COMMONWEALTH OF AUSTRALIA

SENATE

Hansard

MONDAY, 15 SEPTEMBER 2008

CORRECTIONS

This is a PROOF ISSUE. Suggested corrections for the Official Hansard and Bound Volumes should be lodged in writing with the Director, Chambers, Department of Parliamentary Services as soon as possible but not later than:

Monday, 22 September 2008

Facsimile: Senate (02) 6277 2977
House of Representatives (02) 6277 2944
Main Committee (02) 6277 2944

BY AUTHORITY OF THE SENATE

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the Senate and committee hearings are available at

For searching purposes use
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SITTING DAYS—2008

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News
Network radio stations, in the areas identified.

- CANBERRA 103.9 FM
- SYDNEY 630 AM
- NEWCASTLE 1458 AM
- GOSFORD 98.1 FM
- BRISBANE 936 AM
- GOLD COAST 95.7 FM
- MELBOURNE 1026 AM
- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 747 AM
- NORTHERN TASMANIA 92.5 FM
- DARWIN 102.5 FM
Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

Senate Officeholders

President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson
Temporary Chairs of Committees—Senators Guy Barnett, Thomas Mark Bishop, Carol Louise Brown, Patricia Margaret Crossin, Concetta Anna Fierravanti-Wells, Michael George Forshaw, Gary John Joseph Humphries, Annette Kay Hurley, Stephen Patrick Hutchins, Barnaby Thomas Gerard Joyce, Gavin Mark Marshall, Claire Mary Moore, Stephen Shane Parry, Hon. Judith Mary Troeth and Russell Brunell Trood

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 Fiona Joy 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
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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
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<thead>
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<th>Minister for Immigration and Citizenship and Leader of the Government in the Senate</th>
<th>Senator Hon. Chris Evans</th>
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<tr>
<td>Minister for Finance and Deregulation</td>
<td>Hon. Lindsay Tanner MP</td>
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<td>Minister for Trade</td>
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<td>Minister for Foreign Affairs</td>
<td>Hon. Stephen Smith MP</td>
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<td>Minister for Defence</td>
<td>Hon. Joel Fitzgibbon MP</td>
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<tr>
<td>Minister for Health and Ageing</td>
<td>Hon. Nicola Roxon MP</td>
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<tr>
<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>Hon. Jenny Macklin MP</td>
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<tr>
<td>Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House</td>
<td>Hon. Anthony Albanese MP</td>
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<td>Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate</td>
<td>Senator Hon. Stephen Conroy</td>
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<tr>
<td>Minister for Innovation, Industry, Science and Research</td>
<td>Senator Hon. Kim Carr</td>
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<td>Minister for Climate Change and Water</td>
<td>Senator Hon. Penny Wong</td>
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<td>Minister for the Environment, Heritage and the Arts</td>
<td>Hon. Peter Garrett AM, MP</td>
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<td>Attorney-General</td>
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<td>Minister for Human Services and Manager of Government Business in the Senate</td>
<td>Senator Hon. Joe Ludwig</td>
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<td>Assistant Treasurer and Minister for Competition Policy and Consumer Affairs</td>
<td>Hon. Chris Bowen MP</td>
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<td>Minister for Veterans’ Affairs</td>
<td>Hon. Alan Griffin MP</td>
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<tr>
<td>Minister for Housing and Minister for the Status of Women</td>
<td>Hon. Tanya Plibersek MP</td>
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<tr>
<td>Minister for Employment Participation</td>
<td>Hon. Brendan O’Connor MP</td>
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<td>Minister for Defence Science and Personnel</td>
<td>Hon. Warren Snowdon MP</td>
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<tr>
<td>Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation</td>
<td>Hon. Dr Craig Emerson MP</td>
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<td>Minister for Superannuation and Corporate Law</td>
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<td>Minister for Ageing</td>
<td>Hon. Justine Elliot MP</td>
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<td>Minister for Youth and Minister for Sport</td>
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<td>Parliamentary Secretary for Early Childhood Education and Childcare</td>
<td>Hon. Maxine McKew MP</td>
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<td>Parliamentary Secretary for Defence Procurement</td>
<td>Hon. Greg Combet AM, MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>Hon. Anthony Byrne MP</td>
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<td>Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion</td>
<td>Senator Hon. Ursula Stephens</td>
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<td>Parliamentary Secretary to the Minister for Trade</td>
<td>Hon. John Murphy MP</td>
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<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
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<td>Parliamentary Secretary for Multicultural Affairs and Settlement Services</td>
<td>Hon. Laurie Ferguson MP</td>
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SHADOW MINISTRY

Leader of the Opposition

Hon. Brendan Nelson MP

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

Hon. Julie Bishop MP

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

Hon. Warren Truss MP

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

Senator Hon. Nick Minchin

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

Senator Hon. Eric Abetz

Shadow Treasurer

Hon. Malcolm Turnbull MP

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

Hon. Joe Hockey MP

Shadow Minister for Foreign Affairs

Hon. Andrew Robb MP

Shadow Minister for Trade

Hon. Ian Macfarlane MP

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

Hon. Tony Abbott MP

Shadow Minister for Agriculture, Fisheries and Forestry

Senator Hon. Nigel Scullion

Shadow Minister for Human Services

Senator Hon. Helen Coonan

Shadow Minister for Education, Apprenticeships and Training

Hon. Tony Smith MP

Shadow Minister for Climate Change, Environment and Urban Water

Hon. Greg Hunt MP

Shadow Minister for Finance, Competition Policy and Deregulation

Hon. Peter Dutton MP

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

Senator Hon. Chris Ellison

Shadow Minister for Broadband, Communications and the Digital Economy

Hon. Bruce Billson MP

Shadow Attorney-General

Senator Hon. George Brandis

Shadow Minister for Resources and Energy and Shadow Minister for Tourism

Senator Hon. David Johnston

Shadow Minister for Regional Development, Water Security

Hon. John Cobb MP

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

Shadow Minister for Justice and Border Protection; Assisting Shadow Minister for Immigration and Citizenship
Hon. Chris Pyne MP

Shadow Special Minister of State
Senator Hon. Michael Ronaldson

Shadow Minister for Small Business, the Service Economy and Tourism
Steven Ciobo MP

Shadow Minister for Environment, Heritage, the Arts and Indigenous Affairs
Hon. Sharman Stone MP

Shadow Assistant Treasurer and Shadow Minister for Superannuation and Corporate Governance
Michael Keenan MP

Shadow Minister for Ageing
Margaret May MP
Hon. Bob Baldwin MP

Deputy Manager of Opposition Business in the House and Shadow Minister for Business Development, Independent Contractors and Consumer Affairs
Luke Hartsuyker MP

Shadow Minister for Veterans’ Affairs
Hon. Bronwyn Bishop MP

Shadow Minister for Employment Participation and Apprenticeships and Training
Andrew Southcott MP

Shadow Minister for Housing and Shadow Minister for Status of Women
Hon. Sussan Ley MP

Shadow Minister for Youth and Sport
Hon. Pat Farmer MP

Shadow Parliamentary Secretary Assisting the Leader of the Opposition and Shadow Cabinet Secretary
Don Randall MP

Shadow Parliamentary Secretary Assisting the Leader of the Opposition and Shadow Parliamentary Secretary for Northern Australia
Senator Hon. Ian Macdonald

Shadow Parliamentary Secretary for Health
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Education
Senator Hon. Brett Mason

Shadow Parliamentary Secretary for Defence
Hon. Peter Lindsay MP

Shadow Parliamentary Secretary for Infrastructure, Roads and Transport
Barry Haase MP

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John Forrest MP

Shadow Parliamentary Secretary for Immigration and Citizenship
Louise Markus MP

Shadow Parliamentary Secretary for Local Government
Sophie Mirabella MP

Shadow Parliamentary Secretary for Tourism
Jo Gash MP

Shadow Parliamentary Secretary for Ageing and the Voluntary Sector
Mark Coulton MP

Shadow Parliamentary Secretary for Foreign Affairs
Senator Marise Payne

Shadow Parliamentary Secretary for Families and Community Services
Senator Cory Bernardi
MONDAY, 15 SEPTEMBER

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The President (Senator the Hon. John Hogg) took the chair at 12.30 pm and read prayers.

TAX LAWS AMENDMENT (MEDICARE LEVY SURCHARGE THRESHOLDS) BILL 2008

Second Reading

Debate resumed from 4 September, on motion by Senator Faulkner:

That this bill be now read a second time.

Senator STERLE (Western Australia) (12.31 pm)—I rise to speak on the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008. The passage of this bill is about ensuring equity and fairness in respect of Medicare, which is something that senators opposite have repeatedly demonstrated they know nothing about and, quite bluntly, do not give a damn about. On 13 May this year, the Treasurer announced as part of the 2008-09 budget that the Rudd government intended to increase the income thresholds for the Medicare levy surcharge. This announcement immediately sent the opposition into a ranting frenzy, backed up by guess who: none other than the Australian Medical Association—or the doctors union—and also the private health insurance interests and the private hospitals sector, none of which could be said to be warm supporters of the Medicare scheme.

The Medicare levy surcharge tax was introduced by the Howard government in 1997, within months of coming into office. It was evident from the start that the Howard government had been hatching a plan to undermine the Medicare scheme—not in one fell swoop but by a cold and calculated process of attrition. This process continued right up to the time the Howard government left office in November last year.

In the 10 years from the time the Medicare levy surcharge was put into place, the Howard government made no move to increase the surcharge’s income threshold. This was intentional and calculated. From the outset, the Howard government never had any intention of increasing the surcharge’s income threshold levels. To the Liberals, it was the perfect plan just to let things lie and allow more and more Australians to be caught by the surcharge if they chose not to take out private health insurance. This is what the Medicare scheme is all about, and the Liberal Party is apparently happy to slug average families and couples $1,200 a year, because they have decided that Medicare is the right choice for them as far as they and their families’ healthcare needs are concerned. Despite all the fearmongering engaged in by the opposition and their supporters, Medicare will always remain an excellent choice for Australian families while there is a Labor government in power.

For 11 years, the Howard government made a complete shambles of health policy and health funding in this country. From day one, its private health insurance premium subsidy scheme and related policies did not produce the benefits for the public hospital system that the Howard government promised. As the Australian Institute of Health and Welfare has revealed, the Howard government had been progressively reducing its share of public hospital funding for years prior to the November 2007 federal election. It did this while it played a game of vilifying state and territory governments’ management of their public hospital systems and, by implication, poured a bucket over the dedicated staff who work around the clock in Australia’s public hospitals. This is the sort of devious and destructive approach to healthcare policy and the Medicare scheme that the coalition parties have practised for years. The Liberal Party are serial offenders when it comes to stuffing up Australia’s health system. Every time the Liberal Party gets into power they wreck the health system—every time! And they wonder why they get kicked out of government.
We must not forget the reason that we have the Medicare scheme today and that before that we had the Medibank scheme is that prior to these schemes Australia’s health system, under conservative government management, was descending into chaos. It was fortunate that during the period of the Howard government we had Labor state and territory governments. It was these Labor governments that ensured that the country’s public hospital system was not permanently crippled by the lack of funding from the Howard government.

However, make no mistake, Australia’s public hospital system was badly damaged by the Howard government. That is why the Rudd Labor Government has already committed an additional $1 billion this year for hospitals. It is important that the Australian public is made fully aware of the extent of the damage that the Howard government has done to Australia’s public hospital system. The fact is that the Howard government’s private health insurance changes did not take the pressure off the public hospital system. There are a number of reasons for this. Firstly, Australian Institute of Health and Welfare statistics show that over the past five years there has been no reduction in the complexity of the patient load carried by the public hospital system. Simply put, the public hospital system continues to carry the major load with respect to patients who require the most expensive care and treatments, and this load is increasing, not decreasing. The Australian Institute of Health and Welfare statistics reinforce the impression that, rather than take on a greater share of the heavy lifting that is the daily work of the public hospital system, the private hospital system has found a comfortable niche in providing relatively low-cost, high-turnover, short-stay treatments. Obviously, patients that fall into this category are significantly more profitable than the longer stay and more medically complex patients that are predominately treated by the public hospital system.

Secondly, Australian Institute of Health and Welfare statistics show that the number of private hospital available licensed beds in Australia declined over the past five years. In comparison, over the same period, the number of public hospital available licensed beds increased by approximately 4½ thousand or almost nine per cent. I would like someone to explain to the Australian community how, with a growing and ageing population, reducing the number of private hospital licensed beds will result in increased pressure on public hospital beds. A major problem that affected the public hospital system over the period of the Howard government was the relentless growth in the demand for public hospital emergency department services. The former Howard government’s health policies did nothing to stem or redirect the flow of patients into public hospital beds via public hospital emergency departments. This flow increased substantially during the period of the Howard government—at the same time as the Howard government was reducing its share of public hospital funding.

We need to remember that many of these emergency department attendances require the person concerned to be admitted to hospital for emergency treatment, often for very complex and costly medical conditions and injuries. In 2006-07 there were 6.7 million attendances at public hospital emergency departments. That figure represents almost a million more attendances than five years ago. By comparison, the number of private hospital emergency department attendances over the past five years fell by 11 per cent. As far as hospital services are concerned, the Howard government effectively left the public hospitals and the state governments to do all the heavy lifting. What do these figures tell us? What they do say is that the Howard government’s health and hospital policies in no way took the pressure off the public hospital system. In fact the opposite occurred. The Howard government policies increased the pressure on the public hospital system.

Thirdly, as well as having to deal with substantially increased demand pressure as a result of the Howard government’s health policies, the public hospital system has had to deal with severe financial pressures because of the former Howard government’s policies. One of the justifications used by the Howard government for its private insurance changes was that the changes would bring about a much higher funding contribution to Australia’s hospital service from the private sector. Sadly, this did not occur. By 2006-07, non-government contribution to the cost of hospital services in this country had fallen from 26 per cent in 1995-96 to approximately 18 per cent. In other words, the Howard government’s changes to private health insurance, including the Medicare levy surcharge, have resulted in an increase in government’s share of hospital services costs. This is crazy. Wasn’t the idea of subsiding private health insurance premiums to encourage more private money into hospitals, not less private money? Unfortunately, this is a very sad joke. I will go one step further and say that it is a complete stuff-up. And here we are having to put up with the farcical spectacle of those opposite trying to make out that they know something about health policy. They know nothing and they have learnt nothing.

Labor has repeatedly acknowledged that the private health insurance industry and the private hospital sector have the potential to play a useful role in meeting the needs of people who prefer to have access to private hospital and private in-patient medical care. If done efficiently and effectively, there is no doubt that the private health sector can play a constructive and complementary role in ensuring that Australia has an equitable, high-quality, efficient and sustainable healthcare system. However, as a result of policies of
the previous Howard government, the private health fund industry is now one the most government subsidised industries in Australia. Over 30 per cent of its revenue now comes from the Australian taxpayer, including hundreds of millions of dollars which go into subsidising the high level of administrative costs incurred which are a feature of the private health insurance industry.

Where is the accountability expenditure of this level of taxpayers' money by the private health insurance funds? Under arrangements set up by the Howard government, there is virtually none. There are no performance agreements between individual health funds and the government with respect to this funding. There are no performance requirements about the effectiveness of the health services that the funds buy for their members when they use this enormous level of government funding. There are no efficiency measures in regard to the services that are in effect purchased by this government funding. Unlike the public hospital system, there is no real accountability or public scrutiny of the return the taxpayer gets from subsidising private health insurance premiums.

To make matters worse, the private health funds freely admit that they have no control over what they pay for hospital and medical services for their members. If that is the case, what exactly is the point in having a whole lot of organisations that do nothing more than move money from point A to point B and, unfortunately, take a 10 per cent cut on the way through? By any definition, this is not a long-term economically sustainable situation. This is not an argument against private health insurance. It is a signal that the private health insurance funds need to get on with the job of looking after the long-term interests of their members, which make up well over 40 per cent of Australia's population. It is not going to work if the private health insurance industry continue to be price takers whose only strategy is to rely on the taxpayer to shore up the industry with massive government subsidies.

Unfortunately, not far behind the health funds are the private hospitals that apparently now appear to believe that they have a permanent right to taxpayer funding to shore up their bottom lines. When the Rudd Labor government recently announced that it intended to establish a $10 billion Health and Hospitals Fund to invest in health infrastructure, the Australian Private Hospitals Association immediately put in its bid for a dip in this pool of taxpayer money. If my state of Western Australia is any indication, the building work that has been undertaken by private hospitals in recent times shows there is no real shortage of funds for capital works. Again, there is no formal performance agreement between the government and the private hospitals for the funding support they get indirectly from government.

Another strong supporter of penalizing Australian families on average incomes is—guess who—the AMA. Perhaps the AMA's position in regard to the Medicare levy surcharge has something to do with the fact that the Howard government's private health insurance policies have turned out to be an absolute financial bonanza for the AMA and its members. In the past five years the value of medical benefit payments paid to private medical specialists has increased by no less than 75 per cent. In 2007 these payments grew by almost 15 per cent compared to the previous year. In 2007 private health funds paid out over $1.1 billion in medical benefit payments, a third of which was picked up by the taxayer. Private medical specialists and the AMA know they have struck gold. No wonder they are vehemently opposed to anything that might slow the flow of money.

It is Medicare that ensures that all Australians have access to medical and hospital care when they need it. It is not the private health funds. It is not the AMA. It is not the private hospital sector. It is Medicare that continues to ensure that Australia has an equitable and affordable healthcare system. In summary, this bill protects the integrity of the Medicare scheme. I commend the bill to the Senate.

Senator HURLEY (South Australia) (12.48 pm)—There is some history to be learned in discussion of this Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008. It was introduced in 1997 and it formed part of the three pillars to support private health insurance at that time. The first of the three pillars was the Medicare levy threshold surcharge. The other two were the Medicare rebate on private health insurance payments which was then put up to a 35 per cent rebate for those in the 65- to 69-year-old group and a 40 per cent rebate on private health insurance payments for those over 70. The second pillar of the private health insurance support was Lifetime Health Cover. That means that those who are over 30 have a cumulative penalty of two per cent of premiums up to 70 per cent. That is a very strong argument—as we heard from evidence given to the Senate economics committee—a very effective pillar to support people taking up private health insurance.

The Medicare levy threshold surcharge was introduced in the 1997-98 period. That meant that single people earning over $50,000 and not having private health insurance would have to pay one per cent of their income as a surcharge. For couples earning over $100,000 that would be similarly one per cent of income. In the year that it was introduced—1997-98—167,000 high-income earners paid this tax penalty because they had no private health insurance. That is, a relatively small number of high-income earners who chose not to take out private health insurance paid that levy voluntarily rather than take out private health insurance. But, by 2005-06, 465,000 people were paying
this tax: nearly half a million people were in the position where they were forced to pay the one per cent surcharge on their income. Many of those would have been people earning below the average male wage of $58,600 a year. So people on or below the average wage were paying this tax that was meant to be for high-income earners.

The point of this legislation is that the situation has now become neither equitable nor in keeping with the spirit of the original policy of this legislation, which was made very clear by the Treasurer at the time. At the introduction of the legislation the then Treasurer, the Hon. Peter Costello, told the House, in August 1996:

Higher income earners who can afford to take out private health insurance will also be encouraged to do so.

He said:

This is the levy which the government hopes no-one will pay. It is entirely optional. Those who take out health insurance (with the benefits attached) will be exempt. Nothing could be clearer than that. This was meant to be a tax for only high-income earners, and the government of that day hoped that no-one would have to pay the tax, that they would all pay private health insurance, but for those who did not then this additional one per cent tax applied. Now, 10 years later, that threshold has not been changed. The Rudd Labor government has come in and proposed to update that threshold to a reasonable level.

The immediate result of this legislation will give tax relief to almost half a million working men and women in Australia. The thresholds have become an unjust tax slug. That, to me, is the key factor of this bill: the thresholds have become an unjust tax slug; they are inequitable for 465,000 people. It is a very high tax slug. Professor Deeble noted in his submission to the economics committee the unusual nature of the surcharge. I quote him:

The surcharge is an income-related tax. However unlike almost any other income based tax, it operates in a reversionary way—that is, it applies to all of the taxable income of people earning above the thresholds, not just to the excess. I know of no other tax that works in this way and it was extraordinary that an Australian parliament should have approved it. The result is a very high marginal tax rate for people with incomes at or close to the thresholds.

Those are people who are earning average weekly earnings. Those people are paying a very high penalty for not taking out private health insurance. On the economics committee we heard a great deal of discussion among all members of the committee about econometric modelling—whether there had been enough consultation, whether the modelling had been right, whether the modelling had been peer reviewed and whether people had sufficient evidence for the modelling.

What was the science behind the Howard government’s original thresholds of $50,000 and $100,000? There was an interesting article in the West Australian by Andrew Tillet and Andrew Probyn, who interviewed the architect of the Medicare surcharge, Michael Wooldridge, who was the health minister at the time. Michael Wooldridge was quoted in this article. He confirmed that the thresholds were set only after protracted negotiation with then Tasmanian Senator Brian Harradine. He said:

I think the numbers in the end were negotiated with Senator Harradine—it was over a bottle of Jameson’s whisky late at night if I recollect correctly.

So this was the Howard government’s version of consultation: a discussion with then Senator Brian Harradine over a bottle of whisky late at night. If this is the form of consultation that the Liberal government approve of, I am sorry that they did not tell Wayne Swan this, because perhaps he would have been quite happy to do a similar sort of consultation. That was the science of the thresholds at the time: they were set by a couple of men late at night.

It appears that not only were the thresholds set in that way but also the government did not give a moment’s thought to the consequence of those thresholds in 10 years time. Michael Wooldridge was also quoted as saying:

We were happy to successfully get through 12 months, let alone worry about a problem in 10 years time or more.

So, in an act of desperation because they were concerned about the private health insurance system, the then Howard government pushed through this levy surcharge on that much thought—a night on the whisky—and worried about getting through the next 12 months and did not think about the future. Isn’t that so typical of the way the Howard government operated? ‘Let’s do a short-term fix, let’s not worry about what happens in 10 years time, let’s not think about long-term planning or strategy; let’s just get through the immediate crisis that we think we have at the moment.’ The consequences are now with us. People on an average wage are paying that inequitable surcharge tax. When the Rudd government try to fix this inequitable tax, we find that the opposition plan to oppose it. They were the architects of this inequitable tax and they are not letting it be modified; they are not letting it be addressed. They were just intent on buying themselves a little bit more time.

We have heard many times that those leaving private health insurance are likely to be the younger, healthier people, and we have also heard valid concerns that this may affect the community rating model of our private health insurance system. But the key issue is that those on lower incomes are bearing a disproportionate burden of the overall cost of our health system. I reiterate what Professor Deeble said in his submission to the
inquiry: because it is on the full income level, not just the excess above $50,000, it is a very high marginal tax rate. I have not heard a convincing reason from those opposed to this bill as to why people at around the average wage should have to pay this disproportionate burden of the cost of our health system—why we should force those people on average incomes to pay more than those on higher incomes. For a family with two average-income earners, earning a combined income of $120,000, the increase in the Medicare levy surcharge will save them $1,200 in tax immediately. In this chamber we should think carefully about denying families this choice—denying those families on average incomes the choice of whether or not they take out private health insurance.

There might be an increase in premiums above the expected rate for this year—because premiums, as they have risen for many, many years now, will probably rise anyway—but why should those singles and families on lower incomes have to bear the burden of maintaining the lower rates for everyone? Should it not be shared more equitably among all of those who choose to take out private health insurance or not? With the other pillars in place—the rebate on health insurance payments and the lifetime cover—there is still a very strong incentive to take out private health insurance. This is not an attack on the private health insurance system. Those pillars are still in place, and strong evidence was heard by the economics committee that it was the Lifetime Health Cover that was the strongest of those pillars.

Around eight per cent of single taxpayers were estimated to exceed the Medicare levy surcharge threshold in 1997-98, when it was introduced. This proportion will be restored to about 8.5 per cent exceeding the threshold at the end of the forward estimates period in three to four years time, and that was made very clear by Mr Chris Bowen, the Assistant Treasurer, in his second reading speech. So this bill is about restoring equity, restoring the levels at which this policy was put in place and restoring fairness to the system. It is also about restoring a bit of long-term planning to the health system.

The accusation by many opposing this bill that it would impact adversely on the public hospital system by having people leave private health insurance in droves and come to the public health insurance system does not really stack up either. The government is currently in negotiation with the states on public hospital cover. It has a number of very hard objectives to work through with the states there, but it has already put $1 billion into that elective surgery waiting list. It is addressing these issues in the public health system. It is difficult to see from any kind of modelling what effect this move will have on the public health system or, indeed, the private hospital system.

We on the economics committee heard quite a lot of evidence from various private health providers. Some of the—admittedly smaller—private health providers, particularly those who are part of industry funds such as the teachers health fund, did not think that they would lose very many members at all. Others will probably rejig their packages. Others may well advertise more widely or reduce their administrative costs. It is extremely difficult to judge what will happen, but we do know that the Rudd Labor government has been proactive in looking at the public health system and in talking to the states.

This measure will give significant relief to working families, it fixes the short-term thinking of the past and it concentrates on long-term solutions which will be worked out in consultations with the state governments. It ends the Howard government's short-term fixes and the blame game with the state governments where the federal government was content to blame the states for running down the public hospital system. What it does not end is the private health insurance system or substantial support for that private health insurance system. Those supports are still well and truly in place, and the government will continue to talk to the private health insurance sector to ensure the overall long-term health of Australians whether they are in private or public systems and whether they use the private health system or the public health system. So this is an important measure that delivers immediate tax relief to almost half a million Australians.

It is really difficult to believe that the Liberal opposition are going to refuse to pass a measure which gives immediate tax relief to almost half a million Australians on the average taxable wage or just above. It is difficult to believe that they are going to make the decision to deprive so many families and single people of that choice of whether to get the tax relief in their hand or to continue with their private health insurance. We did, indeed, have evidence from people—individual citizens—who said that they wanted the choice. They did not want to be forced by the government with this punitive tax surcharge that cut in so low; they wanted to have the choice of whether they went into the private health insurance system themselves, saved and paid for their own health treatment in the private hospital system, or used the public hospital system, for which they pay their Medicare levy and other taxes. This is a measure that should be supported because it rectifies the inequities in our tax system, and I find it difficult to believe that any senator would not support such a sensible and just move.

Senator MARK BISHOP (Western Australia) (1.05 pm)—I rise in support of the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008. As we all know, the intention of the bill is to increase the Medicare levy surcharge thresholds for both individu-
als and families—an increase from $50,000 to $100,000 for singles and from $100,000 to $150,000 for couples and families. That is before the imposition of an additional one per cent in tax payable by workers who have chosen not to take out private health insurance. If this bill is about one thing, it is about choice—the choice of whether or not to take out private health cover.

By way of background, the previous government introduced the Medicare levy surcharge in the late 1990s. The surcharge was part of a ‘carrot and stick’ approach to entice Australians back into the private health system, which at that stage—those of us who were around remember the complaint—was verging on becoming dysfunctional because of high dropout rates and, hence, lack of funding to private healthcare providers to provide rebates to those who chose to use their services. As I say, the surcharge was part of a carrot and stick approach to entice Australians back into the private health system. The carrot was then and remains a very generous carrot: a 30 per cent general rebate for most Australians and, for older Australians, a 35 to 40 per cent rebate. The rebate was paid by the government to private health insurance groups to mitigate the cost of premiums, which then, as now, were rising, one suspects, almost exponentially.

As well as the carrot approach to rebates, there were two sticks to the policy. The first stick, as it has become characterised, is that known as Lifetime Health Cover. Unless taken out before the age of 30, premiums for new members of Lifetime Health Cover increased on the basis of age. It increased at a rate of two per cent for each year after a person’s 30th birthday. The second stick was the Medicare levy surcharge, aimed at capturing avoiders or those who chose not to take the hint with the first stick—that is, to target high-income earners who could afford to purchase health insurance but decided to play the lottery and chose to not take out private health insurance, to rely on the hope that their health would continue to be good and, hence, to rely in a health emergency on what was left in the public health system.

When the surcharge was introduced in the 1997-98 financial year, 8½ per cent of single taxpayers were captured by the surcharge levy. In evidence to a recent Senate inquiry, Treasury officials estimated that in the 2008-09 financial year 36 per cent of single taxpayers will exceed the threshold. By the 2011-12 financial year, current estimates are that that figure will jump to 45 per cent of taxpayers. So what started back in 1997-98 as general policy by the then government of having almost universal coverage—that is, only eight per cent of single taxpayers were captured—has increased in the current financial year to 36 per cent and, within two or three years, will go to 45 per cent of taxpayers, which is almost half of Australia’s taxpayers.

The new thresholds will restore the percentage of people captured by the surcharge to 8½ per cent of taxpayers. So, as well as this legislation being about choice and, as Senator Hurley said, about equity, it is about returning to the a priori position established by the previous government when it introduced those major reforms in 1997-98. One asks the question: why did the previous government fail to include indexation in surcharge thresholds? In 1997, a high income was deemed to be $50,000 for singles and $100,000 for couples and families. There has been no change to the threshold since that time. However, over the last 11 years, average annual earnings have increased and, in some cases, have increased quite significantly. An average annual income today is $58,000. So a full-time wage earner on the second lowest marginal tax rate of 30 per cent exceeds the current threshold. The surcharge, designed to provide a financial incentive for high-income earners to join private health insurance funds, is now a tax trap for average Australians. Indeed, returning to the figures I referred to earlier, within two years some 45 per cent of all Australian taxpayers will be caught by this threshold mess if the proposals before the chair do not become legislation in due course.

It is a tax that, if left in its present form, will eventually force all but the lowest-wage earners to take out private health insurance. That, if it does come to pass, is a fundamental shift in the concept of universal health coverage. And it was done without decision and without policy discussion. It has emerged over time and it has been done by stealth.

The proposed changes to the Medicare levy surcharge will restore balance and fairness to what is now an additional tax burden on working families. Indeed, if the legislation is passed and proclaimed in due course, we will return, as I said earlier, to the situation in 1997 where only eight or 8½ per cent of taxpayers will be affected by the surcharge. This reversion to what was the case and what, we think, was the original intent of the Howard government in 1997-98 will honour the original intent of the surcharge: to target high-income earners, who can afford to make provision for their own health care.

Why all the delays? Why all the histronics? Why the constant monitoring of this issue in the press? Why all the doom and gloom? It is a fact, as we all know, that healthcare costs right around the world—but particularly in the Western world, where in most advanced industrial democracies there is a form of universal health care—are rising and, indeed, it can fairly be said, rising well in excess of general movements in the CPI in particular domestic economies. Reasons vary, from breakthroughs in technology to increases in capital costs of medical equipment and facilities, to increases in demand with growing population, to lack of
supply adjustment, to, in some cases, excess supply adjustment—and by that I mean more and more doctors and more and more facilities shifting into well-off suburbs and hence competing to attract aged and well-off people as customers. Of course, we have that very difficult situation that is emerging with the decline in GPs, whereby large numbers of people now regard a GP as an optional extra, do not use a GP and, for routine medical demands, use the public hospital system—and the system we built over the last 10 or 15 years has in-built perverse incentives that indeed encourage such behaviour.

It is also clear—and fair to say—that, as consumers, we have an expectation that our health system can, and often does, provide miracles. Healthcare professionals have also experienced increases in income, and this has also contributed to the overall cost of healthcare services and medical services and, if we are not kidding ourselves, to likely ongoing serious increases in healthcare costs over the coming decades.

As we all know, since 1984 Medicare has been the mainstay, the building block, if you like, of our health industry. Its purpose is to provide health services to all members of the Australian community right across our continent. It can be accessed by pensioners, the unemployed, the disadvantaged and the chronically ill, whether they are low-, middle-, or high-income earners or people who have no income at all. Taxpayers already pay a Medicare levy of 1½ per cent on their taxable income. It is this ownership, this belief in Medicare, that means clients of the private health system will continue using public health services. So where is the best place to invest our taxpayer dollars within the current health system and the health system we hope to maintain over the next 10 or 15 years? It is clear that we need a private healthcare system that supports, complements and provides a buttress to our own public system—and there is strong support right across Australia within a whole range of communities for choice in healthcare providers. So we need a public system, we need a private system and we need choice.

Today there are approximately, I am told, 11 million Australians in private health insurance funds. But we must ask ourselves: how many people are members of those funds through their own fully informed choice? Or: how many are members because they have become ensnared in a tax trap devised and allowed to grow by government over the last 10 years in this country—a tax trap created by the failure of the previous government to index surcharge thresholds? The previous government did not forget to index the luxury car tax. There is support, as we know, even amongst healthcare fund managers, for an indexation of the surcharge threshold. The hysteria appears to have arisen from the initial increase in the threshold. The Australian Health Insurance Association, in evidence given to the recent Senate inquiry, said that one-third of those with private health insurance live in households with an income of less than $48,000 per year. If that is the case—and there is no real reason to doubt that—those people presumably are at least satisfied with the product that is offered by private health funds. I emphasise that these are individuals and families who are not required to pay the surcharge under the current threshold arrangements.

There is no doubt that there will always be a market for private health insurers who are able to provide a comprehensive range of services attractive to the clients in the market in which they seek to attract business. Current public campaigns would have you believe that, when the thresholds increase, those most likely to withdraw from private health funds will be younger, healthier people. That is an argument worthy of examination. If this is true, the impact on the public health system should be absolutely minimal. After all, the young and the healthy do not draw on the private health system, so one would assume that they are unlikely to draw on the public health system, or, if some are going to shift over to the public health system, one would suggest that there is going to be an absolutely minimal number. Many who have been caught in the tax trap pay into private health funds but continue to use the public system. In cases of serious trauma, emergency surgery or long-term chronic illness care, the burden inevitably falls to the public health and the public hospital system. As a result, our public health and hospital system is crying out and will continue in the years ahead to cry out for additional funds to meet demand because the structural changes needed to change the perverse behaviour that occurs were not allowed to occur over the last 10 or 15 years by the previous government.

There is broad agreement that the increase in thresholds will lead to an exodus of members, an exodus largely of those who have taken out private health insurance. Why? Because they were caught in the tax trap. If so, there will be a corresponding reduction in government funding of the Medicare rebate. Treasury estimates put this at $960 million over the next four years. Those savings will enable the government to direct taxpayer dollars to our public health system, a public system which, for years, suffered the burden of underinvestment by previous governments. The current surcharge arrangement undermines—the notion of a comprehensive universal healthcare system by directing taxpayer dollars in some cases to publicly listed funds, driven by a different endgame, that operate in a market environment.

This government supports a strong private health sector which complements our public health system. We need both. We acknowledge the contributions that both the public health system and the private health
system make to the welfare and the medical health of Australians right across our country, a contribution to meeting, as I say, the health needs of our communities. The government continues to support the private health sector with the Lifetime Health Cover and the Medicare rebate schemes. There is no change to those two elements of the current system. There is also additional support for the private sector through Medicare rebates for procedures performed by medical staff. Additionally, we have the Pharmaceutical Benefits Scheme, a scheme which provides medications at a significantly reduced cost to both private and public health fund patients.

In a perverse way, through the Medicare levy surcharge the government of the day effectively imposed a penalty on those it deemed wealthy—a penalty on those who choose not to take out private health insurance. It does not allow individuals or families to choose the public health system. The penalty was imposed, is maintained and continues to be imposed to stop people making effective choices about the type of health system they wish to involve themselves and their families in. The penalty is imposed to stop you choosing wrongly, with the choice made by the government, without information, and not by the individual, family or consumer.

The current threshold is an unfair tax on what today are no more than average income earners. In my home state of Western Australia, an estimated 27,000 persons pay the surcharge and yet continue to rely on the public health system day in and day out. A further 117,000 households are above the threshold and pay for private health insurance. Nevertheless, many of them, if not a very, very significant majority, continue to access the public health system. It is the government’s view that changes to the Medicare threshold will provide much-needed relief to average income earners.

There are always going to be lobby groups and interest groups who benefit from the way things are currently structured and who therefore will oppose any change, no matter how well intentioned or how much needed, just like those who are fundamentally opposed to the idea of a universal healthcare system. Indeed, at least until 1996 the opposition parties were opposed to a universal healthcare system in this country, which was one of the hurdles Mr Howard had to overcome when the government changed in 1996.

Through practice, through usage, through opinion polls and through research, Australians show their continued support for a public health system and for Medicare. They have made that support known to successive governments since the Medicare system was created back in 1984. Indeed, the maintenance of a universal, well-funded and adequate public healthcare system goes to the heart of having an effective medical system in this country, and it goes to the heart of the fair go.

Indeed, the entire principle that has driven the current government to bring these reforms into the parliament this week and in coming weeks is to change the threshold so that we can get some equity, some fairness and a fair go back into the system that delivers results to consumers, the public and those who most need it—that is, a well-maintained and well-funded universal healthcare system. That is manifest, as it has been manifest now since 1984—(Time expired)

Senator STERLE (Western Australia) (1.25 pm)—I seek leave to incorporate Senator Carol Brown’s speech.

Leave granted.

Senator CAROL BROWN (Tasmania) (1.26 pm)—The incorporated speech read as follows—

I rise to speak on the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008. I refer to the responsible honourable senator, Senator Barnett, last week in his contribution to this debate. Senator Barnett seems to have suffered from a convenient lapse of memory.

He admirably claims to have taken up the cause on behalf the Tasmanian people, whose interests he represents—using his speech to point the finger at both the state and federal Labor Government’s for not doing enough to improve the public health system in Tasmania.

I agree with Senator Barnett that the health system in Tasmania is in need of attention— but need I remind him of how it got in such a dire state?

Of course what Senator Barnett failed to say in his contribution was that, he was happy to stand back and watch as the Howard Government effectively short changed Tasmanian public hospital system by $70 million every year.

That’s right—how things can change in 9 months senator Barnett! 9 months ago you were happy to stand back and let your government short change the Tasmanian health system to the tune of $70 million—and now you claim that the state and Federal Labor Government are to blame—shame on you!

Truth be told, both the Federal and State Labor Governments have acted in the last 10 months since the Federal Labor Government has been in power.

The Federal Government has provided the Tasmanian Government with an extra $50 million in this year’s May Budget to improve health services in the state, and $8.1 million in additional funding to cut elective surgery waiting lists.

Further Senator Barnett’s claims, that the Tasmanian Health Minister, Lara Giddings “... refused to even acknowledge an invitation to appear before the Senate Standing Committee on Economic inquiry into the Medicare levy threshold.” are completely false and misleading. It is my understanding that Minister Giddings, was never invited to make a submission or appear before the committee and Senator Barnett knows this!
When his colleague Senator Bushby was paddling this tall tale – Minister Giddings put out a statement refuting Senator Bushby’s claims stating, I quote “I have never seen a letter inviting me to make any such submission, and I have never seen an invitation to any hearing on this issue”.

In fact the letter Senator Bushby sent to Minister Giddings makes no reference at all to a meeting. No reference at all! Senator Barnett also knows full well the impact Minister Giddings believes the Medicare Levy Surcharge Threshold will have on Tasmanians.

In a statement she put out in response to Senator David Bushby’s, Minister Giddings said:

“Compared with major factors such as growing chronic disease and the ageing population, the changes to the income threshold for the Medicare levy surcharge are not material.”

“The Opposition has been stretching the truth on this issue for a while but Senator Bushby’s latest effort is pure fiction”.

I also feel it necessary to respond to Senator Barnett’s ridiculous swipe at the Member for Bass Jodie Campbell.

Since elected the member for Bass has been working extremely hard for the people of Bass, delivering a number of big ticket election commitments including $15 million for an integrated care centre at the Launceston General Hospital.

It is time for Senator Barnett stopped playing this political charade and worked a little more constructively for the people of Tasmania.

The Medicare levy surcharge imposes a one per cent increase in Medicare levy liability on certain individuals who do not have private patient hospital cover. For the 2008-09 income year individuals with taxable income over $50,000 and couples with a combined income of over $100,000 may be liable for the surcharge.

This increase was one of a range of measures announced as part of the Governments economically responsible budget, aimed squarely at helping to reduce the cost of living pressures faced by average income earners in Australia.

Indeed initiatives such as those contained in this bill reflect an acknowledgement by the Government that many Australian workers and their families are under financial strain, and the Government, where it can, should be trying to ease that strain.

It is expected that the passage of this bill alone could potentially result in savings of up to $1,000 for individuals and $1,500 for families.

In effect it will free up an additional 400,000 Australian taxpayers from the burden of liability for the surcharge in the forthcoming financial year.

While the aim of this measure was and remains relatively simple, it seems to have been somewhat buried under the weight of the debate which has arisen since it was first announced by the Treasurer in May.

The aim of this measure was quite simply to provide average income earners in Australia with some long overdue relief by returning the threshold levels to the approximate position of where it was intended when it was first introduced in 1997.

However, what appeared to have been a relatively straight forward proposition, has been severely compromised by the Opposition- who have made it their job to partake in a number of acts of budget vandalism, by blocking the passage of this, and several other key budget measures.

By initially blocking this bill and continuing to steadfastly refuse to support it, those opposite, have and continue to deny thousands of Australians of the obvious financial relief that will result from its passage.

Indeed the Prime Minister, speaking in Tasmania recently, noted that the proposed changes contained in this bill could result in a potential saving of more than $1,000 a year for a working family of a couple with incomes of 60,000 respectively.

That $1,000 extra to put toward the mortgage, and children’s education.

However sadly, in the same week as the reserve bank delivered an interest rate cut, the equivalent of which is estimated at saving $600 a year for a person with an average mortgage- those opposite have threatened to all but cancel this out by not supporting the potential more than $1,000 tax relief measures contained in this bill.

The actions of those opposite amount to nothing more than opposition for opposition sake- all at the expense of the Australian people.

Thousands of average income Australian families, when the measures were first announced by the Treasurer in May inadvertently assumed that their passage would be a given- that they would no longer have to pay the levy- only to find out that the measure had not yet to passed.

Now those same families are looking down the barrel of another period of uncertainty- as those opposite, who blocked the measure when it was first introduced, continue to refuse to support its passage.

When combined with the financial implications stemming from the other budget measures, they are refusing to support, the opposition threatens not only to deny Australians the benefit of budget measures, such as those contained in this bill, but also the flow on benefits that come with a strong budget surplus.

They refuse to support this measure, which will put more money in the pockets of thousands of Australian families.

They refuse to support the Governments proposed Fuel Watch scheme- which will give the same families a healthy degree of informed choice when it comes to how much they pay at the bowser.

One would be forgiven for thinking that those opposite don’t believe Australian families deserve a break when it comes to managing the family budget.

One would be forgiven for believing that those opposite are in fact pursuing an agenda, which has their interests first and the interests of Australian workers and their families last.

Those opposite are simply desperate to cling to some degree of power and are playing politics by refusing to support several of the Governments key budget measures.

Now, one would also be forgiven for dismissing such tactics as harmless – if it wasn’t for the fact that the interests of thousands of Australians were on the line.

Indeed, the political games being played by those opposite can only mean more pain for working families.

CHAMBER
On the other hand, the measures contained in this bill promise to provide some real and welcome relief to average income earners in Australia.

Indeed, when combined with the numerous other measures contained in this year’s budget, aimed at helping Australian families, such as:

- the $46.7 billion in tax cuts for low to middle income earners;
- the introduction of the education tax refund, and;
- the lifting of the childcare tax rebate from 30% to 50%.

This bill reflects a genuine commitment by this Government to do the right thing by Australian’s and provide them relief. Indeed, the figures show that this measure is long overdue.

The Standing Committee on Economics handed down its report on the bill on the 27th August.

The Committee recommended that the bill be passed noting that the “overriding consideration is the danger of forcing an ever larger number of low-income people to pay the Medicare Levy Surcharge (MLS) or to buy low value fund policies for which they have little use.”

