policy, when purchasing goods and/or services, procurement officers must give consideration to whether the goods and/or services:

• meet environmental best practice in energy efficiency and/or consumption;
• are environmentally sound in manufacture, use and disposal;
• are reusable or recyclable;
• are designed for ease of recycling, re-manufacture or to otherwise minimise waste; and
• are designed and made for reliability, long life and/or easily upgraded or updated.”

(3) Defence has in place a waste minimisation policy, and is currently implementing a national strategy to recycle toner cartridges as part of this policy.

(4) I understand that Defence is aware that some printer companies build microchips into their printer cartridges to reduce the use of third-party or refilled cartridges. The advice is that these cartridges can be reused by returning them to the original manufacturer.

(5) No.

(6) Printer cartridges are recycled when they are empty.

(7) Defence does not have any current contracts with printer suppliers for single function printers and is procuring printers by requesting quotations from multiple suppliers and selecting a printer based on value for money, in accordance with the Commonwealth Procurement Guidelines. Defence has a five-year contract with Konica Minolta for the lease of a range of multi-function devices. The contract pricing covers fixed lease costs plus an impression cost “click” charge (ie per copy) and all maintenance and consumables, except paper but including toner cartridges. The estimated total cost is around $27m.

Defence has strategic supplier arrangements in place with Corporate Express and Officemax for the supply of office requisites and janitorial products, including toner cartridges.

(8) Defence is unable to provide the amount spent on printer cartridges for multi-function devices as the cost is all inclusive (see part (7) above). Defence spent around $4.6m on printer cartridges, not including multi-function devices, in 2006-07.

(9) A number of suppliers are used to provide recycling services for toner cartridges including Planet Ark.

(10) Yes.

QUESTIONS ON NOTICE
Broadband, Communications and the Digital Economy: Printer Products
(Question No. 533)

Senator Milne asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 14 July 2008:

(1) Does the department have a policy regarding the use of remanufactured printer products as opposed to buying new ones; if so, does the department assess the cost and re-usability of the product as part of its decision-making in regard to the policy.

(2) Does the department have a policy directive to use remanufactured printer products and, by doing so, lower the balance of payments through reducing imports.

(3) What environmental standard has the department put in place in regard to the disposal of printer cartridges.

(4) Is the Minister aware that several of the printer companies are now putting chips in printer cartridges so that they cannot be re-used.

(5) Does the department have any contractual arrangements with Lexmark or Epson; if so, is the department party to any ‘Prebate’ program.

(6) Does the department know what happens to the printer cartridges when they are empty.

(7) With whom does the department hold a printer supply contract and what are the conditions of the contract.

(8) How much does the department spend on printer cartridges each financial year.

(9) Does the department use Planet Ark to recycle cartridges.

(10) Does the department use foreign companies such as Corporate Express when purchasing printer cartridges.

Senator Conroy—The answer to the honourable senator’s question is as follows:

(1) No. The department is currently evaluating the suitability of remanufactured products.

(2) No.

(3) The basis of the department’s environmental commitment is its Environmental Management System (EMS), developed in accordance with ISO 14001:2004. The EMS outlines a systematic approach to adopting better environmental management practices as an essential component of the department’s office based activities.

(4) The department is aware that some printer companies build microchips into their printer cartridges to reduce the use of third-party or refilled cartridges. The advice is that these cartridges can be re-used by returning them to the original manufacturer.

(5) No, and the department does not participate in a ‘Prebate’ program

(6) Yes. The printer cartridges used by the department are removed and remanufactured by the department’s contracted stationery requisites supplier, OfficeMax Australia Pty Ltd.

(7) The department has contracted OfficeMax Australia Pty Ltd to supply printer cartridges. The contract states the services will comply with the environment management systems standards as stated in the department’s EMS guidelines and procedures manual May 2007. This includes supplying recycle bins for toner cartridges, paper and cardboard to be collected and recycled.

(8) The total expenditure in 2007/08 on printer cartridges was $305,558.82 (GST incl.).

(9) No.

(10) Yes. The department purchases printer cartridges from OfficeMax under contract.
National Carbon Accounting System
(Question No. 555)

Senator Milne asked the Minister for Climate Change and Water, upon notice, on 14 July 2008:

With reference to the National Carbon Accounting System (NCAS), for the period 1 January 2001 to date:

(1) (a) Can a list be provided of all projects undertaken as part of the development of NCAS, other than the technical and strategic reports published on the NCAS web page; and (b) for each project, can the following details be provided: (i) a project title, (ii) start and finish dates, (iii) funding allocated, (iv) names and institutions of the chief researchers, (v) a brief description of the project, and (vi) references of resulting publications.

(2) (a) Can a list be provided of all projects undertaken in countries other than Australia by NCAS staff or consultants; and (b) for each project, can the following details be provided: (i) a project title, (ii) start and finish dates, (iii) funding allocated and its source, (iv) name of country in which project was undertaken, (v) names and institutions of the chief researchers, (vi) a brief description of the project, and (vii) references of resulting publications.

(3) What is the annual budget allocation.

(4) (a) Can a description be provided of the main ways in which the NCAS has sought public involvement in the development of the system, including a list and description of seminars, workshops or similar events where critical feedback has been requested; and (b) if any such events or processes are planned, can details be provided.

(5) What is the NCAS’s policy on: (a) inviting public involvement in critiquing technical aspects of the system; (b) publishing research results; and (c) making staff available to participate in public discussion of NCAS.

Senator Wong—The answer to the honourable senator’s question is as follows:

(1) The National Carbon Accounting System (NCAS) constitutes a very large collaborative venture between numerous research institutions and Commonwealth and state agencies. Several hundred scientists and other professionals have been involved in designing the system, developing methods, gathering together available data and generating new data, testing of methods, independent verification of system results and independent peer review. This overall effort is drawn together, documented and published in a series of 47 major technical reports (totalling more than 5500 pages) which are independently authored and numerous peer reviewed publications.

This national collaborative effort has been delivered through prime roles of major institutions, for example through several CSIRO Divisions, The Australian National University, State Government agencies and other relevant national mechanisms (e.g. Australian Collaborative Land Evaluation Program, National Land and Water Resources Audit).

These collaborations represent several hundred projects. It is not feasible to detail each project undertaken during this decade as set out in the question.

(2) The many senior professional staff that are involved throughout Australia in the NCAS have international standing in relevant scientific fields, for example remote sensing, soil science, carbon accounting and climate mapping. As such, they are involved in numerous multilateral international collaborative projects and in projects in individual countries. The Department of Climate Change has no records of these many connections between Australian scientists and other countries that may be connected to their involvement in NCAS.

The small core of NCAS staff in the Department of Climate Change is not engaged directly in technical projects in other countries. The Department of Climate Change does manage collabora-
tive bilateral projects in select other countries drawing upon Australian expertise. To date, relevant collaborative projects have focused upon China. The Government is collaborating with the Chinese Academy of Forestry and CSIRO in developing a comprehensive carbon accounting system for China. The project commenced in February 2008 and the Government is contributing $577,940.

(3) The annual budget allocation for the NCAS is approximately $3.3 million.

(4) – (5) As noted in part (1), development of the NCAS has involved many Australian professionals. The senior contributing scientists are encouraged to publish and workshop their findings and to communicate their work more broadly. The NCAS has been available for use by businesses, regional groups and individuals in a web-based prototype form of the National Carbon Accounting Toolbox since 2005. The NCAS staff participate, as actively as is practicably possible, in public events, general articles and media contacts. Public response has included awarding of the CSIRO Chairman’s Medal and several nominations for the Australian Museum Eureka Prizes.