Indeed, the report notes the key argument put forward by the Treasurer in support of this bill has been the MLS threshold levels have not been changed in a decade since its introduction and therefore it should be increased to restore the proportion of the population who are liable, for the surcharge, to 1997 levels.

In fact, this is the key objective of the measures contained in this bill to restore the application of the MLS to the levels which it was first intended.

That is, to do what the previous Government failed to do—

and increase the surcharge threshold.

In their dissenting report, those opposite have engaged in scaremongering to justify their opposition to the bill.

In their report those opposite accuse the Government of:

“...not properly thought through the flow-on implications of this measure.”

And continue by making the outlandish suggestion that:

“If this measure passes, there is a clear and imminent danger that the gains made over the past decade in securing a better balance in the Australian health system could be wiped away.”

Such accusations seem somewhat hypocritical considering the authors of the dissenting report where directly responsible for continuously under funding the Australian health system.

Senator Colbeck during his contribution warns of the eminence of the Senate’s neglectful, watch, the levy income threshold has remained static for over 10 years, while the average weekly earnings have increased by nearly 50%.

The previous Government’s refusal to increase the levy threshold meant that an increasing number of average-earning Australians where being slugged with the tax—despite the fact that it was intended for “high income earners.”

Illustrative of this, in 1997 only 8% of taxpayers incurred the surcharge, by the 2008-09 budget cycle this had blown out to— with about 36% of single taxpayers being forced to pay the surcharge. If this measure is not passed it is estimated that this figure will jump up to 45% of single taxpayers by 2011-12.

Despite what those opposite might say—there is no good justification for why average earning Australian families should be forced to pay the surcharge.

The situation that was allowed to occur under the former Government was the exact opposite of what was intended.

There is no escaping this reality and those opposite should feel uncomfortable, you should be looking elsewhere and hanging your heads in shame—because you allowed this to continue.

In his Budget in reply address, Dr Nelson railed against what he labelled as tax bracket creep.

He said, and I quote Mr President

“We know that, as incomes rise over time, and workers move into higher tax brackets, the value of income tax cuts will be eroded in the future. Economists call this “bracket creep”. We call it tax increases on the sly”.

However what the honourable Leader of the Opposition has ignored is that more and more people on average wages have been required to pay this tax, the Medicare levy surcharge.

So such claims are hypocritical when applied in retrospect, considering that the now Opposition did nothing— I repeat nothing— for 10 years – and in doing so effectively imposed “tax increases on the sly” on average working families in Australia by simply not increasing the Medicare surcharge threshold.

The former Government was a Government of inaction and their refusal to increase the Medicare levy threshold was effectively a tax, by inaction.

As I mentioned previously, it is estimated that the measures contained in this bill, could potentially result in $1,000 sav-
ings for individuals and $1,500 savings for families- which I am sure will come as a welcome relief for working families, but which are, as I said, long overdue.

The measures contained in this bill will increase the threshold for the Medicare levy surcharge from $50,000 for individuals to $100,000, and from $100,000 to $150,000 for families.

This has the real potential to provide genuine tax relief for ordinary working Australians, and– most importantly– this measure would return the thresholds to an income level around which they originally applied in 1997.

The proposed increase to the threshold contained in the bill will, if passed, bring the figure back to around 8%– where it was intended.

This increase will have the effect of freeing an additional 400,000 individual taxpayers from the liability of the surcharge in the forthcoming financial year.

The increase also has another important factor attached-which is to re - introduce the concept of choice into the health system when it comes to private health insurance.

While the Labor Government has and continues to support the private health system, for far too long the Australian people were held at ransom by the former Howard Government, to purchase private health insurance, because of their failure to lift the Medicare levy threshold.

When combined with the former Howard Government’s persistent under funding of the public health system, this had the effect of creating a “user pays” system, where there was no choice and where quality universal health care was no longer easily available to all Australians.

The reality of the Howard’s Governments under funding of the public health system is no where better reflected than in my home state of Tasmania, where the impact of chronic under funding continues to plague our public health system.

According to the Health Expenditure Report, produced last year by the Australian Institute of Health and Welfare, the former Governments share of the public hospital bill decreased by more than 5% in the four years to June 2006.

This effectively meant the Howard Government were short changing the Tasmanian public hospital system by $70 million each year.

That’s $70 million less to spend on extra nurses, beds and on cutting waiting lists.

That’s $70 million less to spend on saving Tasmanian lives.

Labor has long advocated for the provision of quality health care and services for all Australians- regardless of their income.

The increase to the Medicare levy threshold is line with such a concept. It protects average income earners from being placed in the conundrum of being slugged with the levy– it gives them the freedom, and most importantly, it gives them choice.

However, lets make it clear- this bill is about providing average earning Australians with long overdue financial relief and not, regardless of what those opposite might suggest- to remove the incentive for private health insurance.

The provision of private health insurance provides Australians with a valuable choice when it comes to health care. It allows individuals to elect to invest privately in their, as well as their families, future, long term health needs- whatever they may be.

Regardless, the Government believes that access to quality health services, should be available to all Australians- whether they can afford to invest in private health cover or not.

This is why, the Rudd Government elected to use its first ever budget to deliver a $3.2 Billion Health and Hospitals Reform Plan aimed at building a stronger public health system for all Australians.

The $3.2 Billion National Health and Hospitals Plan will ensure Australian families have access to affordable health care by working with the States and Territory Governments for the first time in 12 years.

This significant long-term commitment to health includes:

- $600 million to help reduce elective surgery waiting lists;
- $290 million to help state and territory Governments reduce public dental waiting lists;
- $275 million to establish 31 GP Super Clinics around the country. Which will improve access to health services and improve chronic disease management.

In addition, the Government established the Health and Hospitals Fund, with an initial allocation of $10 billion, to cater for the long term funding for hospitals, medical technology and major research facilities and projects.

Needless to say the Rudd Government, after inheriting a chronically under funded public health system, has made revitalising the public health system a national priority.

And as I pointed out earlier, Labor has also made easing the financial burden on low to middle income earners in Australia, a national priority.

For far too long the former Government neglected the needs of average, hard working Australians. As this long overdue increase to the Medicare levy threshold proves, the former Government simply turned a blind eye to the impact such things were having on average earners in Australia.

Eleven years in power and the Howard Government and those opposite, effectively removed itself from the reality of the financial struggles faced by Australian’s.

It not only neglected to re-assess the real impact of measures such as the Medicare threshold on the family budget, it also ignored the real impact of other pressures such as rising interest rates and petrol prices.

We are now dealing with the stark reality of these years of neglect now.

This neglect by the former Government meant that when the Rudd Government took office it inherited an economy crippled by inflation, which was running at its highest level in 16 years and with interest rates at the second highest amongst advanced economies.

You would have been forgiven for thinking that after last year’s election, that those opposite would have learnt to pay attention to the needs of all Australians a little more carefully.

However, indications that they intend to vote against this important piece of legislation suggests otherwise.
It suggests that those opposite would still rather play party politics, than act in the best interests of the Australian people.

I thought that we had seen the end of such cheap political tactics, but it appears, even under the new leadership of Dr Nelson- this kind of game playing is set to continue.

It is time for Dr Nelson to show some real leadership and stop trying to score cheap political points by opposing measures such as these.

Australians deserve more from the opposition. They deserve to be granted the relief of measures such as these, after ten years of inaction, by Dr Nelson and his senate colleagues.

Australians deserve not to be used as a political basketball-to be thrown around, just to score political points for those opposite. Families at home know, as I do, there is simply too much at stake.

The Rudd Government is committed to providing quality health care in this country. The Rudd Government has no intention of turning a blind eye to the reality of the financial pressures faced by Australian families.

As I mentioned earlier, the measures contained in this bill, have the potential to free an additional 400,000 individual tax payers from the burden of paying the Medicare levy.

It also has the potential to result in up to $1,000 saving for individuals and $1,500 saving for families- which will also go a long way to helping get the family bills under control.

The Medicare levy was, when it was introduced by the former Howard Government in 1997, intended to apply to “high income earners” or roughly only 8% of single taxpayers.

This measure, introduced by Labor will see the levy once again apply to the 8% of taxpayers - the high income earners, for whom it was intended.

This means bringing to an end, some of the unnecessary financial pressure placed on average middle income earners, by the former Government.

I support, this and any other such measures which move to reduce the pressure on working Australians and at the same time gives them a degree of choice when it comes to access to health care.

I concur with the key recommendation of the Senate standing Committee, and commend the legislation to the Senate, and urge all Senators to support this bill.

**Senator PRATT** (Western Australia) (1.26 pm)—I am going to speak briefly on the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008 because I am eager to see this important budget measure passed. Lifting the Medicare levy surcharge thresholds is an important principle that will get rid of what is an unfair tax on average income earners. As other speakers have highlighted, 465,000 people were subject to this levy—many of them unfairly, many of them not high-income earners and in fact many of them hit by the equivalent of bracket creep as their incomes crept over the $50,000 mark. People found that, when it came to tax time, they were subject to this levy and had not even had the opportunity to question or engage in the idea of whether they wanted private health insurance. That is certainly something that has happened to people I know. They were unexpectedly hit with this tax burden because it was not a question that they had put to themselves at the time they got their pay rise.

Many people know that health insurance is not the right health choice for them, but are they supposed to take it out anyway? According to the opposition, they must. The income thresholds for the Medicare levy surcharge, as we know, have not been changed since 1997. When the surcharge was introduced by the then health minister, Michael Wooldridge, he said: High income earners will be asked to pay a Medicare levy surcharge if they do not have private health insurance. These are people who can afford to purchase health insurance.

The opposition are jokes if they believe that those earning $50,000 are high-income earners. That is why we have raised the thresholds to give relief to average earners, who are now being forced to pay the tax. The opposition’s lack of support for this bill illustrates their inequitable approach to public policy.

For some very important reasons, I reject the notion offered by the opposition that younger, healthier people should be coerced into subsidising health insurance for others. There is significant evidence to suggest that in many instances people hold cheap health insurance simply to avoid paying the Medicare levy. This was clearly evident in the inquiry of the Senate Standing Committee on Economics into this bill. When you hold health insurance and intend to use it, there is a significant need to insure yourself above the health insurance rebates. In other words, there are significant gap payments to be made. For many, that is something they are prepared and willing to do and they know that that is what will be required if they need to utilise their private health insurance.

However, despite the fact that many hold insurance, many people cannot afford a private hospital bed or a private practitioner. They hold cheap policies that offer limited benefits simply so they can avoid the levy. Many people who hold private health insurance still have no option but to occupy a bed in a public hospital because they cannot afford these gap payments. Some will pay a smaller gap, as charged by the public hospital; others, however, will make no claim against their health insurance and simply use the public system. So I would like to ask: who is subsidising whom? Not only do we have taxpayers who are healthy and do not need to use insurance but we also have taxpayers who have paid their insurance but cannot afford to use it. People who cannot afford to use it are subsidising the health insurance rebates from health funds for those who can. That is not an equitable position to put people in; it is not logical policy. You have people who can afford private health insurance, who can afford the gap payments for their private hospital and who can afford the gap payments for their own private room and their choice of practitioner. Then you have less well-off tax-
payers who are paying their private health insurance but cannot afford to use it subsidising private hospital stays for more well-off taxpayers. It is not fair.

On top of this, the taxpayer is paying twice for these patients: once in the form of the 30 per cent rebate for health insurance they do not use and a second time for the care of the public patient in a public hospital. This clearly highlights the unjust, nonsensical nature of our current private health insurance penalties for those who cannot afford insurance. It also illustrates clearly why Labor’s bill should be passed, along with the many other reasons highlighted by my colleagues on this side of the House. The government supports a mixed-use health system with both public and private sectors working in tandem to meet the health needs of the community. However, hitting average-income taxpayers is not a reasonable way of proffering this support. I believe that only Labor can be trusted to look after both the health and the tax equity concerns of all Australians.

Senator EGGLESTON (Western Australia) (1.32 pm)—Australia has ‘The Best, Worst Health System’ in the world, according to Jim Hoggett, who wrote in the IPA Review in December 2003. Hoggett was no doubt referring to the fact that no-one is ever happy with their health service because, of course, there is always more that could be done to provide more comprehensive and equitable health care. But his article made the point that the unique features of the Australian health system, which include a balance between the public and private sectors and community rating, mean that Australia does in fact have one of the better health services in the world, if not in fact the best.

By contrast, in the United States, where health services are predominantly private and costly, and health insurance premiums weighted for risk, those who cannot afford to have private health insurance have to fall back on the United States public hospital system, which is generally regarded as woefully inadequate. In fact, this morning I heard on Radio National’s The Health Report that 45 million US citizens do not have health insurance so cannot access reasonable health care. In Canada and the United Kingdom, health services, by contrast, are largely public, with a smaller private sector. Having worked for the British National Health Service I can say that, while I admire the standard of care, hospital infrastructure is often old—many hospitals are actually converted 19th-century workhouses—wards are overcrowded and waiting lists are long. ‘Why?’ we might ask. The answer to that is: because governments never provide enough funding to upgrade the facilities in the public sector. That is a point to emphasise: no matter what is stated in election promises by Labor idealists, the track record of governments in providing sufficient funding for the public health sector is very poor.

Most importantly with respect to private health insurance, in both Britain and the United States, if you have an adverse medical history, such as being diabetic, or a family history which suggest you may be at risk, should you desire to take out private health insurance your premiums will be weighted for risk and it is possible you could be refused health insurance cover. As I said, in Australia we have a system where there is a balance between public and private care. And, most importantly, in Australia, health insurance premiums are not rated for risk. This means that, regardless of your personal or family medical history, everyone pays the same premium for health insurance. This system is called community rating. Community rating works by virtue of the fact that the premiums of younger people, whose claim rate is low, go into a re-insurance pool to cover the cost of claims for treatment by older people, who have a much higher rate of claims for illness and surgery.

The Australian system is unique in the world and delivers excellent health cover to our community. But—of relevance in the context of this proposed legislation to abolish the Medicare levy surcharge—the success of the Australian system fundamentally depends on preserving the balance between the private and public medical system. Regrettably, the Rudd government proposal to abolish the Medicare levy surcharge will destroy the balance in the Australian health system and will result in chaos. The balance will be destroyed because abolition of the Medicare levy surcharge will result in a large number of families and individuals dropping their private health cover. As the Australian Medical Association said in their submission to the Senate economics committee inquiry:

Australia’s health system is a delicate balance between the public and private sectors. The effectiveness and efficiency of the public system relies on a strong private sector. A high rate of private health insurance membership is a key part of the private sector.

During the Senate inquiry evidence was given that, notwithstanding Treasury modelling, which is widely regarded as being flawed, other estimates show that when all of the secondary flow-on effects come into play, somewhere between 800,000 and one million people will no longer be covered by private health insurance if this measure goes through and will therefore be unable to access the private hospital sector, so will turn to public hospitals for treatment. This, in turn, will create enormous additional pressure on the public hospital system. Inevitably, it will mean delays in treatment and longer waiting lists for elective surgery in the public hospital sector. In their submission to the Senate inquiry, Catholic Health Australia summarised the impact of the Medicare levy surcharge as follows:

The Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008 is likely to have several adverse con-
sequences which will result in new barriers in access to health care by low and middle income earners.

The summary states that these adverse impacts are likely to include:

- Increases in public hospital surgery waiting times as upwards of 200,000 new episodes of care will need to be carried out in public hospitals;
- Specific longer waiting times for older Australians requiring cataract surgery or hip and knee replacements;
- Immediate increased costs on public hospitals of a likely $400million;
- An initial decline in State and Territory public hospital revenue of $35million in direct hospital accommodation benefits and an additional $20million in other services—

I add that this is because fewer patients being treated in public hospitals will have private cover, so state governments will no longer be able to double dip—that is, receiving both Medicare funding from the federal government while charging patients’ health insurance funds for the same service. Catholic Health goes on to say there will be:

- A likely initial increase in private health insurance premiums of up to 10%, which will be felt most by those low and middle income earners with private health insurance;
- Future unpredictable increases in demand on public hospitals as private health insurance becomes more expensive;
- Over $400million lost from the operational budgets of private hospitals.

The Catholic Health submission went on to describe how the workload will be transferred from the private sector to the public sector as follows:

Catholic public not-for-profit hospitals will in turn be impacted as episodes of care that would have been carried out in private settings shift across to public settings.

Catholic Health Australia further points out that it would be the low- and middle-income earners who would be most affected by this ill-considered measure by the Rudd government, saying:

The Treasury modelling of the impact of the proposed threshold changes has deficiencies. These deficiencies have partially shielded the likely consequences of the proposed threshold changes. The likely consequences will be most felt by low and middle income earners, who will bear the brunt of increased cost pressures on public hospitals if waiting times for surgery [and/or] struggle to maintain their private health insurance membership …

I think senators would agree that low- and middle-income earners are rather surprising casualties indeed for a Labor government measure. It is typical of the fact that the Rudd government does not seem to think through its policy initiatives.

What is so difficult to understand about the Rudd government introducing this measure is that these outcomes are all predictable on the basis of what happened to the Australian health system following the introduction of Medicare in 1984. Prior to the introduction of Medicare, which was touted as a universal health system, around 60 per cent of Australians had private health insurance. However, over the next 13 years, until the introduction of the Medicare levy surcharge, membership of private health insurance funds in Australia dropped to about 30 per cent of the population and because no serious steps were taken by the government of the time to increase the capacity of the public sector, the result predictably was the all-important balance between the private and public health sectors, which I referred to earlier, was destroyed and Australia faced a crisis in health care. Because so many people had dropped their private health insurance, there was enormous pressure on the public hospital system. There were ever-increasing waiting lists, which particularly disadvantaged older people, and the public hospital sector was bursting at the seams, unable to cope with the workload. By contrast, adjacent private hospitals were empty. Theatres and wards in private hospitals were not being used while old ladies with arthritic knees and hips were on two-year waiting lists, if not longer, for their surgery to be undertaken in the public hospitals sector. People suffered unnecessarily and no doubt the delays aggravated their medical conditions.

To end this unprecedented crisis, the Howard government took urgent action to encourage Australians to take up private health insurance to take the pressure off the public system. To restore balance to the Australian health system, the Howard government introduced three measures: firstly, the Medicare levy surcharge on 1 July 1997; secondly, the 30 per cent taxation rebate on private health insurance premiums on 1 January 1999; and, thirdly, Lifetime Health Cover in July 2000. Given the desperate situation in which these measures were introduced, it is quite clearly nonsense for the Rudd government to claim that the Medicare levy surcharge was introduced as a revenue-raising measure.

The history of this matter leaves no doubt that the surcharge was introduced as one of a suite of three measures designed to restore balance to the Australian health system and to overcome the crisis which we faced in 1997. Quite clearly these three measures worked, because participation rates in private health insurance have risen steadily to be over 50 per cent of the population and once again Australia has a health system which delivers high-quality health care to our citizens and is in fact the envy of the rest of the world.

It is totally beyond my comprehension why the Rudd government would want to disturb our uniquely Australian health system by introducing this legislation to abolish the Medicare levy surcharge: this is particularly so because it is clear that so many of those involved in the delivery of our health services believe
this proposal will have seriously adverse consequences for the Australian health system. Accordingly, I trust that common sense will prevail and that the Senate will reject this legislation.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.46 pm)—I am delighted to speak today on the legislation giving effect to the government’s decision to increase the thresholds for the Medicare levy surcharge. It is worth going back to 1996 to remind the Senate of what the then government said when it introduced the surcharge. It was very clear that the original policy intent of the surcharge was to encourage high-income earners to take out insurance. When it was announced on budget night in 1996, Treasurer Costello said:

Higher income earners who can afford to take out private health insurance will be encouraged to do so. There will be a one per cent Medicare levy surcharge for couples with combined incomes of over $100,000. Individuals with incomes over $50,000 who do not take out health and cover.

Treasurer Costello went on to say:

This is a levy which the government hopes no-one will pay. It is entirely optional. Those who take out health insurance with the benefits attached will be exempt.

And when introducing the relevant legislation on 13 December 1996 then Health Minister Wooldridge said:

The bill complements the private health insurance incentives being made available to lower income earners by providing encouragement to high income earners who can afford to take out private health insurance to do so.

It was clearly designed to target high-income couples and families, and singles. At that time it was estimated that 110,000 individuals and 100,000 families would be affected by the levy. This translates to about eight per cent of singles and four per cent of families. In other words, fewer than one in 10 income earners would have been affected. It would have affected all of us in the Senate. It would have affected school principals. It would have affected the senior public servants who give evidence at Senate estimates. The Hansard reporters, ordinary school teachers and junior public servants would not have been caught by the surcharge.

But, because the thresholds were not indexed, growth in incomes has meant that the threshold for a single person is now several thousand dollars less than average weekly earnings. So now the Hansard reporters who record our debates face the surcharge. A second-year schoolteacher will face the surcharge. Graduates who join the Public Service face the surcharge as soon as they get their first promotion. We can hardly call these people high-income earners. In fact, without this budget measure, by 2011-12 some 2.2 million single and 1.3 million families would have been caught by the levy. This would make up about 45 per cent of taxpayers. You cannot call 45 per cent of all Australian taxpayers high-income earners. The budget measure means that in 2011-12 only nine per cent of taxpayers will be subject to the levy—restoring the original targeting of the measure to high-income earners.

The opposition leader claimed in his response to the budget in the other place that the opposition believe in choice, especially in health and education. And apparently they believe in lower taxes. They are the party of choice and lower taxes, so we are led to believe. Except, apparently, when it comes to the Medicare levy surcharge, which they have opposed in the House and are intending to oppose in this place. We do not apologise for lifting the tax burden on the 400,000 people currently paying the levy or for letting the other 2.8 million taxpayers in the range between the current thresholds and the new ones make a real choice about buying insurance.

The Greens have asked for an assurance that, in the event of increased demand on public hospital services, the Commonwealth will commit to additional funding to address this. The government does not concede that these changes to the Medicare levy surcharge thresholds will have a major impact on demand for public hospital services. However, as was agreed with state and territory health ministers at the most recent meeting of the Australian Health Ministers’ Conference in July, as part of the negotiations over the new healthcare agreements, all factors driving growth in demand for public health services would be considered. COAG has also agreed that the next healthcare agreement should move to a proper long-term share of Commonwealth funding for the public hospital system.

We are confident that the new agreement, along with the additional funding already being provided through the Australian government’s elective surgery reform package and through the $1 billion additional funding for public hospitals this year, will more than compensate for any increased demand on public hospitals as a result of the Medicare levy surcharge changes.

Let us be clear that people caught by the surcharge at present are encouraged to buy the private health insurance as a tax saving. The private health insurance industry is selling products explicitly designed to avoid the levy—not to provide private health insurance but to avoid the levy. These products offer very few other benefits. One insurer’s web site asks, ‘Why do you want health insurance?’ and offers one option: tax saving. Another insurer offers a possible main priority for buying insurance: ‘to reduce tax’. Another states ‘I’m here to save tax’ as an encouragement to purchase their product.

In terms of product description, one insurer lists the only benefit of its basic hospital product, saying that it ‘allows you to avoid the extra one per cent Medicare levy surcharge’. Yet another insurer states that a product ‘is suitable if you want to avoid the Medicare levy surcharge’. Another states: ‘It can save you from pay-
ing the extra one per cent tax. That’s at least $500 a year that you can save. And what do these products offer? The answer is: not a lot.

So what may be the cheapest product on the New South Wales market—costing $432 a year—offers benefits at the default benefit level only, meaning it only covers charges for private patients in a public hospital and requires a $400 copayment on admission to hospital. And it offers less than full cover for cardiac and related services, cataract and lens procedures, obstetrics, IVF, joint replacements and revisions, dialysis, sterilisation, non-cosmetic plastic surgery, rehabilitation, psychiatric services and palliative care—less than full cover.

Another one—priced at $496.80 a year—only pays default benefits and has an excess of $250 on admission but then requires a copayment of at least $50 a day up to a maximum of another $280 for each stay. And it offers only limited benefits for cardiac and related services, cataract and lens procedures, obstetrics, IVF, hip and knee replacements, non-cosmetic plastic surgery, rehabilitation, and psychiatric services.

People buying these products are what Access Economics calls ‘Clayton’s members’. If they leave insurance they are not going to put any additional pressure on our public hospital system, because they are not using their insurance at the moment. There will not be a ‘tsunami of demand’ in public hospitals, as claimed by Senator Cormann, because these people are not using private hospitals at the moment. And, given they have to pay up to $500 when they use their insurance to go to hospital, they are not likely to be using public hospitals as private patients either. While I think of the Access Economics Report, I should draw senators’ attention to page 2 of the report, where it describes the 2007-08 budget as ‘the year in which the previous government essentially lost the plot’.

The private health insurance industry has enunciated very mixed messages in response to the proposal from the government. On the one hand the industry spokesman, Dr Michael Armitage, is claiming that hundreds of thousands of people will leave insurance once the surcharge thresholds are increased. But in the same media release, Dr Armitage claims:

It is a myth that only the wealthy have PHI. Latest ABS and PHIA C statistics show that:

- More than one million of the overall hospital insured population resided in households where gross annual income was less than $26,001.
- 27 per cent of the overall hospital insured population—2.34 million people—resided in households where gross annual income was less than $48,049.
- Almost half of the overall hospital insured population—3.9 million people—resided in households where gross annual income was less than $69,993. Almost four million people with hospital cover were in households that earned less than $69,993.

In other words, the industry has had no trouble selling products to people unaffected by the surcharge because they earned less than $50,000 but, for some reason, they will not be able to sell insurance to the people earning between $50,000 and $100,000, who would no longer be affected by the surcharge. I think the industry is perfectly able to market value for money products to people earning $50,000. And I am sure that many private health insurance executives are now thinking how to convince their existing members to stay as members even when it is no longer tax-effective to do so. They are not sitting around dreaming of days gone past; they are focussing on how to improve their product offering and their client service.

I should say that a former senior adviser to former minister Michael Wooldridge, who dreamed up the surcharge, and Minister Abbott, who refused to index it, are also encouraging private health insurers to lift their game. In a recent article in the Financial Review Mr Terry Barnes wrote:

Health funds cannot simply highlight the worst possible membership and premium scenarios. They need to keep demonstrating the present and future value and relevance of their product to all their members. They should look hard at improving relationships with their customers, especially their good risks, and make dropping private health cover as hard a decision as possible.

I am pleased that we are going to be able to offer tax relief to millions of ordinary Australians. The fact is that the previous government was engaging in a conspiracy of silence, sitting on its hands and watching hundreds of thousands of ordinary Australians falling into a tax trap designed for high-income earners. We make no apology for changing the law to give Australians a real choice about purchasing private health insurance and relieve them from a tax they were never intended to pay. I urge those sitting opposite to consider their position on taxing ordinary Australians in this manner.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia)—Leader of the Government in the Senate) (2.00 pm)—by leave—I inform the Senate that Senator Wong will be the Minister representing the Attorney-General and the Minister representing the Minister for Home Affairs; Senator Ludwig will be the Minister representing the Minister for Employment and Workplace Relations and the Minister representing the Minister for Social Inclusion; Senator Carr will be the Minister representing the Minister for Trade; and, in a delicious irony, I will be the Minister representing the Minister for Youth.
I also wish to advise the Senate that Senator Penny Wong, the Minister for Climate Change and Water, will be absent from question time between 15 September and 18 September due to her attendance at the fourth informal ministerial dialogue on climate change in Argentina. Senator Wong’s ministerial representation responsibilities will be undertaken by other ministers. Senator Faulkner will take questions relating to the Climate Change and Water portfolio and the Environment, Heritage and the Arts portfolio. Senator Ludwig will continue for another week to take questions relating to the Attorney-General’s portfolio, the Home Affairs portfolio and the Status of Women portfolio. I will table the full list of representational changes.

QUESTIONS WITHOUT NOTICE

Renewable Energy

Senator Birmingham (2.01 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Would the minister explain why the government chose to introduce a means test on the solar panel rebate earlier this year ahead of the finalisation of the government’s review of climate change policies?

Senator Conroy—I thank the senator for his question. At a time of global economic uncertainty, we need a strong surplus. Let us be clear: this is a budget measure. To provide—

Opposition senators—You’re reading from the wrong folder!

Senator Sherry interjecting—

Senator Conroy—No. I know that those opposite choose to ignore what is happening around the world. As my colleague Senator Sherry just indicated, yes, there are again serious economic issues facing the international community. There are serious issues that this Australian government, as opposed to the previous Australian government, is conscious of and is actually spending its time trying to address.

We need a strong surplus to provide a buffer against this global turmoil, to ensure that the Reserve Bank has room to move on interest rates and to finance critical nation-building investment for the future. That is why we delivered a strong $22 billion budget surplus, whereas those opposite are conducting an irresponsible raid on the budget surplus. This is the height of economic irresponsibility. It is vandalising the budget at a time of heightened global uncertainty. Those opposite—

Senator Birmingham—Mr President, I rise on a point of order that goes to the issue of relevance. The question was very clear. It related to why the government chose to act ahead of its review being completed. Could you please ask the minister to refer back to that rather than talking about the budget surplus in generalities.

The President—There is no point of order. As you know I cannot instruct the minister how to answer the question. However, I draw the minister’s attention to the question that was asked. Relevance is required in respect of the question.

Senator Conroy—This is exactly relevant to why the government introduced a raft of measures designed to protect the Australian economy. It introduced these measures, which were designed deliberately and specifically to protect the Australian economy, because of the irresponsibility of those opposite. Those opposite have not just advocated a hole of $6.4 billion but, in the last two weeks, started advocating an even greater hole in the size of the budget surplus. They want to block the surplus and spend it at the same time. It is just more of the same. You cannot spend a surplus you do not have.

I heard the former Treasurer on radio last Friday saying that he would be willing to help out the shadow Treasurer with some advice. As it happens, I have dug up a little advice from the former Treasurer that would not go astray right now. This is what the member for Higgins said:

If you spend surpluses, you don’t have surpluses.

... ... ...

... if you spend a surplus, what you’ve got is a deficit.

The Rudd government has done the hard yards in the budget to make room to provide relief for families and to fund vital investments in the future. That is the responsible thing to do. Those opposite have shown that they will always put their own interests before the interests of Australian families. Given the choice between responsible economic management—

(Time expired)

Senator Birmingham—Mr President, I ask a supplementary question. If the government can scrap this vital program before a comprehensive review is completed, why won’t the government immediately provide relief to single aged pensioners and support the coalition’s call to immediately increase the single aged pension by $30 a week?

Senator Conroy—This government makes no apology for being upfront and saying that the single pension is lacking. The only ones who should be embarrassed are those opposite, who did nothing about improving it during their 12 years in office. The Rudd government will not be putting up its hand in support of something that excludes 2.2 million pensioners, including the disabled and their carers. Pensioners in Australia are doing it tough. We recognise that. We in the Labor Party have a century-long commitment to the fair go—

Senator Coonan—Just not recently!

Senator Conroy—Not recently—really! It is breathtaking to see those opposite, who were in com-
mand of the Treasury for the last 12 years, sit there and cry crocodile tears— *(Time expired)*

**Economy**

**Senator HUTCHINS** (2.09 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Can the minister update the Senate on the importance of responsible economic management and any recent warnings about the long-term impacts of irresponsible, short-term policies on inflation and interest rates?

**Senator CONROY**—The Reserve Bank’s decision to cut interest rates by 25 basis points will be applauded by working families doing it tough. This is the decision working families deserved. The official rate cut will put more than $500 a year back into the wallets of families with an average mortgage, right across Australia. That is why it is so important that those in this chamber are considering blocking the budgetary measures give this serious consideration and seriously reconsider their position. This is about the budget surplus, the underlying strength and the recognition that there is a government in charge that is facing up to these challenges because of the global economic uncertainty overseas, as again demonstrated today and as my colleague has already referred to. These measures contained in the budget are absolutely critical to maintaining the downward pressure on interest rates and inflation.

Those opposite choose to simply say, ‘Well, we can spend it on this; we can spend it on that,’ and suddenly come up with a whole grab bag of cheap and populist issues without trying to explain the consequences of their actions—without wanting to accept responsibility for irresponsibly reducing the surplus and putting pressure back on interest rates. Working families deserve that interest rate cut. Those opposite continue to completely and utterly mislead Australians because they are intent on playing cheap politics for their own benefit. The Australian public will see through you—

**Senator Ronaldson interjecting—**

**Senator CONROY**—Just like you, Senator Ronaldson—through you, Mr President—some of those opposite were named this morning as being ringleaders—intent on playing cheap politics for their own benefit. Some of those in this site were named this morning as being the ringleaders of the Malcolm Turnbull camp. Some of them might sit on the opposition front bench. But, unlike those on that side of the chamber, we are focused on doing what is best for Australian families—and what is best for Australian families is delivering a budget surplus and delivering the capacity for the Reserve Bank to act. We are going to continue to bowl up those measures to ensure that we have got absolute maximum effort by this government on the fiscal side of the equation—unlike those opposite, who were exposed last week by information released to the Financial Review which demonstrated that the International Monetary Fund had absolutely pointed the finger at those opposite, including ‘Doctor Yes’ over there, the former finance minister. What were you doing on the job? How did you collect your pay each week? The finance minister in this government spends his time saying no to everybody—unlike the finance minister in the previous government, who just rolled over and rolled over and rolled over; their budget was completely out of control. Their budget was completely out of control—growth of government expenditure stood at four per cent, outsanding the Whitlam government.

**Senator Heffernan**—Mr President, I rise on a point of order. Is there any need to yell, Senator Conroy?

**The PRESIDENT**—There is no point of order.

**Senator CONROY**—So those opposite spent their time being the highest taxing government in Australian history. They spent their time increasing government expenditure. *(Time expired)*

**Indigenous Communities**

**Senator BERNARDI** (2.14 pm)—My question is to Senator Evans, the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs. Why has the government moved to reintroduce the permit system and thereby erode measures in the Northern Territory emergency intervention ahead of the review of the intervention?

**Senator CHRIS EVANS**—I thank the senator for his question. The senator would be aware that the bill relating to these matters is scheduled for debate in the chamber tomorrow. I am not sure what the procedure is. I am happy to answer the question but if the senator is interested in the issue I invite him to join the debate on that measure tomorrow in the parliament. I know that Senator Scullion, who is distracted at the moment, will be engaged in that debate. He and I were engaged in it when the previous government sought to legislate in this area of permits. As I said, the issue will be dealt with by the Senate as early as tomorrow. We will have the debate then on the merits of the scheme. But, as I have outlined previously in the chamber, the Labor Party is of the view that the permit system provides some assistance in allowing the communities to control who comes onto their land. That assists them in keeping drugs and alcohol and criminals out of their communities. They say that it is an advantage to them in monitoring and controlling who comes onto their land.

This is about giving those communities the same sorts of rights that all Australians claim, which is to determine who comes onto their land. We all regard it as a natural right, if you like, that we can control who comes onto our properties. These Indigenous communities argue that community in determining who comes onto their land is important for them.
The debate about the permits has been held in this chamber a number of times. I know the opposition have a different view about it. We, though, have argued that the permits serve a useful purpose. They help deal with people seeking to run grog and drugs into these communities. Therefore we support the permits. We obviously also support, though, free access for government officials, police and others and will make sure that their access to communities is not impacted.

In terms of the scheme’s relationship to the review, the review of the Northern Territory intervention is, as I understand it, due by the end of September. So that review will be brought down shortly. Obviously the government will then respond to that. As I understand it there is bipartisan support for the review occurring to see how those measures have occurred. But we had this policy debate about the permits when the opposition were in government. It was our commitment to legislate to provide for permits being reapplied to Indigenous land. That election commitment by the Labor Party has been honoured. Unlike the current opposition we look to deliver on our election promises.

That legislation is about us delivering on an election commitment we made. We made a commitment to the Australian people that we would look to reinstitute permits and to give those communities the capacity to control who came onto their land. That is what we are going to do, Senator. If you want to oppose that or support it you will get your chance tomorrow. I hope that the opposition will rethink their positions and support the capacity of those communities to control who comes onto their land.

Senator BERNARDI—Mr President, I have a supplementary question. If the government can act on this issue before the review is finalised and presented, why then won’t the government provide immediate relief to single aged pensioners and support the coalition’s call to immediately increase the single aged pension by $30 a week?

Senator CHRIS EVANS—I think it is unfortunate that the opposition seek to trivialise the question of the support given to pensioners by not even giving them the respect of asking a primary question about the issue. What we did in the budget was to provide a down payment by putting $7.5 billion extra into supporting pensioners and carers. That was a down payment on what needs to be fundamental reform. We accept that they are doing it tough, but they did it tough for 12 long years, when the Howard government did nothing for them. What we have done is make a serious down payment on assisting those pensioners and we will institute fundamental reform.

Opposition senators interjecting—

Senator Hogg—Senator Evans, resume your seat. When there is order I will ask you to continue. Senator Evans.

Senator CHRIS EVANS—I made it very clear that this government is serious about fundamental reform to assist those living on fixed incomes. Stunts like that by Dr Nelson that leave out $2.2 million for pensioners do the opposition no credit at all. *(Time expired)*

**Economy**

Senator LUNDY *(2.20 pm)*—My question is to the Minister for Superannuation and Corporate Law, Senator Sherry. Can the minister update the Senate on the global economic challenges Australia is currently facing? Is the minister aware of any contributing factors to inflation in recent years?

Senator SHERRY—I thank Senator Lundy for her question. At the present time every country in the world—I emphasise ‘every country in the world’—is facing some significantly tougher economic questions. What is known as the global credit crunch has come about as a result of the massive housing crisis that has occurred in the US. The mis-selling, to millions of Americans, of mortgage products which they could not repay and the passing on of securitised investment instruments for the US and mainly European economies have caused a massive global credit crunch. That has pushed up borrowing costs here and abroad.

The global stock markets have fallen by some 20 per cent since this turmoil began. Consumer confidence across advanced economies has fallen to its lowest point in almost 30 years—and Australia is no exception—as a consequence of this fallout that continues to occur. Global difficulties are slowing economic growth around the world. To highlight this, five out of the seven most advanced economies have recorded zero or negative growth in the three months to June this year.

I noticed that the Liberal opposition laughed and scoffed earlier to the reference Senator Conroy made to what is happening in the United States today. Yet another major bank, Lehman Brothers, may not exist at the end of the day—again, a consequence of the global credit crunch and the housing crisis in the United States.

Opposition senators interjecting—

Senator SHERRY—Apparently those opposite interjecting do not appear to understand that this crisis has had a very significant impact right around the world, including in Australia. On top of that, of course, we had 10 interest rate increases in a row under the former Liberal government as a consequence of a slowing of our economy and an increase in inflation. And we are not immune to these global difficulties—the slowing of growth—but there are some actions we can take to control circumstances where we have an ability to minimise these impacts. We have a strong, well-regulated financial sector, which we are modernising in a number of areas, and I will have more to say about that in coming weeks. We have prices for our
commodity exports, minerals, at generational highs, and businesses are investing in the future with confidence. But, importantly, the Labor government is focused squarely on these global challenges. One area where we can make a very significant difference and which we do control is our budget surplus. We can build up a major budget surplus—in this case $22 billion—as a buffer in these times of global turmoil. It is necessary to have a substantial buffer in these times. We have listened to Treasury, we have listened to the International Monetary Fund and we have listened to the Reserve Bank of Australia.

I can say that unlike those opposite, who seem to be focused on leadership and forthcoming book reviews that we are going to see, we have addressed the issue of the surplus in a highly responsible way: some $22 billion we want to see delivered to provide a strong buffer in these times of global uncertainty. As I said earlier, yet another example is another bank in the United States, which may not exist by the end of today: Lehman Brothers. And what is the attitude of those opposite? Well, they are totally reckless and irresponsible—fiscally reckless—trying to wreck the budget surplus of $22 billion, which is so necessary in these uncertain times. (Time expired)

Senator LUNDY—Mr President, I ask a supplementary question. What are the alternative approaches to managing the economy and the budget in such challenging international circumstances?

Senator SHERRY—As I said, those opposite are focusing on book reviews. I hope they read the review by Mr Paul Cleary in last week’s Financial Review on the fiscal irresponsibility and fiscal recklessness over the last three years of the former Liberal government. He said:

The result of this outbreak of bad policy in the last years of the Howard government is likely to be a long period of inflation and weak economic growth, and it may take some considerable time, and pain, to get the balance back in the right order.

And this is without taking into account the impact at that time of the global credit crunch that the world economies, including that of Australia, faced. We had a legacy left to us by the former Liberal government: reckless spending; inflation at a 16-year high; interest rate rises in a row; Senator Minchin, the then minister of finance, missing on the job—

Senator Bernardi—Mr President, I rise on a point of order. Senator Sherry has just misled the Senate. Inflation was not at a 16-year high when they came to government. This is simply an untruth the Labor government continue to repeat.

The PRESIDENT—It is not a debating point.

Senator Ludwig—Mr President, I rise on a point of order. If there are matters that have been raised where there are issues, then the Senate knows and the Liberals know, and I am sure Senator Bernardi knows, that there is an appropriate time to raise those corrections, and it is not during question time. He is entitled to make points of order. That, I humbly submit, is not a point of order.

The PRESIDENT—There was no point of order.

Senator SHERRY—Treasury, back in 2005, prior to former Treasurer Mr Costello’s third-last budget, warned of this excessive spending—(Time expired)

Abalone Disease

Senator SCULLION (2.26 pm)—My question is to Senator Sherry, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Has the Australian government received any request from Tasmania for assistance following the discovery of the potentially devastating abalone virus in Tasmania?

Senator SHERRY—I would like to congratulate the National Party’s deputy, Senator Scullion. In fact, he is the shadow minister for primary industries. It is his first question in 10 months. The National Party has found some new voice at last in the Senate. Ten months to ask a question! Where has the National Party been? This is the first—

The PRESIDENT—Senator Sherry, address your comments to the chair, thank you.

Senator SHERRY—A pleasure, Mr President. One of the problems the National Party have in this chamber is they have to funnel all their questions through the Liberal Party tactics committee. What has been happening is they have not been able to get a question up in the last 10 months.

Senator Scullion—Mr President, I rise on a point of order. Whilst not being too far into the minister’s attempt to answer the question, I do not think even you would rule that this somehow has any connection with relevance. If the minister simply does not have the answer to the question, then he should say so and sit down.

The PRESIDENT—As you know, Senator Scullion, I cannot order a minister how to answer or what to answer in the question. I draw the minister’s attention to the relevance of the answer that he is giving to the question.

Senator SHERRY—I have come well prepared. I have plenty to say on abalone and National Party disease. I am aware that abalone disease has had a—

Senator Ian Macdonald—Well, get on with it.

Senator SHERRY—I have been waiting 10 months, Senator Macdonald—through you, Mr President. I have been waiting 10 months. It is great to get a question about abalone and I have come well prepared. Abalone disease has had a significant impact on abalone farms as well as the abalone fisheries in Victoria.
Unfortunately, there is now confirmation of this condition in Tasmania.

On Tuesday, 9 September, the Tasmanian government notified the federal department about a suspect case of the abalone virus in a processing plant in the state’s south, so notification has been received by the federal department. The disease was confirmed by further testing on Wednesday, 10 September. The origins of the disease in Tasmania are unknown, and the Tasmanian government is investigating the incident to try and determine how the disease has infected the abalone in Tasmania. The processing plant where the disease has been detected is being monitored. It has been placed under some abalone movement restrictions. The Tasmanian government is also targeting surveillance and sampling from wild fisheries to see if there are any signs of the disease in this area. To date there have been no signs of the disease in the wild despite intensive monitoring in recent months.

Obviously what has occurred in Tasmania, if we look at what has happened in Victoria, has potentially very, very serious implications for the future of the abalone fishery in my home state of Tasmania, where I understand the abalone fishery is worth at least $100 million in production. For example, exports of farmed and wild harvest abalone in 2006-07—that is the time period for which I have the latest estimates—were valued at some $247 million. I am happy to provide an update of the value in Tasmania specifically, but it is a very, very substantial industry in my home state of Tasmania. Abalone, I think, is the major fishery by value of production, so it is a very, very serious issue to have had this virus discovered in abalone. I do not know whether any senators have seen the pictures of the consequences of this, but it results in a shrivelling-up of the meat of the abalone. It makes it inedible and therefore obviously—(Time expired)

Senator SCULLION—Mr President, I ask a supplementary question. Given that this virus is, in fact, affecting two states and could affect more, why won’t the government commit to implementing a national response, as proposed by the former, coalition government, to address this deadly disease?

Senator SHERRY—As I mentioned in my main answer, unfortunately the disease has been discovered in a farm in Tasmania. That farm is under surveillance. Of course, I am aware that the federal department is working closely with both Victoria and Tasmania now. It continues to work closely with abalone fishers, both wild-catch fishers and fish farms. The Victorian government is continuing to manage the disease in wild abalone in Victoria and is working with industries to ensure sustainable fisheries management. This action apparently includes closing areas to commercial fishing and increasing the legal minimum length of black-lip abalone to maintain sustainability of affected abalone stocks.

In concluding, I welcome this, the very first question from the National Party, from the shadow minister. After 10 months it is a very welcome development. (Time expired)

Murray-Darling Basin

Senator HANSON-YOUNG (2.33 pm)—My question is to Senator Faulkner, the Minister representing the Minister for Climate Change and Water. Has the minister commissioned a risk assessment of the devastating ecological consequences of flooding Lake Alexandrina and Lake Albert with salt water?

Senator FAULKNER—I thank Senator Hanson-Young for her question. I can advise Senator Hanson-Young that Senator Wong has not commissioned such a risk assessment. I would refer the senator to the options that were submitted by Senator Wong’s department to the Senate inquiry into the Lower Lakes. The Murray-Darling Basin Ministerial Council has taken the first of those options as the best short-term measure—that is, pumping water from Lake Alexandrina to Lake Albert to prevent the acidification of Lake Albert. I can say that I am advised that this is currently proving effective. On the best available advice, it is likely to be effective until at least February 2009, and its effectiveness beyond that depends on a number of factors, obviously including rainfall. Senator Wong has indicated that, consistent with the wishes of local communities, it is important to avoid any precipitous decision in respect of the lakes, so I would refer the senator, as well, to a statement by the Prime Minister that was made on 14 August in respect of this issue. The Prime Minister said:

The Cabinet confirmed that if the South Australian Government, based on the advice of experts, finds that it has become absolutely necessary to open the Lakes to sea water, the Commonwealth will consider any such proposals.

The South Australian government has not come to that conclusion.

I am sure that Senator Hanson-Young will be aware of the fact that, in the absence of very significant rain, there are no easy options in relation to this matter; there are just hard choices. Senator Hanson-Young, of course, will also be aware that there is very little water available to the system and many demands on that water for drinking, for other precious environmental sites and, of course, also for irrigation. I can say that, as the Senate inquiry has heard, even if there were water readily available upstream, a great deal of it would be lost in transmission through what is, of course, a very parched Murray-Darling Basin.

I should also remind the Senate that, in addition to the pumping activities currently underway, the Commonwealth government has committed $200 million to the South Australian government for an enduring solu-
tion to the problems facing the Lower Lakes and Coorong, with $10 million immediately available to accelerate projects for the Lower Lakes and Coorong. And, of course, the government has committed an additional $120 million for piping works to connect towns, communities and irrigators currently relying on the Lower Lakes to a higher point on the Murray.

Senator HANSON-YOUNG—Mr President, I thank the minister for his question and ask a supplementary question. Given the current inquiry into the Coorong and Lower Lakes has heard that flooding the lakes with salt water may have devastating ecological effects, has the minister received advice on the long-term effects on the groundwater in the Fleurieu region? Where does the minister suggest that the extra 350 gigalitres of fresh water, which is required even if we are to open the floodgates to sea water to ensure that we dilute the sea water in those lakes in order to avoid a hyper-saline environment, come from? Will the minister consider this advice? Will the minister commission a risk assessment?

Senator FAULKNER—I thank Senator HansonYoung for her supplementary question. Senator, I will need to seek advice from the minister, Senator Wong, in relation to those technical elements of your supplementary question and I will certainly endeavour to do that as soon as I am able to.

Budget

Senator COONAN (2.38 pm)—My question is to Senator Conroy, the Minister representing the Treasurer. Why did the government propose an increase in the luxury car tax in advance of the finalisation of the Bracks review of the automotive industry and the Henry review of taxation?

Senator CONROY—I am sorry that those opposite have already run out of questions and they are recycling them.

Senator Brandis—You’ve given the same answer to every question we’ve asked all day!

Senator Sherry interjecting—

Senator CONROY—Absolutely. They have recycled the questions, so we will be forced to talk about the difficult global economic times that we are in. We need to provide sufficient downward pressure on interest rates and on inflation, because Australian families deserve a government who are committed to tackling the highest level of inflation in 16 years, which we inherited. We need a government that will face up to the tough policy decisions on which those opposite, who were in government previously, completely and utterly ran up the white flag. You only need to look at the IMF report that was released to the Financial Review to see the absolute irresponsibility of those opposite. The Rudd government understands the need for responsible budgeting.

Senator Coonan—Mr President, I rise on a point of order. I appreciate that Senator Conroy’s repertoire is not very large, but I invite you to look at standing order 196, which says:

The President … may call the attention of the Senate … to continued irrelevance or tedious repetition, and may direct a senator to discontinue a speech …

Under those circumstances, and given that for the second time today this is exactly the same answer, I invite you to do so.

Senator Ludwig—On the point of order, Mr President—and I humbly submit there is no point of order—what Senator Conroy is doing is answering the question. The Liberals, on the other side, may not like the answer, but they are obliged to listen to it. I would also humbly submit, Mr President, that what we are also getting is a surplusage—additional colour before they put their point of order. What I would also ask you to do is have a look at the Hansard. If there is a point of order, they should raise it specifically and go to it rather than outline an argument before they take the point of order.

The PRESIDENT—There is no point of order. As I have said previously, I cannot instruct a minister on how to answer a question. Senator Conroy, you have two minutes and 28 seconds in which to respond to and be relevant to the question that was asked by Senator Coonan.

Senator CONROY—As I was saying before that spurious point of order, the Rudd government understands the need for responsible budgeting and investment in the future. It is needed to tackle inflation. We have delivered a strong, $22 billion surplus. We laid the foundations for investment in future productive capacity that will secure our long-term economic prosperity. We delivered a responsible budget that brings spending back under control and takes the pressure off the Reserve Bank, interest rates and inflation. We reined in real growth in government spending to about one per cent.

This responsible long-term economic approach stands in stark contrast to the record of the previous government. Spending grew by four times the amount it did under the Rudd government’s first budget during the former Treasurer’s last four years in the job—four times. This irresponsible spending fueled inflationary pressures in the Australian economy. Rising inflation puts upward pressure on interest rates, erodes living standards, eats away at savings and threatens our national prosperity. It especially hurts people on fixed incomes, which include the most vulnerable people in our society, such as pensioners and others on support payments.

Under the watch of those opposite, domestic inflation reached 16-year highs. The previous government ignored a series of warnings about the consequences of
the advice of the Treasury and the IMF. We continue to feel the effects of those opposite’s willingness to put short-term political interest ahead of the long-term national interest of the Australian economy.

Senator Coonan—You said that before.

Senator CONROY—And we will keep saying it, because that is the legacy of those opposite.  

(Time expired)

Senator COONAN—Mr President, I ask a supplementary question. The minister talked about the most vulnerable people in society, and my supplementary question—if he could have a go at it, if he could actually deal with it—is: if the government can act on this issue before the Bracks’ review is finalised, why won’t the government immediately provide relief to single age pensioners and support the coalition’s call to immediately increase the single age pension by $30 a week?

Senator CONROY—The legacy left to the Australian public by those opposite and the former Treasurer is that of reckless spending, 16-year high inflation and 10 straight interest rate rises. The crocodile tears, the interjections from those opposite about ‘don’t care’—you were in government for 11½ years. If you look at the advice of the Treasury and the IMF—

Opposition senators interjecting—

Senator Minchin interjecting—

Senator CONROY—I know that the advice of Treasury and the IMF was not something that the former finance minister ever took any notice of. In 2006 Treasury warned—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Conroy, resume your seat! Senator Abetz, you will cease interjecting. Thank you.

Senator CARR—Commonwealth support for innovation collapsed under the previous government and productivity growth came to a standstill. In 1993-94 the great reforming government of Paul Keating spent the equivalent of 0.75 per cent of GDP on science and innovation.

Opposition senators interjecting—

The PRESIDENT—Order! Resume your seat, Senator Carr! It is question time. I know some people get a little bit excited during question time on both sides, but the questioner is entitled to be heard asking the question and the minister is entitled to be heard answering it.

Senator CARR—The Keating government spent the equivalent of 0.75 per cent of GDP on science and innovation. In his last budget the member for Higgins—or is that Hamlet of Higgins—provided the equivalent of 0.55 per cent of GDP for science and innovation. That is a 27 per cent drop. The previous government’s neglect of innovation has hurt Australia badly. The report of the National Innovation System, which I released last week, points out:

Sometime around 2002 Australian productivity went from growing substantially faster to growing substantially slower than the Organisation for Economic Cooperation and Development (OECD) average.

It goes on to argue:

... had it not been for the hunger the emerging giants of the developing world have had for our resources, we would have felt the effects of our complacency more directly as stalling living standards.

I would ask senators opposite to ponder that for a moment. The only thing holding up the Australian living standards has been the resources boom. Does anyone here seriously believe that that is an adequate foundation for Australia’s future? Quite clearly those opposite do. Does anyone believe that we can afford to neglect infrastructure, skills and innovation capacity and stake everything on selling iron ore to China? Those opposite clearly do. This government takes a different view. We see that innovation is the engine of social and economic transformation. That is why we are supporting entrepreneurial firms and innovative workplaces through Enterprise Connect and Clean Business Australia. That is why we are building human capital through one of the most ambitious programs of educational investment and reform ever seen by a national government. That is why we are strengthening research capacity and platforms by establishing the Education Investment Fund, by creating new Future Fellowships and the Australian Laureate Fellowships, by doubling the number of Australian postgraduate awards, by safeguarding the independence and the integrity of the

Innovation

Senator MOORE (2.47 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister inform the Senate how innovation can contribute to making Australia stronger?

Senator CARR—I thank Senator Moore for the question. Innovation is critical. It is critical to solving problems like climate change, critical to the maintenance of jobs and prosperity and critical to achieving the levels of productivity we need to remain commercially and internationally competitive.

Senator Abetz interjecting—

The PRESIDENT—Order! Senator Carr, resume your seat! Senator Abetz, you will cease interjecting. Thank you.
Australian Research Council and public sector research agencies and by internationalising Australia’s research efforts. Innovation is about harnessing creativity to build a future that is better than the past. It is about guaranteeing Australian living standards long beyond the resources boom, and it has an essential role to play in the government’s nation-building agenda.

**Education**

**Senator COLBECK** (2.52 pm)—My question is to the Minister representing the Minister for Education, Senator Carr. Why is it that all applications for funding from Tasmania under round 1 of the Trade Training Centres in Schools Program were rejected?

**Senator CARR**—I am not certain of the accuracy of that statement and I will take further advice from the minister concerned.

Opposition senators interjecting—

**Senator CARR**—There has been an assertion made. I need to check that with the minister directly.

**Senator COLBECK**—Mr President, I ask a supplementary question. For the minister’s information, there were only two applications. While he is asking the minister, could he ask if it is because the government has done a special deal with the Tasmanian Premier, who is also the Tasmanian Minister for Education, which will see the funding go to the Tasmanian government’s Tasmania *Tomorrow* reforms, which were rejected by 76 per cent of college teachers in a recent secret ballot. Was the member for Braddon, Mr Sidebottom, misleading his electorate when he said in his pre-election brochure:

> Trades training in every local school ... Labor will build new labs and workshops in schools like—

and he goes on to name every school in Braddon, including Marist Regional College and St Brendan-Shaw College, who had their applications rejected.

**Senator CARR**—What I can tell the honourable senator is that since April 2008 the government has made available 42,000 training places through its Productivity Places Program, which is for people not currently in the workplace. Training places provide jobseekers with qualifications from certificate II through to diploma levels. There has been an outstanding response to the program and all the places available for this year have now been fully utilised. So I can only presume that the senator is now suggesting that there has been some inadequacy in terms of the supply of places in Tasmania; I do not believe that to be the case. To ensure jobseekers are still able to access training in crucial skills shortage areas for the rest of the year, last week the minister announced an additional investment of $45.5 million for an additional 15,000 training places at certificate III level to be available to jobseekers— *(Time expired)*

**Welfare Reform**

**Senator POLLEY** (2.55 pm)—My question is to the Minister for Human Services, Senator Ludwig. I note that the community’s confidence in the welfare payment system is based on the community’s belief that the system is fair and that people only receive what they are entitled to. Can the minister please update the Senate on fraud and compliance activities undertaken by Centrelink? Have these activities resulted in any savings?

**Senator LUDWIG**—I thank Senator Polley for the excellent question. The Rudd Labor government is committed to giving a helping hand to those people in the community who need it, but we will always be vigilant and stop people ripping off the welfare system. It is clear that the vast majority of Centrelink customers are honest, forthright and helpful and are entitled to the payments they receive. However, the Rudd government will not tolerate people who undermine the Australian welfare system. It is there for those people in genuine need and not for those who just want to help themselves.

During the 2007-08 financial year, Centrelink completed 4.4 million reviews of eligibility and entitlement. The review activity resulted in savings to future outlays totalling $107.2 million a fortnight, with over 700,000 payment corrections, which amounts to $2.8 billion for the year. Centrelink also conducted 9,816 individual cash economy investigations; during the 2007-08 year, that included 190 cash economy operations. This activity resulted in $26.8 million in saving and debts. There were also 43,000 data-matching program reviews undertaken during 2007-08. That resulted in $105.9 million in savings and debts.

From public tip-offs received in 2007-08, Centrelink conducted 60,000-odd reviews of customer entitlements. The review activity resulted in $12,311 reduced payments and identified $148.7 million in savings and debts. In 2007-08, the Commonwealth Director of Public Prosecutions also prosecuted 2,658 Centrelink cases for fraud, with a success rate of 98.7 per cent. Prosecutions send a clear message to the community that the system is fair but will pursue those who try to take advantage of it. These figures clearly demonstrate to potential welfare cheats that they will be caught and will face serious consequences for their actions.

The Rudd Labor government is working hard in this area to ensure not only that people get the right payment and the right amount on time but that there is a compliance program coupled with the payment. This was given a huge boost in the 2008 budget, with an additional $138 million provided to Centrelink for detecting and investigating suspicious claims. These efforts are expected to produce savings of $728 million over the next four years, which is a net dividend of almost $600 million in four years. The budget an-
nouncement will mean that Centrelink can carry out extra reviews when it detects discrepancies through data-matching with the Australian Taxation Office. It also means that the government can build on a data exchange pilot between Centrelink and the Commonwealth Bank.

These initiatives send a clear message that the government is serious about making sure the system operates fairly. Centrelink’s success in detecting welfare fraud should also send a clear message to those people who are considering ripping off the system that the community’s support for the welfare system is vital. Successful compliance activities enhance the community’s belief in the integrity of the system. That is why we are serious about combating welfare fraud.

Broadband

Senator NASH (2.59 pm)—My question is to the Minister for Broadband, Communications and the Digital Economy. Why has the minister failed to keep his election commitment to complete a tender process for a national broadband network within six months of taking office? What implications does that have for his promise to commence construction and offer services over the new network by the end of this year?

Senator CONROY—I thank Senator Nash. She is one of the few senators on the other side of the chamber who has a genuine interest in this particular issue. The National Broadband Network is the biggest national investment in broadband infrastructure ever made by an Australian government. It represents a long-overdue investment in our nation’s future prosperity. After 11 years of inaction by those opposite, the state of broadband infrastructure has fallen behind that in countries we consider our international peers. The Rudd government has committed up to $4.7 billion and will consider regulatory changes to facilitate the rollout of the new network that will boost Australia’s productivity. Furthermore, it demonstrates that, unlike those opposite, we understand technology and the future broadband needs of Australians.

The government is moving quickly and methodically to fulfil its election commitment. In March the government established a panel of experts who bring a strong blend of technical, regulatory, business, investment and policy skills, reflecting the complexities of the telecommunications sector. In April the government released formal request for proposals, which sets out the Commonwealth’s 18 key objectives for the NBN. Among other things—

Senator Nash—I rise on a point of order—that of relevance. I specifically asked the minister why he had failed to keep his election commitment to complete the tender process within six months of taking office.

The PRESIDENT—There is no point of order. As you know, I cannot instruct the minister how to answer the question. I draw the minister’s attention to the question.

Senator CONROY—In June we received over 80 submissions on the regulatory structure for the NBN, which my department’s specialist advisers as well as the expert panel are considering. In May I announced that proponents would have 12 weeks to consider the necessary network information before lodging proposals. On 7 August the government released final instruments setting out the network information that carriers are to provide for the NBN and the rules to safeguard the information. On 3 September I announced that the last of the network information requested from carriers was available to National Broadband Network proponents. Accordingly, proponents then had 12 weeks to consider the network information before lodging their proposals on 26 November 2008.

This is a major step forward in the government’s comprehensive plan to provide Australians with higher speed broadband services. Once proposals are received the expert panel will have two months to consider submissions before making a recommendation to government. Once the recommendation has been considered, the government will be in a position to make a formal announcement.

It is somewhat ironic that those opposite criticise the government’s NBN process, as they have no idea what side of the fence they are sitting on regarding this matter. The shadow minister originally called the process’s time lines ‘dangerously truncated and unrealistic’. That was the shadow minister. Yet only weeks later the flip-flopping shadow minister changed his position again to criticise the government for ‘time table overruns’, asking ‘Why has it taken so long?’ Even more embarrassing is that the backflip came after Mr Billson in a press statement on 22 May stated:

I have made it perfectly clear that I would not criticise the Minister—

(Time expired)

Senator NASH—Mr President, I ask a supplementary question. Is the minister aware that the private sector has frozen further investment in broadband infrastructure as a direct result of uncertainties surrounding his National Broadband Network process, and does the minister recognise that further delays will stagnate the rollout of affordable high-speed internet access to working families?

Senator CONROY—I thank Senator Nash for the supplementary question. I was in the middle of going through Mr Billson’s quote. On 22 May he said:

I have made it perfectly clear that I would not criticise the Minister for extending his deadlines ...

If those opposite could communicate with each other—have a chat between chambers—you might not get such embarrassing questions being bowled up in ques-
tion time. The timetable provided in the request for proposals is clearly stated. It is indicative. It was always based on the presumption that proponents would have access to relevant network information to prepare and cost their proposals. Exactly what is the opposition’s line with respect to timing? What is your line?

The PRESIDENT—Senator Conroy, your time has expired. Senator Nash?

Senator Nash—I have a point of order—of relevance, but obviously we have run out of time. I specifically asked the minister whether he was aware that the private sector had frozen further investment. He did not address the question at all.

The PRESIDENT—Senator Nash, you are on your feet with one second to go. There is no point of order and the time for answering the question has expired.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Higher Education

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.06 pm)—I have additional information to a question asked by former Senator Watson in regard to the University of Tasmania. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

Senator Watson asked the Minister Representing the Minister for Education (Senator Carr), without notice on 26 June 2008.

Senator WATSON—My question is directed to Senator the Hon. Kim Carr, representing the Minister for Education. As a result of special coalition funding, the University of Tasmania was able to lift the proportion of Tasmanians with bachelor’s degrees or above from 11 to 15 per cent. Will the government live up to its rhetoric about the education revolution so that, in the case of the University of Tasmania, it is in a position to lift the proportion of Tasmanians with a bachelor’s degree or above from 15 to 20 per cent, which is the national average?

Senator Carr—I thank Senator Watson for his question, and I wish him well in his retirement, as one of the 14 senators leaving today. The question he asks with regard to the University of Tasmania and the fact that the Rudd Labor government has committed so much to the higher education system in such a short time are duly noted, and I appreciate the opportunity to highlight the fact that, in the first six months of this government, we have introduced measures that will improve substantially the opportunities for people to embark upon a tertiary education.

With regard to the specific matters he raises about the University of Tasmania, I would like to seek further advice from the minister, and I will do so.

Response

The Minister for Education has provided the following information.

Scholarships for a Competitive Future

The Government has announced a range of measures as part of its 2008-09 Budget to substantially improve the opportunities for people to participate in undergraduate as well as postgraduate higher education.

National Priority and Accommodation Scholarships

- The Government is providing $238.5 million over four years for 29 000 new National Priority Scholarships and 15 000 new National Accommodation Scholarships. This will improve access to higher education, places, including for students from Indigenous communities and regional and remote areas.
- Consultation is being undertaken with the higher education sector on the implementation of the measure via submissions received in response to the Scholarships for a Competitive Future discussion paper.

Postgraduate Scholarships

- The Budget also provides $209.0 million over four years to increase the number of Australian Postgraduate Award (APA) holders from 4800 to around 10 000 by 2012.
- This initiative will result in many higher degree research students receiving support for their living costs while undertaking a research degree.

Commonwealth Scholarships to the University of Tasmania

- In 2007, the University of Tasmania (UTAS) received $668 643 from the Higher Education Equity Support Programme and 248 591 from the Higher Education Disability Support Programme.
- In 2008 UTAS was allocated 952* new Commonwealth Scholarships comprising:
  - 243 new Ordinary Commonwealth Education Costs Scholarships (CECS)
  - 295 new Ordinary Commonwealth Accommodation Scholarships (CAS)
  - 190 Associate Degree CECS
  - 190 Associate Degree CAS
  - 11 Indigenous Enabling CECS
  - 11 Indigenous Enabling CAS
  - 28 Indigenous Access Scholarships
- UTAS were also awarded 1152* continuing Commonwealth Scholarships (569 CECS and 583 CAS)

Mathematics and science

- In the 2008-09 Budget, the Australian Government announced the implementation of an election commitment to encourage more people to study maths and science at university.
- From 1 January 2009, the amount that university students need to pay to study maths (including statistics) and science in a place that is subsidised by the Government will be reduced by $3250 (nearly half) (per equivalent full time study load, indexed annually).
Funding of around $562.2 million over four years has been allocated to this initiative.

- The Government is also providing around $63.6 million over four years to reduce (by around half on average) the repayments of the HECS-HELP loans for maths and science graduates who take up work in related occupations, including teaching of these subjects at secondary school. Eligible graduates who complete their course of study from second semester 2008 onwards will be able to apply for the reduction. Graduates will be able to claim a reduction of $1500 (around half of average repayments) per year for a period equivalent to five years.

**Better Universities Renewal Funding**

To improve higher education institutions’ infrastructure for teaching, learning and research and to enhance the student experience through improved student amenities, $500 million in 2007-08 will be provided for campus renewal.

- UTAS has been allocated $11.456 million under the Better Universities Renewal Funding initiative. This funding recognises the immediate need to renew university infrastructure.

- These figures take into account the integration of the Australian Maritime College and the University of Tasmania from 1 January 2008.

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Budget**

Senator COONAN (New South Wales) (3.06 pm)—I move:

That the Senate take note of the answers given by the Minister for Immigration and Citizenship (Senator Evans) and the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to questions without notice asked by Senators Bernardi and Coonan today relating to Indigenous affairs in the Northern Territory and to the proposed luxury car tax.

Senators heard today unequivocally that the Labor Party intends to dud pensioners. It seems that those on the other side of the chamber are in complete denial about what the leaders of the Labor Party are saying and the reality of the difficulties that are facing pensioners as we speak. The Prime Minister, Mr Rudd, said that he could not live on the single pension of $546.80 per fortnight. He would rather study the problem and not fix it. The Deputy Prime Minister, Ms Julia Gillard, says the same thing. So does the Treasurer, Mr Swan, and the finance minister, Lindsay Tanner. If they were honest, I am sure that the whole of cabinet—on their ministerial salaries—would agree that they could not live on the single pension of a measly $273 a week. This is a national disgrace and the Labor Party knows it. Payment of course will be adjusted for inflation on 20 September, but the Rudd Labor government has no plans to deliver any additional money until—wait for it—they have not one, but two reviews: first of all the Harmer review, which is not due until February, and then all of those results are to be swept into the Henry review, which is not due to report until the end of 2009. So effectively that is two years before pensioners can expect to see any serious adjustment in their base rate.

We have to ask: why this delay on the part of the Labor government when everyone knows pensioners need action now. The families and community services minister, Jenny Macklin, says, ‘Yes, we want to get pensions right and that’s why we haven’t moved immediately.’ What that means is the government wants to wait until all of these reviews feed through, but there is nothing to help pensioners in the meantime. This argument by the government, that they have to wait to get things right, is totally threadbare. The evidence for that is that the government had absolutely no problem, no difficulty at all proposing an increase in the luxury car tax before finalisation of the Bracks review of the automotive industry and the Henry review of taxation. We heard Senator Conroy’s pitiful attempt—not even an attempt, but a pitiful attempt—in trying to deal with the delay that the Bracks review involved before the automotive industry and Henry review of taxation came down. The same applies with the introduction of the solar panel rebate ahead of the climate change review. It is absolute nonsense that the government needs to wait until they get the results of the Henry review before they can move on pensions.

So when it is a tax grab, this Rudd Labor government has no need to wait for an inquiry, no need at all to wait before imposing imposts on the car industry, no need to get that right. No need to even let voters in on the secret that they would be slugged a surcharge to buy a medium priced Australian vehicle. When it comes to pensions, however, it is a very different story. We now know that in May the Rudd government considered an 83-page set of fully costed proposals prior to the budget with a number of options. And guess what happened? Yes, pensioners were dudged once again; passed over once again. Somehow or other it is not time to act when it comes to looking after pensioners, the most vulnerable people in our community, but there is no problem at all in slugging the Australian car industry with the luxury car tax, put up prices on Australian vehicles and no problem at all in imposing an increased threshold on solar panels until there is a further review. So this business about waiting until there is a review is absolute nonsense and Australian pensioners need to hold Labor to account. *(Time expired)*

Senator FORSHAW (New South Wales) (3.12 pm)—Mr Deputy President, I think this might be the first chance I have had to congratulate you on your election as Deputy President.

Senator McGauran—it’s a bit late! You could have written to him or something!

Senator FORSHAW—Well it is the first chance I have had with the Deputy President in the chair. We have just heard from Senator Coonan. She used the
that is what she said, I think she said. Think about that statement—that is what she said, ‘again’—because for 12 years, when you were in government, you did absolutely nothing! That is the record of your government when you were in power. So you get up here and you start claiming what the Labor government did not do in its first budget. I will tell you what the government did in its first budget: it increased pensions and they will rise by $15.30 per fortnight from 20 September, $12.70 per fortnight for partner pensions. There is also the bonus increase—the $500 bonus to all eligible pensioners—the increase in the utilities allowance to $500, an increase in the seniors concession allowance from $218 to $500 a year, and a range of other improvements for pensioners.

We know that whatever governments can do for pensioners, we would always like to do more. And this government is about endeavouring to do more for pensioners by doing it the appropriate way—through a review of the system to get pensioners entitlements in the future on to a proper footing. You had 12 years in a situation where you have record surpluses in just about every budget you ran. In every budget that the then Treasurer, Peter Costello, brought down he would predict a $10 billion surplus and then, at the end of the year, it would be $15 billion. You had all of this surplus every year and what did you do to address the fundamental issue of getting pensioners’ entitlements and pensioners payments on to a proper basis and giving them some real relief? You did absolutely nothing!

The DEPUTY PRESIDENT—Order! Senator Forshaw, in spite of your good wishes, I would like you to address the chair.

Senator FORSHAW—Thank you very much, Mr Deputy President. I will do that. Throughout that entire period of time, what did you do with the surplus? You handed it out largely in tax cuts to those people who did not need it, when you could have actually addressed some of the real issues affecting low-paid workers and pensioners. But no, you bought your way to winning election campaigns by massive tax cuts, generally just before the election occurred.

The previous government left us with high interest rates, interest rates that had gone up 10 times in a row under your government. It went up 10 times in a row under the previous government. The only time it has decreased on the last 12 occasions that it has been considered by the Reserve Bank was the last decision, made a couple of weeks ago. High interest rates, inflation that was on a runaway path, and you left the Labor government with the situation of having to bring down a budget, its first budget, in those economic circumstances of higher interest rates, the prospect of continuing high interest rates and the prospect of increasing inflation affecting food prices, rents and so on—these are the very things that affect pensioners and low-income earners the most. And the opposition has the hide to come in here and attack us and put forward a proposal just off the top of the head: to introduce a private member’s bill to increase the pension by $30 a week. You do that in the first 10 months of a Labor government when you sat around in this building for 12 years in much better economic circumstances and did not even consider it; not on one occasion did you actually consider having a proper review of the entire system of pensions, which is what the current government has set in train.

The opposition has the hide to get up here and talk about what we supposedly have not done for pensioners. Pensioners know that under a Labor government, with the increases that were in the previous budget—and we would like to do more—their future will be better. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.17 pm)—I want to deal immediately with the furphy that Senator Forshaw put into this debate, which I might say was mentioned in the course of question time by both Senator Evans and Senator Conroy when they gave answers to questions. They have repeated this claim that the former government did nothing about the size of the pension or the living standards of older Australians. We know that that statement is completely untrue. I do not expect those opposite to believe me on my say-so or the say-so of anybody on this side of the chamber. But I do hope that members opposite will take seriously the findings of a Senate committee and will particularly pay regard to the unanimous findings of the Senate Standing Committee on Community Affairs, which, at the initiative of Labor members, looked at the question of the living standards of older Australians.

Senator Parry—A bipartisan committee.

Senator HUMPHRIES—And it was a bipartisan committee, which made unanimous findings about this very question. This was a central issue in this inquiry: what was happening to the standards of living of older Australians? What was happening to the age pension during the life of the Howard government? This is what the committee found:

The evidence before the committee is highly persuasive that the real incomes of recipients of the age pension and superannuation have experienced substantial growth over the last decade over increases in inflation. In the case of the age pension, the indexation of pension levels to MT AWE has been responsible for a substantial increase in the real value of the pension. In part this has been—

Listen to this, Mr Deputy President—the result of the growth in real wages that has partly been a product of the government’s workplace relations reform over the past 11 years.
These are Labor members signing up to this statement, Senator Forshaw—

Workplace relations reform in turn led to increases in pensions.

It is true: it did. I continue the quote:

Similarly, since the introduction of compulsory superannuation in 1992, the rise in the level of the guarantee in 2002 and the growth in real wages, superannuation balances have inexorably grown.

That was the finding of the entire Senate community affairs committee—that there had been an increase in the real value of pensions during the life of the Howard government as a result of our decision a decade ago to link pension levels to increases in male total average weekly earnings. That was our finding. It was not a matter of debate or argument; the committee readily came to that conclusion. Why? Because the evidence was absolutely overwhelming.

Senator Forshaw said in this debate, ‘What did you do with the budget surplus?’ In part we spent it increasing the pensions of older Australians, the age pension.

What is more, not only did we do that, I can tell you how much bigger the pension was under the Howard government as a result of our decision a decade ago to link pension levels to increases in male total average weekly earnings. That was our finding. It was not a matter of debate or argument; the committee readily came to that conclusion. Why? Because the evidence was absolutely overwhelming.

That is the evidence that the Senate committee came to. So let us put to one side this completely false claim that the previous government did nothing about increasing the living standards of older Australians. However, the committee did not find, despite those measures, that the position of older Australians was satisfactory. That is why we supported the move by Jenny Macklin last year to have an inquiry into the living standards of older Australians.

FaCSIA has estimated that the indexation of the pension to MTAWE has increased age pension expenditure by $12.99 billion in December 2006 dollars than it otherwise would have been. Figure 3.1 highlights the growth in the real value of the pension compared with rises in the CPI. Members can clearly see how much bigger the pension was under the Howard government by virtue of its decision to link it to MTAWE.

That is the evidence that the Senate committee came to. So let us put to one side this completely false claim that the previous government did nothing about increasing the living standards of older Australians. However, the committee did not find, despite those measures, that the position of older Australians was satisfactory. That is why we supported the move by Jenny Macklin last year to have an inquiry into the living standards of older Australians. That is why we supported this report saying there had to be action on this question and why today we stand here prepared to take that responsibility seriously by virtue of a $30 a week increase in the pension rate for single pensioners, an issue which was found by the inquiry to have been seriously a problem for those pensioners facing that particular rate of pension.

We have put on the table positive action to an issue which you people said only 12 months ago was urgent, was necessary to act upon. We have proposed that action and we want you to support us in taking that action—real, tangible action to raise the living standards of older Australians. (Time expired)

Senator ARIBIB (New South Wales) (3.22 pm)—The Rudd government fully understands how tough pensioners are doing it. It is something that numerous ministers have talked about. That is exactly why in the last budget the Rudd government delivered around $900 in relief to pensioners. That is equivalent to an increase of six per cent in the pension. In the budget we boosted spending on seniors from $1.3 billion to $5.2 billion because we recognised the former government’s neglect of pensioners over the last decade. Pensioners will also receive an increase of around three per cent to their pensions—that is about $15 a week—on 20 September. But we also recognise that more has to be done. We are not into knee-jerk, bandaid remedies. We are talking about a change across the board. That is why the Henry review is looking carefully at the adequacy of retirement incomes and also at the pension.

Brendan Nelson is obviously under a great deal of leadership pressure at the moment. One minute it is Peter Costello, the next minute it is Malcolm Turnbull. In his rush to buy himself some breathing space, Mr Nelson has forgotten about the 2.2 million married pensioners, carers, widows, veterans and disability recipients. Do the Liberals think carers are doing it any less tough than single pensioners? Do the Liberals think widows are doing it any less tough than single pensioners? Do the Liberals think those on disability pensions are doing it any less tough than age pensioners? It is quite interesting, when you go through and talk to some of the lobby groups in those industries, to hear their opinions on what Brendan Nelson has put forward.

Senator Ferguson—Order! Senator Arbib, it is ‘Mr Nelson’ or ‘the Leader of the Opposition’. I am sorry, but you must use the correct title.

Senator ARIBIB—I would like to quote a few of the lobby groups, because it is quite interesting. People with Disability Australia say:

The announcement by the opposition leader, Brendan Nelson, that seeks to increase the single age pension ... lacks insight and consideration of other groups of people who receive the same amount of social security through other pension payments. Queensland Advocacy Incorporated says that it is extremely disappointed that the federal opposition leader, Brendan Nelson, has ignored disability support pensioners in his belated pension increase bid. Why is the coalition continuing to ignore people with disability and condemning them to a life of abject poverty, isolation and heightened vulnerability?

Family Advocacy says:

Brendan Nelson’s acknowledgement of the difficulties of living on a single age pension forgets the poorest group in our society.

The National Council on Intellectual Disability says:

The Liberal and National parties have completely lost sight of the financial situation of people with disabilities and those family members who provide ongoing support to them by calling only for an increase in the age pension.
The Vietnam Veterans Association of Australia says: Dr Nelson spent Tuesday speaking with hundreds of veterans at the RSL’s National Congress yet the next day appears to have forgotten about us.

Not only is Dr Nelson’s plan economically irresponsible but it also forgets about the most vulnerable in our society. It shows in the end that this is really about is a stunt. First we had his stunt on petrol; now we have his stunt on pensioners—raising the hopes of the most vulnerable. The economic circumstances around it are unbelievable. If you look at what Dr Nelson has rolled out of the last 12 months, we are talking about a $4.9 billion black hole in the budget. That is in a year, and it equates to 23 per cent of the surplus.

When you ask anyone in the coalition, ‘How are we going to pay for this?’ the answer is, ‘We will just take it out of the surplus.’ I remember the last 12 years of coalition government. They used to worship the surplus. Now they say: ‘We will just spend it. It’s 23 per cent of the surplus. What does that matter?’ The truth is that you had 12 years to do something about it and you did nothing. When Mal Brough took exactly the same proposition to the cabinet, it was knocked back. This is just a cheap stunt to try and save Dr Nelson’s own political credibility. (Time expired)

Senator BERNARDI (South Australia) (3.27 pm)—It is extraordinary to sit here and to have to listen to some of the nonsense being spewed by those on the government side. Quite frankly, they are justifying a complete lack of action; they are justifying their complete ignorance of the needs of pensioners by saying that they are not doing anything else or that the coalition’s proposal is not helping others that are out there. This is a complete furphy. We have proposed some concrete action because this government is ignoring the needs of those who are on fixed incomes—that is, age pensioners specifically on this occasion.

Senator Arbib talked about disability pensioners—of course the coalition wants to help them—but what Senator Arbib is probably not familiar with is the fact that disability pensioners have a range of additional benefits that are not available to age pensioners. The coalition is proposing that we help those who are struggling right now. Let us help age pensioners and then let us move on and assess these other things as we go along. There are two million people in this country who are on the age pension and have been ignored by this government. This government has been fiddling while these pensioners are unable to fill their car with petrol, unable to feed themselves or unable to turn the heater on during a cold winter for fear of not being able to afford it. This is a cold and dark-hearted government. There is no question about that. They have failed Australians.

Mr Rudd, in his lovely manner, went out and promised Australians that he would ease their cost-of-living burdens. He has failed to do it. He has said, ‘We are going to wait and we are going to have one of 150 reviews, and then we will respond to it.’ We cannot believe that because Mr Rudd has pre-empted the results of his reviews whenever it has suited him. He has said, ‘Let’s pay Mr Bracks five-hundred-and-something dollars a day to have a car review but, because we probably will not like what we are going to hear, let’s just introduce a new tax along the way.’ He has said, ‘Let’s have a review of the Northern Territory emergency response’—which this Senate agreed to—but, before we get the results of that, let’s change some things that keep the communities safer.’ He has said, ‘Let’s have a review of solar panel rebates but, before we review that and before we have that final report, let’s just impose a means test.’

This is a government that puts spin above substance every single time, and it is appalling for the members of the government to come in here and try to justify the neglect of two million people who have served this country in so many capacities but are now reliant on the age pension. These people, most of whom have very few assets outside of their family home, are being forced to do things they do not really want to do. They are forced to get reverse equity mortgages, they are forced to go without food and they are forced to stop their entertainment because this government will not find $30 a week—I repeat, $30 a week. I challenge the government to understand how meaningful that sum can be to an age pensioner. They dress it up by saying, ‘We are going to have a review and in 2010, probably, we might be able to do something about it.’ I say, and the coalition says, that is simply not good enough.

We have heard their manufactured excuses and we have heard their justifications that really just demonstrate how callous they are. We have also seen all sorts of other speculation brought into it, such as it cutting a hole in the budget surplus. I am a taxpayer, and the taxpayers I speak to do not mind pensioners getting a better deal. They realise the contribution they have made to this country. But somehow those on the government bench say that, no, a surplus should be accumulated for no worthwhile purpose and, in the meantime, for 15 or 18 months people can go hungry whilst we have $23 billion in the bank. There is something wrong with the priorities of this government, and it is something that strikes to the very heart of why they came into power. They are not in it to help people. They are in power for power’s sake. Mr Rudd has spent his entire life being a bureaucrat, trying to climb the ladder, and now he has finally got there he does not know what to do. (Time expired)

Question agreed to.
Murray-Darling River System

Senator HANSON-YOUNG (South Australia) (3.33 pm)—I move:

That the Senate take note of the answer given by the Special Minister of State (Senator Faulkner) to a question without notice asked by Senator Hanson-Young today relating to the Murray-Darling Basin system.

The Lower Lakes and Coorong are in desperate need of new sources of water as soon as possible, and freshwater flows must be restored by summer if the lower reaches of the Murray have any chance of survival. Despite the common myth that salt water was freely flowing throughout the lakes before the barrages were implemented 70-odd years ago, Lakes Alexandrina and Albert were predominantly fresh water, and while the mighty Murray mouth was kept open by the river flows released into the ocean, saltwater intrusion into the lakes environment was not considered common until at least after 1901, when the water resource development upstream—that is, irrigation—throughout the Murray-Darling Basin was removing significant volumes of water.

Calls to open up the barrages and allow salt water to flow into the freshwater units throughout the Lower Lakes has been widely criticised due to the documented widespread ecological, social and economic impacts that such a move would cause. In particular, concern has been raised around the impact saltwater flooding would have on irrigators, graziers and the tourism sector in the lower reaches of the Murray while they are reliant on the ecosystem services of the lakes as a freshwater ecosystem. Most importantly, we have heard that, while the minister believes that salt water is the inevitable solution to save the lower stretches of the Murray, without significant inflows the environment of the Lower Lakes would progressively increase in salinity, causing an increase in algae, mosquitos and bacteria and essentially making it increasingly more difficult to repair the damage that has already been caused by overallocations of water further upstream.

The best option for preventing this acidification is fresh water. Sea water, which contains sulphate iron—that is, the precursor to sulphuric acid—may simply exacerbate the problem, so it is concerning that the minister for water does not seem to understand the devastating ecological impact that this proposal is set to cause. I note from the minister’s answer earlier today that no risk assessment has been conducted, yet it continues to be the option that is pushed by the minister and her department. If salt water is released, we will likely witness species of fish becoming unable to adapt to the new salinity levels of the lakes and disappearing before our eyes. Other aquatic fauna will also be severely affected by this influx of sea water, which will ultimately have secondary impacts on the food chain.

We have also heard that the flooding of the lakes with salt water may contaminate the groundwater of the Fleurieu Peninsula region through the recharge mechanisms under the lakes. The contamination of groundwater is a significant issue that should not just be swept aside. It will have significant and long-term effects on the freshwater supplies stretching far beyond the edge of Lake Alexandrina and Lake Albert. If the minister needs any other reason not to go down the saltwater flooding option, it is important to understand that if we flood the lakes with salt water we will still require 350 gigalitres of fresh water to dilute the saltwater intake. This is clearly not a silver bullet. Where would we find this 350 gigalitres of fresh water? Where does the minister propose it comes from? Keeping in mind that it is 350 gigalitres of fresh water, if we got that into the lakes system now or before Christmas we could hold the current crisis at bay.

I urge the minister and the Rudd government to commit to conducting a comprehensive risk assessment of the devastating impact saltwater flooding will have on the groundwater of the Fleurieu Peninsula region and ensure that no commitment is made to such an environmentally drastic option until an assessment is conducted. It is simply the most responsible thing to do. Once you let saltwater flows into the lakes, they will be damaged in such a way that they will never be able to fully recover. We are seeing here a policy that is essentially giving the green light to destroying Storm Boy country forever. I once again urge the minister to conduct a risk assessment urgently before continuing to push the barrow of salt water going into the lakes.

Question agreed to.

CLIMATE CHANGE

Return to Order

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.37 pm)—by leave—I would like to make a statement on the Senate order for the production of documents agreed to on 3 September 2008. The order, agreed to on the motion by Senator Milne, relates to the provision of:

... the ‘alternative, more business-friendly formula for providing assistance to trade-exposed, emissions-intensive companies’ circulated to the business community by either the Department of Resources, Energy and Tourism or the office of the Minister for Resources and Energy (Mr Ferguson) ahead of the roundtable meetings on 29 August 2008.

My office has consulted with Mr Ferguson’s office, which in turn has consulted with the Department of Resources, Energy and Tourism. I am advised that the words in the newspaper article quoted but not attributed in the Senate order are a direct reference to the working notes and thoughts prepared by an officer of the Department of Resources, Energy and Tourism. I am advised that the officer provided these working notes to a person in an external organisation in order to
obtain that person’s views. The views in the notes are not those of the minister, his office, the Secretary of the Department of Resources, Energy and Tourism or the department itself. The provision of those notes to a person outside the department was done without the prior knowledge or authority of the minister, his office or the secretary of the department.

I am also advised that the notes had no bearing on or relevance to the industry consultations conducted by Mr Ferguson on 29 August 2008. As such, the notes were not circulated in connection with the industry consultations. The government does not propose to table a document in response to the order on the basis that no document or documents have been brought into existence in the form so described.

Senator MILNE (Tasmania) (3.40 pm)—by leave—I move:

That the Senate take note of the statement.

There were actually two documents requested. One was the document to which the minister has referred and the other was the Wilkins review.

Senator Sherry—No, that was to me—a separate one.

Senator MILNE—Through you, Mr Deputy President, Senator Sherry advises that his is a separate document, so I will just comment on Senator Carr’s explanation in relation to Minister Ferguson. I find it very interesting that, suddenly, what was a report is now the working notes and thoughts of a person in the department to somebody outside the department, and now does not constitute a document that is relevant to the return to order. It would be timely and appropriate for the government to reveal which person working in Minister Ferguson’s office or department thought it was appropriate to be circulating to the business community an alternative view about the emissions trading scheme, the nature of the free permits or otherwise and the targets or anything else pertaining to the government’s green paper.

As we know, the whole point of this—and it is clearly known outside the government—is that Minister Ferguson is doing everything possible to undermine a stringent emissions trading scheme in Australia, and that is, of course, because of his close association with the coal industry and in particular with the Business Council of Australia. We know that they are absolutely opposed to anything rigorous in terms of a target or in reducing greenhouse gas emissions. In fact the Business Council of Australia said that the most they could possibly live with was a 10 per cent reduction on 1990 levels, and of course Professor Garnaut was not even prepared—the government has not responded yet—to force the business community of Australia to their ambit position. An even weaker position was put up in terms of zero, five or a maximum of 10 per cent reduction.

I think it is very interesting to note that the way the government has chosen to get out of releasing this information is to say that it was working notes and thoughts and that it was released by someone in the department or the minister’s office to someone outside of the department without authority. I would hope the government is now going to tell us what action has been taken in relation to that. As the information was circulated in the business community, were they told it was the individual thoughts of one person, that it had no authority and no imprimatur of the minister, the secretary or anyone else? Is it common practice for someone in the department to circulate to the business community an alternative model apart from what the government supposedly wants in its discussions with the business community?

There is someone here clearly seeking to undermine the minister whose position is even slacker than that of the Minister for Climate Change and Water. It seems to me that we have had a greenhouse mafia working in the bureaucracy and in ministerial offices for a very long time. They are still there in the bureaucracy and that is why it would be very interesting to know who in Minister Ferguson’s department is actively undermining the government’s position on emissions trading.

One thing that I would say to the government in relation to this is: yes, you can vote with the opposition in this house to withhold reports such as the Herzfeld report on the pulp mill; yes, you can suddenly decide that a report is not a report but the notes and thoughts of a person inside the department who does not have the imprimatur of the government—and we are going to hear in a minute why we cannot have the Wilkins review, no doubt; and, yes, you can continue to make up reason after reason to keep documents out of the public arena. But once you start on that slippery slope that is the way that you are going to continue. We heard a whole lot of rhetoric when the Prime Minister came to power about more transparency and openness. There is no evidence at all to suggest that that is going to be the case.

Once you get people in departments actively undermining ministers and circulating information to the business community for them to use against the government, it is in everybody’s interest to know whether this is a one-off and what action the government has taken in relation to this matter, and for the government to clarify for the parliament what erroneous information was given to the business community. In other words, the thoughts that were put on paper that undermined the government’s case ought to also be disowned by the government in the context of this debate. It is a most unfortunate set of circumstances. I will be interested to know when we move for other documents to be released whether they are suddenly going to be reinterpreted as the working notes and thoughts of a
person who had no right to be distributing that material.

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.45 pm)—I want to respond to Senator Milne. I have no intention of responding to her political points about Mr Ferguson, as I do not think that they require a response. But in terms of the request for the name of the public servant concerned, I am not in a position to provide that and, frankly, I do not think that it would be appropriate for me to do so. There is no attempt here to withhold information from the Senate. In fact, what I have sought to do, on the advice of Minister Ferguson, is to provide information about the working notes that were provided erroneously by a public servant without authority to one organisation—and one person in that organisation. They have been described equally erroneously by Senator Milne and the Financial Review.

The motion and the statements here today seek to imply that the documents had either the approval or some form of standing either in the department or in the minister’s office. That is just not the case. The officer who produced the working notes provided them, without prior knowledge of his superiors or the minister’s office, to—I repeat—one individual in one organisation to seek their views. This hardly constitutes a circulation to the business community and certainly was not a document being circulated by the minister of the department. I do not think that it is appropriate in these circumstances to provide the name of the officer, even if I did have that information at my disposal.

Question agreed to.

Return to Order

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (3.47 pm)—by leave—I rise to speak in relation to the motion put by Senator Milne pursuant to standing order 164 and passed by the Senate on 3 September 2008. The motion relates to a document entitled The strategic review of climate change policies prepared for the government by Mr Roger Wilkins AO. Unlike in the previous debate, I acknowledge that that document does exist. The document discussed in the previous debate did not exist.

I am advised by the Minister for Finance and Deregulation, who I represent in the Senate, that the purpose of the Wilkins review was to assess the appropriateness, efficiency and effectiveness of the Australian government climate change programs and to develop a set of principles to assist in the assessment of whether climate change programs will complement the Carbon Pollution Reduction Scheme, known as the CPRS. The review has been prepared as an input in developing the government’s climate change policy, including the forthcoming CPRS white paper. There are very important policy matters that require detailed consideration and analysis and which contain matters subject to cabinet consideration. As such, I am advised that the document is protected by cabinet-in-confidence. I wish to also inform the Senate that I am advised that the document in question included advice to ministers to assist in the deliberative processes of government. In accordance with longstanding practice, the review is therefore subject to a claim of public interest immunity.

The government has not come to this decision lightly, as we strongly endorse the open and transparent functioning of our parliament. We come to this position on the basis of extensive precedent, including precedent from the previous government, where advice to government of a similar nature—that is, for the purpose of the government’s deliberative processes—has not been provided on an order of the Senate.

It is prudent to look at several of these precedents. The first, interestingly, relates to a request by me to obtain a report presented to the former government by the Superannuation Working Group in 2002. Senator Troeth, who responded on behalf of the government on that occasion, made the situation very clear when on 29 August 2002 she read by leave a statement by Senator Coonan in which she informed the Senate:

The report has been received by the government and is being examined and considered. The report itself and any measures the government may propose to implement to improve prudential safety of superannuation will be considered by cabinet. At this stage, the report is clearly part of the deliberative process of government.

I accept the need for the Senate to access certain information if it is to perform its proper functions. I understand and believe in the important principles of transparent democracy and accountability. I am also aware of my responsibilities as a minister and the need to consider whether disclosure of information would be contrary to the public interest. There is a balance to be struck which properly addresses the tension between these competing principles.

Having considered these principles and responsibilities in the circumstances at hand, I have determined, on balance, that it is not in the public interest for the Superannuation Working Group report to be laid on the table at this time.

A further example was seen on 11 March 1999, when Senator Ian Macdonald, referring to the Hawk report into Airservices Australia, stated:

The former Minister for Transport and Regional Development, Mr Sharp, instructed the then Department of Transport and Regional Development to prepare the document for the purposes of cabinet deliberation.

It is a document that has underpinned confidential cabinet deliberations and relates to a subject that is still under government consideration. As a result, it would not serve the public interest for me to table the report in the Senate.

Again this highlights the clearest precedents used in this place. Again, on 24 September 2001 former Liberal Government Leader in the Senate, Senator Hill, declined to provide documents on the basis:
The documents are in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded in the course of, or for the purposes of, the deliberative processes involved in the functions of the government whose release would be contrary to the public interest.

Finally, there is a fourth precedent. Let us turn to the very correct advice, I have to say, offered by former Senator Ian Campbell, who said on 28 June 2001:

Disclosure of such documents would discourage the proper provision of advice to ministers. Were the government to disclose such information, it may prejudice the future supply of information from third parties to the Commonwealth.

No truer words by former Senator Ian Campbell. It was very prudent advice he gave to the Senate on that occasion and the government will adhere to the same precedent because his advice on that occasion was sound. It is correct. Although it may now be forgotten by some in this chamber, it is a longstanding Senate practice.

I do wish to take this opportunity to draw the Senate’s attention to the real issues at play in relation to climate change. The Labor government through both the Prime Minister and Senator Wong, the Minister for Climate Change and Water, have from day one been fighting to ensure that the legacy of inaction from the now opposition on climate change is overcome. The government is preparing Australia for the challenges of the future by tackling climate change and securing our water supplies. Australians know that acting now on climate change is the responsible thing to do and we cannot afford to waste any more time. So, for the reasons that I have outlined and for the four precedents over a number of years that I have quoted, the government does not propose to provide this document to the Senate.

Senator MILNE (Tasmania) (3.54 pm)—by leave—I move.

That the Senate take note of the statement.

I think that it is interesting that the government shares a number of precedents because, of course, it is true that for years the Howard government was able to hide various reports from the public and now we are seeing the quid pro quo with this government doing precisely the same thing. Whether or not it is in the public interest, whether cabinet solidarity and confidentiality are more important than the public interest, is the question in debate here today.

The issue is this: there is no more important policy challenge for Australia than responding to climate change. Absolutely, there is not a more important issue for us to get our heads around. The community has been invited to try to engage this issue through the emissions trading scheme. We have had the green paper leading into a white paper; we have had the Garnaut review and any number of other things. But what is not clear is how the government’s policies are in any way internally consistent. I have been pointing this out from day one. You have the Department of Climate Change saying one thing, the department of resources saying an entirely different thing. You have a discussion about fossil fuel subsidies and the Department of Climate Change says that it is not their matter for concern; it is the minister for resources who should be dealing with that. Yet it beggars belief that you can have a policy position which says that we need to reduce emissions while at the same time giving huge subsidies to the fossil fuel sector. You have endless competing initiatives in the federal government which are cancelling one another out. The big debate around the Wilkins review is about the mandatory renewable energy target. We know that Mr Wilkins supports getting rid of the MRET, or at least incorporating it into carbon capture and storage—low-emissions technologies—so actually undermining, in my view, the integrity of the MRET by pushing it out to be a low-emissions technology target to include the fossil fuel sector.

There are a number of other issues that need to be debated and the concern here is: if you want to invite the public to have a genuine debate about climate change, then you should release the document so that the public can have a debate as informed as it possibly can be. Instead of that we have got a situation where we have documents that are not documents—they are working notes and thoughts. We now have documents that are documents that are now cabinet-in-confidence because they play into government policy down the line. Then we have the public consultation process. Why would the public engage the government’s calls for information, discussion and input to various reviews if at the end of those reviews the public cannot actually see what the review said in the context of preparing policy? Rather, what we are seeing is the government hiding that until they have made a decision in cabinet about what they intend to do about it and then they will selectively release or do whatever they choose to do in relation to it. That is the way it is going to go.

So the general public is now on notice that the government, just like the Howard government, will be selective about what they release. They will ask for public comment but have no intention of taking the public into their confidence in the way that the public might have expected from a government that said they were interested in transparency. I have very grave concerns about the decision of the government not to release the Wilkins review. It is completed. It should be out there. The community has a right to see it. The community has asked to engage climate change, asked to engage the emissions trading system, wants to know about the complementary measures that may be necessary and about the internal consistency of a number of the government’s policies. Here we have an issue with the
government putting off any investment in renewable energy for 12 months while putting $500 million into carbon capture and storage. We have a government with draft legislation coming in here absolving the industry of any liability in the long term for carbon dioxide so captured and transferring that to the public.

Here we have a government with $9 billion worth of subsidies to the fossil fuel sector and we have a review which will say, ‘Oh, but we have to have a level playing field for carbon capture and storage,’ whilst pushing the renewables out for years. Here we have a government that delayed the introduction of the green car fund. We want to actually see how all of this fits together. I think the government’s decision is a very clear signal to the community that nothing has changed on the transparency of government front from the Howard government years. As I said before, if you begin this way it is the way you will continue and it will cause problems for the government in the longer term. The community will eventually get hold of the Wilkins review, albeit too late to be able to play into the policy discussion that needs to take place before the government makes its decision—and not be informed after the event of what the Wilkins review had to say about the appropriateness of the government’s climate change policies.

Question agreed to.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Marriage Legislation

To the Honourable the President and Members of the Senate in Federal Parliament assembled:

The petitioners and citizens of Australia draw to the attention of the Senate that

(1) In 2004, the Commonwealth Parliament amended the Marriage Act 1961 to define marriage as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life”.

(2) This reinforced the Biblical norm of heterosexual marriage, which has been the cornerstone of every civilization since the beginning of humanity.

(3) The word ‘marriage’ is thus appropriate only for legally united heterosexual couples, who are able to model dual-parenting that is balanced (providing both father and mother role models), natural (as to male-female physical union), and morally acceptable to God (bringing up children within the marriage bond).*

(4) The establishing of Relationship Registers in the States and Territories will inevitably expand the above definition of marriage (para. 1) into meaninglessness, and so compromise the purpose of the Marriage Act.

Your petitioners therefore pray that, with the powers vested exclusively in the Federal Parliament under Section 51 (xxi and xxii) of the Australian Constitution, you amend the Marriage Act 1961 to invalidate any present or future States’ or Territories’ Relationship Registers.

*Genesis 1:27; Matthew 19:4-6; Leviticus 18:22; Romans 1:18-27 by Senator Ian Macdonald (from 17 citizens)

Petition received.

NOTICES

Presentation

Senator Ellison to move on 16 October 2008:

That the Senate—

(a) notes that:

(i) in 2008, Deepavali will be celebrated on 28 October,

(ii) Deepavali is of great significance to the Hindu, Sikh, Jain and Buddhist community,

(iii) ‘Diwali’ is a shortened version of the Sanskrit term ‘Deepavali’, which means ‘a row of lamps’.

(iv) Diwali is celebrated by lighting small oil lamps called Diyas; which symbolises the lifting of spiritual darkness and the renewal of life, a time to pray for health, knowledge and peace,

(v) Diwali is an annual celebration, falling on the last day of the month in the lunar calendar and is celebrated as a day of thanksgiving and the beginning of a new year for many Hindus, and for Hindus is a celebration of the victory of good over evil,

(vi) for Sikhs, Diwali is feted as the day that the sixth founding Sikh Guru, or revered teacher, Guru Hargobind ji, was released from the ruling Mughal Emperor, and

(vii) for Jains, Diwali marks the anniversary of the attainment of moksha or liberation by Mahavira, the last of the Tirthankaras, who were the great teachers of Jain dharma, at the end of his life in 527 BC,

(viii) in 2008, Deepavali will be celebrated by many Australians including members of Australia’s over 600 000 strong Hindu, Sikh, Jain and Buddhist community,

(ix) the Hindu, Sikh, Jain and Buddhist communities have a long and strong heritage in Australia, beginning in the 19th century, and

(x) today the Hindu, Sikh, Jain and Buddhist communities are strong and vibrant communities that continue to make a significant contribution to Australia’s economic and social prosperity; and

(b) sends its best wishes to all members of our Hindu, Sikh, Jain and Buddhist communities celebrating Deepavali in 2008.

Senator Abetz to move on the next day of sitting:

That the Senate—

(a) congratulates Dr Megan Clark on her appointment as the next Chief Executive Officer (CEO) of the Commonwealth Scientific and Industrial Research Organisation (CSIRO); and

(b) notes:

(i) that the current CEO, Dr Geoff Garrett, will leave his position at the end of 2008 and expresses its
appreciation to Dr Garrett for his selfless service over that time, and
(ii) the importance of the CSIRO to Australia’s innovation future; and
(c) condemns the Rudd Labor Government for cutting $63 million out of the CSIRO’s budget over the forward estimates.

Senator Ludwig to move on the next day of sitting:
That, for the purposes of paragraph 48(1)(a) of the Legislative Instruments Act 2003, the Senate rescinds its resolution of 19 June 2008 disallowing the Health Insurance (Dental Services) Amendment and Repeal Determination 2008, made under subsection 3C(1) of the Health Insurance Act 1973.

Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) gives considered support to legislation for an increase in pensions, in particular an immediate rise of $30 per week for single aged pensions; and
(b) calls on the Government to act on this immediately.

Senator Bob Brown to move on the next day of sitting:
That the Senate calls on the Prime Minister (Mr Rudd), the Deputy Prime Minister (Ms Gillard), the Treasurer (Mr Swan), the Minister for Health and Ageing (Ms Roxon) and the Minister for Finance and Deregulation (Mr Tanner), who have all publicly stated that they could not live on the single aged pension, to explain why they will not immediately increase the single aged pension by $30 per week.

Senators Ellison and Ludwig to move on the next day of sitting:
(1) That the subject of the motion for disallowance of item 16525 in Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007 be referred to the Finance and Public Administration Committee for inquiry and report on and not before 13 November 2008.
(2) That the committee in particular report on:
(a) the terms of item 16525 of Part 3 of Schedule 1 to the Health Insurance (General Medical Services Table) Regulations 2007;
(b) the number of services receiving payments under this item and the cost of these payments;
(c) the basis upon which payments of benefits are made under this item; and
(d) the effects of disallowing this item.

Senator Siewert to move on the next day of sitting:
That the Senate—
(a) notes the threat to the communities and the environment of the Murray-Darling Basin posed by the combined pressures of climate change, extended drought and over-allocation of our limited shared water resources;
(b) welcomes recent measures by some governments and communities of the basin to reduce their dependence on the system or recover and set aside water for environmental needs;
(c) notes the concerns expressed by the Victorian Auditor-General in his analysis of the water savings claimed by the Victorian Government’s Food Bowl Modernisation Project;
(d) condemns the decision by the Minister for the Environment, Heritage and the Arts (Mr Garrett) to give approval to the Sugerloaf Pipeline under the provisions of the Environment Protection and Biodiversity Conservation Act 1999; and
(e) calls on all governments to commit that no new projects or schemes that increase the level of dependence on and the amount of water extracted from the system will be countenanced or approved.

Senator Hurley to move on the next day of sitting:
That the Economics Committee be authorised to hold public meetings during the sittings of the Senate, to take evidence for the committee’s inquiry into Australia’s mandatory Last Resort Home Warranty Insurance scheme, as follows:
(a) Wednesday, 17 September 2008, from 4 pm to 5.30 pm;
(b) Tuesday, 23 September 2008, from 5 pm to 6 pm; and
(c) Wednesday, 24 September 2008, from 5 pm to 6 pm.

Senator WORTLEY (South Australia) (4.01 pm)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that 15 sitting days after today I shall move:
That the Family Assistance (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2008, made under subparagraph 169(1)(a)(i) and paragraph 169(1)(b) of the A New Tax System (Family Assistance) (Administration) Act 1999, be disallowed. [F2008L01977]; and
That the Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2008, made under subparagraph 209(a)(i) and paragraph 209(b) of the Social Security (Administration) Act 1999, be disallowed. [F2008L01976]
I seek leave to incorporate in Hansard a short summary of the matter raised by the committee.

Leave granted.

The document read as follows—

The Determinations specify guidelines for the exercise of the power of the Secretary to the Department of Families, Housing, Community Services and Indigenous Affairs to disclose information in the public interest.

Section 11 in each Determinations permit relevant information to be disclosed if it is necessary to brief a Minister in relation to issues that are, or will be, raised publicly by the person to whom the relevant information relates, so that the Minister can correct, amongst other things, ‘an incorrectly held opinion’. The Committee sought clarification on the intended meaning of this term. The Minister advised that the provision ‘an incorrectly held opinion’ is intended to refer to the situation where opinions are formed on the basis of incorrect information. Given this explanation, the Committee has written to the Minister seeking an amendment to the Guidelines to make this clear by referring to ‘opinions formed on the basis of incorrect information’ rather than ‘incorrectly held opinions’.

Senator BARNETT (Tasmania) (4.02 pm)—A notice of motion has been given today to refer the question of my proposed disallowance motion to a committee. In accordance with discussions that have taken place with whips and other senators, I ask leave of the Senate to have my disallowance motion called on tomorrow immediately after the question of the proposed reference is determined.

Leave granted.

Senator BARNETT—I also indicate to senators that if the reference does go ahead then I will give notice of my intention to withdraw the disallowance motion at that time.

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of the Chair of the Community Affairs Committee (Senator Moore) for today, proposing a reference to the Community Affairs Committee, postponed till 18 September 2008.

General business notice of motion no. 183 standing in the name of Senator Milne for today, proposing the introduction of the Energy Efficiency Opportunities Amendment (Mandatory Implementation) Bill 2008, postponed till 25 September 2008.

LEAVE OF ABSENCE

Senator McEWEN (South Australia) (4.03 pm)—by leave—I move:

That leave of absence be granted to Senator Wong from 15 to 18 September 2008, on account of parliamentary business overseas.

Question agreed to.

COMMITTEES

Community Affairs Committee

Reference

Senator NASH (New South Wales) (4.04 pm)—I ask that business of the Senate notice of motion No. 2 standing in the name of Senator Scullion for today relating to a reference to the Community Affairs Committee be taken as a formal motion.

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

Senator SIEWERT (Western Australia) (4.04 pm)—by leave—I indicate that the Greens will be supporting this motion, with the note that we do realise that this motion will cover areas that are supposed to be covered by the report into the review and the investigation into the Northern Territory emergency response. However, we are not satisfied that the report and review will provide all the detail that will be covered under these terms of reference. If it is, however, seen to be covered then perhaps that will expedite the actual inquiry once the Community Affairs Committee, if this motion is successful, undertakes this inquiry.

The DEPUTY PRESIDENT—There being no objection to the motion being taken as formal, I call Senator Nash.

Senator NASH (New South Wales) (4.05 pm)—At the request of Senator Scullion, I move:

That the following matter be referred to the Community Affairs Committee for inquiry and report by 4 December 2008:

The levels of Federal and Northern Territory Government expenditure on Indigenous affairs and social services in the Northern Territory, including expenditure on services for families, children and people with disabilities in the Northern Territory, with particular reference to:

(a) the level of service delivery and of outcomes achieved in Indigenous communities in the Northern Territory in relation to the expenditure of both Federal and Northern Territory monies; and

(b) whether the Northern Territory Government’s expenditure of goods and services tax receipts accurately reflects the Commonwealth Grants Commission’s funding formula for the expenditure of such receipts by program, by location, and by intended service recipient for meeting disadvantage and regional need.

Question agreed to.

DOCUMENTS

Tabling

The DEPUTY PRESIDENT—Pursuant to standing order 166, I present documents which were presented to the President and Temporary Chairs of Committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised. In accordance with the usual
practice and with the concurrence of the Senate I ask that the government response be incorporated in Hansard.

The list read as follows—


(b) Government document Medibank Private Limited. Statement of corporate intent (received 9 September 2008)

(c) Statements of compliance with Senate orders

1. Statements of compliance with the continuing order of the Senate of 30 May 1996, as amended on 3 December 1998, relating to indexed lists of files: Finance and Deregulation portfolio agencies (received 5 September 2008)

Department of Families, Housing, Community Services and Indigenous Affairs (received 5 September 2008)

National Archives of Australia (received 8 September 2008)

2. Statement of compliance with the continuing order of the Senate of 20 June 2001, as amended on 27 September 2001 and 18 June, 26 June and 4 December 2003, relating to lists of contracts:

Veterans. Affairs portfolio agencies (received 5 September 2008)

The government response read as follows—

Government Response to the Senate Community Affairs Committee’s report
A decent quality of life: Inquiry into the cost of living pressures on older Australians.

INTRODUCTION


The Government understands that cost increases in the essentials like food, petrol, gas and electricity bills are having a significant impact on people on fixed incomes, including age pensioners and other seniors.

Before being elected in November 2007, the Australian Labor Party had growing concerns about claims that many age pensioners have difficulty managing on the base pension rate.

Acting on these concerns, the following matters were referred on 14 June 2007 to the Senate Committee on Community Affairs for inquiry and report:

(a) the cost of living pressures on older Australians, both pensioners and self-funded retirees, including:

(i) the impact of recent movements in the price of essentials, such as petrol and food,

(ii) the costs of running household utilities, such as gas and electricity, and

(iii) the cost of receiving adequate dental care;

(b) the impact of these cost pressures on the living standards of older Australians and their ability to participate in the community;

(c) the impact of these cost pressures on older Australians and their families, including caring for their grandchildren and social isolation;

(d) the adequacy of current tax, superannuation, pension and concession arrangements for older Australians to meet these costs; and

(e) review the impact of Government policies and assistance introduced across all portfolio areas over the past 10 years which have had an impact on the cost of living for older Australians.

After hearing evidence and taking submissions from a wide range of groups and individuals, the Senate Committee on Community Affairs released its comprehensive report on 20 March 2008. It highlights a number of issues relating to the adequacy of assistance for seniors and provides evidence that some groups, such as single women and people who rent, are not faring as well as others. The report provides thought-provoking material and provides a solid basis for further work. Through its recommendations, it clearly identified a range of issues for the Government’s consideration.

In other action before its election, the Australian Labor Party framed a number of election commitments in its “Making Ends Meet” package that would enable increased financial assistance to be delivered quickly to senior Australians.

Since the election, the Government has been implementing its election commitments, including those that provide more support to senior Australians, and also announced measures in the 2008-09 Budget that provide additional support.

All eligible seniors received a $500 bonus payment resulting from the Government’s first Budget. The $500 bonus was paid directly into bank accounts before 30 June 2008.

The Government is paying pensioners an increased Utilities Allowance of $500 a year (singles or couples combined). The first $125 instalment of the increased Utilities Allowance was paid in March and the second payment was made in June 2008.

For the first time the Utilities Allowance has been extended to all recipients of Carer Payment, Disability Support Pension, Widow B Pension, Invalidity Service Pension, Income Support Supplement, Partner Service Pension, Wife Pension and Bereavement Allowance.

Commonwealth Seniors Health Card holders and certain Veterans’ Affairs Gold Card holders have received an increased Seniors Concession Allowance of $500 a year, which is paid in quarterly instalments, in line with the Utilities Allowance.

The Government has increased the Telephone Allowance to $132 a year for those who have the Internet at home. This is available for eligible veterans, income support recipients of age pension age, Commonwealth Seniors Health Card holders and recipients of Carer Payment and Disability Support Pension who have a home Internet connection.

From 20 September 2008, almost four million Australians will receive an increase in their pensions and other income support payments and allowances. Indexation will deliver an increase of $15.30 a fortnight in the maximum single pen-
and $12.70 in the maximum partnered rate for each member of a pensioner couple.

The third instalment (now $128.50) of the increased Utilities Allowance and the Seniors Concession Allowance (now $514 per annum) will also be paid from 20 September.

In addition, the Government has provided extra assistance with dental and aged care costs. It is also working with State and Territory Governments to introduce national reciprocal transport concessions for older Australians with a Seniors Card when interstate. The Commonwealth Government is working with State and Territory Governments to have these concessions in place from 1 January 2009.

The Commonwealth Government also provides substantial income tax relief for eligible senior Australians through the senior Australians tax offset. When the senior Australians tax offset is combined with the low income tax offset, eligible single older Australians can have income up to $25,867 in 2007-08 without paying income tax.

As part of the Government’s plan to reduce income taxes, this has increased to $28,867 for 2008-09, and will increase to $29,867 for 2009-10 and $30,685 in 2010-11.

Similarly a senior Australian who is a member of a couple can earn up to $21,680 in 2007-08 without paying income tax. For 2008-09 this threshold has increased to $24,680 and will increase to $25,680 in 2009-10 and finally to $26,680 in 2010-11.

The Government recognises that housing affordability can be an issue for senior Australians. Through measures such as the National Rental Affordability Scheme (NRAS) and the A Place to Call Home Program, the Government is addressing these challenges. In relation to NRAS, a total of $622.7 million has been allocated for the implementation of the Scheme to create 50,000 new affordable rental dwellings over the next four years (2008 to 2012) for low and moderate income households.

Under the A Place To Call Home initiative the Government will implement its election commitment and spend $150 million over five years to deliver at least 600 additional homes across Australia for families and individuals who are homeless (2008-09 to 2012-13). It is anticipated that older people will benefit from the scheme.

The Government has already implemented a wide variety of measures, which are specifically targeted at helping seniors with cost of living pressures. However, the Government recognises that more needs to be done.

As this year marks the centenary of the introduction of legislation for the Age Pension, it is timely to consider the assistance being provided to senior Australians. The Government is committed to getting this right for the long term.

On 13 May 2008, the Treasurer, the Hon Wayne Swan MP, announced a comprehensive review of Australia’s tax system to create a tax structure that positions Australia to deal with the demographic, social, economic and environmental challenges of the 21st century and enhance Australia’s economic and social outcomes.

The inquiry into Australia’s Future Tax System will consider improvements to the tax and transfer payment system for individuals and working families. This will include consideration of the relationships of the tax system with the transfer payments system and other social support payments, rules and concessions, with a view to improving incentives to work, reducing complexity and maintaining cohesion.

As part of the Review, the head of the Department of Families, Housing, Community Services and Indigenous Affairs, Dr Harmer has been asked to investigate measures that may be adopted to strengthen the financial security of seniors, carers and people with disability. This will include appropriate levels of income support and allowances, including the base rate of the pension, with reference to the stated purpose of the payment; the frequency of payments, including the efficacy of lump sum versus ongoing support; and the structure and payment of concessions or other entitlements that would improve the financial circumstances and security of seniors, carers and people with disability.

In establishing the Review, the Government was cognisant of the Senate Committee’s first three recommendations, which call for a review of the base level of pension, of indexation arrangements and of incentives and initiatives related to superannuation savings.

On 11 August 2008, the Pension Review Background Paper was released. This paper begins to address the terms of reference for the Pension Review. A reference group comprised of representatives from seniors and community groups has been established and a public consultation process is underway to inform the Pension Review.

Finally, the Government recognises that its primary response to tackling climate change — the introduction of the Carbon Pollution Reduction Scheme in 2010 — will have an impact on the cost of living for all Australians.

The introduction of the Carbon Pollution Reduction Scheme will result in changes to a wide range of prices, although the overall increase in the cost of living is expected to be modest. Nonetheless, the Government recognises that even a modest increase in the cost of living impacts on household budgets.

The Government has therefore committed to assist households adjust to the impact of the scheme. Notably, the Government will increase payments, above automatic indexation, to people in receipt of pensioner, carer, senior and allowance benefits and will provide other assistance to meet the overall increase in the cost of living flowing from the scheme. The Government also commits to increase assistance to other low-income households through the tax and payment system to meet the overall increase in the cost in living flowing from the scheme.

The following section provides a response to each of the Committee’s recommendations.

RESPONSE TO RECOMMENDATIONS

The Committee made fifteen recommendations. The Government response to specific recommendations is provided below.

BASE PENSION LEVELS

Recommendation 1

The committee recommends that the Government review the suitability of the base pension levels through economic analyses of amounts required to achieve at least a modest standard of living for retired Australians, with particular consideration given to the adequacy of the percentage rate for single older people receiving the age pension compared to couples. (Chapter 3)
Response

The income support system pays a higher rate to single people than to each member of a couple. This recognises that a single person living alone usually does not have the economies of sharing household expenses commonly experienced by a couple. The single rate is currently 60 per cent of the combined couple rate.

The Government is very concerned to ensure that assistance to older Australians is adequate, and has already taken steps to act on this recommendation. On 15 May 2008, the Government announced that a central element of the Australia’s Future Tax System Review will be an investigation into measures to strengthen the financial security of seniors, carers and people with disability. Dr Jeff Harmer, Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs, will undertake this investigation.

The investigation will examine issues including levels of income support and associated allowances, as well as the frequency and structure of payments and concessions. It will also consider the other issues specifically raised by Recommendation 1.

This work will be supported by a Reference Group of representatives from relevant groups. Dr Harmer will report to the Treasurer and Minister for Families, Housing, Community Services and Indigenous Affairs, through the chair of the Tax Review Panel, by no later than 28 February 2009.

The Government’s election commitments and budget measures provide additional support to older Australians. The Government has already taken the following action.

- Eligible seniors have each received a $500 bonus payment that was paid before 30 June 2008.
- The Utilities Allowance has been increased from $107.20 to $500 a year (singles or couples combined). The first $125 instalment was paid in March. The latest instalment has been paid in the fortnight beginning 20 June 2008.
- The Utilities Allowance has also been extended, for the first time, to all recipients of Carer Payment, Disability Support Pension, Widow B Pension, Invalidity Service Pension, Income Support Supplement, Partner Service Pension, Wife Pension and Bereavement Allowance.
- The Seniors Concession Allowance has also been increased from $218 a year to $500 a year. This benefits Commonwealth Seniors Health Card holders and certain Veterans’ Affairs Gold Card holders. Seniors Concession Allowance is also now paid in quarterly instalments, in line with the Utilities Allowance.
- The Government has increased the Telephone Allowance from $88 to $132 a year for those who have the internet at home. This benefits eligible veterans, income support recipients of age pension age, Commonwealth Seniors Health Card holders and recipients of Carer Payment and Disability Support Pension who have a home internet connection.
- The Government committed to index pensions in line with increases in the Analytical Living Cost Index for Age Pensioner Households produced by the Australian Bureau of Statistics, the Consumer Price Index or 25 per cent of Male Total Average Weekly Earnings, whichever is the greater. Indexation issues will be examined in the context of the Australia’s Future Tax System Review and the associated review of support for seniors.

STANDARDISATION OF INDEXATION

Recommendation 2

The committee recommends that:

(i) the Government review and standardise the indexation methodology of pensions, social security and other government retirement benefits to ensure they maintain their relative levels. In particular, the Government should note limitations highlighted during the inquiry about the use of the Consumer Price Index, as well as other possible indexation mechanisms such as the Australian Bureau of Statistics’ Household Expenditure indexes.

(ii) the review should also address the particular financial disadvantage of single women, many of whom have had a life of broken working patterns and an inability to access superannuation arrangements.

(iii) while the review is undertaken and to ensure immediate relativity, the Government should index Commonwealth funded superannuation benefits and the military pension to Male Total Average Weekly Earnings or the Consumer Price Index, whichever is the higher, as is currently the practice with the age pension. (Chapter 3)

Response

Parts (i) and (ii)

The Government committed to index pensions in line with increases in the Analytical Living Cost Index for Age Pensioner Households produced by the Australian Bureau of Statistics, the Consumer Price Index, or 25 per cent of Male Total Average Weekly Earnings, whichever is the greater.

The issue of indexation links to the adequacy of existing support provided to pensioners, and these issues will also be examined in the context of the investigation by Dr Harmer into measures to strengthen the financial security of seniors.

Part (iii)

On 26 June 2008 the Government announced a review of the pension indexation arrangements in the Australian Government superannuation schemes. The schemes that will be the subject of the review are those Australian Government superannuation schemes, civilian and military, that are indexed to increases in the Consumer Price Index.

Information about the review, including its terms of reference is available at www.finance.gov.au/super.

SUPERANNUATION

Recommendation 3

The committee recommends that the Government continues its review of incentives and initiatives related to superannuation savings, especially aimed at facilitating and encouraging greater savings for older people in vulnerable groups. In particular this review should consider measures that will ensure a reasonable standard of living for older people, especially women, those on below average incomes, those who have lived with long-term chronic illnesses and those whose earning capacity has been greatly limited by their caring responsibilities. (Chapter 3)
Response

The Government assists individuals to achieve their retirement income objectives by providing incentives to save and contribute to superannuation. For example, the Government co-contribution for low income earners matches eligible personal superannuation contributions made by a person at $1.50 for every dollar contributed. For contributions made in the 2008-09 income year the maximum Government co-contribution of $1,500 is payable for individuals on incomes up to $30,342. To qualify, the individual must meet other eligibility criteria.

Australia’s Future Tax System Review will be looking to make recommendations to the Government to ensure that there are appropriate incentives for individuals to save and provide for their future.

The Government recognises that some groups have little opportunity to accrue superannuation savings. In these circumstances, Government benefits play a more significant part in providing a retirement income. As part of the Review, an investigation into measures to strengthen the financial security of seniors, carers and people with disability will be undertaken by Dr Jeff Harmer, Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. The investigation will examine issues including levels of income support and associated supplements, as well as the frequency and structure of payments and concessions.

In addition, on 15 May 2008 the House of Representatives Standing Committee on Family, Housing, Community, and Youth announced a parliamentary inquiry to investigate how carers can be better recognised and supported in their vital role.

The Committee will report on:

- the role and contribution of carers in society and how this should be recognised;
- the barriers to social and economic participation for carers, with a focus on helping carers to find and/or retain employment;
- the practical measures required to better support carers, including key priorities; and
- strategies to assist carers access the same range of opportunities as the wider community, including increasing the capacity for carers to make choices within their caring roles, transition into and out of caring and effectively plan for the future.

The Government has also established a Disability Investment Group which is identifying ways to encourage private investment (including from families) and avenues for new products and services to assist families make financial provision and plan for the future care of a family member with disability.

**REVERSE MORTGAGES**

**Recommendation 4**

The committee recommends that the Government monitor the usage and impact of older people accessing reverse mortgages and other similar products, including their effect on the eligibility of older people for government benefits and pensions. (Chapter 2)
people’s particular circumstances is available by making an appointment with a FIS officer.

**INDIRECT BENEFITS INCLUDING CONCESSIONS AND REBATES**

**Recommendation 5**

In order to increase the capacity of indirect benefits to meet the needs and ameliorate financial stress experienced by older people, the committee recommends that:

(i) the Government review the efficacy of indirect benefits.

(ii) governments at all levels should provide services, subsidies, rebates and concessions for older people which recognise the limited incomes available to this age group and should ensure these indirect benefits are set at a fair and appropriate level and are sufficiently indexed to maintain their real value.

(iii) the financial thresholds for eligibility for indirect benefits, including the Commonwealth Seniors’ Health Card, should also be set at a fair and appropriate level, and be indexed to maintain their relative accessibility.

(iv) in order to achieve greater national uniformity, Commonwealth, State, Territory and Local Governments work together to develop a nationally recognised senior’s card to provide concessions and benefits to eligible older people and to negotiate reciprocal arrangements across jurisdictions with respect to public transport concessions. (Chapter 4)

**Response**

Parts (I), (ii) and (iii)

The Government agrees that the efficacy of indirect benefits should be reviewed. The role and structure of services, subsidies, rebates and concessions impact directly on the adequacy of existing support provided to pensioners and seniors, and will be considered in the course of the investigation by Dr Harmer into measures to strengthen the financial security of seniors, carers and people with disability.

The Government has direct responsibility for some subsidies, rebates and concessions provided to older people. Other subsidies, rebates and concessions are administered by State, Territory and Local Governments and some private organisations. The Commonwealth Government provides funding through a Special Purpose Payment to State and Territory Governments (estimated at $220 million for 2008-09) to assist with the costs of providing core concessions such as utilities, municipal and water rates, public transport and motor vehicle registration to part-rate pensioners with a Pensioner Concession Card.

Eligible older people also receive indirect benefits through aged care subsidies and concessions, the Pharmaceutical Benefits Scheme and the Medicare Safety Net.

**Aged Care Subsidies and Concessions**

The Government subsidises the costs of care for older Australians receiving residential or community aged care. All residential care subsidies were reviewed recently and changed fee and subsidy arrangements were introduced on 20 March 2008. The new means testing arrangements are simpler and fairer, and care subsidies are better matched to the costs of care for residents with complex health care needs.

**Pharmaceutical Benefits Scheme**

Older people who are self-funded retirees and who hold a Pensioner Concession Card, Commonwealth Seniors Health Card, or Health Care Card are currently able to obtain medicines supplied under the Pharmaceutical Benefits Scheme (PBS) at the concessional co-payment of $5.00, compared to $31.30 for the general population. Once reaching the concessional safety net amount of $290.00 (equal to 58 prescriptions) in expenditure on their PBS medicines over a calendar year they are eligible for PBS medicines free of charge for the remainder of that calendar year. Changes to the co-payments and safety net thresholds occur on 1 January each year, based on the Consumer Price Index.

**Medicare Safety Net**

The extended Medicare Safety Net assists Australian families and individuals who have high out-of-pocket costs for out-of-hospital services that are covered by Medicare. Out-of-hospital services include GP and specialist attendances and services provided in private clinics and private emergency departments. Once the relevant annual threshold has been met, Medicare will pay for 80 per cent of any future out-of-pocket costs for out-of-hospital Medicare services, in addition to the Medicare Rebate, for the remainder of the calendar year.

In the 2008 calendar year, eligible families and individuals qualify for the extended Medicare Safety Net when their out-of-pocket costs for eligible services exceed $1,058.70. The Government caters for families and individuals on low incomes through a lower extended Medicare Safety Net threshold. In the 2008 calendar year, people who hold a Pensioner Concession Card, a Health Care Card or a Commonwealth Seniors Health Card or families who are paid Family Tax Benefit (Part A) payments are eligible for a lower safety net threshold of $529.30.

There are no current plans to change the way the extended Medicare Safety Net operates. However, the Health Legislation Amendment (Medicare) Act 2004 requires that a review of the operation, effectiveness and implications of the extended Medicare Safety Net be conducted. It is anticipated that this review will be completed in 2008.

**Utilities Allowance and Seniors Concession Allowance**

In addition to indirect benefits, the Government is providing some direct benefits to senior Australians. The Government is providing $5.1 billion over five years to increase the rate of the Utilities Allowance and to extend the allowance to a range of pension recipients, including all recipients of Carer Payment, Disability Support Pension, Widow B Pension, Invalidity Service Pension, Income Support Supplement, Partner Service Pension, Wife Pension and Bereavement Allowance.

The Government will provide $324.4 million over five years (including $40.5 million in 2007-08) to increase the rate of the Seniors Concession Allowance. These measures deliver on the Government’s election commitment.

Part (iv)

The Government accepts the recommendation to negotiate reciprocal transport concessions for Seniors Card holders. The Government has committed to negotiating with State
and Territory Governments to achieve reciprocal concessions for State Seniors Card holders who access public transport services outside their home state. In the 2008-09 Budget, $50 million was provided over four years to implement this plan from 1 January 2009.

Seniors Cards are issued by State and Territory Governments to their residents who are generally aged over 60 and no longer working full time. In general, Seniors Cards provide concessions on services funded by the States and Territories and are therefore aimed at State and Territory residents. (For example, Seniors Cards may provide concessions on motor vehicle registration and dog registration). Many benefits available to State Seniors Card holders are offered by the private sector, including dining and entertainment or financial products. The private sector offers these concessions at its own discretion.

The Commonwealth Government would support any moves by State or Territory Governments or private service providers to offer discounts to people moving between jurisdictions.

### RESIDENTIAL AGED CARE

#### Recommendation 6

The committee recommends that the Government review the access and funding arrangements for concession residents in residential aged care facilities under the hardship provisions of the Aged Care Act 1997. In particular, it should determine the amount required to finance basic needs such as pharmaceuticals — including medication not covered under the Pharmaceutical Benefits Scheme — clothing, toiletries, and some discretionary spending to allow necessary social participation and at least a decent quality of life. (Chapter 6)

**Response**

Much has recently been done in the area of residential aged care fees.

Basic daily fees for residential aged care are set at the equivalent of 85 per cent of the single Age Pension. A resident with income greater than the Age Pension may also be requested to pay income-tested fees. The intention is to leave residents with at least the equivalent of 15 per cent of the Age Pension for discretionary spending on such items as clothing, toiletries and medication not covered under the Pharmaceutical Benefits Scheme.

The financial hardship assistance provisions of the Aged Care Act 1997 allow residents who are experiencing financial difficulties due to circumstances outside of their control, to pay a lesser amount in fees. The financial hardship provisions are flexible ensuring that each resident’s particular financial situation is taken into consideration. Since 20 March 2008, the Government is paying higher accommodation subsidies for new residents with few assets. This increase means fewer residents will need to apply for hardship assistance.

#### Recommendation 7

The committee recommends the Government review the disparity in the fees paid by those people entering residential aged care requiring high level care and those requiring low care to ensure that all people in residential aged care are treated equitably. (Chapter 6)

**Response**

All residential care fees and charges were reviewed prior to the changes which came into effect on 20 March 2008.

### HOUSING

#### Recommendation 8

The committee recommends that the Government review current arrangements, incentives and initiatives related to the housing of older people and develop a strategy to ensure a diversity of affordable housing options for older people. This strategy should include the availability of public housing, an enhancement of the capacity of housing associations, local government, religious groups, community organisations and the private sector to assist older people.

In particular, the review should consider initiatives that would improve the situation of those in the most vulnerable economic situations — such as the adequacy of rental assistance for pension recipients in private rental accommodation — and ensure that subsidies and rental assistance are adequate to cope with rental cost increases and allow access to affordable and appropriate housing. (Chapter 6)

**Response**

The Government recognises housing affordability and homelessness are a major issue for many Australians including older Australians. An additional $2.2 billion was committed in the 2008-09 Budget to address housing affordability and homelessness and the Government is currently developing a White Paper to provide a longer term plan to address homelessness.

Through the Council of Australian Governments (COAL), a new National Affordable Housing Agreement is being negotiated with the States and Territories, to commence in 2009. The new Agreement will encompass housing assistance provided at all levels of government — including all programs funded by State and Territory Governments through the Commonwealth-State Housing Agreement, the Supported Accommodation Assistance Program and Commonwealth Rent Assistance.

It will improve the ability of all governments to deliver affordable housing for low and moderate income earners.

The roles and responsibilities of each level of government will be clearer and there will be greater accountability for outcomes at each level of government — the Commonwealth, States and Territories and Local Governments. The integration of these programs will improve the coordination of housing and support services for residents of social housing.

Through the National Rental Affordability Scheme (NRAS) the Commonwealth Government will provide incentives for private institutional investors to construct 50,000 affordable rental properties for low and moderate income earners.

NRAS will increase the supply of affordable rental housing by offering a financial incentive to investors to establish new dwellings and to rent them to eligible low and moderate income households at 20 per cent below the market rate of rent for a period of 10 years. The dwellings must be managed by an appropriate tenancy manager which will be required to ensure dwellings are rented to eligible tenants only. Older Australians on low to moderate incomes who are in need of rental housing are one of the groups expected to benefit from this Scheme. Tenants in receipt of Commonwealth Rent Assistance will be able to retain this allowance.

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**Monday, 15 September 2008**

**SENATE**

**CHAMBER**
The Government has allocated a total of $622.7 million for the implementation of the Scheme to create 50,000 new affordable rental dwellings over the next four years (2008 to 2012). The Scheme is being implemented in partnership with the State and Territory Governments, which are co-contributors to the National Rental Incentive. The Commonwealth contribution to the Incentive is $6,000 (paid either as a tax offset or cash grant) and the State/Territory contribution is $2,000 (paid as either cash or in-kind). If the Scheme proves successful and demand remains strong, the Commonwealth Government has indicated it will allocate a further 50,000 incentives from 2012-2017 in partnership with the State and Territory Governments.

On Thursday 24 July, the Treasurer the Hon Wayne Swan MP and the Minister for Housing the Hon Tanya Plibersek MP, launched the National Rental Affordability Scheme and announced the first call for applications for dwellings which will be available for rent in 2008-09 and 2009-10. Applicants will be required to demonstrate the need for their proposal, including the locations proposed, number and type of dwellings and expected tenant profiles.

Housing costs and assistance provided for these costs has an impact on the adequacy of pension payments. Housing support for seniors will be a consideration of the investigation by Dr Harmer into measures to strengthen the financial security of seniors.

Under the A Place To Call Home initiative the Government will implement its election commitment and spend $150 million over five years to deliver at least 600 additional homes across Australia for families and individuals who are homeless (2008-09 to 2012-13). It is anticipated that older people will benefit from the scheme.

The Commonwealth Government will also monitor the levels of homelessness among older Australians to ensure that new initiatives in the housing and homelessness area result in decreases in homelessness among this age cohort.

DENTAL CARE

Recommendation 9

The committee recommends that the Government consider the appropriateness of current dental care arrangements for older people. The consideration should involve engagement with the State and Territory Governments and aim to introduce measures to increase access to adequate dental care and include a cost-benefits analysis of the impact of inadequate access to dental care on other aspects of the health care system. (Chapter 5)

Response

In keeping with its election commitment, the Government’s new Commonwealth Dental Health Program will provide $290 million over three years from 2008-09 to the States and Territories. The Commonwealth, State and Territory Governments are working together to improve the standard of oral health in Australia and this program will help reduce the number of people waiting for public dental treatment by providing up to one million additional services. The Commonwealth Dental Health Program will also provide priority services to people with chronic diseases affected by poor oral health.

VOLUNTEERS

Recommendation 10

The committee recommends that the Government consider and make recommendations to encourage greater participation in the labour market among people to improve the quality of life of their retirement, contribute to the economy’s productivity and reduce the strain on the Government’s social security budget. (Chapter 7)

Response

The Government agrees with the committee’s recommendation.

The Australia’s Future Tax System Review will examine and make recommendations to enhance economic, social and environmental wellbeing, with a particular focus on ensuring appropriate incentives for workforce participation and skill formation as well as other matters. The Review will consider, among other things, improvements to the tax and transfer payment system for individuals and working families, including those for retirees.

This recommendation should also be considered in the context of the range of initiatives that already exist to encourage participation by older Australians. Such incentives include tax free superannuation benefits paid from a taxed source to individuals over the age of 60, the Pension Bonus Scheme, tax offsets currently accessible by older Australians and the income test taper rate on earned income under the social security means test.

As announced in the 2008-09 Budget, when combined with the increases to the low income tax offset, the income thresholds for senior Australians eligible for the senior Australians tax offset (SATO) will be lifted to $28,867 (up from $25,867) for singles and $24,680 (up from $21,680) for each member of a couple. By 2010-11, the income levels will be $30,685 for singles and $26,680 for each member of a couple. This will provide incentives for older workers to participate in the workforce.
This recommendation is also addressed in part by the Government’s commitment to ensure that mature age Australians receive assistance to take up employment opportunities.

As part of its Skilling Australia for the Future initiative, the Government recognises the importance of nationally endorsed training in assisting job seekers to acquire skills and gain lasting employment and assisting existing workers to update or upgrade their skills.

The Government has allocated funds for 630,000 training places over five years to ensure that Australians develop the skills that industry needs. The training places are delivered in an industry-driven system, ensuring that training is more responsive to the needs of enterprises and individuals. The training places are now available as part of the Productivity Places Program.

Of the total additional vocational education and training places funds over the next five years, more than 238,000 are allocated to people who are outside the workforce. A further 392,000 places will provide improved qualifications and skills for people who are employed but who need to update or upgrade their skills.

The program commenced in April 2008, with 20,000 places available for people outside the workforce (job seekers). Phase II of the program commenced on 1 July 2008, with an additional 22,000 places made available for jobseekers.

The program will also be expanded to provide training for those in the existing workforce. Arrangements are currently being finalised with each State and Territory.

There is no age cap on the Productivity Places Program which ensures that older Australians can have access to the training places available under the program.

More information is available at www.productivityplaces.deewr.gov.au

SAME-SEX COUPLES

Recommendation 12

The committee recommends that the Government amend the Aged Care Act, Commonwealth supported superannuation schemes, taxation measures and other relevant Commonwealth legislation and mechanisms to remove any actual or potential discrimination against same-sex couples. This should ensure such couples experience identical opportunities to heterosexual couples in achieving quality of life in retirement, meeting cost of living pressures and enjoying retirement benefits.

(Chapter 6)

Response

The Government agrees with this recommendation.

Acting on its election commitment, the Government is removing discrimination against same-sex couples in Commonwealth laws. Following these reforms, same-sex relationships will be treated in the same way that opposite sex de facto relationships are treated for the purposes of Commonwealth entitlements and programs, except in relation to certain issues under family law. The general areas of laws that will be reformed are taxation, superannuation, social security, health, aged care, veterans’ entitlements, workers’ compensation, employment entitlements, immigration and other areas of Commonwealth administration.

The Same-Sex Relationships (Equal Treatment in Commonwealth Laws —Superannuation) Bill 2008 was introduced into the House of Representatives on 28 May 2008. It is designed to remove discrimination against same-sex couples from government defined benefit superannuation schemes. Legislation implementing further reforms will be introduced in the Spring sittings. All of the changes are expected to be implemented by mid-2009.

FINANCIAL ADVICE AND OTHER INFORMATION

Recommendation 13

The committee recommends that the Government review the range of financial advisory options for older people, including those planning for retirement, and enhance information programs that aim to inform and educate older people about their entitlements and ways to manage and maximise personal finances.

Response

The Government agrees with the Committee’s recommendation.

The Centrelink Financial Information Service continues its important role of providing financial information and education to help people take control of their finances and actively plan for their retirement.

The 2008-09 Budget provided $20 million over four years for increased financial counselling to assist people in managing their finances. Funding for the Commonwealth Financial Counselling program will be increased by $10 million over four years, doubling the size of the program. In addition, $10 million will be provided over four years to develop and distribute easy to understand and practical financial management information products through Centrelink’s Financial Information Service and other providers of financial information and counselling.

There is already related work underway in both FaHCSIA and Centrelink to review approaches to financial management.

Centrelink’s Financial Information Service and the National Information Centre on Retirement Investments (NICRI) provide public financial information to a broad section of the community.

FaHCSIA in partnership with other agencies has contributed to the development of a number of resources aimed at improving the financial literacy education of women. For example:

- in association with women’s groups, it provided advice to the Financial Literacy Foundation, which developed a series of information sheets about a range of money management issues, including superannuation;
- in partnership with the Australian Taxation Office, it has developed a brochure to deliver superannuation messages on topics that are relevant to women under 40 years of age; and
- the Commonwealth, States, Territories and New Zealand Ministers’ Conference on the Status of Women has prepared a summary guide to assist community organisations and financial institutions and policy makers to develop information that is specifically targeted to women during their key life-stages.
On a community level, the Government recognises the importance of financial literacy as a life skill that assists individuals and families to secure their financial wellbeing and plan for the future. Further to a 2008-09 Budget decision, the Australian Securities and Investments Commission (ASIC) has been responsible for delivering the Government’s financial literacy response from 1 July 2008. ASIC will deliver the response within the framework of a consolidated national financial literacy strategy. The financial literacy needs of particular population groups, including older Australians, will be considered in developing the strategy.

On the individual level, the Government’s policy regarding financial services includes ensuring that older Australians are provided with adequate financial information in making superannuation fund choices. The Government considers that it is essential that older Australians are able to choose the superannuation product that best suits their individual needs and circumstances.

As a major reform initiative, the Government aims to make the information provided to superannuation products purchasers simpler by making these documents shorter, less complex and easier to understand. With this in mind, on 5 February 2008, the Government announced the formation of a tripartite working group, the Financial Services Working Group (Working Group). The Working Group, comprising officials from Treasury, the Australian Securities and Investments Commission and the Department of Finance and Deregulation, will examine the key issues associated with the length and complexity of financial services disclosure documents. It will look to develop solutions that provide all consumers, including older Australians with documents that are effective for investment decision making.

The Working Group will also be examining barriers to the provision of superannuation infra-product advice, with a view to improving access to this advice. The Government is keen to give consumers the best tools possible to help them make informed decisions about their financial futures. Advice which assists investors to make informed decisions about their investment in a superannuation fund is of paramount importance. In particular, once an investor has made a decision with regard to the superannuation fund they are comfortable with, it is important that their investment in that fund works in the best possible way for them. The Government considers that this reform will be of particular benefit to older Australians who have significant levels of savings invested in superannuation products.

FINANCIAL INSTITUTIONS, BUSINESS AND OTHER PROFESSIONAL SERVICES

Recommendation 14

The committee recommends that the Government encourage financial institutions, businesses and other professional services structure their customer services, fees and penalties to take into account the position of pensioners and other older people with limited capacity to pay and, wherever possible, assist them to take advantage of low-fee plans and options.

Response

The Commonwealth Government agrees with this recommendation. The Government supports industry initiatives to take into account the position of pensioners and other older people with limited capacity to pay service fees and penalties. The Government also acknowledges that financial institutions have already undertaken extensive work to address this issue, with many financial institutions already providing special accounts with low charges or no fees for pensioners.

KINSHIP CARE

Recommendation 15

The committee recommends that:

(i) the Government investigate the circumstances of grandparent carers, with particular concern for the type and level of support available to those taking on the role of primary carer through both formal adoption and informal kinship care;

(ii) governments at all levels increase the level of support and respite available to older Australians undertaking kinship care, particularly for those taking on the role of primary carer to younger children.

(Chapter 6)

Response

The Government is developing a national child protection framework by the end of 2008.

The development of the framework is being guided by consultation with appropriate stakeholders including State and Territory Governments, peak organisations and non-government organisations working with children, families, and out-of-home care systems as well as grandparent carers and foster carers. Consideration is being given to the circumstances of grandparents and other relative carers taking on the role of primary care for children.

Practical measures being considered for inclusion in the framework include:

- making better use of Commonwealth levers, including income and family payments;
- better integrating the different parts of the child protection system - both within and across jurisdictions and the non-government sector;
- developing common national standards and measures of performance;
- addressing workforce problems and shortages;
- improving the system for indigenous children, and support the Government’s measures to “close the gap”; and
- improving the out of home care system and the support provided to young people transitioning from care.

It is envisaged that grandparent carers and other forms of out-of-home care will be a key area of focus for the framework.

FaHCSIA is a partner agency in the research led by Professor Bettina Cass of the Social Policy Research Centre at the University of NSW to investigate the needs and special circumstances of both formal and informal grandparent carer families in Australia. This research is expected to provide reliable evidence on which to base future policy and service delivery decisions for this group. This three-year project is expected to finish in 2011.

The Government provides financial support, including pensions and benefits that are the main source of income for many grandparents raising grandchildren.

Grandparent and other relative carers are eligible for the same family assistance and other payments as parents or...
foster carers. This includes Family Tax Benefit and Parenting Payment. In addition, grandparent carers can get concession card coverage for their grandchildren via one of a number of different types of concession cards (e.g. the grandparent’s Pensioner Concession Card, or a foster child Health Care Card).

On 15 May 2008 the House of Representatives Standing Committee on Family, Housing, Community, and Youth announced a parliamentary inquiry to investigate how carers can be better recognised and supported in their vital role.

Over the course of this year, the Committee will look at the many challenges facing carers and provide recommendations on the practical measures required to better support carers. It will also look at the specific needs of groups within the caring population including new carers, younger carers, older carers, Indigenous carers and those with multiple care responsibilities, including grandparent carers caring for a child with disability.

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS LEGISLATION AMENDMENT (SCHOOLING REQUIREMENTS) BILL 2008

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2008

First Reading

Bills received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.07 pm)—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.

Second Reading

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (4.08 pm)—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—

SOCIAL SECURITY AND VETERANS’ ENTITLEMENTS LEGISLATION AMENDMENT (SCHOOLING REQUIREMENTS) BILL 2008


The Bill responds to the community expectation that parents should take reasonable steps to fulfil their parental responsibilities, including giving their best efforts to ensure their children are attending school. Attendance at school is one of the principal indicators for school achievement, and students who are regularly absent from school are those at greatest risk of dropping out of school early, becoming long-term unemployed, dependent on welfare and being involved in the criminal justice system.

ABS data suggests that nationally up to 20,000 children of compulsory school age are not enrolled in school or registered for home-schooling according to state/territory law. The Bill aims to engender behavioural change in those parents who are reluctant to encourage their children to participate in school; by making the receipt of income support payments conditional on parents taking reasonable action to ensure their children are enrolled in school and attending regularly.

The majority of parents do the right thing by enrolling their children in school and endeavouring to support their children’s attendance at school. The measure acknowledges the efforts of these parents by placing a minimal impost on them. Parents with children of compulsory school age who are affected by the measure will need to provide Centrelink with details about their child’s school enrolment. This will generally be verbal information that can be provided as part of the parents’ routine reporting to Centrelink.

Consistent with current responsibilities, state education authorities and non-government schools will be responsible for monitoring school attendance. In those cases where children have unsatisfactory school attendance and their parents do not take reasonable steps to work with the school to address the situation, the education authority or school can choose to notify Centrelink. Centrelink will attempt to engage those parents who are in receipt of income support, alerting them to their responsibilities and offering assistance to help them overcome any barriers that may be impacting on their ability to satisfy the requirements of the school. Centrelink will draw on the expertise of their social workers in dealing with parents who may be experiencing particular difficulties.

The Bill acknowledges that some children, particularly young adults, do not have satisfactory school attendance despite concerted actions by parents to encourage regular school participation. Under the measure, parents who are taking reasonable steps to ensure their children attend school will be considered to be satisfying their requirements.

For those few parents who persistently refuse to enrol their children in school or support their children to attend school, the Bill provides Centrelink with the ability to suspend income support payments until parents meet their requirements. Suspension of payments would only be used as a last resort following repeated attempts to engage a parent over a considerable time period and would only be applied in those cases where a parent has not provided a reasonable excuse or there are other special circumstances accounting for their inability to comply.

Once a suspension period commences, parents will have at least a further 13 weeks to meet their requirements in relation to the schooling of their children. If they comply within
from the Convention include:

existing tax treaty arrangements with Japan. Key outcomes

Responding to the needs of both Australian and Japanese

market for more than 40 years.

investment abroad while also being Australia’s

perspective, Japan is the fourth largest destination of Australian

Convention underlines the strength of the modern and so-

treaty.

Bill will insert the text of the new Convention into the Inter-

existing tax treaty that has been in place since 1969. This

Japan, was signed in Tokyo on 31 January 2008. It replaces

hance the bilateral tax arrangements between Australia and

The new Convention, which will modernise and en-

This Bill gives the force of law to a new tax treaty with Ja-

INTERNATIONAL TAX AGREEMENTS AMENDMENT

BILL (No. 1) 2008

This Bill gives the force of law to a new tax treaty with Ja-

The new Convention, which will modernise and en-

in Tokyo on 31 January 2008. It replaces

Japan, was signed in Tokyo on 31 January 2008. It replaces

bill into the International Tax Agreements Act 1953 and repeal the existing

treaty.

Tax treaties facilitate trade and investment by minimising tax

bargains between treaty partner countries. The importance of
tax treaties is magnified where the economic relationship is

as significant as that between Australia and Japan. The new

Convention underlines the strength of the modern and so-

sophisticated bilateral ties between the two countries.

Japan is Australia’s third largest investor. Direct investment by Japan continues to play a key role in the development of

many Australian industries, including export industries such

as car manufacturing and natural resource development ac-

tivities that have driven Australia’s export performance.

Australia is now one of the largest recipients of offshore investment by Japanese mutual funds. From Australia’s per-

spective, Japan is the fourth largest destination of Australian

investment abroad while also being Australia’s largest export

market for more than 40 years.

Responding to the needs of both Australian and Japanese

business, the new Convention comprehensively updates the

existing tax treaty arrangements with Japan. Key outcomes

from the Convention include:

- lower withholding taxes on dividend and royalty pay-

- specified interest withholding tax exemptions that will

- broadly aligning capital gains tax treatment with inter-

The treaty also ensures Australia’s revenue base is appropri-

ate protected by:

- preserving taxing rights over income from real property

- enhancing information exchange provisions which allow

Public submissions received as part of the review of Austra-

lia’s tax treaty program and policy announced by the Gov-

ernment earlier this year strongly supported the outcomes of

this Convention. The new Convention will enter into force

30 days after both countries advise that they have completed

their domestic requirements which, in the case of Australia,

includes enactment of this Bill.

The treaty has been considered by the Joint Standing Com-

mittee on Treaties, which has recommended that binding

treaty action be taken.

Full details of the amendments brought forward in this Bill

are contained in the explanatory memorandum.

Ordered that further consideration of the second

reading of these bills be adjourned to the first sitting
day of the next period of sittings, in accordance with

standing order 111.

Ordered that the bills be listed on the Notice Paper

as separate orders of the day.

BUSINESS

Rearrangement

Senator McEWEN (South Australia) (4.09 pm)—

by leave—I move:

That the time for the presentation of the report of the En-

vironment, Communications and the Arts Committee on the

Great Barrier Reef Marine Park and Other Legislation

Amendment Bill 2008 be postponed to a later hour of the
day.

Question agreed to.

TAX LAWS AMENDMENT (MEDICARE LEVY

SURCHARGE THRESHOLDS) BILL 2008

Second Reading

Debate resumed.

Senator BIRMINGHAM (South Australia) (4.09 pm)—I am pleased to make a contribution to the im-

portant issue of the Tax Laws Amendment (Medicare

Levy Surcharge Thresholds) Bill 2008. At the outset, it

is important to note the underlying strength of Austra-

lia’s healthcare system. We do indeed live in a lucky

country and it is often easy to forget that and, occa-

sionally, it is easy on this side of the chamber for those
of us who are not in government to overlook the strengths of our healthcare system. Australians enjoy ready access to health care that is in most instances of a very high standard. It is of a standard that people around the world would wish to be able to access. Certainly, if you ask many Australians where else in the world they would rather go, they struggle to name somewhere with a comparable standard of health care.

We are not without our problems. We regularly see tragic and terrible stories of a lack of access, of waiting lists, of problems in public hospitals in particular and of unfortunate instances of malpractice. These rightly concern the public, because whilst we have a great system we should always be striving for that great system to be even better—to be a system that the world continues to look to with great envy. And the world does look to the Australian healthcare system with great envy because we have been a nation that, in recent times in particular, has sought to get the balance of how we deliver a world-class health system right.

We deliver it by ensuring that we cater for the mix of needs—that we cater for those who are less fortunate in society and that we have a strong safety net in our healthcare system, as we do in our social welfare system, which ensures ready access to people who could otherwise not afford it. That is the strength of Medicare and of our public hospitals system: being there to support those who otherwise may not be able to access it.

But we also strive to get the balance right here in Australia because we support and have supported and have worked to develop a private system that runs in tandem with and is complementary to the public system of health care. It is a private system that ensures that those who can afford to pay that little bit more not only choose to do so but are encouraged to do so. In doing so, they make a greater contribution towards their own healthcare costs and ease the burden and the requirements on the public health system.

Regrettably, this is a bill that harms that system. This bill hurts the private system and in doing so it hurts the public system. It knocks out of balance what we have sought in Australia to build up over many years—and particularly what the former government sought to build up. Upon coming to office in 1996, the former government recognised that, although Medicare was important and was operating strongly, there was scope to improve both Medicare and, in particular, our private healthcare system. We worked on Medicare through the course of our period in government to improve it by introducing the Medicare safety net as time went on. We ensured, of course, that we were a true and good friend to Medicare and that we supported those who needed support—those who were less fortunate in society and faced higher medical costs.

But we also worked very hard to develop and strengthen the private health insurance industry. We did that through a multifaceted approach. We recognised that there had to be, if you like, carrots and sticks applied to ensure that those who could afford to be in the private healthcare system had every incentive to do so and every support to do so. There was a mix of measures. We introduced the 30 per cent rebate on private health insurance, which has been grasped by many Australians and is seen by so many people as being the difference between keeping private health insurance and not keeping it.

For older Australians in particular—for whom it was a matter of balance, of juggling their budgets, but who held on to their private health insurance because they value the choice of doctor and the safety in the knowledge that they will be able to get a hospital bed or the treatment they seek when required—the 30 per cent rebate has been a critical component in ensuring the right balance between private and public health care in Australia.

We introduced lifetime coverage to ensure that there was an incentive, particularly for younger Australians, people, dare I say it, of my generation, to think about taking out private health insurance earlier in their lives and maintaining it throughout their lives. This was a recognition that a private healthcare system purely made up of older Australians would be an unsustainable private healthcare system. We need the spread of ages encouraged into the marketplace, incentivised into the private healthcare system. Consequently, lifetime coverage does that. It makes younger people think about it, it makes them consider making the choice and it has been one of the three key factors in our success.

The third was the Medicare levy surcharge. The third, if you like, was the stick. We had the carrot. The carrot, of course, was the 30 per cent rebate. We had some practical measures, but we also had a threshold—the Medicare levy surcharge that comes in at a threshold of income. That is important as well. It is important to make sure that we recognise that society says, ‘Actually, just as we have a progressive tax system that recognises that those who earn more contribute more in taxation, those who are a little bit wealthier in society should be encouraged to contribute a bit more towards their healthcare needs, to play a role in supporting the balance—

Senator McLucas interjecting—

Senator BIRMINGHAM—Senator McLucas, of private and public health care.’ And so we had these three pillars. From that, we saw great, strong growth in private health insurance over the years the previous government were in office.

Some 44.6 per cent of the population are covered by private hospital coverage, according to the Private Health Insurance Administration Council. That is
nearly 9½ million Australians who are covered and who recognise, through the mix of incentives and encouragement to get people supporting private health care, the need to make that contribution. That is a vast number of Australians who see the need for balance and who are contributing to that balance in our system between private and public treatments.

Along came the budget this year and, out of the blue, as was the case with so many aspects of budget announcements, the government announced that they were going to lift the threshold on the Medicare levy surcharge from $50,000 to $100,000 for singles, and from $100,000 to $150,000 for families. When the government introduced this, did they say that these figures are simply indexed from the time of the introduction of the surcharge? No, they did not. As for many of their budget measures, they plucked the figures and the measure effectively out of thin air. They picked nice, round numbers. That is perhaps the justification they used. They were nice, round numbers, but that is the full extent of their rationale it seems for the figures they chose. Just as the government chose to introduce an increase in the luxury car tax, just as they chose to whack a tax on condensates, all of these measures were plucked out of thin air and were undertaken with zero consultation with industry or the affected parties. All of these measures have a punitive effect on the industries involved and the government just charged ahead without any consideration and without any sound rationale applied to the decisions they made and to the figures in particular that they advocated.

You might think that, because this is a surcharge on the Medicare levy, the government’s move will cost them money. That might be what you think. The government have indeed tried to argue that this is somehow a tax relief measure for families. But, in reality, the government presented their budget figures and claimed it as a saving. They claimed it as a saving because they are budgeting on a whole lot of people not taking out private health insurance and therefore the government not having to part with the 30 per cent rebate for that private health insurance. So they know full well going into this measure that it is going to drive people out of the private health insurance industry and they treat it, therefore, as a savings measure.

Is it a savings measure? Of course it is not a savings measure if you consider the overall net impact on the healthcare system of Australia. It is not a savings measure because it is a cost-shifting measure. It moves costs from the private sector over to the public sector. From the government’s perspective, they are looking at it and saying, ‘It is not a direct cost to us because the states pick up the tab for public hospitals.’ So whilst it may help to prop up a little bit more the budget bottom line and the surplus that Mr Swan, Mr Rudd, Senator Conroy and others like to spend so much time talking about—the surplus that they, of course, inherited from the previous government—it is actually not a saving for the country but in fact a higher cost to the country.

It is a higher cost because Australians will need the same amount of Medicare, the same amount of health treatment and the same number of hospital admissions, but they will be looking through the solely taxpayer-funded system of the public health sector to provide it rather than chipping in their bit and going into the private health care system. It is broadly recognised that it will cost the states more. Not all of the Labor states had the courage to admit it, but I am pretty sure they all recognise that this is a cost-shifting measure that they will have to recoup. Indeed, the outgoing Western Australian Minister for Health, Mr Jim McGinty—who I am very pleased to see will no longer be the West Australian Minister for Health, and I note how happy my colleague Senator Cormann is about the change of government in his home state of Western Australia—was at least honest enough as a Labor minister to note: ..the real problem I think for our state hospitals is one of capacity. So even if compensation is paid, will we be able to find the extra operating theatres, the surgeons, the anaesthetists, the nurses, the beds in the state hospital system to be able to accommodate a significant increase in the number of people wanting elective surgery?

That was the hypothetical question he posed. Firstly, even if you accept that compensatory funding will be provided to the states, do they even have the capacity to meet this influx of extra people? Of course, the answer is no, not without massive additional investment in hospital infrastructure and in the health care systems of the public sector because, no doubt about it, this will shift large numbers of people into that sector. They do not have the capacity and, of course, they do not have the funding commitments.

My South Australian colleague the shadow minister for health in South Australia and deputy opposition leader Vicki Chapman has made strong pleas for our state Labor government in South Australia to have the courage to at least stand up and demand extra funds from the Commonwealth if this measure is to go through. She recognises that it is going to cost more. The fact that the state health minister has failed to secure a guarantee of any financial compensation for the extra burden is something that our state cannot afford to meet—

The lights having gone out in the chamber—

Senator BIRMINGHAM—Obviously the Senate cannot afford to meet the power bills at present either.

Senator McLachlan—It might be the weather.

Senator BIRMINGHAM—Certainly the weather in my home state is a little like this at present.

CHAMBER
The ACTING DEPUTY PRESIDENT (Senator Fieravanti-Wells)—The lights are going out in the Senate.

Senator Ronaldson—Throw some light on the subject.

Senator BIRMINGHAM—I will attempt to—everybody can have a good snooze now that the lights are going out. I will assume that Hansard and everybody else are continuing to work. To our knowledge the government are offering no new funding. They certainly have not budgeted for it. There has been no indication in the new health care agreement that is being negotiated that there will be extra funding.

Senator McLucas interjecting—

Senator BIRMINGHAM—There may be extra funding, but is that extra funding targeted to address the measure, Senator McLucas, that you are introducing in this budget? Will it actually overcome the impact of this measure on the public health system?

Senator McLucas—It will not have an impact.

Senator BIRMINGHAM—You do not believe it will have an impact? Well, there is the admission from the government: they do not believe that this measure will have any impact at all. I do not know where they think that people who are exiting the private health care system will go. Maybe they are hoping that that they will not seek medical treatment any more. Maybe that is the government’s preferred option—that people will simply stay home and suffer. Frankly, that is not good enough. It is not good enough to hurt one side of the Medicare system—the private side—by stripping people out of it and to not compensate the public side, who will face the increased demand and the increased costs that come with it. For all of the shaking of the head, it defies logic to say that there will not be an impact.

Senator McLucas—There is no evidence to support what you are saying.

Senator Cormann—Because you are not looking for it, that is why. You are not looking for it; you are hiding it under the fat Labor carpet.

Senator BIRMINGHAM—It is quite remarkable that the government denies that there will be any impact, that it claims that there is no evidence when it is quite clear and quite logical that people will still seek medical treatment—unless the government is claiming that the only people who will exit the private health industry will be the healthy ones.

Senator McLucas—Probably.

Senator BIRMINGHAM—Probably, Senator McLucas says: probably only the healthy people will exit the private health insurance industry. We all know what that will then do to private health costs going forward. That will drive private health insurance costs upwards and upwards. That is right: if the healthy people get out, then those left will be those with high costs. Like any insurance, it only works if the cost is spread widely. It only works if you have a broad and critical mass of people to support it, and the government is undermining that broad and critical mass of people with this measure.

Modelling, including that undertaken by Access Economics, PricewaterhouseCoopers and others, show that anywhere up to one million people will leave the private health insurance industry—one million out of those 9½ million Australians who have private health insurance. They may well be Senator McLucas’s one million fighting fit, probably young, healthy Australians who leave the industry and that just further accentuates, further highlights the pain and damage that this government is causing by this measure.

The government, if it had any credibility with these measures, would at least have undertaken some of their own modelling and some of their own consideration before introducing them. It would have at least consulted with the affected parties. It would have spoken to the private health insurance industry, to the private health hospital sector, to their state government colleagues even, about the ramifications or the implications. But no, like so many budget matters, this one was plucked out of thin air. It is not good enough to make policy like that. It is not good enough to offset the balance of the public health sector and the private health sector. This bill should quite clearly be defeated.

Senator CORMANN (Western Australia) (4.29 pm)—The Tax Laws Amendment (Medicare Levy Surcharges Thresholds) Bill 2008 demonstrates the short-sightedness of this new Labor administration. At best, this bill points to a government that does not understand the flow-on implications of its actions. At worst, this is an ideologically driven attack on private health, an ideologically driven attack on those Australians who take additional responsibility for their healthcare needs. It is unbelievable that a federal government would introduce a measure like this without properly assessing the flow-on implications for our health system. The government introduced what they soothingly call a tax relief measure without conducting any proper assessment of the overall health policy implications. So much for the pre-election rhetoric that Labor would fix the health system, that they would end the blame game, that they were committed to private health, that the buck stopped with the Prime Minister and that we would have a new era of cooperative federalism in health.

If passed in the Senate, this measure will undermine the whole health system. Senators on the other side might think it is only targeted at the private health system, but I would make it very clear that this measure will undermine our whole health system. The measures
in this bill will end up hurting those Australians who are most likely to need timely access to quality hospital care—all those Australians who make the sacrifice every year to find the funds necessary to pay for their private health insurance so that they can have the peace of mind of having timely access to quality hospital care when they need it and not when the system tells them that they are a high enough clinical priority. They have the private hospital option to complement their public hospital entitlement. Older Australians will find it even harder than it is now to afford private health insurance. Many of them will be forced to join the long queues in our public hospital system, which is already under serious pressure.

This measure demonstrates the clear lack of understanding by the Rudd Labor government of the policy framework that has underpinned the successful efforts over the past decade to restore balance to our health system. To assess the merits of this measure, of course, we will need to separate the government’s spin from the facts, as revealed during the Senate inquiry. The government tells us that this is a measure to provide tax relief to Australians who are doing it tough. If the government takes the view that Australians in those income brackets are doing it tough and deserve tax relief, why is it discriminating against Australians in those same income brackets who are also taking out private health insurance? Why doesn’t it think that Australians who take additional responsibility for their healthcare needs are equally deserving of tax relief?

The government complain that the Medicare levy surcharge thresholds have not been indexed since they were first introduced in 1997. If that is the complaint, why is the government not indexing the thresholds? Why are they doubling the Medicare levy surcharge threshold for singles, with the disastrous consequences that became very obvious during the inquiry? There is absolutely no doubt that, if implemented, this measure will lead to many Australians abandoning private health insurance. Treasury tells us 644,000 people are expected to leave private health insurance. Treasury states 644,000 people are expected to leave private health insurance. There will be a five per cent additional increase over and above the normal increase. This will lead to a second, third and fourth wave of people leaving private health insurance. The government, the Treasury and the Department of Health and Ageing were trying to tell us how this would be a one-off shock to the system. Those are the words that were used: ‘This will be a one-off shock to the system.’ But the reality is this: this will be the beginning of a new downward spiral, equivalent to the downward spiral in private health insurance membership that we experienced between 1983 and 1996, when Labor was last in government.

Make no mistake: this will result in additional pressure on public hospitals. There is absolutely no doubt about it. I invite the parliamentary secretary—through you, Madam Acting Deputy President—to have a look at the evidence that the Treasury and the health department gave during the inquiry. They were not prepared to put numbers to it and they were not prepared to quantify it, but they very clearly said, ‘Yes, we do expect that there will be additional pressure on public hospitals.’ So I am quite surprised that the Parliamentary Secretary to the Minister for Health and Ageing would come into this chamber today, interject and say, ‘No, there’s no evidence at all that there will be any additional pressure.’ Every state and territory health minister across Australia has said there would be additional pressure, but of course in this conspiracy of silence, which thankfully came to an end last Saturday, no state or territory administration was prepared to prod too deeply or to commission any independent modelling to properly assess and cost the impact of this measure on their public hospitals. Hopefully, that will be coming to an end very soon.

The public health policy objective of any government is to ensure that all Australians can have timely and affordable access to quality hospital care. In Australia we have been seeking to achieve that through a mixed health system, and our health system works best when we have a strong and well-funded public system and a strong and well-supported private health system. That is the way the Australian system, in quite a unique fashion, has been able to get as close as possible to achieving that objective.

The reality is this: in 1996, when we last came to government, private health insurance membership was in absolute freefall. It went down to 30 per cent before
we were actually able to turn this around through a range of policy measures. The Australian health system in 1996 was totally out of balance and, through measures like the private health insurance rebate, Lifetime Health Cover and the Medicare levy surcharge, we were able to turn that around. If you look at the evidence given by Mr Kalisch, the Deputy Secretary of the Department of Health and Ageing, you will see that he said that the Medicare levy surcharge when it was introduced in 1997 was not actually all that effective. Well, of course it was not—because, do you know what, as a new measure it was probably pitched at a threshold that was too high to be immediately effective. This was a three-pillar policy where you had Lifetime Health Cover, the private health insurance rebate and the Medicare levy surcharge. Over time all three of them together were able to achieve the significant increase in private health insurance membership that we have experienced over the last 10 or 12 years and which has been able to restore some balance into the Australian health system.

If you actually look at the membership trends over that period then you will see that there was an initial spike in membership of about 13 to 14 per cent, then it started to plateau and it hovered around 43 to 44 per cent over a couple of years and then over the last two or three years it started to increase again. Some 400,000 additional Australians took out private health insurance in the 12 months to the end of June 2008. Why do you think that was? It is because the Medicare levy surcharge at its current thresholds is becoming increasingly effective. At a time when it is becoming increasingly effective, and without any proper assessment of the flow-on consequences for our health system, the government just sort of draws a line in the sand and says: ‘We might have complained that it had not been indexed but let’s not worry about that; let’s just double it. Let’s not worry about what the flow-on consequences on the public health system overall may or may not be.’

What does this measure actually do? What does the government expect to happen? What are the government’s assumptions in all of this? It took quite a bit of work to get that out of Treasury and out of the health department. We now know that the government expects 644,000 people to leave private health insurance. It expects to save $960 million over the forward estimates from not having to pay the private health insurance rebate to those people it expects to leave. The parliamentary secretary earlier was interjecting about how these people will be the young and healthy and there will be hardly any impact on public hospitals because those who are leaving would not be accessing services anyway. But, do you know what, if the government expects to save $960 million because it no longer has to pay the private health insurance rebate—even if those people are young people—that $960 million only represents 30 per cent of the total funding of hospital treatment that will be lost to the health system.

Does anybody here expect that demand for hospital treatment is going to reduce over the next couple of years? I do not think so. If $960 million is only 30 per cent of the funding that is lost to the health system to fund hospital treatment then what is the total amount of funding that is going to be lost to the system? It is $3.2 billion. When I brought that up at a committee inquiry the deputy secretary of the health department said, ‘Oh, well, there are the profits of the health funds. They might not spend it all on funding hospital treatment.’ Yes, that is true; they do not. If you had bothered to have a look at the Private Health Insurance Administration Council website—it is a very good website with a lot of facts and figures and industry statistics; the Treasury never even looked at it, the Treasury never consulted with PHIAC—you would have found that only 15 per cent goes into either the cost of administration or a small net surplus to fund future claims.

If we are saying that out of $3.2 billion 15 per cent goes into the cost of administration and a small surplus to cover the cost of future claims then we are talking about more than $2.7 billion being lost to the Australian health system as a result of this measure. And the government is trying to tell us that there will not be an impact on the level of services available to the Australian people. Who is going to fund this? Where is the funding going to come from moving forward? This is the biggest cost shift from the Commonwealth and the privately insured to the states and territories and to the public hospital system and nobody has done a proper assessment of it. Nobody has done an assessment of how much additional pressure public hospitals will face, nobody has made an assessment of how much it will cost and nobody has put a hand up to say: ‘Okay, we acknowledge that there is going to be an additional cost that you are faced with. We acknowledge that you are going to have some additional pressure in terms of meeting the demands of Australians who need access to quality hospital care. So we will compensate you for it.’

There is a huge politically motivated conspiracy of silence across Australia. It is a case of, ‘I won’t blame you if you don’t blame me; let’s just keep quiet about it.’ If the previous government had introduced a measure like this 12 to 14 months ago, I am pretty sure that all of the state and territory Labor governments would have come together and commissioned some independent research. They would have gone to Access Economics and said, ‘Here’s a public policy measure at the federal level which is going to have an impact on us at the state level. Please tell us how much it is going to cost to deal with the impact of this.’ But what have we had? Just some token resistance at the state level where they say: ‘Oh, well, we think there’s going to be...
some additional pressure. We don’t really know how much. In the papers they say that 485,000 people will leave private health insurance but they are all young, so it will not be so bad.’

What else do we know? The Treasury in their evidence said to us, ‘We expect to save $960 million because we no longer have to pay private health insurance rebates to those who will leave.’ Is that really true? Because Treasury also tell us that they have not made any assumptions whatsoever when they calculated that figure on whether there is going to be any impact in terms of future health insurance premium increases as a result of this measure. Professor Deeble says that there will be a five per cent increase in premiums, over and above any normal increase, as a result of this measure. The Commonwealth has allocated more than $14 billion over the forward estimates for the private health insurance rebate. A five per cent additional increase is in excess of $700 million. When I asked questions about that of the health department officials they said, ‘No, we haven’t costed that as part of the savings in the budget but we’ve allocated that into the contingency reserve.’ When I asked, ‘So how much have you allocated in the contingency reserve to cater for this,’ they said: ‘We can’t tell you. That’s secret; it is commercial in confidence.’

So this $300 million saving over the forward estimates is a fraud; the true cost of this measure has been hidden in the contingency reserve. You tell us that you are going to have a $960 million saving over here offset by a $660 million loss in revenue. So you say, ‘We have a $300 million saving over the forward estimates.’ This is a fraud, because you have hidden the true cost of this matter in the contingency reserve. You know that private health insurance premiums are going to go up as a result of this measure. Professor Deeble says the increase will be five per cent. Access Economics says it will be five per cent. Health funds tell you that it will be up to 10 per cent. Let us be conservative; let us say that there will be a five per cent increase. That means it will cost more than $700 million to actually cope with that additional premium increase that you have not made public in your budget papers.

So where are we now? Is it going to be the young and healthy leaving? If it is the young and healthy leaving does that mean there is not going to be an impact on public hospitals? What does it mean for community rating? The reality is this: the more young people we can attract into the private health system the more affordable it is for everyone and the more affordable it is for older Australians. If you discourage young people from taking out private health insurance you force up premiums for everyone, in particular for those older Australians who need that access so desperately.

The government then tells us, ‘But we have allocated $600 million to an elective surgery reduction strategy package, which was a pre-election promise.’ That was another fraud. Essentially this was a pre-election commitment that was made before the government ever spoke about this particular measure. All of a sudden, as they come under pressure over the impact on public hospitals as a result of this measure, they say, ‘But we have got this $600 million that we are providing to ensure that we reduce elective surgery waiting lists.’ Now, have a look at the fine print to make sure what is actually on the table. If you look at the fine print you will see that there is only $150 million as a one-off payment to fund additional services and to reduce waiting lists. So you hear ‘$600 million package’—a big headline—but only $150 million has actually been committed to fund additional services across Australia. Put that against the $2.7 billion loss in funding for hospital treatment as a result of this, and this is clearly inadequate. The parliamentary secretary is shaking her head but I just find it unbelievable.

Before the election Labor said: ‘We are committed to fixing health. We are committed to ending the blame game. We are committed to working with the states and territories. We are committed to private health,’ but everything they do when they came into government is totally different. If they were committed to cooperative federalism on health, why would they not give to the states and territories the access to the modelling they have done on the impact of this measure? Why would they not provide access to that modelling so that the states and territories can make a proper assessment of the impact on them to make sure that they can run their public hospitals in a way that properly caters for the demand that is likely to come their way? I still have not received an answer to this. Not one state and territory government has actually asked for additional funding. How come? Everybody is out there saying, ‘There is all this demand that is coming our way,’ but when I ask questions on notice as to whether any state or territory administration has asked the federal government for some additional funding to compensate for this measure, the answer is, ‘No, not one.’ Not one single one! It is just incredible that we are all saying that there is going to be all this additional demand but we are not going to try to find out how much it is.

This measure is bad news. It will result in hundreds of thousands of Australians leaving private health insurance. It will push up premiums, which will hurt in particular older Australians who are already struggling every year to find the necessary funds to afford their private health insurance. You, as a government, are pushing up the price of premiums for those older Australians. You are forcing them out of health insurance. You are forcing them into those public hospital queues and you are not offering any proper compensation for it. At the first opportunity you had to work with the states and territories to make sure that the flow-on implications of a policy measure at your level were prop-
erly catered for at the state and territory level, you failed to do so. As a closing remark, now that we have had a change of government in Western Australia, I would urge the Barnett government to commission a proper assessment of the impact of this measure—to commission a proper analysis of the costs that are likely to come their way as a result of this measure should it pass the Senate—so that they can make an informed claim to the Commonwealth for additional funding. (Time expired)

Senator CAMERON (New South Wales) (4.49 pm)—The Liberals do not change their spots. It is quite clear that on the one hand the argument is for looking after Howard’s battlers but, when they have an opportunity to actually look after ordinary Australians, what do they do? They impose a tax on them—a tax that is actually $586 a year for ordinary Australians. Five hundred and eighty-six dollars is significant tax relief for taxpayers who choose not to join a private health insurance fund. Where is that argument? I have heard for years from the Liberals about choice? There is no real choice for ordinary Australians as to whether they want to access private health insurance. The carrots are far outweighed by the sticks in the legislation, and the biggest stick is the tax imposition on ordinary Australians in this country. Average income earners are being a disproportionate amount of the Medicare levy surcharge. It is not equitable. It is not in keeping with the original intent of the policy.

The Liberal Party wants to reduce taxes for the Lamborghini and Maserati drivers of this country but they want to impose an inequitable tax on ordinary Australians. After 11½ years of economic mismanagement by Costello and Howard, many Australians are battling to keep their heads above water. This is a Liberal Party that wants to keep an unjustifiable and unconscionable subsidy for the big end of town. It wants to keep tax breaks for the North West Shelf consortium and to slug ordinary Australians with a Medicare levy surcharge—tax breaks for the rich and powerful and tax penalties for the ordinary worker; that is the reality of the Liberal approach. This is an opposition that masquerades as the defender of the poor and defenceless, when it is doing exactly the opposite with this legislation.

In government, the Liberals presided over massive transfers of wealth from ordinary workers to the corporate sector. The transfer of wealth was squandered on outrageous executive salaries and corporate greed. Productivity fell, manufacturing exports declined, jobs were lost, workers’ rights were stripped and the politics of fear were the politics portrayed by the Howard government. Now we have the politics of fear all over again—the fear that the health industry will be gone. We will not be able to go to a hospital. Workers will not be able to afford decent health care because of this policy of giving ordinary workers tax relief. It is the politics of fear; it is not based on any evidence that came before the inquiry. No evidence justified what has been put forward here by the Liberal speakers.

It is absolutely essential that this bill is passed in order to provide justice for ordinary Australians. The Medicare levy surcharge is a unique tax, not only in Australian terms but in global terms. It is not the progressive tax that we heard Senator Birmingham talk about when he was lauding progressive taxation. This is what is called a reversionary tax. It hurts people more the more money they earn and it makes a real problem for ordinary Australians who are around that tax threshold area. It is absolutely essential that this tax is a progressive tax and does not act in that reversionary manner.

As we debate the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008, I think it is appropriate to have a look at how the private health industry operates. What we have here is a great defence of the private health insurance industry. Surely the defence should be for ordinary Australians who want decent health services, not the defence of a private health insurance industry, an industry that comes to the Senate and argues for massive public subsidy for what is essentially a private business. It is an industry that seems happy to accept massive public funding at the expense of ordinary workers. The private health industry is a complex industry. It is a unique and somewhat bizarre industry, I must say. It is an industry that fails all the tests that the Liberals would apply for market forces. It relies on government support to remain viable and produce ‘profits’.

In 2006, the 30 per cent refund cost taxpayers $980 million. With such a massive public subsidy, the government of the day is entitled to make changes that bring about fairness for taxpayers, something that those on the other side seem to have forgotten about—fairness for ordinary, battling Australian families; fairness for workers who are battling to keep their heads above water; fairness for workers who are battling to pay their bills and their mortgages because of the incapacity of the previous Howard and Costello government to really make a strong economy for this country.

This is an industry that is so complex that it spawned a client industry that relies on the complexity of the health insurance system to establish a business and make profits. Companies like iSelect are doing so well that they can afford to go to the most expensive econometric modellers in the country, on public funds, in a feeble attempt to build a case against reducing taxes for battling Australians. This is a company that relies on taxpayers’ dollars to survive and make a profit, and it has the gall to spend profits arising from taxpayers’ subsidies to deny ordinary Australians a tax
break. Despite the best efforts of Access Economics, a report for iSelect was forced to concede:

The complexity of the private health insurance market and the interaction of several different types of subsidies and regulations within health insurance and healthcare delivery make it a challenge for a model to capture the entire spectrum of likely impacts from a Medicare levy surcharge threshold change. In addition, underlying changes to the economy such as income growth and population change add to the complexity.

All these arguments from the other side about the economic models are thrown out by the economic model that has been put forward by Access Economics. Access Economics concede that they cannot model the outcome. How can you model the complexity of human behaviour? That is what you are trying to model here, human behaviour, and economic models cannot do that.

In my view, the model that has been used by Access Economics cannot predict with any accuracy public behaviour and therefore there is no basis to the doom and gloom scenarios espoused by the Liberals, the private health industry and some doctors with vested interests.

There have been many contributions from those opposite, but we did not hear any contributions about the public funds that are being used to subsidise massive bonus payments to the private health insurance industry—bonus payments of over $1 million to privatise the private health insurance industry, picked up by executives in the industry. I take the view that we need to make sure that public funds are not used to line the pockets of health executives in the private health insurance industry.

The fear factor that is being used is that increased surcharges will increase waiting lists in the public hospital system—that there will be a flood of Australians out of the private health system and that that system will collapse. There has been analysis done on this. Professor Stephen Duckett, from the School of Public Health, La Trobe University, says that legislators must be very careful about the rhetoric that the private health system reduces waiting lists. There is much analysis to be done on that. None has been done by those opposite. There was Canadian Health Services Research Foundation analysis done that showed absolutely no evidence that pouring money into the private system reduces waiting lists in the public system. There has also been analysis done by Duckett and Jackson that says that the subsidy cannot be justified on efficiency grounds. They did analysis of the technical efficiency of the public and private health systems, of the allocative efficiency and of the dynamic efficiency, which is how quickly you can respond to change. On the available evidence, it was clear that hospital care in the public sector is at a higher level of technical, allocative and dynamic efficiency than in the private sector. So all of these arguments that if the private sector is diminished then we will have all of these problems are just denying the effectiveness of the public health system in this country.

I would take Professor Deeble’s point of view before any of the arguments that I have heard from the other side today. Professor Deeble has had 51 years of experience in hospital management. He became a PhD 40 years ago. Professor Deeble says that the proportion of people in the public and private sectors has not changed much since the sixties. So all of the funding that the public has put into the private industry has not delivered what you on the other side would wish for. Professor Deeble also argues that the public system gives better access to technology. Where do you go for your heart? You do not roll up to emergency at a private hospital; you go straight to the public system, and that is where you get looked after. Professor Deeble also said that funding in public hospitals has always been tight, but it has got a lot worse over the last 10 years—the last 10 years under Howard and Costello and that lot over there; that is when it got tighter and that is where the problems in the public health system emanate from. It is from the cutting back of costs and the privatisation of the public health system by the Liberal Party. In fact, in 2000 the Liberals withdrew $700 million from the public health system.

In his argument, Professor Deeble destroys the assertions being made from across the floor—that is, if you simply put the price up then people will leave. Professor Deeble and others have argued that membership in the private health system is dependent on income, not prices, and that membership has to be looked at in relation to habit, social reasons, risk aversion and preference for private services over public ones. No-one can model them. Not Access Economics, not a state government, nor the Treasury can access these human foibles. In summary, what Professor Deeble argues is that ignorance, apathy and uncertainty mean that no-one can actually model what is going to happen. I would accept Professor Deeble’s position before I would accept Senator Cormann’s position. Professor Deeble, in his submission to the Senate Standing Committee on Economics inquiry into the bill, states:

- the economic effect of the proposed changes will be to reduce the cost of public hospital care by 40% for single people with incomes between $50,000 and $100, 000 per annum, and for families with combined incomes of between $100, 000 and $150,000 a year.

Professor Deeble is saying that you can reduce health costs for ordinary Australians—and the Liberals do not want to do it. You would prefer to subsidise the Ma-serati drivers of Australia than do anything about this. Professor Deeble’s submission goes on to state:

- that will have some effect on the membership of private health insurance and on the private hospitals and doctors that private insurance supports. The shift in membership
is most likely to occur amongst younger people whose use of hospital services is lower than the average.

- however the effects will be quite small. Based on hospital usage in the relevant age groups, the number of people covered by private insurance is expected to fall by about 8% but benefits paid would fall by only 3%. Premiums for the remaining members would rise by just over 5%. That would not threaten the viability of private insurance.

So the doom and gloom merchants on the other side, those who would pander to the fear factor, are really not in this debate when you listen to someone who knows what they are talking about. You can only say, ultimately—

*Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! Senator Cameron, resume your seat for a moment, please. The level of noise from senators on my left is totally unacceptable. I would like Senator Cameron to make his remaining remarks in comparative silence. Senator Cameron.

Senator CAMERON—Thank you, Madam Acting Deputy President. This is the fear-factor opposition, who have peddled fear for the last 11½ years. They are peddling fear about what is going to happen to an ordinary punter who simply wants to get out of this inequitable levy and who wants to save $300-odd a year. And what do they say on the other side? They argue that the public health system will fall apart and that our whole system will be in desperate need. That is so far from the truth. They need to listen to Professor Deeble, who is the father of Medicare in this country. He knows what he is talking about and understands the issues. He shoots down every one of the opposition’s arguments. You have no modelling that backs up your arguments. You are the fear-factor group. You want to push fear on Australians. Thankfully, the Labor Party are in government and we will not govern in fear. We will govern on facts and we will govern on the basis of what is in the interests of ordinary workers and of our health system in this country.

FIRST SPEECH

The PRESIDENT—Before I call Senator Williams, I remind honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator WILLIAMS (New South Wales) (5.08 pm)—Thank you, Mr President, and I congratulate you on your election as President of this Senate. I am sure you will be a fair and just umpire. It is truly an honour and privilege for me to present my maiden speech to this parliament. I begin by saying that I am not an academic and I do not have letters after my surname but if I were to ever qualify for a degree then I would hope it would be from the university of real life experience.

I was born in Jamestown, South Australia. It is a magnificent country community where the people could be described as ‘salt of the earth’. It is a community where people were and still are willing to lend a helping hand to others. My primary schooling was at St James Convent, run by the Sisters of St Joseph, in Jamestown. It was here that I received a solid grounding in my primary education as well as my first involvement in sport by learning to play cricket, tennis and Aussie Rules football. I am a keen supporter of sport. I believe that all parents should encourage their children to be involved in sport as it is a great way not only to exercise but to keep our children off the streets and to teach them teamwork, mateship and leadership.

My secondary education was at Rostrevor College in Adelaide, run by the Christian Brothers. This is a magnificent education facility. Rostrevor was an excellent grounding in all aspects of life for me, especially in economics where I had a brilliant and strict teacher in the late Tom Kendall. We learnt and were disciplined—which I am sure I needed—but above all we were taught respect and appreciation for what we had. I sincerely thank the Christian Brothers for what they did for me. At the completion of my secondary schooling I was fortunate to receive a Commonwealth scholarship to attend tertiary studies. I did this for just three months because the urge to return to rural Australia was far greater than the urge to complete a tertiary degree.

On returning to Jamestown I spent most of my years either shearing sheep, driving livestock and grain transport, bookmaking or working on the family farm with my brother, Peter, and my late father, Reg. They were great days, and the way I would describe them is with my brother, Peter, and my late father, Reg. They were great days, and the way I would describe them is...
have such a huge supply of good quality, well-priced food. We all know what happens if we do not eat.

The hardest of all these experiences on the land was when we decided to take a foreign currency loan in Swiss francs in 1985, after some great sales pitches from some in the Commonwealth Bank. I soon found out that I was in more trouble than the early settlers. This battle with the Commonwealth Bank continued for almost a decade and I can assure you that it was not an easy time—paying 25.25 per cent interest rate was no fun. After many years of fighting in the courts we did have a win in the appeals court, with all three judges ruling in our favour. As I said, this was an extremely tough time for my family and me. But I have always had the opinion that when a heavy load is placed on your shoulders one of two things happens: you either get weak at the knees and collapse, or you get stronger and are more capable of shouldering a heavy burden. I hope I am the latter.

One of the most fulfilling things I ever did was to join our local Apex club. I derive a lot of satisfaction from helping people and I look forward to my job as a servant for New South Wales over the forthcoming years. After retiring from Apex it was indeed an honour to be awarded life membership. I am now a current member of the Inverell East Rotary Club. It is my view that we should all contribute something to our community. Whether it be with a service club, sporting club, school P&C or whatever, we should all make a contribution in one way or another to build better communities.

In June 1998 I went to Thailand to establish an importing business. With the rug pulled out from underneath the wool industry and the pig industry now priced on the international market, it was time to look at doing something else. On this trip I was privileged to visit the Thai-Burma Railway and places like the bridge over the River Kwai and Hellfire Pass. I was in awe of learning what our allied prisoners of war, including thousands of Australian POWs, went through during that terrible 1942 to 1945 period. Many were from the north of New South Wales under the leadership of Brigadier Arthur Varley from Inverell—the brave and gallant 2nd/18th Battalion.

It was also a great experience to learn about Thai culture and speak a little of their language. They are certainly decent, gracious and polite people. Three out of the last four years has seen me take groups of around 30 people to Thailand for Anzac Day to remember our diggers who worked in all kinds of terrible conditions and suffered many things, including sickness, starvation and torrential monsoonal rain, along with the constant beatings from those in control. How could in excess of 100,000 prisoners of war and Asian labourers die in constructing a railway line 415 kilometres long? I often wonder. This was certainly a terrible chapter in our nation’s history but a lesson to all of us today about how lucky we really are.

I am now addressing this chamber as one of the 76 senators who will make decisions on how to run our nation. I have always had the opinion that you should run the nation the same way a farmer runs the family farm. For example, take the typical family farmer living on the land with his wife and children. The farmer looks after his retired parents, who live in a nearby town. So too do we have an obligation to look after our elderly in society, because it was they who handed us this wonderful country. I hope that in the very near future these people will get an increase in their pensions. They have earned it and they deserve it. To have many of our elderly living on or below the poverty line is totally unacceptable. We must also ensure that our aged-care facilities are properly funded, staffed and maintained.

The farmer educates his or her children in the best possible way available. We too must see that there is every opportunity for our young to receive the best education possible. This is vital in our modern world. The farmer must look after his or her land for future generations. We too must see that our environment is protected so that future Australians can inherit a fertile and productive land. I say ‘land’ as it is the soil that is the vital resource to protect. I disagree with a lot that the New South Wales government has done over recent years. Bob Carr had a policy of creating new national parks, which are not managed properly. You cannot simply lock them up and leave them. If you do, fire will destroy them. This should be a stern warning to our present governments, both state and federal. Do not buy good, productive farming land and turn it into a national park. We need to continue producing food, not fires. The family farm must be protected from foreign invasion and takeover. We have an obligation to protect Australia and to see that it remains a free and democratic nation. I congratulate the former coalition government for a real increase in excess of 40 per cent on defence spending during their time in government.

It is here that I would like to mention my grandfather, the late Eric Williams, who was one of 300,000 Australians who volunteered for the Great War of 1914-18 and who fought on the battlefields of France. So too my late father, Reg Williams, who in my opinion foolishly volunteered to be a rear gunner in a Lancaster bomber during the Second World War. I have the utmost respect for our diggers, past and present.

The farmer must be internationally competitive. This is difficult when we look at the subsidies of many countries and the low cost of labour in others. In 2005 I quoted on supplying 1,200 tonnes of flour per month to Thailand. I was keen to get the job. My quote was US$400 a tonne. My customer in Thailand sealed a deal with Japan for US$300 a tonne. I was not in the
race. He told me that Japan was buying subsidised wheat from the United States and that the Japanese government was also subsidising the export of flour. This is what the international trade world is like. That is why I have always supported a single desk marketing system in Australia—at least until subsidies around the world are removed. In my opinion, it was a sad day for rural Australia when this was torn down. The government must work to keep costs and red tape to an absolute minimum so that as a nation we can compete to remain a force in world markets.

I wish that this message could get through to the New South Wales government, who are hell-bent on adding costs, charges and red tape to the business sector—the sector that drives our nation’s wealth. Destroy the business sector and our nation goes broke. That is why I believe that we should only have two tiers of government in Australia, a federal government and regional governments.

The family farm cannot afford to pay wages when the person never shows up for work. So too with our nation. I believe that if you are in good health and are capable of working then you should work. I have seen many who are determined not to work. They are simply getting a free ride from the taxpayers of Australia. It is about time that they received a touch on the backside from a cattle prod to get them off their butts and doing some work.

I see workers at Inverell abattoirs who come from the Philippines, Korea and Brazil. All the employees in an abattoir work really hard. Yet just a few hours drive away I see areas on the coast where unemployment is up to eight per cent and nine per cent. In my opinion, if you are in good health and youth is on your side, you should not receive a dole cheque unless you contribute something to our nation. However, I believe that the genuine unemployed should have a safety net and should be helped through their tough times until they find employment.

The family farm cannot carry too much debt; otherwise, when the tough times strike, the farm will be in financial trouble. So too with our nation. If governments build debt, they are mortgaging our children’s future away. It pleases me that the previous government paid off our huge debt. This is something that as a nation we can be proud of. It is surely the envy of many.

The family farm cannot overstock the paddocks. Look at what we are doing in Australia. We have cities like Sydney that are overcrowded. They have water restrictions and housing shortages and the government is spending ridiculous amounts of money to build more roads and rail services. One easy solution is for people to move to country areas, where we have ample room.

The last point of my analogy of running the family farm and our country is that the farmer does need services such as agronomists, transport, and stock and station agents. Our nation needs services such as health, infrastructure, defence, transport and many others. I do hope that many of the policies that were instigated by the Nationals in the previous government remain. If not, I guarantee that you will hear about it.

One such policy is the Rural Australian Medical Undergraduate Scholarship, which has seen an enormous number of country people now studying medicine. To qualify as a GP takes nine years and it is pleasing to see that at the end of this year our first batch of rural doctors will have completed not only their medical degree but the year as an intern and their three years as registrar. It is most important that country areas have doctors and this is one of the schemes that is working extremely well.

It is my hope that in the near future a scholarship scheme to promote rural dentists will be introduced. We have 55 dentists for every 100,000 people in the cities but an average of just 17 dentists per 100,000 people in country areas. The sooner we address this problem the better. It is vital that programs put in place by the previous government such as the Enhanced Primary Care Program, which is having a real effect on solving dental problems, remain.

I am a staunch campaigner for small business. This sector is still the largest employer in Australia. Governments at both state and federal level should realise the importance of small business and see that they are always given a fair go. Let’s face it, the Australian way is always about a fair go. Having been a worker and running my own business, I believe that I have a good understanding of how the worker thinks and what goes on in the minds of businesspeople. We should never forget that if the business goes broke all employed lose their jobs.

There are many people whom I would like to thank. First of all, there are the members of the Central Council of the New South Wales Nationals. I am extremely grateful for their vote of confidence in me. I am proud of what the Nationals and, previously, the Country Party have achieved for rural and country regions for more than 80 years. When I see the infrastructure—the schools, hospitals, universities such as the University of New England in Armidale—virtually all were constructed because of the Nationals. Our job is surely to continue to fight for a fair deal for our state and especially for those country and coastal communities that we represent.

I thank the community of Inverell for their wishes. I am very proud to be part of this community and privileged to live not only in the best country in the world but one of the best towns in the world. I thank those who have travelled here today to be with me on this special occasion in my life, those from Cairns, South Australia and many parts of New South Wales. I thank

CHAMBER
Warren Truss and my Nationals colleagues for the warm welcome they have given me, also my Liberal colleagues for the same warm welcome and all those in the Senate. I would like to thank my Nationals senators for their valued assistance: Leader Senator Nigel Scullion and Senator Fiona Nash who, along with her staff, have been simply wonderful to me; my benchmark and father of this Senate, Senator Ron Boswell, for guiding me through this steep learning curve; and my good friend Senator Barnaby Joyce. Mr President, I sit in a unique position in this chamber. When we are seated I look at the head of Senator Joyce and try to work out what is going on in there. I am yet to work that out, so I am like the rest of the world and simply wait for the surprise. To my three children, David, Rebecca and Tom: Wendy and I are extremely proud of them. They are well-mannered, polite and prepared to help others. I thank my mother, Clare, who unfortunately cannot be with me today, and I am pleased that my Aunty Valda is here.

I thank my wonderful staff for their great help and assistance. Greg and Debbie Kachel have worked at radio 2NZ Inverell for a total of 63 years between them and I am so privileged to have them on board; Heather Morris, one of the former staffers of the Commonwealth Bank who was so good to me during that long fight I had with the CBA; Garry Lamrock, the comedian of the team; as well as part-timer Pat Dwyer. I would like to thank that special lady of the Senate, the Black Rod; Clerk Harry and all the Senate staff who have done a wonderful job guiding all of us new senators through our learning process. Finally, I thank Nancy Capel, a very special person in my life. Thank you, Mr President, for allowing me to speak.

FIRST SPEECH

The PRESIDENT—Before I call Senator Kroger, I remind honourable senators that this is her first speech. I therefore ask that the usual courtesies be extended to her.

Senator KROGER (Victoria) (5.30 pm)—As I rise to give my maiden speech in this great parliament I am reminded that more than anything else Australia is the land of new beginnings. This was certainly the case for my great-great-grandmother, who was transported to these shores in 1841 for the crime of stealing not one but two loaves of bread. My great-great-grandmother’s story was not the fruit of Victor Hugo’s imagination nor was it a chapter out of Les Misérables; this was a real life event that happened to a real life person—and not just in my family but in countless others throughout Australia. Like every other penal transportee she was a stranger in a strange land. But while some succumbed to despair and desolation, she seized optimism and opportunity. She chose strength over weakness and industry over indolence. Through true grit and with a feisty spirit she overcame all the obstacles in her life. These were the principles transmitted from my great-great-grandmother through my family and ultimately to me: the belief that individual rights must be balanced by personal responsibility; and the conviction that with a bit of hard work nothing was impossible and no ambition was beyond my grasp.

My father was a man of modest means yet always resourceful—a market gardener who worked every day with his hands. One of my first childhood memories is sitting on my dad’s knee tasting my first delicious steaming cup of hot chocolate after he sold his truckload of produce at the old Victoria market. But while my father was a simple labourer, he knew that education was life’s great equaliser and so my siblings and I all attended private schools. It was not easy for my parents. In essence, they sacrificed their present to provide for our future. They made do with less so that we could have more. My mother and father did what it took to ensure that their children would have a fair go and be able to give life their very best shot. I have tried to say thank you by living my life in a manner that will consecrate their devotion and selflessness.

Since first emerging into political awareness as a teenager, I have always seen myself as a combatant in the public affairs arena. At age 16 I joined the Liberal Party as a rank and file member. Over the past decade I have had the privilege of serving in senior positions. My political philosophy is a simple one: if you do not like the way things are going then roll up your sleeves and enter the fray—advocate for the agenda that you hold dear, push for policies that you think are right and argue the case forcefully and fearlessly but always with civility.

Because schooling was my ticket to a better life I have an abiding interest in the topic of education, and I fear that many Australian secondary and tertiary institutions have been compromised by political correctness. I learned this firsthand at a parent-teacher interview, where my son was criticised for his lack of appreciation of South American protest poetry. My challenge at the time was calming down his outraged father, who happened to be speculating aloud whether our school fees was money well spent. My son, by now horrified at the prospect of failing the subject, was wondering whether his father’s outburst would mean leaving his friends and moving to a new school. But my challenge now is to try to make a difference from within because this was not just a one-off occurrence. Whether it is the Australian Education Union directing its members to encourage their students to wag school and march in anti-war protests or whether it is our universities where radical lecturers have come to hold unchallenged sway, there is no doubt that Australia’s schools and universities are listing heavily to the left. University course catalogues are filled with bizarre offerings like ‘critical whiteness studies’, which holds
that all Caucasians by definition of their skin’s pigmentation are inherently racist and as a result the Australian narrative has been hijacked by partisan ideologues. Our kids are instructed that Australia is a land built on oppression rather than liberation.

There is a Latin saying: ‘Quis custodiet ipsos custodes?’ That means: who shall watch over the watchmen? If we have a problem with what is being taught in our secondary schools we should have a look at those who are teaching our teachers. We must revitalise the way that history is being taught, but we will not do so with any real effect as long as our teachers are trained in tertiary institutions that are permeated by partisan bias. We need not only more history but better history.

I am a great believer in choice, and in the educational context there is no more important form of choice than the power of parents to choose where their children will be educated. Some of our state schools are excellent. They have dedicated teachers who do an outstanding job of educating our children. But then there are other schools that are perpetually plagued by low achievement scores and low VCE graduation rates. We must never forget that the real definition of a failing school is one that short-changes its students, and there is no justification for such schools to continue to operate year after year, class after class, on a business-as-usual basis. But the monopoly status of our state school systems allows mediocrity to persist where excellence should flourish.

The best way of shattering our public sector school monopolies is through a healthy injection of competition into the system—competition in the form of vouchers, which will attach the annual budget per student to each individual child. If a school is doing a good job and attracting students, the money needed to educate those children will follow them to that institution. If another school does a disservice to its students through consistent and chronic underperformance, families will rush their children to the exits—and so they should.

The path to high educational performance leads to reinforcing success, not subsidising failure. But beyond the economic theories of choice and efficiency there is an egalitarian moral argument to support such a voucher system. The affluent already enjoy the benefits of educational choice. They have the means to send their children to any school they choose. There is no valid reason why low- and middle-income families should not enjoy the same power of parental choice that the wealthy take for granted. A voucher system will not only be effective but it will also be just.

Some political pundits argue that Australia’s major parties have gradually merged ideologically at the political centre. They argue that there is little of substance to differentiate between the Centre Left Labor Party and the Centre Right Liberal Party. Rather than a distinction without a difference, the core beliefs of both major parties are separated by a vast ideological chasm that is wide and unbridgeable. In its heart of hearts, Labor values collectivism over individualism. By contrast, the promotion of small government, low taxes, reward for effort and the entrepreneurial spirit are part of our Liberal DNA. We believe that playing the class warfare card against some of us only ends up impoverishing all of us.

We believe that small business serves as the primary engine of Australia’s economic prosperity. This contention is born out by the numbers. Australia’s 1.5 million small businesses generate some 30 per cent of the nation’s economic activity, and the 3.6 million jobs created by small businesses constitute 47 per cent of all private sector non-agricultural employment. This sector of Australia’s economy is far too important to ignore. Australia’s business owners are the backbone of our economy and the salt of the earth of our society. They are not looking for handouts or an unfair advantage. All they want is a fair go. All they want is for government to get out of their way. Small business owners and staff just want to focus their energy on what they do best: using their creativity and industry to develop their businesses.

Labor has never understood the essential role that small business plays in our national economy. Its failure to appreciate the role of small business explains in some part why Labor has never been good at economic management. A case in point is the punitive promise to reverse the current unfair dismissal reforms. Certainly, a wrongly treated employee should have avenues of redress to seek justice and procedural fairness. No-one on our side of the chamber would argue otherwise. But the Hawke-Keating unfair dismissal laws went far too far, enabling some disaffected workers to pursue employers with spurious and vexatious compensation claims. Small business owners were almost unanimous in their rejection of the unfair dismissal regime, and for good reason. The previous government listened to these concerns and responded with reforms that better balanced the competing interests of legitimate employee rights versus job creation.

I do not believe that last year’s election gave Prime Minister Rudd a mandate to roll back the reforms to unfair dismissal laws. I readily accept that there is a need to make some exemptions for young people and to provide a safety net. But a return to the previous draconian regime will translate directly into fewer jobs and more unemployment. And all the high-sounding rhetoric in the world about being on the side of workers will ring quite hollow if there is no work to be had. I believe that the aspirations of Australia’s entrepreneurs should be facilitated rather than frustrated. I believe that the small business sector should be nurtured.
rather than neutered and promoted rather than de-moted.

None of my friends here today would ever accuse me of being part of the sisterhood, but I draw inspiration from two of my predecessors, former senators Dame Margaret Guilfoyle and Dr Kay Patterson. And I could not let the opportunity pass me by without saying how excited I am as a women to begin my career in parliament at the very time that Sarah Palin is about to shatter the penultimate glass ceiling of politics in the United States.

Like all members of this place, my passage here would not have been possible without the help and support of many people who are, unfortunately, too numerous to identify and mention by name. Many of those people have honoured me again today by attending in the gallery and on the floor of the chamber. I cannot describe how humbling it is that you are all here, and I offer you my deepest thanks. Then there are also those who have made immeasurable sacrifices for me through my political journey. My sons, Jack and Simon, have been at the vanguard of that journey, though not through any choice of their own. Jack and Simon make me incredibly proud as they forge their own way through life’s challenges and opportunities. Their sense of humour and, dare I say, constant domestic demands keep me well grounded and in my place. Their proud father, Michael, has also been a great supporter and I thank him for his wise counsel, even on those occasions when I may not have asked for it!

I also pay special tribute to Peter and Tanya Costello and Kelly O’Dwyer, whose friendship, fierce loyalty and support has given me the strength to carry on even in times of adversity and opposition. Peter and Tanya are what I can only call true friends. Those who know me well know also that I have a very special bond with Kelly O’Dwyer, and I know I speak for many when I say that Kelly would make a sensational contribution in this chamber or in the other place.

In politics, the highs can be euphoric and the lows, as we know, can be soul destroying. But I have always known that, no matter how bad the lows could be, friends like Jason Aldworth, Russell Hannon, Rod Kemp, Senator Scott Ryan and my good mate Senator Michael Ronaldson would always be there. Family and friends have always been—and I hope will continue to be—my anchor, my life force and my compass.

Whilst my father has not been with us now for over 10 years, he continues to be with me as a guiding force. But I am blessed that my mother is with me today. Mum: your respect for the decisions I make is not taken for granted and is something I deeply appreciate. My sister, Merilyn, and brother, Colin, mean the world to me. To my extended family, who have kept Qantas going by turning up in force today: thank you all for coming and being here. My sons are particularly fortu-nate to have a second grandmother, Lorna Kroger, who is well known for her outspoken views. I believe if she had been born in another era she would have been the first Kroger in the Australian parliament. Thank you for your friendship.

In the words of Thomas Moore:

Family life is full of major and minor crises—the ups and downs of health ... success and failure ... is tied to places and events and histories. With all of these felt details, life etches itself into memory and personality. It’s difficult to imagine anything more nourishing to the soul.

Thank you.

**TAX LAWS AMENDMENT (MEDICARE LEVY SURCHARGE THRESHOLDS) BILL 2008**

Second Reading

Debate resumed.

**Senator BUSHBY** (Tasmania) (5.50 pm)—I rise today to speak on the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008. The impact of the federal government’s proposed changes to the Medicare levy surcharge thresholds in the public hospital system are of serious concern and should frighten all Australians who care about the public health system and all state governments due to the impact on their responsibility for delivery of primary health care. The government’s proposal to increase the Medicare levy surcharge thresholds from $50,000 to $100,000 for singles, and from $100,000 to $150,000 for couples and families, risks undoing a decade of careful policies that rescued private health insurance from a catastrophic downward membership spiral.

By the late 1990s, private health insurance membership had collapsed to around 30 per cent of the Australian population. In the June 2008 quarter it was 44.7 per cent. This is a remarkable turnaround which did not just happen in a vacuum. The turnaround was achieved through deliberate and persistent introduction of measures in the first few years of the Howard government. Upon its election in 1996, that government saw the need for urgent and decisive action to redress the neglect that the private health insurance sector had suffered under 13 years of a Labor government which had led to the numbers of privately insured falling consistently for many years prior to 1996.

It is important to remember that this is not just about the health of the private insurance industry or even about those who can afford private cover. This issue is of huge importance to all Australians with health care needs and those who are close to them. Put simply, as the number of Australians and their families with private health insurance falls, the number of Australians and their families needing to access their health care needs through the public system will increase, with consequent increases in demand for those public services and greater inability for the public system to cope. In the early to mid-
1990s, the more people who dropped out of private cover and took their chances on the public system—and who, for obvious reasons, tended to be those with no immediate health care needs—the more expensive the premiums became for those who remained in the private system, who tended to be those who did need to call on their insurance, and the more likely that those remaining would also drop out, including those who had immediate health care needs.

The result in the 1990s was an explosion in demand for public health care, with detrimental consequences looming for the health care needs of all Australians. Wisely, the Howard government sought to address this through a series of three targeted measures now known as the three pillars: the 30 per cent rebate, Lifetime Health Cover, and that which we are looking at today, the Medicare levy surcharge. Between the three pillars and the delicate balance it provides, the decline in private health coverage was arrested and we are now back at the levels of private health cover that we see today. But changes proposed by the government in this bill threaten to undermine the effectiveness of the three pillar approach, with enormous potential consequences for public health care in this country.

There are a number of facts that are relevant to this debate that have become apparent in the course of the inquiry of the Senate Standing Committee on Economics and its processes. The Private Health Insurance Administration Council provided data that indicated that it is in particular younger people who have been taking up private health insurance over the past two years. In part this is because of their incomes falling within the surcharge threshold. Encouraging young people who can afford to make a long-term commitment to private health is good for the overall viability of the health insurance system built on the community rating approach under which insurers are prohibited from charging premiums assessed on the basis of risk—that is, they cannot price discriminate on the basis that a potential insured person is a smoker or because of their age, family background, medical history or current medical conditions. Indeed, having young and healthy people participate is a vital component of a system based on the community rating approach.

It is also important to note that private health insurance adds money to the health system overall. Currently, 9.4 million Australians have private health insurance. This means that 9.4 million people are adding an amount generally equal to 70 per cent of their private health insurance premiums to the overall amount of money available to fund health care across Australia. Yes, the government also pays 30 per cent of each premium. As such, every 30c in the dollar the government spends on health care supporting the privately insured, a further 70c is contributed to the overall amount of money being spent on hospital health care across the country.

Looking at it the other way round, on the fairly sound assumption that, without the delicate balance provided by the three pillars policy, people will drop out of private cover and that they may, sooner or later, require hospital care which will need to be entirely funded from the public purse. The government is getting a return on its expenditure of over 200 per cent through the 30c rebate—that is, for every dollar that the government spends assisting the privately health insured, it saves another two dollars. In a sense, rather than the federal government subsidising people’s private health care needs, the system is actually subsidising the expenditure of all Australian governments on primary health care to the tune of 70c in the dollar for every privately insured person in the country.

But the government is prepared, through the measures contained in this bill, to put all of this at risk. As a result of this bill, the delicate balance achieved through the three pillars process would be destabilised, leading to a mass exodus—by the government’s own figures, and I will get back to that later—from the private health system mainly by those with little immediate need for hospital care. This will then lead to the semi-complete failure of the community rating system. The loss of premiums provided by those with little need for current care will leave a greater proportion of those privately insured who do have high care needs, thereby leaving the private insurers with the majority of expenditure while suffering a severe loss in income.

As such, the only option is for private health insurance premiums to go through the roof. This in itself is bad. In the short term it will lead to far higher premiums, but it will probably have little impact on the public health sector as the vast majority of those leaving initially will have little immediate need to call on public health resources. But what will be the further consequences? As private health premiums rise, the number of insured persons with little ability to pay higher premiums but who have high hospital care needs, particularly older Australians and pensioners on fixed incomes, will increase and, shamefully, many will be forced to abandon their private cover. This is when the public health system will start to feel the full consequences of this measure and when the loss of the 70c in the dollar subsidy privately insured persons provide from their own pockets to the overall health care costs of the nation will come home to roost.

Rising premiums will also increase the cost to the government of its 30 per cent subsidy. The fact is that Treasury and the Department of Health and Ageing did not conduct a proper assessment of the overall impact of this measure on the Australian health system. By their own admission, they did not look at the second- or third-round effects of the measure. The first-round
effects showed they expected to save $959.7 million over the forward estimates from not having to pay the private health insurance rebate to the people leaving health insurance and from a $300 million net saving over the forward estimates after taking into account the higher premiums that would ensue.

The consequences for the private health sector, not just private health insurance but the providers they fund, and the public hospital system were completely ignored. Through questioning of a range of federal departments, including the Departments of Prime Minister and Cabinet, Finance and Deregulation, Treasury and Health and Ageing as part of the budget estimates process and through the economics committee inquiry, a number of facts were uncovered that I consider to be quite alarming. These include the astounding admission that the federal government did not ask either Treasury or the health department to model, cost or in any way assess the impact of the change to the Medicare levy surcharge on public hospitals across Australia. The government said that 2.4 million people will be saved from paying the Medicare levy surcharge—in fact, only 465,000 people currently pay the surcharge, and each one of them could have avoided it by taking out private health insurance. If up to one million people now give up their private cover, as has been suggested by credible witnesses, such as the AMA, during the economics committee inquiry, the Prime Minister and his government will be directly responsible for a massive blow-out in public hospital waiting lists.

At this stage there is no indication that any meaningful compensation or allowance will be made by the Commonwealth to compensate for the impact of this measure on states and territories. The arguments about the level of indexation that have been put forward by most government speakers during this debate also do not add up. If the Medicare levy surcharge threshold for singles had been indexed since its introduction in 1997, it would be at about $75,000 to $78,000 today, according to Treasury evidence provided at Senate estimates, and not the $100,000 threshold the government wants to impose.

As mentioned, the Australian Medical Association has estimated that close to one million people will drop their private health insurance, while the Treasury department’s own estimate is that around 485,000 policyholders—which represent around 700,000 people—will drop out of the private system. That’s right: Treasury itself estimates that 485,000 policyholders will drop out. We heard Senator Cameron talking earlier about the fear factor that we were trying to inject into this debate, but look at what Treasury itself is saying—that 485,000 policyholders will, by its estimates, drop out. They did not go the extra step of actually looking at what impact that would have on the public health system. It is amazing.

Labor clearly stated prior to their election that they would keep the Medicare levy surcharge, yet by increasing the threshold at which singles would be required to pay the Medicare surcharge they have now opened the door for hundreds of thousands of mostly young people to leave private health insurance. Sick people already wait for hours in public hospital emergency departments, despite the big increase in bulk-billing since 2003. Australians still wait months if not years for elective surgery, despite the 16 per cent real increase in federal funding for state run public hospitals made by the previous government under the present healthcare agreements. People who leave private health insurance as a result of these changes will now add more waiting time and more people to these lists.

Having fewer people covered by the surcharge means less money invested in the health system. At present, a family on $100,000 a year has the choice of either taking out private health insurance or paying an extra $1,000 through the Medicare levy surcharge. Statistically, most families in this situation have private insurance, which means that they do not compete with less financial people for elective surgery in public hospitals but can contribute to public hospital revenue by electing to be treated as private patients. Under the measures contained in this bill, these families will have far less incentive to be privately insured.

Based on the figures in the budget papers, answers to questions from Treasury and Department of Health and Ageing officials, otherwise available public data—for example, from PHIAC—and reasonable assumptions where no official was able to provide a proper answer, it appears that the increase in the Medicare levy surcharge thresholds will lead to a reduction in funding for hospital treatment in the order of more than $2.7 billion. That is right—this measure will directly remove $2.7 billion from the overall amount of funding that is in the total healthcare system at the moment. Page 33 of Budget Paper No. 2 shows a $959.7 million saving over the forward estimates from no longer having to pay the private health insurance rebate to people leaving health insurance.

The Treasury was not able to answer the question as to how many of the 484,000 adults they expected to leave were 65 years or over and would therefore attract the 35 per cent or 40 per cent rebates. In an effort to downplay the impact on public hospitals, however, the Minister for Health and Ageing, Nicola Roxon, has repeatedly told us that she expected the people to leave to be the young and healthy—and the young and healthy attract the 30 per cent rebate, not the 35 per cent or the 40 per cent. We also know, based on health department evidence, that out of all the privately insured people 86 per cent are on the 30 per cent rebate, as opposed to the 35 or 40 per cent rebate. Based on the minister’s public statements and the fact that the
overwhelming proportion of those privately insured are on the 30 per cent rebate, it is fair to assume that $959.7 million is 30 per cent of the total contribution income lost as a result of this measure, because $959.7 million is 30 per cent of $3.199 billion.

To find the amount lost in funding for hospital treatment, we have to deduct a proportion for health fund administration costs and net margins—that is, the gross margin. All hospital insurance revenue that does not go into either the cost of administration or the net margin goes into funding hospital treatment in both private and public hospitals. According to PHIA data, health funds on average across the whole industry have a 15 per cent gross margin—that is, the cost of administration and the net margin. Fifteen per cent of $3.199 billion is just under $480 million, and $3.199 billion minus $480 million is $2.719 billion. This is the amount that will be withdrawn from total hospital funding as a direct result of this measure.

Working families, low- and fixed-income earners, the elderly and people living in rural and regional Australia will be hardest hit by the consequences which flow from this ill-conceived policy. The most vulnerable and most isolated in our community will suffer from longer waiting times for surgery, reduced services in rural and regional areas and a reduction in healthcare outreach services. This bill represents bad policy, appears hard to justify on any of the measures put forward by the government and will ultimately lead to the undermining of the public-private healthcare balance achieved in this nation. Whether this is the intention of the government is unclear but, having had the benefit of listening to the previous speaker, it appears likely that it is more about class warfare and the politics of envy than any other issue. But, regardless of the reason why they brought it before us, the bill should be rejected.

Senator XENOPHON (South Australia) (6.05 pm)—I support the second reading of the Tax Laws Amendment (Medicare Levy Surcharge Thresholds) Bill 2008 but reserve my position in relation to the third reading. The stated purpose of the Medicare levy surcharge is to encourage higher income Australians to take up private health insurance and relieve demand on the public system. Can I say from the outset that I am uncomfortable with this sort of muddying of the waters around health and tax policy. The role of government in providing for and protecting the health of the public is paramount. A nation without high standards of health care is a nation constrained, a nation diminished. With this in mind, one of the pivotal roles of federal governments in health policy is supporting a sustainable balance between the private and public health systems. Without such a balance, the ability to meet the fundamental health needs of all will be sorely stretched, as will the capacity for choice in relation to other health needs.

What we should be speaking about today is how to promote the highest quality public health system for all Australians. We should be describing a situation where Australians have a real choice between a well-funded and high-quality public system and an equally competitive, equally well funded and high-quality private system. Instead, we are debating a tax. Instead, we are discussing how best to drive health policy through the hip pocket.

I believe there is a bluntness, a hint of disingenuity about using a tax to push people into or out of health insurance. My fellow senators will be well aware of the historical blurring of tax and health policy in relation to Medicare. When the Hawke government replaced Medibank with Medicare in 1984, the scheme was part funded by the imposition of a levy. This was originally set at one per cent of taxable income with a low-income cut-off threshold below which no levy was payable. In 1995 the Medicare levy was increased to its current level of 1.5 per cent of taxable income and in 1997 the Howard government introduced a one per cent surcharge on taxable income imposed on so-called high-income earners who did not have private hospital insurance.

The purpose of the bill now before us is to increase the Medicare levy surcharge thresholds on annual taxable income from $50,000 to $100,000 for individuals and from $100,000 to $150,000 for families and couples. One of the government’s key arguments for this change is that, due to inflation, the average Australian income is now $58,000, which places many average Australians on the so-called ‘rich list’ according to the current thresholds of this levy. Whilst I note the merit of this argument, I also note that, were the government serious about fairness, there might also be a proposal in this bill to regularly adjust the thresholds to take into account CPI and avoid this situation in future years.

Perhaps the real intent of this bill is to be found in the detail. In financial terms, the government expects to forgo income tax revenue of $660 million over the forward estimates due to the increased income tax thresholds that are proposed for the levy. But the government also forecasts a decrease in expenditure of some $959.7 million from a reduction in the payment of the 30 per cent private health insurance rebate due to an expected decline in private health insurance membership over the period. The result is approximately $300 million more in revenue to the government. Before supporting this bill we must be certain that this is not just a tax grab spun as health policy. We must ask: what are the implications of these changes for the sustainable balance between the public and private health systems in Australia? In recent weeks my office and I have been involved in extensive consultations with...
state and federal government advisers, health insurance advocates, representatives of the medical profession and members of the public to answer this question. I would like to take a few moments to canvass some of these diverse views.

First of all, there is significant disagreement about the number of Australians that will be impacted by these changes. Treasury figures estimate that approximately 485,000 people will drop out, and, when dependants are included, the government suggests that it will be more than 600,000 Australians. Meanwhile industry figures estimate that around 613,000 people will have to end their cover to meet the government’s $300 million saving target, in effect, which would involve up to 913,000 people when you include dependants. Added to this is what the AMA has described as a ‘cascade effect’ where an initially conservative figure of 400,000 Australians could blow out to over 800,000 over four years.

If we are to plan for a sustainable balance between public and private health systems in the future then surely we must make our decisions based on evidence not rubbery figures. That said, my office has been in discussions with various health insurance representatives highlighting their concerns, firstly, about a possible increase in insurance premiums and, secondly, about more demand on public hospitals. The rationale behind the first claim is that the exodus from private insurance—from which the government expects to save $960 million—will largely be amongst young people. Relatively speaking, this group are healthier and their premiums help fund the expenses incurred by less healthy members later in life. I should make the point that those younger people will be old eventually.

Further, as groups such as the AMA note, this loss of younger members, it is argued, may lead to a snowballing effect as higher insurance premiums turn people against private health insurance which then leads to more premium rises to offset these losses. Ultimately, representatives of the health insurance industry indicate that premium inflation is inevitable, which the AHIA estimate to be around 10 per cent. I should at this point disclose that, along with millions of other Australians, I have private health cover. In contrast, the Australian Private Hospitals Association propose that the constantly improving quality of private health insurance services will see little impact on memberships. They argue that more people have higher incomes and are prepared to pay for what they see as more choice and better service, which will offset these changes.

There is also debate over the influence that the surcharge actually has over decisions about membership. Representatives of state departments and some insurance groups have argued that the initial impact of the Medicare levy surcharge was minimal in the take-up of private health cover and its removal would have a similar minimal impact. Others outside the private health sector have argued that later measures—notably Lifetime Health Cover and the 30 per cent private health insurance rebate—play a greater role in the decision to purchase private health insurance than does the levy. They point to the continuation in the decline in private health insurance membership after the introduction of the surcharge in 1997, with this only being arrested when these other measures were introduced in subsequent years. Meanwhile, insurers such as iSelect have argued that the three are co-dependent variables and it is impossible to ascertain the impact of the removal of any one variable on overall health insurance membership.

The second main claim by health insurance advocates is that these changes will result in unsustainable demand on public hospitals, which the AHIA estimate will have a national cost around $1.8 billion and a cost to my state of South Australia of around $200 million. My office has put these claims to those representing public hospitals and they have been unable to confirm or deny the accuracy of these claims in the absence of modelling. Some believe that those who opt out of private insurance would be younger and minimal users of private health services. In many cases, these people may be users of public hospitals anyway due to the high costs of private health co-payments. Others, including some state Labor ministers, have foreshadowed an increased burden and longer waiting lists, and have signalled the need to lobby hard for federal support for the costs attributed to these changes.

It is worth referring here to the comments made by the outgoing Western Australian Minister for Health Jim McGinty. In an interview on the ABC PM program on 21 May he expressed concerns. He said:

... There is a critical mass of private health insurance which gives us balance within the system. I certainly have concerns that if there is a very high drop out rate and I don’t necessarily think there will be, then that will shift that balance in a critical way.

It’s come at an unfortunate time when a lot of people will be making economic decisions faced with higher mortgages, higher fuel charges, higher grocery charges. Is health insurance something that they should maintain?

If we have young people pulling out, then that will also add to the equity of the people who remain in private health insurance which will drive up the cost of private health insurance and perhaps have more people pulling out on economic grounds as result of that.

These are legitimate concerns. This culture of claim and counterclaim shows the need for an evidence based approach. I believe that such an approach is best made through the Productivity Commission. Early today I raised with the government the importance of a Productivity Commission inquiry into several key issues, including the comparative cost of clinically similar procedures, as per the current state hospitals’ waiting
lists, performed in both the public and private hospital sectors. It is important that the accepted standards of the diagnostic related groupings are used so that we can have an accurate comparison between the two. The second issue is the rate of hospital acquired infections in private and public hospitals, including acquisition of methicillin resistant staph aureus—or golden staph, as it is commonly known. The third issue is the total number and percentage of patients, in both public and private hospitals, who were fully informed before providing consent. This is vital to reducing the number of cases where doctors do not inform patients fully about treatment and costs. I acknowledge the statements made by the health minister in relation to this and I welcome those statements. I think that this is an imperative reform, and it needs to be looked at and thoroughly canvassed.

If we are to shift debate from the realm of claim and counterclaim, proper inquiry into these things will be vital to sustaining the balance between private and public health services in the future. I cannot overstate the importance of having such a robust inquiry. I was surprised, when I raised this with those advocating for both the public and the private systems, at the lack of knowledge of what I consider to be key data that is essential to driving our decisions in the future—to making good decisions that will keep the balance between the private and public systems. A third issue is that of retrospective indexation. Estimates of the current threshold for individuals, indexed since its introduction in July 1997, are between $67,000 and $76,000 for individuals and around $134,000 for households. This could well be a more realistic figure for the proposed threshold of $100,000 for individuals and $150,000 for couples. Why increase the threshold by double the rate of inflation? It seems to be counter to all the other warning signs about having such a huge jump in the threshold. What Australia needs is an evidence-based approach that supports a long-term vision of improving our health system, not quick fixes that will only make it sicker. That said, I look forward to fruitful discussions and debate with the government about these concerns as I reaffirm that I will support the second reading of this bill but reserve my position on the third reading.

Senator FIELDING (Victoria—Leader of the Family First Party) (6.18 pm)—As with many issues that come before parliament, the key is to working out who gets what and to make sure that ordinary Australians get a fair go. The Medicare levy surcharge threshold issue is no different. In this case it is about who gets a tax cut, who can cobble enough cash together to afford health insurance and whether the government can squeeze even more cash into a huge budget surplus. It is our job in the Senate, the house of review, to make sure that the distribution of cash is fair. This Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2008 is a lot of things to a lot of people. To the government it is a source of $300 million in revenue. To singles earning between $50,000 and $100,000 it is a hefty tax cut of up to $1,000. To families or couples earning $100,000 to $150,000 it is also a hefty tax cut—this time, up to $1,500. But there are many ordinary Australians who miss out. For all those who get a tax cut, there are more who get nothing. In fact, there are plenty who will end up paying for this tax cut out of their own pockets. Does that sound fair? Family First does not think so.

Those people who are below the original thresholds and who are paying for health insurance are going to be stung by an effective tax increase because the increases in the thresholds are expected to drive up health insurance premiums. The changes in thresholds may also lead to longer public hospital waiting lists as more people switch to the public system. Those earning less than $50,000 as a single and less than $100,000 as a couple or family who do not get the tax cut will end up paying higher health insurance premiums or queuing longer on hospital waiting lists. They are, in effect, facing higher costs as a result of the raising of the Medicare levy surcharge thresholds. These are people who can least afford to pay more for health insurance, but they are the ones who are getting the least help from the government under these changes. Family First is here to advocate for those families.

Families buy health insurance to ensure that they have access to health care for themselves and their loved ones. By dropping that insurance they lose that peace of mind. The government is encouraging people to drop their health cover without giving them the guarantee of better access to public hospitals. That is why this issue is complex. Reducing tax is one thing but reducing access to hospital care is another. There are more than four million couples or families earning less than $100,000 a year. Compare that to the 800,000 families who are earning between $100,000 and $150,000 who will get a tax cut. There are around four million single people earning less than $50,000 a year, some of them pensioners. Compare that to the 850,000 single people who earn more than $50,000 a year, many of whom will get the tax cut. Around 80 per cent of singles and about 80 per cent of families will not get any tax cut but, if they are paying for health insurance, they face a hike in premiums. It is good news that around 15 per cent of families and around 18 per cent of singles get a tax break, but Family First does not believe it is fair to give those tax cuts at the expense of lower income families and singles who are left to pay for higher health insurance premiums and while others face the cost of increased public hospital waiting lists.

Most people giving evidence to the Senate committee that examined the increased Medicare levy surcharge thresholds agreed that the increases would lead
to people dropping out of health insurance cover, which would lead to increases in the cost of health insurance premiums and would put pressure on public hospitals that are already buckling at the knees with huge waiting lists. Under the government’s proposal, any single person earning between $50,000 and the new threshold of $100,000 would get that tax cut of $1,000, while families or couples earning between $100,000 and $150,000 would get a tax cut of $1,500. For higher income families and singles that is good news. However, those on lower incomes already under the Medicare levy threshold will not get that tax cut but will be forced to pay higher health insurance premiums. Evidence to the committee estimated that there would be an increase in health insurance premiums of up to five per cent as a result of changes to the thresholds, let alone other cost increases to the health sector.

Family First wants to look after those ordinary Australians who miss out on a tax cut but are likely to be worse off under the increased Medicare levy surcharge thresholds. Health insurance is a huge cost to many Australian families. More than one in two adults has made the financial sacrifice to take out health insurance, with the highest take-up rates among couples with children. There is little statistical information available on how much families pay for private health insurance, but a quick look at the online calculators for various funds shows that a family could easily spend about $340 a month, or $4,000 a year, for health insurance. A five per cent increase would cost an extra $200 a year, which is significant to families already struggling with the cost of living.

Under the increases to the Medicare levy surcharge thresholds, some families, as I was saying before, get a tax cut of $1,500, while other families on significantly lower incomes get an increase in their premiums. Families buy health insurance for all sorts of reasons, and price is just one of those factors they take into account, but, in an environment where many families are doing it extremely tough under high mortgage interest rates, high petrol prices and high grocery prices, families are making a significant sacrifice to keep their health insurance. These families, struggling to pay for health insurance, are making a decision in the interests of their loved ones and their own health, but they are also taking some of the burden off the public hospital system.

Family First does not want these lower income families to be worse off and unfairly disadvantaged by the increased Medicare levy surcharge thresholds. Family First wants the Rudd government to ensure lower income families are not worse off and urges the Rudd government to amend the legislation to ensure lower income families and singles—and that includes pensioners—are not unfairly hit by increases to their health insurance. Family First has proposed to the government a simple way of ensuring lower income families are not worse off, by increasing the health insurance rebate by an additional five per cent. Family First wants the Rudd government to look after lower income families and singles to ensure they are not slugged unfairly with higher health insurance premiums.

Debate (on motion by Senator Sherry) adjourned.

Sitting suspended from 6.26 pm to 7.30 pm

GREAT BARRIER REEF MARINE PARK AND OTHER LEGISLATION AMENDMENT BILL 2008

Report of Environment, Communications and the Arts Committee

Senator JACINTA COLLINS (Victoria) (7.30 pm)—On behalf of the Chair of the Senate Standing Committee on Environment, Communications and the Arts, Senator McEwen, I present the report of the committee on the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator JACINTA COLLINS—I move:

That the Senate take note of the report.

Senator BOSWELL (Queensland) (7.31 pm)—I want to take the opportunity to speak on the report of the Environment, Communications and the Arts Committee on the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008. I am aware of the majority report that has been tabled, and I must say that I understand that Senator Ian Macdonald will be putting in a minority report, which I have signed. One of the reasons that we cannot support the report in question is that what is in it is just not correct. For instance, the report states:

The decision to prosecute was made only in cases where there was evidence that the person knew, or reasonably ought to have known, that they were breaching the zoning plan, and/or there were other circumstances suggesting prosecution was appropriate.

When we took evidence at the committee hearing, we found there were many people who received criminal convictions who were not warned. In fact, there were 324 people who received a criminal conviction. We were told, and it is repeated in the majority report, that people were warned. I questioned a number of people who received convictions, and none of them said that they were warned at all.

We took evidence from two people, and one was a young man called Barry Garlick. He told a story which I thought was absolutely to the point. He said:

I went on a one-off fishing trip. I did not catch a fish or harm the environment. I made a mistake and I have paid a fine for it. I have learnt from what I did, and I have fixed as

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much as I can. When Australians make mistakes we fix them because it is the right thing to do. I now hold a criminal conviction. The law has been corrected but there is still a mistake in it. This will severely affect my life, my fiancée’s life and, most of all, my children’s lives. I love the environment. I would never intentionally break the law to harm it. My family and I plead with you not to change the law but to fix the mistakes in this law.

When we listened to this young man, we found he was a pest exterminator. He said, ‘When I leave this job, I will be very hard pushed to get another job because I went fishing.’

Mr Garlick’s story was that he went up to Cairns or somewhere and came back to Ayr. He, his brother and another chap went out and decided they would go fishing. They said that it was blowing a bit, so they went behind an island and they got picked up. He said:

I thought the Great Barrier Reef Marine Park was where the Great Barrier Reef is ...

He said: ‘I had no idea. I came from Brisbane and I went up to Cairns. On my way back we decided we would throw in a line and I got fined.’ I think he was fined $2,000. He was happy to pay the fine—he was not happy, but he paid the fine—but his concern was what will happen when he goes to apply for another job and he says he has a criminal conviction. He said, ‘I will not get another job.’ I asked the Department of the Environment, Water, Heritage and the Arts whether they would consider putting anyone on in their department who had a criminal conviction. They were not too keen to do so.

There was another witness, Peter Aston. He was a man of 70. He said:

... I am proud of the fact that I am a citizen of this country. On having a criminal conviction, it is all very well to say, ‘Oh, it’s okay; it’s not really affecting you,’ but it is. It has changed my life very much. I have tried very hard to find ways around this. The fact is that, all through the process, I was not really believing it was happening—that it could happen here in Australia, that it could go this far without somebody saying, ‘This is silly. Let’s just give the man a fine and send him home,’ or something. For it to go on and on and then find that it is locked in—that you are a criminal forever ...

He is a man who sails around the world, writing stories. He says he will find it very difficult to obtain from any country a visa to enter that country. There was quite a lot of evidence about young people going out and getting convicted. One particular story was told about a grandfather who took his 12-year-old grandson out in a tinny. They were picked up and the grandfather now has a criminal record. Another case was told of a family that went out; now the whole family have criminal records.

We were told that people were given a warning. But none of these people were given warnings. I am not saying warnings were not given, but none of the people that had convictions and gave evidence were warned. The main point goes on to say that the people who are convicted should not worry about it because they can apply to the Governor-General or they can fight it out in the court. It would take $5,000 to fight it out in a court. There was an injustice caused to a number of people, somewhere between 324 and 116, depending when you take the time from. These people received a criminal conviction with no warning, which has affected their lives. Senator Macdonald and I have joined together in moving an amendment that these convictions be read as spent. I hope that the Senate will support us. I know that during the election campaign, as reported in the Townsville Bulletin, Senator Kerry O’Brien said:

The government—
we were the government at the time—
was holding fishermen’s vote to ransom and yesterday’s announcement was beyond the pale. Frankly, it is an indictment of the government that they are prepared to play politics about these issues.

Senator O’Brien said that those who had been convicted had had these convictions sitting against their names for some time. He said, ‘Why could the government not act before today?’ He also said:

An elected Labor government was also sympathetic to overturning the criminal records of the 324 fisherman convicted for the offence. This is about correcting the initial mistake and we should take a bipartisan position on that.

We sat through, I suppose, four hours of listening to people giving explanations of how their lives had been affected by having a criminal offence. One guy, we were told, coached a soccer team and had a great deal of difficulty getting a blue card. I think he did eventually get one. Another guy could not get insurance. We heard that Peter Aston, who sold his home, writes stories and goes around the world in a yacht, cannot get a visa. So I ask everyone in the Senate to be reasonable. This is a total injustice. I will admit that it was caused by legislation the coalition government brought in. In 2006 I spoke to Senator Campbell, who was the environment minister at the time, and he was able to stop the criminal convictions and make it an ordinary offence like a parking ticket. But that did not cover the people who had previous convictions. I pleaded with the Prime Minister of the time six or eight weeks before the last election. I was given a set of words and we told the people we would remove the convictions. I see some injustices in the parliament from time to time but this would be one of the greatest. (Time expired)
in Canberra because of inclement weather, and we just sat on the tarmac in Sydney waiting. So it is not because I am a factional warlord against Senator Williams; I am really sorry I missed his speech.

There are a range of things that need to be addressed on the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 and will continue needing to be addressed. I note that the report on the bill by the Senate Environment, Communications and the Arts Committee talked about the description of the crime of fishing which is something that we really have to look at. The prescription now is that you are creating a crime or an offence on consideration of an act—a consideration of an act that may or may not happen. That is open to conjecture, and that is a very dangerous thing for us to have on the law statutes, even if you take away the word ‘fishing’ and think of another type of act. An arbitrary decision to make a law about what you may or may not be deciding to do is a very dangerous premise, especially when most Australians would see as fishing as something minor. That needs to be dealt with.

The next issue, obviously, that needs to be looked at seriously is the precautionary principle. I understand that you have to be guided by what may happen. But this is yet another statement which takes you forward to a position where you do not have to prove it economically, nor do you have to prove it environmentally; you just have to wish it. People wishing things changes with the person. If the person wishing for a certain outcome cannot prove it on environmental grounds or on socioeconomic grounds then I think it should remain unproved. That also is something that needs to be looked at.

The other issue is the issue of the criminality of those who have had certain convictions recorded against them and these things have not been dealt with and put aside. That issue also needs to be dealt with. Because of those three issues, I will be signing the dissenting report. There are other issues on top of what is outlined that also need to be further considered. In its final position, the Great Barrier Reef Marine Park Authority has to take into account that people live adjacent to the Great Barrier Reef. It is the major mechanism for recreation and for the earning of income. If we completely exclude people who live proximate to the Great Barrier Reef from any real engagement in it—apart from looking at it—then we are doing something terribly unfair. Nobody in the Sydney beach suburbs would tolerate it if you did it to such things as surfing.

I hope that the Great Barrier Reef Marine Park Authority goes back to what it was initially supposed to be: something that took into account the environmental aspects, the economic aspects, the social aspects and the outcomes that would be desired by the people of North Queensland especially. If this type of legislation—especially with the definition of ‘fishing’ and the precautionary principle—goes through, it will become a premise for further fishing areas having exactly the same outcome. Thank you very much for your indulgence on that, Acting Deputy President Bishop. I will leave it at that.

Senator IAN MACDONALD (Queensland) (7.46 pm)—I am sure that my colleagues have discussed the report of the Environment, Communications and the Arts Committee at some length. I am still trying to get a copy of it so that I can make a useful contribution. By and large, the coalition members on the committee—and of course they all speak for themselves—thought that the broad thrust of the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008 was appropriate. The Great Barrier Reef is one of the very significant natural icons of Australia and needs to be well managed in changing circumstances and with new and more modern administrative arrangements. This bill is a complete look at the whole issue of management of the Great Barrier Reef. It is a bill that had its genesis in the days of the last government. There was a long consultation period in the time of the previous government. A lot of the material in the bill is material which the coalition guided through its formative stages. This does not mean to say that it is perfect; in fact, a number of issues have come up which I am sure my colleagues have raised in the chamber.

In the brief time available to me, I want to concentrate on the two issues on which amendments have been submitted by the coalition and which were considered by the committee in its report. There was a third issue, of the definition of ‘fishing’. Some of us in the coalition had some concerns about that, and I know that Senator Boswell and Senator Joyce did. But I was relatively satisfied after hearing the explanations from the department and the lawyers that the term ‘fishing’ was not the term used for breaches of the green zones, if I could put it that way. The evidence given to the committee from the experts took us through how that was determined. The term ‘fishing’, so far as green zones are concerned, is contained not in this bill but in some regulations. Those regulations provide that ‘fishing’ means the actual taking of a marine animal or a fish or attempting to take fish. Some of my concerns about issues that senators rightly raised were to a degree allayed by the evidence before the committee.

The majority report does, however, clearly point out that the terminology and the placement of that term ‘fishing’ is rather convoluted and the majority committee has suggested at recommendation 2 that the government review the manner in which fishing is defined in the act. The coalition senators would certainly support that, and in fact we do in our dissenting report.
The other issue is the issue of representation on the board—and I should not say ‘representation on the board’ but rather ‘appointments to the board’ . The board increases from three to five . There was always a provision for an Indigenous person to be on the board, but the previous government thought that it was not a representative board and therefore people and different interests did not need to be represented as such and that the board would and should be appointed on merit . So the previous government removed the requirement to have an Indigenous person on the board . The current government put that back in . The opposition supports that .

But the opposition also thinks that it should be mandated that there should be someone on the board who has some experience in either the tourism industry or another industry associated with the Great Barrier Reef, so we have put in an amendment that has been supported by many—and I particularly mention the Association of Marine Park Tourism Operators—who think that that would be appropriate . I make the point again that it is not a representative board, so you are not there representing anyone; you are there looking after the best interests of the Great Barrier Reef and all of the many people and industries who have an interest in the Great Barrier Reef .

We would certainly be urging that the Senate include in the bill a requirement that one of the five appointees to the board be someone with experience . We do not want a board made up of, for example—lovely people though they are—Brisbane or Canberra bureaucrats . We do not want them made up of one particular sector that might have an interest in the reef . We want a broad based board to look after the interests of the reef and that is why we think that there should be someone with experience in the industry on the board . So we will be moving that amendment, and that is referred to in the minority report, and I would take issue with the majority committee report insofar as they oppose that .

The other issue that I do want to dwell a little on is the amendment that we intend moving to try to bring some fairness and justice to those people who were convicted of offences between 1 July 2004 and 30 September 2006, who were penalised for fishing in the wrong zone or fishing illegally in the green zone and who were fined substantially and who have paid their fines . They found out as an almost unintended consequence that the conviction leaves them with a criminal record . This then makes it very difficult for them to get visas to enter some countries and it is on the record .

Before the last election Senator Boswell did a lot of good work on this and others argued the case so that the then Prime Minister, Mr Howard, made a commitment that if the then government was returned we would legislate to remove the criminal convictions from those who had been breached during that period . That period is significant because 1 July 2004 is when the new green zones came into being, and 30 September 2006 is the day when by regulation the then government provided that rather than criminal convictions, if you were doing the wrong thing and it was not a particularly serious thing, you would get an on-the-spot ticket, a breach notice . You would pay your fine just the same but you would not have the criminal record . We are thinking that if those people who, subsequent to 30 September 2006, would have got a ticket but not a criminal record, then those who were convicted between 1 July 2004 and 30 September 2006 should be treated in the same way insofar as the recording of a criminal conviction .

It is very important to understand—and I want all the senators to understand this—that the then opposition spokesman, Senator Kerry O’Brien, repeated the promise that John Howard had made, and quite rightly he should have because it was a fair arrangement: bring them all back into the same category . One of the troubles that the coalition members on the committee had was then working out how legally you arrange to remove those convictions after they have been through the court process . Relying on the Crimes Act, which is mentioned in our report, we are trying to legislatively treat those who were convicted in that period as having what is called technically ‘spent convictions’ and that means that the criminal record would no longer show . There are different elements of that that require some attention and explanation and unfortunately I am not going to have time tonight to explain that because I only have 30 seconds left . We will have to do that during the moving of the amendments . (Time expired)

Senator McEWEN (South Australia) (7.56 pm)—I would just like to address a few remarks to this report on the Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008, if I may, and I note that I have only got a few minutes . As Chair of the Environment, Communications and the Arts Committee, I would just like to thank all the people who participated in this inquiry including opposition senators . It was a difficult inquiry . We heard from people who had recorded criminal convictions for fishing in that period 1 July to September 2006, as Senator Macdonald said . I have to say that the committee had some considerable sympathy for those persons . However, I urge people who are listening to this debate to read this report and in particular read the parts of the report that deal with that very difficult issue of how you go backwards and try to deal with people who have got convictions . It is not an easy thing to take to the parliament something that either legislates for pardons or legislates to spend a conviction . I urge people to have a look at those comments before they condemn the report out of hand .

I also caution people that this bill has been claimed by some senators to impose a definition of fishing on
fishepeople that will see them convicted for fishing illegally if they so much as have an echo sounder on their boat or look at a fish. I think that some of those suggestions are a little bit outrageous and a bit of moderation in this debate would go some way to allaying fisher people’s concerns about what may or may not be applied to them in terms of the legislation. It is important, though, that there is some clarification in the bill as to what a definition of fishing is and how it should be applied. All of us in this chamber, I am sure, would want to see legislation that is easy for people to interpret and difficult for people to misinterpret. So I am pleased with the recommendations in the report and I would seek leave to continue my remarks on this report at a later date.

Leave granted; debate adjourned.

BUSINESS

Rearrangement

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (7.59 pm)—I move:

That intervening business be postponed till after consideration of government business orders of the day No. 8, Address-in-Reply, and No. 3, Trade Practices Legislation Amendment Bill 2008, respectively.

Question agreed to.

GOVERNOR-GENERAL’S SPEECH

Address-in-Reply

Debate resumed from 20 March, on motion by Senator Wortley:

That the following address-in-reply be agreed to:

To His Excellency the Governor-General

MAY IT PLEASE YOUR EXCELLENCY—

We, the Senate of the Commonwealth of Australia in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

Question agreed to.

TRADE PRACTICES LEGISLATION AMENDMENT BILL 2008

Second Reading

Debate resumed from 2 September, on motion by Senator Carr:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (7.59 pm)—I rise to speak on the Trade Practices Legislation Amendment Bill 2008. The bill seeks to amend the act in five respects. First, and this is the issue that has attracted the most public comment, it seeks to alter—not, as has erroneously been said, to repeal but to alter—in an important respect the so-called Birdsville amendment, that is, the amendments that were introduced into section 46 of the act and the cognate provisions of the schedule to the act by section 46(1AA) and (1AB) last year. Secondly, the bill proposes to vest jurisdiction in relation to section 46 matters in the Federal Magistrates Court. Thirdly, the bill proposes to make it mandatory that one of the ACCC’s deputy chairmen must have knowledge of or experience in small business matters. Fourthly, the bill proposes to remove the $10 million threshold on unconscionable conduct proceedings under section 51AC. That was a threshold again established by the Trade Practices Legislation Amendment Bill 2007 when the threshold was raised from $3 million to $10 million. Under these amendments there will be no threshold required to invoke that jurisdiction. Finally, the bill seeks to clarify by extending temporarily the powers of the ACCC after a notice under section 155 of the Trade Practices Act has issued. That amendment to section 155 is an amendment first recommended by the Senate Economics References Committee when it reviewed the effectiveness of the Trade Practices Act in protecting small business in 2004.

I say at once that the opposition supports the third, fourth and fifth of those categories of amendments, that is, the requirement that an ACCC deputy chairman must be a small business specialist, the removal of the $10 million threshold on unconscionable conduct proceedings and the reforms to section 155. Let me deal then with the two matters which the opposition will oppose.

The first is the amendments to the so-called Birdsville amendment which would remove the test of market share as the jurisdictional threshold for proceedings under section 46(1AA) in making a determination under the subsection and substitute the words ‘degree of power in a market’. The prohibition is on a corporation then not taking advantage of that power in that or any other market by supplying or offering to supply goods or services.

The Birdsville amendment, for which Senator Barnaby Joyce may be regarded as the progenitor, has attracted a great deal of excited commentary across all stakeholders in this debate whether it be the small business community, academic lawyers and economists who specialise in antitrust law, legal practitioners, business lobby groups representing both the so-called big end of town and the small business sector and others.

On 28 August this year Professor Stephen Corones, in an article published in the Australian Financial Review, subjected the Birdsville amendment to a scathing attack. At a conceptual level I happen to agree with everything that Professor Stephen Corones, who is one of the nation’s most respected specialists in this field, wrote—at a conceptual level. However, it is the opposition’s view that this question should be approached pragmatically. The Birdsville amendment was first introduced into the Trade Practices Act in September last
year—but a year ago. In moving that amendment to the Trade Practices Act on behalf of the then government in the Senate I said that the government felt that it had got the balance right. In the year since it is simply not possible to make a determination as to whether the Birdsville amendment has had the effect which those who promoted its inclusion in the act believed that it would have simply because there has not been time. There has not been a sufficient passage of time in terms of conduct in the market tested by examinations by the ACCC, let alone litigated in the Federal Court, to see whether the Birdsville amendment works. Those like Professor Corones and many academic specialists who are scathing about the Birdsville amendment at a conceptual level failed to address the simple pragmatic consideration that, since the amendment is fresh to the act—and this is an act which, as anyone who is familiar with it will be well aware, generates its own jurisprudence, more so than most statutes do—it seems at least premature to be removing the key provisions of the Birdsville amendment, that is, the provision that stipulates substantial market share as a trigger in consideration at this time.

Let us remember what the Birdsville amendment sought to do. It sought to benefit small business by addressing the issue of predatory pricing by a corporation with a substantial share of a market. One of the problems that has bedevilled this legislation, as you would know, Mr Acting Deputy President Bishop, is that predatory pricing is itself an undefined term. It means different things to different people but never before did the act specify market share as a specific consideration which might trigger an inquiry into the existence or nonexistence of predatory pricing. It was part of the jurisprudence, it was part of considerations to which courts might have had regard, but there was no statutory mandate to do so. That was the reform the Birdsville amendment sought to effect.

In order to avoid implicating legitimate discounting, which is of course in the interests of consumers, it provided that the corporation must have the purpose of damaging a competitor or of preventing the entry of a potential competitor in order to be in breach of the section, and that the conduct must also be carried on for a sustained period. The opposition, as the then government, introduced the amendment at the time and believed that the balance was right. In the less than one year since the act was amended, despite the lower threshold the floodgates of litigation did not open and nor did discounting cease or diminish in any measurable way, which was one of the concerns that many had expressed would be a consequence of stipulating market share in the act—the so-called chilling effect on competitive conduct.

There is simply no evidence that the amendment, despite the misgivings of the commentators, did have a chilling effect on conduct in the market and, in particular, on price competition. What it did do was send a message that small businesses had a recourse to the courts when faced with large and powerful competitors with the resources to crush them by sustained discounting engaged in for the purpose of eliminating or substantially damaging them. It could do this without the necessity to obtain complex economic evidence on market issues, market power and the conduct that would amount to a misuse of market power.

The opposition considers that removing the stipulations of the Birdsville amendment, or the key element of it, at this stage will send entirely the wrong message to the small business community and to the commercial community generally. So, with all due respect to the views of the academic commentators, we will be opposing that provision.

The other provisions we will be opposing are those provisions of the bill that seek to confer jurisdiction in relation to section 46 cases on the Federal Magistrates Court. The argument is made on behalf of the government that by transferring these cases to the Federal Magistrates Court it will make them easier to litigate, it will reduce costs and it will make justice more accessible, particularly to small business litigants. Each of those considerations is an illusion. In no respect will changing the jurisdictional forum in which these cases are litigated make the litigation any swifter or any cheaper.

Section 46 cases are inherently complex; they are among the most complex species of commercial litigation conducted by courts in this country, and the issues in a section 46 case do not change depending on which court hears the case. The legal issues, the economic issues and the evidence, including the expert evidence that it is necessary to lead in order to prove up a section 46 case, are the same no matter which court hears the case. So the suggestion that you will reduce the costs by bumping a section 46 case down to a lower court in the jurisdictional hierarchy is an observation that could not sensibly be made by anybody with the slightest familiarity with the way the judicial system works. In fact, on the contrary, there is a very grave risk that it could have the converse effect of increasing the cost of litigation, for one particular reason: in the 34 years since the Trade Practices Act has been part of the law of Australia, which is roughly the same length of time as the life of the Federal Court of Australia, the Federal Court has developed a high level of skill, competency and sophistication in dealing with section 46 cases. There is now, and has been for a long time now, a body of judges who sit on the Federal Court of Australia who are intimately familiar with this sometimes arcane area of the law and are highly skilled in the efficient conduct of complex cases of this kind. With all due respect to the very eminent men and women who...
sit on the Federal Magistrates Court, it could not be
said—and I do not think it is sensibly urged—that they
have the same level of institutional skill, knowledge
and familiarity with these complex cases that the Fed-
eral Court judges do.

In transferring some section 46 cases to a non-
expert, non-specialist court, if anything one risks pro-
longing those cases with the attendant consequences in
relation to costs. I might add that anybody who knows
of the habits of solicitors and barristers would not for a
moment think that their fees would be any different if a
matter of this kind were to be litigated in the Federal
Magistrates Court rather than in the Federal Court of
Australia.

I understand the argument. I understand the simple-
minded belief that by litigating a case in a lower court
you will make the litigation cheaper. You will not—not
even slightly—because you will not change the com-
plexity of the issues and you will not change the level
of experience of the solicitors and the counsel who will
be required to deal with and argue the cases, but you
run the risk of prolonging them by having them dealt
with by a non-expert rather than an expert tribunal. For
that very practical reason, the opposition thinks that
this is a wrong-headed and misconceived idea and we
will be opposing those provisions as well.

I will also foreshadow the amendments that I have
circulated in the chamber. In relation to the proposed
amendments to sections 46(1AA) and 46(1AB), the
opposition will be opposing items 1, 2 and 6 in sched-
ule 1 and items 1, 2 and 6 in schedule 2. In relation to
this simple-minded and wrong-headed proposal to vary
the jurisdictional requirements of the courts that may
deal with these matters, we will be opposing item 3 in
schedule 1, item 3 in schedule 2 and items 1, 2, 3, 4, 9,
10 and 11 in schedule 3. We will be supporting the bal-
ance of the bill.

Senator JOYCE (Queensland) (8.14 pm)—Tonight
will probably be the night when I say as little as I ever
will about trade practices issues—especially section 46
of the Trade Practices Act—by reason that, although I
am passionately involved in it, I have just got off a
plane and have not had the day to prepare as I should
like.

The first issue with the Trade Practices Legislation
Amendment Bill 2008 is that the Labor Party is intend-
ing to take the fog of inconsistency back to the Trade
Practices Act in areas such as the definition of market
power. Let us first of all understand what market power
means. If someone is driving you out of business not to
enhance competition but to destroy it by a mechanism
that you have no hope of competing against—that is,
they are selling below cost and basically running you
out of money to run you out of business—at the end of
the day the consumer loses because the market central-
ises and that brings exploitation, inflation, higher inter-
est rates and, ultimately, a move towards dysfunction-
ality in the economy.

There are wider implications. It is not the parochial
protection of Mary McGillicuddy’s corner store; it is a
statement about keeping the dynamics and dynamism
in the market in such a way to give the Australian con-
sumer the best deal at the end of the day through the
range of choice. Market power means that, if someone
is attacking you, before you can get access to the courts
to prosecute that case you have to first of all prove that
they had the capacity to put up prices without losing
customers. Who on earth has the capacity to do that?
This was one of the outcomes of the Boral decision
back in 2006. Who has that capacity? No-one—not
even a monopoly. You would have to be a government
sponsored monopoly to have that sort of position in the
market. So it became a piece of dead-letter law. So
much so that, since the Boral decision—I might have
got the date wrong—


Senator JOYCE—Thank you, Senator Brandis.
Since the Boral decision in 2002 there has not been a
successful prosecution of a predatory pricing case. The
law obviously had to be changed. It had to be fixed.
There had to be some clarity put into it. Section
46(1AA) was brought in by the former Treasurer, Peter
Costello. It was later termed the ‘Birdsville amend-
ment’. Why did we call it the Birdsville amendment? It
was because we did not want to spend the next month
talking about ‘proposed section 46(1AA)’. That just
did not have the gravitas that was required. For the
record, and for all those cynics out there, it was faxed
from the Birdsville Hotel, not written in the Birdsville
Hotel. It is lucky we were in Birdsville because other-
wise it could have been the ‘Hamilton amendment’ or
the ‘Ascot amendment’ or gosh knows what. But we
were in Birdsville, it seemed like a good name for it
and that is how it came to be known.

This amendment brought something that people
could clearly understand—that is, if a person who is
engaging against you has substantial market share, they
are big in the market, then you have access to the
courts. You do not win your case just because you can
prove they are big. You then have to go to court and
prove your case. And the court is not a fool. The court
is not going to sit back and say, ‘Just because someone
is big and they are selling a product that is cheap and
you are inefficient, we are going to award the case for
you.’ The proof is that, of the 75 cases that have al-
ready been brought before the ACCC—it may be over
100 now—none have been deemed to be in breach of
the act. That in itself possibly leads to another ques-
tion: are the ACCC being diligent enough in their over-
sight of that? That is the next question that we will
progress to.
All the Birdsville amendment did was to give Australian citizens the right to at least get access to the courts and to justice. It should have been anachronistic for us to have had such predetermined access to the courts as the market power test. That was removed and the market share test came into place. But once someone gets to court they then have to prove that there was the purpose of:

- (a) eliminating or substantially damaging a competitor of the corporation or of a body corporate that is related to the corporation in that or any other market;
- (b) preventing the entry of a person into that or any other market; or
- (c) deterring or preventing a person from engaging in competitive conduct in that or any other market.

This is obviously something that would require a deal of acumen.

The idea was put up that this amendment would knock out Christmas sales. It did not. Last year there were lots of Christmas sales. It did not knock out Christmas sales. Why? It is because they are not for the purpose of removing a competitor from the market and they are not sustained. One would probably find that they are not even below cost. I remember a classic example of when someone from one of the major corporate entities who was very upset by this amendment came to my office. I asked, ‘Do you sell below cost for a sustained period for the purpose of removing your competitors?’ He looked at me and said, ‘No, I do not.’ I said, ‘If that is the case, you have nothing to worry about because you are not in breach of the act. This is just not going to cover you.’

At its simplest, this amendment brought back a sense of clarity to the law. Over a period of time, as Senator Brandis has well pointed out, jurisprudence will define the act and it will grow and precedents will be set. But what we have now is no more than people trying to second-guess precedents that do not exist because no case has ever held up by use of the Birdsville amendment. So why we would get rid of a piece of legislation that has not even been tested in court can only be by reason of one issue—that is, those who have a great deal to gain by the continued market centralisation that has happened in this country, which has forced up grocery prices and fuel prices, have got in the government’s door and have done extensive lobbying so as to change its position around. That is why the government is trying to repeal this.

It seems peculiar in the extreme that a government that paraded itself before the Australian people as wanting to deal with, amongst other things, grocery prices and fuel prices would make as one of its primary acts the repeal of the Birdsville amendment and give those people who have exploited the Australian consumer the keys to the till again. That is exactly why section 46 (1AA) of this obscure little act is so offensive—not to the man and the woman on the street and not to the small businesses who lobbied over years to get this in place—to those who have been the persecutors of the Australian consumer by their centralisation of the market place, using a mechanism that they know full well has the capacity to destroy competition.

That is the reason that you have come in here tonight to get rid of the Birdsville amendment. The sneaky little way of embellishment to bring this about is through take-advantage test. Once more, the take-advantage test has raised the sceptre that if you can do it with or without market power it is not breach of section 46. If you can do the action, with or without market power—because market power is back in under the government’s legislation—then it is not a breach of section 46. I could therefore say: ‘Well, I am selling below cost for three years while I put this business out of business. But I could have done that with or without market power, so I am not in breach of the act.’ It is the most sneaky little get-out clause that you have been well briefed to insert into this act so as to look after the people who have been well and truly looked after by this nation’s lack of attention to the trades practices laws that other nations have benefited from.

I bring to the attention of this chamber section 18(2) of the United Kingdom’s Competition Act 1998. To dispel this illusion that the Birdsville amendment is something onerous and unseen in any way shape or form in any other nation, 18(2) says:

(2) Conduct may, in particular, constitute such an abuse if it consists in—

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
(b) limiting production, markets or technical development to the prejudice of consumers;
(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage—Imagine how that one would go down in some of the shopping malls—
(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the contracts.

That is the United Kingdom—hardly some sort of retrograde in the economic world; in fact, I would say it is a nation that has a substantive well-tested trade practices act. But maybe it is just the UK that is unique, so I looked at section 51 of the Canadian Competition Act. This is what is outlawed there:

Every one engaged in a business who:

(a) is a party or privy to, or assists in, any sale that discriminates to his knowledge, directly or indirectly, against competitors of a purchaser of articles from him in that any discount, rebate, allowance, price
concession or other advantage is granted to the pur-
chaser over and above...

You can see the context. These are far stronger than
that which is placed in the market share test in the
Birdsville amendment. If we really wanted a lift, these
sections of the act would make for a far stronger trade
practices act than what we already have. But even with
that small movement that we delivered for small busi-
ness, people have come out kicking and screaming to
get rid of it.

Small business knows where their bread is buttered.
This is not Barnaby Joyce’s or anybody else’s amend-
ment; this is small business’s amendment. This is the
whole purpose of the conservative side of politics: to
be the bastion that protects the freedom that is en-
meshed in the capacity for someone to be master of
their own ship. That is what I think binds together the
parties that form the conservative side of government
in this Senate: the belief that you must have access to
that freedom to be allowed to be your own boss, for
your actions to be determined more fully in the out-
comes of your life. That is why we on this side protect
this mechanism for people to continue on that path.
Unfortunately, the trade practices record in Australia
has been one of centralisation. Unfortunately, the con-
sequence of that without a doubt—and you only have
to look at fuel prices today and what is happening with
grocery prices—has been the exploitation of the Aus-
tralian consumer. All these patrician and pathetic attempts
that the Labor Party have put up—Fuelwatch, ‘grocery
watch’, we are almost heading to ‘school watch’ and
we will end up with ‘pensioner watch’—stand in proxy
for good legislation, which, historically, was delivered
to Australia from this side of the chamber.

The Labor Party want to move back to this very nar-
row interpretation of the take-advantage test. They also
want to move back to the market power test. Both these
tests, irrespective of the gloss the government put on it
later on, completely remove the capacity of the Austra-
lian citizen to recourse under law for actions that
would remove their ability to be in the market place,
which is something that I have not even really heard
about from any section. Minister Bowen has really
struggled with this one. He really has been at sea. I
have not heard one example from the government:
‘This is where the Birdsville amendment has affected
competition, and this was the consequence.’ Not one.
Graeme Samuel is a man who has had an interesting
epiphany of late.

Senator Brandis—The biggest conversion since the
road to Damascus.

Senator JOYCE—That is right. The biggest epiph-
any since the road to Damascus. This is the man who is
supposed to be the independent arbiter. This is the man
who was supposed to have been removed. To be hon-
est, he has just become a mouthpiece for the govern-
ment. Contemporaneous to his elicitations on this issue
was his reappointment. Surprise, surprise!

Even the sole mouthpiece of the government has
been unable to give us one case where the Birdsville
amendment has been used to remove the proper com-
petitive structure of the marketplace in such an onerous
way that it affects the consumer. But consumers driv-
ing down Parramatta Road or the Ipswich Motorway
can see where they are getting exploitive. They just
have to look at the price of petrol on the billboards.
Working mothers pushing trolleys through checkouts at
one of the major supermarkets—and about 80 per cent
of the market is centralised—can see where they are
getting touched. Farmers who are getting 45c or 50c a
litre for milk at the farm gate—they are probably get-
ing a bit more now—

Senator Boswell—Fifty-eight.

Senator JOYCE—can work out that they are get-
ing exploitive. They are getting 58c, yet the product on
the shelf is selling for $2.50. People are not stupid.
They know where the exploitation lies. It is the Labor
Party who tonight are going to assist that exploitation
by the greatest benefactors of that process so far.

I will obviously be supporting my coalition col-
leagues in supporting the Birdsville amendment. I hope
we will get the support of others on the crossbenches
who I know also have deep and sincere concerns about
where Labor is going on this issue. They have deep and
sincere concerns about the unseen, dark lobbyists, who
are controlling and manipulating the political process.
They have made the Labor Party so passionate of late
to protect the market centralisation of the major corpo-
rate players in this nation. This is really and truly new
Labor and a new process. It is not completely out of
line with the approach to politics they have in New
South Wales, but it is a new juncture for us here in
Canberra.

This debate for small business will go on. There are
other issues that also need to be dealt with. There are
issues pertaining to creeping acquisitions and uncon-
scionable conduct. We have to look into the future.
Those people in the shopping malls are getting walked
over and are being completely exploited. In the shop-
ing malls all the bargaining power is held by one en-
tity. That is another impost on the right of the Austra-
lian citizen to go into business; the right of the Austra-
lian citizen to be part of the merchant class, to buy and
sell a product at a profit. It is only when the merchant
class is strong that the nation is strong, that democracy
is strong and that the progression of rights grows.

In closing, it is peculiar in the extreme that we now
look to places such as the People’s Republic of China
which have stronger protections for small business than
Australia does. This is clearly spelt out by our history
and the unfortunate retrograde steps of the courts in
determining the rights of the individual under law in
protecting their right to be in business. I also have read what Menzies said about why it is so important to maintain that structure of small business. He said, ‘Look after small business because big business are big enough to look after themselves.’ That is also a process.

This is also a return to the conservative heartland and it is from there that this nation’s rights and prosperity will grow. I look forward to the debate in the future that properly defines and enshrines more consistently—in the way that other nations did when they had our population size—the rights of people to go into business. That is the path that Australia should continue on. (Time expired)

Senator HURLEY (South Australia) (8.34 pm)—Of course competition and small business are very important in our society. We need small business to provide services and to provide that competition to keep the big operators on their toes and to make sure that they do have competition in prices. People are able to take advantage of competition to get lower prices. Competition ensures that we do not have only a few players in the market who can charge prices that are well above their profit margin and that people do not end up paying more than they should for goods and services.

The Labor Party is concerned that Australia has an environment where competition is encouraged and flourishes. The essential difficulty that any government faces when making sure that there is not unfair use of market power to force out small businesses is ensuring that it does not also put in place legislation which discourages competition. That is the balancing act that we have here. As has been outlined by previous speakers on this Trade Practices Legislation Amendment Bill 2008, it is not only a matter of government and business, whether big or small, and the consumers; it is also a matter of the interpretation of the courts. That is what makes trade practices legislation difficult, expensive and intricate.

Now the Rudd government has put forward a package of measures which it believes will crack down on anticompetitive behaviour by big business. We all know what can happen. The larger businesses in an area, a region or indeed a country can reduce their prices, take action that undercut their competitors and force them out of business—because of course people will tend to shop where they get the cheapest prices. Once their competitors have been forced out of business the company with more market power can then safely raise their prices and, without competition, have no resistance to those price rises. Standard economics will have it that once that business with the market power reaches a certain stage of profits then that will encourage other businesses to come into that lucrative market. Standard economics does not always work so wonderfully, and probably does not always work so wonderfully in rural and remote areas where it is often very difficult to start up a business and where there are greater difficulties involved.

So, recognising the importance of this, the government has put together a carefully constructed package of measures that it believes deals with the key issues of anticompetitive behaviour. It deals with the tendency of the courts in several key cases to take a very narrow interpretation of the Trade Practices Act and it deals with the costs and the barriers in the way of even taking action in the first place. The government has demonstrated in this bill that it does want to defend small business from predatory pricing and ensure that many of the barriers to actually taking action if there is predatory pricing are removed. There are three major thresholds that must be proved before predatory pricing can be proved. These are: that the business has sufficient market power and/or market share to do this, that it has taken advantage of that market power or market share and that it is able to recoup those costs in taking that action.

I can understand Senator Joyce’s attachment to the Birdsville amendment, because it was something that he worked hard for and lobbied hard to achieve, but the government argues that, in addressing the take advantage threshold and in addressing the recoupment threshold, it has addressed those court cases that have given quite a narrow definition in those areas. The government has put in place other measures, such as giving the ACCC wider powers to gather information, and has ensured in this bill that cases can be taken to the Federal Magistrates Court to reduce cost and to hopefully make things a bit speedier. What this bill puts in place is the ability for small business to make a speedier approach, and it reduces a lot of the barriers to this.

Going back to the market power definition, the government have said, ‘We have rectified the thresholds around that, so we are putting market share back to a market power definition because then it is fully consistent with the rest of the legislation and will not lead to a whole new body of law which addresses the issue of what is market share rather than market power.’ Now the argument there is that we already have a body of law that addresses market power and we know the attitude of the courts to that definition of market power. Therefore if we address all of the issues around it then we will have put in place the ability for the courts to deal with that. Whether that is the case or not we will just have to wait and see.

Hopefully, where there are cases of predatory pricing the ACCC will be able to deal with it—hopefully outside of the courts because it does cost everyone a lot of money to go to court and most lawyers in fact will recommend that you do not do that. But if there is a
case of predatory pricing that does go to court then the steps are in place to address that. If that does occur and if market power is still interpreted by the courts, even with the other changes, in such a narrow way that it is incredibly difficult to bring a predatory pricing action in the courts then possibly we will need to have a look at this again. This was addressed in the report by the Senate Standing Committee on Economics.

The Senate Standing Committee on Economics has a history of pushing for small business to be protected from predatory pricing. I certainly, as the current chair of that committee, am pleased that the government has responded with this package of legislation that does indeed address those ills of predatory pricing. A key part of this is the take advantage test, and this bill clarifies what is meant by the term ‘take advantage’. The bill says that a corporation must take advantage of the substantial market power that it has for the purposes of eliminating or damaging a competitor, preventing the entry of another company or entity into the market or other markets, and it must deter or prevent a person from engaging in competitive conduct. I cannot see how Senator Joyce is not persuaded that does not clarify the term and get over the narrow interpretation of that term ‘take advantage’ by the High Court.

In its report in 2004 the Senate Standing Committee on Economics supported the ACCC view that this should be broadened, and the Rudd Labor government has done that in this bill. The Rudd Labor government has also addressed the other key area: recruitment. This modification was required in response to the High Court making a ruling which frustrated the very intent of the legislation by setting an unrealistically high barrier to proving predatory pricing—and this was the moral case that Senator Joyce referred to. That moral case meant that the ability to recoup losses incurred from below cost pricing was a necessary precondition to establishing that a corporation had engaged in predatory pricing and, as Senator Joyce said, that is an extremely difficult thing to prove. This bill means that that is no longer required. I think what Senator Joyce has focused on is simply the Birdsville amendment, and indeed his initial proposal for the Birdsville amendment was amended by the Howard government and it has been amended again—on advice—as part of this total package of legislation. That is what is important to look at. It is not only those three thresholds that are addressed here but it is also an ability by the ACCC to strengthen its information gathering powers, which is critical. It has greater powers to go in and gather information about the conduct of companies involved in a predatory pricing case and that will be critical to ensuring a successful outcome where that case is taken to court.

The government has also said that the case can be dealt with in the Federal Magistrates Court and this—despite Senator Brandis’s view—should provide a simpler and more accessible alternative to litigation than the superior courts. Of course, if a company chooses to hire lawyers they should indeed be lawyers with the required expertise in this area but, let us face it, in most cases small businesses are not going to employ lawyers anyway. It will be something that the ACCC will deal with on behalf of a small business. We have had strong evidence from the ACCC that this is the legislation that they require in order to strengthen their ability to take cases forward. This is the legislation that they require to ensure that small businesses will get a fair hearing in the courts, whether it is the Federal Magistrates Court or the High Court. I completely reject Senator Joyce’s cynicism about Graeme Samuel and the ACCC. The ACCC did not get the kind of support from the previous government that it needed to deal with these and a range of other cases, but they have now indicated, in the strongest terms, that this is the kind of legislation that they need to go forward. I see no reason that they would reject their charter and make that sort of statement about legislation that they did not believe in.

In any case, regardless of this, this legislation also provides for another commissioner for the ACCC who has expertise in small business. This is something that has been welcomed by small business. We will now have an ACCC deputy chairperson who has knowledge and experience of small business matters. This will ensure that small business interests are front and centre in the ACCC. Small businesses and peak groups representing small business have welcomed this measure. It is one that will give them some certainty that their interests will be paramount. The ACCC is now focused much more strongly on small business. I am sure that the deputy chairperson’s focus will be very much on predatory pricing because that is something that does indeed affect small businesses greatly—and the ACCC has welcomed this. It is a useful signal to the ACCC and the small business sector that the general community and the parliament acknowledges the role of small business in keeping markets competitive, and that the trade practices legislation has an important role in preventing large businesses unfairly reducing competition in markets at the expense of small business. We all know that small businesses are under great stresses, yet they are a very important and innovative element of the market. In this area of global competition, of goods moving around freely and with the general pressures of pricing on business, large businesses do—even more—have an advantage over small business. I certainly welcome having a deputy chairperson in the ACCC who has that working knowledge of small businesses and who knows the kind of pressures they are under, one who will have some solutions to bring to the table at the ACCC in how to address those issues.

I find it strange that the opposition, in looking at this bill, would seek to eliminate several key clauses of it. I
think that we should look at this bill as a whole and acknowledge that it puts together a package that will assist small businesses and improve the Trade Practices Act. It will hopefully create an environment in our markets where it is acknowledged that big businesses are not given permission to act in a way that disadvantages small businesses—that they must not engage in predatory pricing and that they must not act in a way that forces out small business and leaves the market much more to big business. I commend this bill to the Senate in the strongest terms. I hope that we see the entire package put forward so that we can go forward with legal certainty. I hope we can go forward on the advice that the government has given and see these strong improvements to the Trade Practices Act.

Senator BUSHBY (Tasmania) (8.52 pm)—I rise to speak on the Trade Practices Legislation Amendment Bill 2008. The bill amends sections 46, 51 and 155 of the Trade Practices Act 1974 and seeks to clarify a number of terms relating to predatory pricing and unconscionable conduct. The amendments to sections 51 and 155 can be described as little more than procedural changes and will make little difference to the underlying substantive flaws and gaps in key sections of the Trade Practices Act dealing with abuses of market power and unconscionable conduct by large and powerful entities. As such, I seriously doubt they can deliver the benefits that the majority report of the Senate Standing Committee on Economics inquiry claims that they will.

However, the amendment to section 46 will have far greater effect than will the lukewarm amendments to sections 51 and 155. This amendment will actually impose a further disadvantage for small business by making it much more difficult to obtain the protection against predatory pricing the section is intended to deliver. Predatory pricing is the practice of firms deliberately setting prices at an unsustainably low level with the intent of driving competitors out of the market. Section 46 prohibits the misuse of market power and unconscionable conduct by large and powerful entities. As such, I seriously doubt they can deliver the benefits that the majority report of the Senate Standing Committee on Economics inquiry claims that they will.

Why do we have a section of the TPA to address predatory pricing? Surely it can be argued that a business looking to sell its goods at a price less than the relevant cost to the corporation of supplying such goods is a good thing for consumers—even more so if it does it for a sustained period. Surely the bottom line is that the more of this below-cost selling that goes on the better served are the consumers. It all sounds like very effective competition. The problem is that predatory pricing is anticompetitive. The practice removes efficient competitors, usually small businesses, from the market, allowing for prices to be increased in the absence of competition. This ends up reducing the efficiency of the economy as a whole and, as such, presents negative medium- and long-term consequences that far outweigh the positive short-term benefits of cheaper prices.

The result is that the efficiency and effectiveness of the Australian small business sector in supplying goods to the Australian consumer is undermined, and Australians, especially Australian working families, will be left to wear the costs of less choice, higher prices, loss of the convenience of local shops, lower levels of service and shopping in less friendly and welcoming environments. Given all that, it is surprising that a newly elected government, one that was elected on the promise of doing something about rising grocery prices, would seek to so quickly revoke the effect of an amendment that was intended to eliminate anticompetitive practices—practices with real and detrimental consequences for consumers—and that they supported in opposition.

This bill, combined with the universally accepted gross waste of taxpayers’ money in what can probably be described as one of Australia’s most unbelievably useless pieces of public policy delivery—certainly the most useless in recent years—GROCERYchoice, appears to be about the extent of the government’s delivery on grocery prices. The Prime Minister’s comment that ‘the government has done all it can’ in respect of grocery prices has often been quoted. But, with respect, that is not good enough when his government was elected on the promise that it would make a real difference in this area.

Despite all that, I doubt that there are many who would argue that the section as amended in 2007 is the perfect solution to the problem of predatory pricing. The reality is that it is difficult to create a legislative prohibition that prohibits anticompetitive behaviour in a manner that can be effectively and efficiently proven—but what is clear is that the section as it stood prior to the 2007 amendments did not work. The 2003 Boral case proved that clearly, when the High Court, presented with factual circumstances that any reasonable person in Australia would accept as unreasonable, found that a breach of section 46 was not proven. The
High Court took a very narrow view of substantial market power in the Boral case, essentially defining it as the ability to raise prices without losing business. It is a very high threshold and ultimately only applies to monopolists or near monopolists, and, during the time since 2003, the ACCC has not mounted any section 46 cases—most likely as a result of that High Court decision and a handful of other decisions by the High Court and the consequent cost of mounting cases with little prospect of success.

I doubt anyone would suggest this is evidence that predatory pricing is not a practice that has been employed in this nation since that time, because there is no shortage of cases, as acknowledged by Senator Hurley just a few minutes ago, where allegations of this practice are evident. But the chances of proving it under the legislation in place prior to the 2007 amendments were slim to none, and the potential costs of taking on a corporation which had the resources to engage in such practices in the first place is way beyond the capacity of small businesses that may find themselves the victims of predatory pricing and, it would seem, of little attraction to the ACCC post Boral. The 2007 amendments were designed to overcome some of these practical challenges in making out a predatory pricing case.

However, evidence was received at the hearing into this bill suggesting that, if enacted, the changes proposed in the bill will remove vital aspects of the 2007 amendments that were so designed to address these practical challenges and will provide no new redress in that respect. The evidence received by the economics committee inquiry stated that the proposed changes to section 46 fail to deal with the problems of defining and proving market power, and thereby fail to overcome the practical near impossibility of proving a predatory pricing case.

For example, Associate Professor Frank Zumbo, stated:

"Because those changes to market power do not change that underlying definition and interpretation by the High Court, it is clear that the market power threshold remains a very high threshold. Reinstating that threshold to the Birdsville amendment would render the Birdsville amendment useless."

... ... ...
... reinstatement of these two hurdles—market power and take advantage—will make it next to impossible to bring section 46 cases ...
That High Court definition of market power ... will not be changed by amendments that this government is proposing. The amended sections have been in place now for less than a year. They are yet to be tested in court. And, yes, they do contain new terms that are also yet to be tested. If left in the hands of courts, their effectiveness will ultimately be determined and opportunities for further improvements will be highlighted if and when needed. But to simply say, ‘These terms aren’t well enough defined, so let’s take things back to the days when we knew what all the terms meant because it will give small business greater protection,’ is intellectually dishonest, as we know that the way things were effectively provided no protection from predatory pricing behaviour.

The facts are that the proposed amendments to section 46 of the Trade Practices Act in relation to predatory pricing will reinstate the problematic and almost impossible to prove concept of market share, and the previous additional hurdle of ‘take advantage’ will have no positive effect and can only lead to the complete neutering of the section as it applies to predatory pricing. The market share test stated in section 46(1AA), the Birdsville amendment, however, is intended to provide access to what, if given a chance to be tested, is likely to be an effective legal remedy against predatory pricing. It is intended to target the particular evil of anticompetitive below-cost pricing and does so without creating any unusual levels of uncertainty or in a manner that undermines legitimate competitive practices.

It is important to note that these 2007 amendments include sufficient safeguards to ensure that legitimate competition is not or will not be diminished, and there is no evidence that the 2007 amendments undermine competition. The bottom line is, as quoted over and again by my colleague Senator Joyce, that the market share test is only the door into the court. Proving a substantial market share does not in itself prove predatory pricing.

Senator Brandis—It is only one of the doors you need to go through.

Senator BUSHBY—Exactly, that is right. The other elements of the section also need to be made out. As Senator Brandis has pointed out, there are a number of other doors that you need to go through to get in there. These include a sustained period of selling goods at a price less than the relevant cost to the corporation of supplying goods and, importantly, doing so with the intention of putting competitors out of business. As such, a business with a large market share selling goods at clearance prices will not be caught by the provision—not unless it is able to be proven that it was doing so for a sustained period and with the specific intention of putting competitors out of business.

Coles gave evidence to the ACCC price inquiry that their pricing behaviour had not been changed as a result of the 2007 amendments. They gave no evidence that those amendments frightened them into not discounting but, on the contrary, said their pricing practices had not changed. Similarly, the experience of the ACCC itself since the 2007 amendments were introduced backs the claim that there has been no resultant dampening of competition or any apparent unintended
consequences. Earlier this year the ACCC noted that it had received 75 complaints alleging predatory pricing under section 46(1AA) but that of those 75 complaints it considered none represented a provable breach of that section. We heard earlier from Senator Joyce that the number of those complaints is probably now around 100, and still none has presented as a provable breach of that section. That suggests to me quite strongly that the 2007 amendments have not opened the floodgates to litigation and prosecution of corporations which hold substantial market share and which also choose to discount.

The 2007 amendments had the support of small business groups and continue to enjoy that support. For example, the Senate Standing Committee on Economics inquiry into the bill received a submission from the Fair Trading Coalition, which is an informal coalition of small business groups, stating their support for the section as it currently stands and their belief that most of the problems identified by the ACCC in relation to the 2007 amendments will still exist following the passing of this bill’s proposed amendments—problems such as: what is below the relevant cost, what is a sustained period and what is purpose? In addition to having to prove market power, the government, through this bill, is placing a further obstacle in front of small business in the form of the take advantage test. The take advantage test will add extra complications to the process of having to prove predatory pricing. The government has put forward the argument that having both a market power and a market share test in the same act creates uncertainty but, at the same time, acknowledges that having separate predatory pricing offences is on balance a good thing.

Market share is a well understood concept, and the government’s claim that the test will lead to uncertainty has not taken into consideration that the ACCC will closely review the market share of the entity alleged to have engaged in predatory pricing when assessing pricing claims. The government has also argued that having both market share and market power tests in section 46 means that there is a dual track process under section 46. This may or may not be the case, but I fail to see the problem if each of the tracks presents an opportunity to limit what are ultimately uncompetitive practices that present detrimental outcomes to consumers. In any event, this is nothing new, as dual track processes are contained within other competition law sections of the Trade Practices Act.

It is often argued in relation to the Trade Practices Act that it is there to protect competition and not competitors. That is very true, and I agree. However, if the regulatory scheme designed to do just that fails to stop practices which lead to increased opportunities for the development of oligopolistic and monopolistic markets, then it is not doing its job. The key is not the protection of businesses per se but the protection of efficient, healthy, competitive markets in which consumers are provided a real choice based on price, service, quality and environment. Failing to ensure we have adequate protection in that regulatory regime against predatory pricing is a failure to protect competition. Rolling back the 2007 amendments and replacing them with the complications and difficulties of the market power and take advantage tests will only serve to exacerbate the problems of making out a case and will ultimately fail in the stated aim of protecting competition. And, in the end, it will be the Australian consumer who pays the cost.

Senator MILNE (Tasmania) (9.05 pm)—I rise to make some comments on the Trade Practices Legislation Amendment Bill 2008. I note that essentially we are talking about section 46, which is an important part of the Trade Practices Act and does concern the prohibition on the misuse of market power, as has been said by all and sundry here this evening. We know that section 46 has not been working effectively, and we know that High Court decisions have narrowly interpreted the provisions of section 46, making it very difficult to prove anticompetitive behaviour. So we have wrestled in this parliament with how to provide the competition that is necessary and how to guarantee that competition and a competitive market. How do you ensure that you have a market which is fair to small business? How do you oversee section 46 in such a way that the consumer is also protected?

Last year the previous government introduced some changes to improve section 46 and that was when Senator Joyce, as we know, introduced what has become known as the Birdsville amendment, which was a specific offence of predatory pricing. He did the parliament and the people of Australia a service in terms of introducing that as a specific offence. At that time we supported that legislation including the Birdsville amendment, as did several parties in this place, and we recognised it was a genuine attempt to address some of the problems that had existed with section 46. In observing the reaction to the passage of the Birdsville amendment we recognised it was welcome in some quarters, particularly small business, and criticised in others. We also note, as Senator Brandis and Senator Joyce have pointed out, that it has yet to be tested court and therefore we remain in ignorance about whether it would work effectively if it were tested through the courts.

Today we are presented with the current government’s attempt to address the ongoing problems of section 46. The bill before us makes several amendments, as Senator Hurley indicated earlier, as a package and part of that package amends the Birdsville amendment, or changes it as Senator Brandis would suggest, and
introduces a series of other amendments with the aim of making section 46 more effective in preventing—

Senator Brandis—They are not really a package, Senator Milne. Any one of those amendments could stand alone.

Senator MILNE—Regardless of Senator Brandis’s interjection I am regarding it as a package that is building on the amendments that came in last year and aimed at being more effective in preventing the misuse of market power and predatory pricing. The aim of both what Senator Joyce tried to do with the Birdsville amendment and what is being attempted here today is to try and make section 46 more effective, and that is something that the Greens definitely support.

Apart from some of the other matters in the bill, the key issue is the debate between market power and market share. Essentially that is the key difference between what the government is putting forward here today and what the Birdsville amendment sought to do. We note that small business believe that market share provides a better test, given the previous narrow interpretation of market power. We also understand the frustration of small business, given the inability of section 46 to provide adequate protection from anticompetitive behaviour. But we remain to be convinced that market share is the answer to a more effective section 46. We note that the ACCC and other commentators do not accept that market share is easier to demonstrate and they argue that market power is a more appropriate concept for the purposes of the section. I note in particular that that is the view put forward by the ACCC. Since that is the body responsible for the act and, of course, the body most likely to prosecute under section 46, I think it is worth listening to what the ACCC had to say. In the speech by Graeme Samuel to the National Small Business Summit on 11 June this year he said:

The reforms announced recently by the government to section 46 and section 155 of the TPA continue the process of providing the regulator with the tools it needs to vigorously protect competition, while not falling into the trap of protecting competitors from the impact of that competition.

He went on to say:

However, in practice the concept of market share is no clearer than the concept of market power—particularly when the goal is to ensure the forces of competition operate effectively, rather than simply protecting small firms against larger firms.

How does a court determine what constitutes a substantial share of a market—particularly in the context of competition?

The current government has recognised there is a concern in the community about the specific issue of predatory pricing. Accordingly, the government is proposing to keep section 46(1AA) as a specific predatory pricing provision but to couch it in terms that are familiar in section 46, and on which there is a significant body of case law.

With these changes in place the ACCC considers that the balance has been adequately struck between ensuring that businesses are exposed to the rigours of competition—with all the associated economic benefits—while being protected from the possible anti-competitive consequences associated with firms gaining power from that competitive process.

But what it does mean is when firms that have market power are using that power for an anti-competitive purpose the ACCC will be well placed to act.

The submission and evidence from the Consumer Action Law Centre to the Senate inquiry supported the government’s position. Given that the key purpose of the act and the section is to protect the interest of consumers the Greens also take the centre’s views into account. The Consumer Action Law Centre said specifically that they strongly supported many of the proposed amendments and supported the proposed amendments in the bill to section 46 of the Trade Practices Act. I note that the Council of Small Business on 3 July put out a media release stating their support for the government’s amendments but then, more recently, changed their position. They did not really say why they changed. It was done in a media release saying that the debate about market share versus market power had come up since their July press release. I find that a bit difficult to believe since it has been fundamentally the issue of debate for some considerable period of time.

Many speakers tonight have referred to the 2003 Bor case and the High Court’s narrow interpretation and so on without acknowledging that there have been some amendments in the intervening years, notably last year, which have given more clarity and more direction in relation to a definition of market power—in particular, subsection 46(3C). It says that a firm can have market power even though it does not substantially control a market and that a firm can have market power even though it does not have absolute freedom from constraint from the conduct of its competitors, its suppliers or its customers. Furthermore, under section 46(3A) a court can consider any market power that results from agreements entered into by the firms. So there have been a number of changes since 2003 which have tried to define more clearly what market power might mean for the purposes of a legal interpretation.

The other amendments made by this bill extend the jurisdiction to the Federal Magistrates Court. We appreciate that the government is trying to make court processes more accessible. Anything that encourages greater accessibility for small business in a less highly charged environment that may mean getting to mediation is a much better way to go. We will see whether it works. It is probably logical that most cases will go straight to the Federal Court because they do involve complicated issues of law, particularly with the new
amendments. I note that the Law Council is not supporting this move to the Federal Magistrates Court. However, we think that it is worth a try. It may not do anything; it may do so. Let us see whether it can make a difference. We as parliamentarians ought to be supporting processes that try to make courts more accessible rather than less so.

In terms of the removal of the price thresholds on prohibition of unconscionable conduct, that implements a recommendation of the 2004 Senate report which we endorse. We also think that it is important for the ACCC deputy chairperson to have knowledge of or experience in small business. While we recognise that some commentary to the Senate Economics Committee suggested that this was putting the interests of small business ahead of the consumer, I do not think that this will be the case. Getting someone onto the ACCC who has specific expertise in small business must be a good thing. It will help clarify issues and so on.

As to the extension of the information-gathering powers of the ACCC under section 155, we certainly support that. We want to have a situation where the—

Senator Brandis—If it was a national security issue you would think it was the most outrageous thing in the world. You are perfectly comfortable about granting substantive police powers here, Senator Milne.

Senator MILNE—Thank you, Senator Brandis, for your considered opinion. I have heard it once; I do not need to hear it again. As I said, the amendments provide that the ACCC can continue to exercise its information-gathering powers until it commences proceedings or until the close of pleadings in relation to injunction proceedings. We support that occurring.

In conclusion, it is fair to say that the Greens are supportive of this legislation. I must say that it is difficult to make a judgement as to whether the changes to the definition of market power are sufficient to give effect to what the government is trying to do. But they do give internal consistency to the provisions of the Trade Practices Act. We note that things have changed since 2003. We are not dealing with the same environment as when the Boral case was heard. We need to make that perfectly clear. On that basis, on balance the Greens support what the government is seeking to do. I suppose I am one of the few people in this parliament who have ever actually had to trade—buy a product, sell at a higher price and make a profit. So I think I have had a fair bit of experience in the marketplace. The Trade Practices Legislation Amendment Bill 2008 that we have before us tonight seeks to change a number of important aspects of the Trade Practices Act including the last amendment that we moved, I think in September last year, when we established that market share should be the qualification. The government now wants to change that back to market power.

We tried this for years and years and were never successful. Since 2002 there has not been a successful case of predatory pricing carried forward by the ACCC. In fact, up until the stage when we brought this legislation through in 2007 the ACCC had more or less thrown in the towel because they recognised that they could not get a decision out of any court that would allow a conviction through for predatory pricing. What took place was the well-known Boral case where Boral the brickmaker, or block maker, decided that they would go in and clean up the market in Victoria. There were two or three very competitive brickmakers down there—probably five, from memory. Boral went in very hard to take out a particular brickmaker who had developed a pretty smart machine that could turn out bricks a lot faster than Boral. The particular brickmaker was giving Boral a haircut. Boral virtually said that it did not matter what the price was; they told their reps to just go out and get the business.
That particular brickmaker rang me up and complained to me. At this stage Senator Brandis was not in the parliament—he is recognised as one of the most prominent trade practices solicitors but he was not here at the time. The particular brickmaker rang me up and said: ‘This is getting very serious. They have taken two of the competitors out and I am next.’ The ACCC warned Boral. The business environment picked up and the particular brickmaker survived. The ACCC then took Boral to court, bringing them in on a predatory pricing charge. Boral won that particular court action. The ACCC then appealed and the ACCC won. Boral then appealed to the High Court and the judgement came down and Justice McHugh concluded:

Even though Boral drove down its prices in order to remove competition, this does not mean that it had a substantial degree of market power. That must be proved before there is a breach of section 46. Predatory pricing without a substantial degree of market power cannot result in a breach of section 46.

From that day forward I do not believe that there has been a successful predatory pricing court conviction by the ACCC. In fact I think they virtually threw in the towel and said that they did not have the case law to go before a court. As the court interpreted it, you would have to have so much power that you almost had to be—and I have used the term before—a Qantas cutting the fares for the Cairns Aero Club or something like that where they had a couple of little Barons that they were letting out. The power had to be immense. It almost had to be a monopoly power before you could even get into the court.

The National Party and the Liberal Party, the coalition, brought forward a change to the act. That change has been on foot for 12 months and this bill seeks to change what is now called the Birdsville amendment from market share to market power. That is turning the clock back to where we were before. The bill gives a new criterion to the definition of taking advantage which assists the courts in their interpretation of the terms and makes jurisdictional changes so that section 46 is administered by the Federal Magistrates Court and it legislates that one of the ACCC’s deputy chairmen have knowledge and experience in small business matters and strengthens the ACCC information gathering power under section 155.

All those things are admirable. I do not think that whether you are in a Magistrates Court or in the High Court is important, though I imagine that it would probably be better to be in the High Court where the judges have had some experience with this particular act of parliament. But I do not think that it makes it any cheaper to go a Magistrates Court than it does to go to the High Court.

Senator Brandis—I can assure you that the barristers will charge the same fees whichever court you are in.

Senator BOSWELL—We have a saloon bar opinion here from Senator Brandis saying that whatever court you turn up in the barristers’ fees are pretty heavy.

Senator Brandis—I did not say heavy; I said the same.

Senator BOSWELL—The same, which would be pretty heavy when you get in front of the Trade Practices Commission. Irrespective of all those other amendments, the main amendment is the change to section 46. I reiterate Senator Brandis’s statement: this legislation has only been in place for roughly 12 months and we have not seen anyone lose business, anyone be affected by products being sold under price or anyone taking this legislation to court and winning. In fact, we have not seen any movement at all under section 46. I understand that over 100 cases have been presented to the ACCC and there has been no movement or advances in any court actions taken by the ACCC.

So this legislation that the federal government put in place in September last year that was going to be so detrimental to the big end of town or the small end of town has not really had any effect. I would be loath to go back to market power because it has never worked since 2002—no-one could even get into court because market power was interpreted as being almost a monopoly situation. The government wants to make the change and go back to where we were—the unsuccessful piece of legislation that we put through in 2007. But the government cannot give us any evidence of where this legislation has failed in 12 months. It has not failed—it has not moved; the ACCC has not been able to take it to court. It has not resulted in the consequences that the Labor Party said, that people would not be able to cut prices to get rid of old stock.

What this bill is trying to clarify is whether:

- the conduct of the corporation is materially facilitated by its substantial degree of market power;
- the corporation engages in the conduct in reliance upon its substantial degree of market power;
- the corporation would be likely to engage in the conduct ... 

But this is not required because we have not had any evidence that it is a detrimental bill. Why don’t we leave it there and if it turns into jelly or custard then we can take the appropriate decision. But that has not happened at the moment. You are asking us to go back to our piece of legislation that was constructed under market power that never worked—it never let anyone get into court. Unless we can have some definition of what predatory pricing is and be able to then have that predatory pricing taken to court by the ACCC, all we are going to get is more and more market concentration. We are going to get some of the big players coming in and trying to predatory price.
I have seen this happen myself. I have seen where butter has been advertised in, say, Monto for $1 a kilo and in every other bulletin in other places that the particular firm puts out it is $1.50. You would have to say that that particular bulletin is aimed at predatory pricing someone in the smaller town to try to remove them. I have seen it happen and I have taken it up with the main store that was doing it and they assured me that it would never happen again. I support the legislation. I support the amendments that Senator Brandis has moved. We should give it a go and see what happens.

Senator CAMERON (New South Wales) (9.35 pm)—The Trade Practices Legislation Amendment Bill 2008 strengthens sections 46 and 51AC of the Trade Practices Act as part of the government’s commitment to improve Australia’s trade practices laws. The bill includes a number of measures to improve the enforceability of the Trade Practices Act. The measures in the bill were originally a package of amendments to the former government’s Trade Practices Laws Amendment Bill 2007, known as the Birdsville amendments. Despite being recommended by the Senate inquiry into that bill, the former government refused to adopt what were very sensible amendments. Business, especially small business, is entitled to the protection of effective trade practices laws. Consumers are entitled to the protection of effective trade practices laws. This bill will ensure that there is genuine competition for the benefit of consumers and small business.

The previous government’s amendments were a rushed job, put together in haste as a result of internal political pressure before they went to last year’s election. Those changes introduced confusion into the Trade Practices Act. This bill will clarify the act and undo the mess created last year. This bill will strengthen the power of the ACCC to identify anticompetitive behaviour.

On the advice of the ACCC, this bill replaces the share of market test with a market power test. Market power is a broader term that captures anticompetitive behaviour from powerful businesses whether that power comes from market share or any other source. The amendments passed by the former government were not supported by the ACCC or its former chair, Professor Alan Fels, or by Bob Baxt, the chair of the former Trade Practices Commission.

The ACCC has publicly stated that section 46(1AA) as it presently stands adds confusion to the law and should be amended. This bill does that by focusing section 46(1AA) on a corporation’s market power as opposed to its market share. The size of a firm, including its market share, will however remain a relevant consideration in establishing the firm’s market power. The present section 46(1AA) operates in relation to firms with a ‘substantial share of a market’. This is inconsistent with the longstanding prohibition in section 46(1), which operates in relation to firms with a ‘substantial degree of market power’. This bill realigns the two subsections.

The concept of market power allows the court to consider a wide range of factors, including all of the characteristics of a market that may contribute to the capacity of a firm to engage in anticompetitive behaviour. The concept of market power has been effective in targeting unilateral anticompetitive conduct. For example, in 2006 the Federal Court imposed penalties totalling $8.9 million on Safeway in relation to four breaches of section 46(1). This was despite Safeway having only around 16 to 20 per cent of the relevant market. Arguably, that prosecution could not have proceeded under the law as it stands following the previous government’s amendments last year.

This bill clarifies the role of recoupment in predatory pricing cases. Presently, section 46 does not expressly provide whether it is necessary to prove recoupment to establish a case based on predatory pricing. Submissions to the Senate Economics Committee inquiry raised concerns about the lack of clarity and its impact on the effectiveness of section 46. In particular, concerns were raised that it may be necessary to establish a predatory pricing case following the High Court’s decision in the Boral case.

The creation of second deputy chair at the ACCC is extremely important. It is important so that small business gets a permanent voice on collective bargaining, on retail tenancy issues, on franchising and on unconscionable conduct. This is an initiative that is long overdue, and it is a positive initiative as part of the government’s package. In addition, small business can also sue in the Federal Magistrates Court, making the courts more accessible under this legislation.

It is fundamental for good law that it provides clarity and certainty. The two-track approach that has emerged has caused confusion between market share and market power.

I would like to take you through some of the views that other people have on the bill. An editorial in the Daily Telegraph on 28 April said the following:

The proposed changes will be music to the ears of small businesses that now stand a chance against much larger and more powerful companies.

Peter Anderson, the chief executive of ACCI, was reported in the Daily Telegraph on 28 April 2008 as saying:

It will make it easier for small business and the ACCC to take action where there is predatory pricing underway or an abuse of market power, and that will generally be welcomed by the small business community.

Peter Burns from the Australian Industry Group was reported in the Australian on 28 April as saying that he was relieved that Senator Joyce’s amendments were being overturned. He said:
They were silly. It is sensible to get rid of them. They have created a lot of uncertainty.

And there was much discussion about the previous government’s amendments. Peter Armitage, the practice head of competition and consumer protection at Blake Dawson Waldron, said that many fine ideas had been conceived in the Birdsville pub, but the predatory amendments to the Trade Practices Act accepted by the government are a mistake. He said:

Make no mistake; this law is bad for consumers and bad for competition.

In the Australian on 19 September 2007 John Durie said:

John Howard has single-handedly destroyed the entire premise of the Trade Practices Act through his predatory pricing amendment, which will have the effect of killing price discounting, to the detriment of small business and consumers.

And Bob Baxt, a partner at Freehills and former chairman of the Trade Practices Commission, said that the legislation, which was introduced in haste and apparently as a result of, among other things, the criticisms made on a certain radio station, will not serve the Australian community well.

This legislation is designed to provide more effective competition policy, it is designed to provide clarity to the Trade Practices Act in this country and it is designed to protect both consumer and small business. It is quite clear that not only has there been a strong voice from the academic analysis of this legislation, but the people who have to practically implement it—industry and small business—are saying: ‘This is what we need. This is good legislation that epitomises Labor doing the right thing by small business and doing the right thing by the community.’ This is good policy and it should be adopted by the Senate, and I have been pleased to speak on it tonight.

Senator PRATT (Western Australia) (9.44 pm)—I welcome the Trade Practices Legislation Amendment Bill 2008 as it is in the interests of competition, consumers and business. It is a key part of the government’s economic reform agenda, giving the Australian Competition and Consumer Commission the tools it needs to promote competition and fair trading and to protect consumers. It is indeed the most significant reform of the Trade Practices Act in some 22 years. And I am pleased to say that enhancing competition policy is at the core of the Rudd government’s economic agenda, as is highlighted by other policy measures such as ‘grocery watch’ and Fuelwatch, which we will continue to pursue.

These reforms will make it easier to prosecute businesses engaging in anti-competitive behaviour, give small businesses permanent representation on the ACCC and allow small businesses to access a cheaper and more efficient judicial process. So I believe these reforms are good news for small businesses like independent petrol retailers and small grocers who are competing against more powerful, larger businesses.

These reforms have been welcomed by consumer and small business advocates. In particular, I would like to highlight the views of the Fair Trading Coalition, which is an informal coalition of small business working towards reform of the Trade Practices Act. I note that the Senate inquiry into the effectiveness of the Trade Practices Act in protecting small business some time ago called for the reform of the concept of ‘take advantage’ in section 46. The present meaning of the term has prevented section 46 from properly capturing anti-competitive behaviour, so the amendment to clarify the phrase ‘take advantage’ has been welcomed. The government’s amendments will ensure that victims of predatory pricing will not need to prove that the predator has the ability to recoup losses after participating in an anti-competitive, below-cost pricing strategy. I think this is significant because the bill removes the unnecessary uncertainty that has arisen following the two-track process for predatory pricing that developed under the previous government.

It is also time—and we have heard many speakers say this this evening—for the Birdsville amendment to go, in favour of a stronger and more workable predatory pricing provision. The initial introduction of the Birdsville amendment was welcomed as the first explicit recognition of predatory pricing within the act. However, as Mallesons Stephen Jaques partner Dave Poddar said to the Australian Financial Review:

The Birdsville Amendment, apparently derived at the pub by Senator Joyce, was one of the more unusual policy initiatives of the last government—having been created in a pub, I am sure it is—and is a law which is out of step with competition policy in this area.

He went on to say that it was flawed because it focused on market share alone in deciding whether a company had market power. He said that it was an overly simplistic approach and that the government’s proposed changes are sensible. Likewise, Stephen Corones from the School of Law at QUT has highlighted—

Senator Brandis—Corones.

Senator PRATT—Thank you for correcting my pronunciation, Senator Brandis. You have knowledge of what the good professor has to say?

Senator Brandis—If you had heard my speech you would know that I quoted from his article.

Senator PRATT—He has highlighted that: Many corporations have a substantial share of a market; however, few firms have substantial market power.

He highlights that having a substantial share of the market tells us little about whether there is a problem that warrants attention. So market share is meaningless, as the key question is whether a firm acting on its own
has what is called discretionary power. That is whether it is able to take account of the competitive reaction of other firms. It might have 100 per cent of the business but still not be able to raise its prices because of the threat of a new entry into the market if it does. So market share is indeed an inadequate test. It is disappointing that the coalition seems intent on voting down important elements of this legislation. It is time for a provision that will serve to assist the regulator to bring cases against big companies that abuse their market power, and the Birdsville amendment as enacted about 12 months ago just does not cut it and will not do the job.

The Consumer Action Law Centre have highlighted the complexity of predatory pricing versus competitive pricing and they have supported a new proposed subsection 46(1AB). They said:

As noted above, proceedings alleging predatory pricing have been particularly difficult to prove. One of the reasons for this is that, in order to find that a firm had substantial market power, the courts have required the firm to be able to recoup the losses it had incurred by under-pricing. In our view, the requirement for recoupment of loss in every case of predatory pricing is misguided. The ability to recoup losses after eliminating competitors through sustained price-cutting conduct may be relevant to determining whether the conduct was predatory or simply competitive, but it is not determinative of such. Indeed, it has been suggested that the upshot of the Boral decision, in which the High Court dismissed the allegations of—

Debate interrupted.

ADJOURNMENT

The PRESIDENT—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Maternity Services

Senator PRATT (Western Australia) (9.50 pm)—I rise to welcome the 'Improving maternity services in Australia' discussion paper launched by the Rudd government last week. The paper raises an issue of vital importance to the wellbeing of Australian families—the quality of maternity services. In the late 1990s, major reviews were undertaken into maternity services by the Senate Standing Committee on Community Affairs and the National Health and Medical Research Council. Despite the fact that these reviews highlighted the need for national leadership to drive reform, no comprehensive response to these reviews was forthcoming from the Howard government. Non-government organisations stepped in to fill the gap.

In 2002, the Maternity Coalition, a peak body representing the consumers of maternity services, produced its own National Maternity Action Plan. The plan highlighted the scientific evidence demonstrating that women and babies have very good outcomes from midwife-led care. It noted that the right to choose a midwife as a lead carer was available to women in many other OECD countries but is not available to all women in Australia and it called on governments to reform maternity services. State and territory governments responded, but the Howard government did not. While the Howard government sat on its hands, workforce issues and an overall trend towards the centralisation of specialised medical services exacerbated problems with provision of maternity services in regional areas.

In 2006, the National Rural Health Alliance sought to secure a higher place on the national policy agenda for rural and remote maternity services by producing its own policy document. This document estimated that up to 130 rural maternity services have closed in the last decade. Not surprisingly, given the history of Howard government inaction on this issue, the paper’s first recommendation called for national frameworks and strategies to promote rural and remote general practitioner and midwife practice. The work of the National Rural Health Alliance finally goaded the Howard government into taking some action. A consortium of the health professions involved in maternity services was funded to develop a guide to appropriate rural maternity services.

The work that has been undertaken by consumer groups and health professions to progress the reform of maternity services in Australia is to be commended; however, it is not the job of either consumers or professional associations to develop national frameworks for the implementation of major national health reform. That is the job of the Australian government. It has a role to balance the views and interests of all the stakeholders involved. In my own state of Western Australia, the development of a new policy framework for maternity services involved an extensive community consultation process. I was a member of the cross-party select committee into public obstetric services in WA, which reviewed models of care and the WA government’s maternity services reform process. The consultation processes got a big tick as it successfully began to bed down issues between stakeholders, including midwives, obstetricians GPs and consumer advocates. One of the objectives of the new policy framework for maternity services in WA is to:

increase the capacity for midwives to provide one-to-one care to women throughout pregnancy, labour and childbirth, facilitating greater individual support, and enabling continuity of carer.

The importance of this objective cannot be overstated. It is a response to the views of the women themselves in Western Australia and elsewhere that rate continuity of carer as critical to quality maternity services and support a move away from hospital based, medically focused models of care towards community based primary care services. 
Like most good public policy this accords with commonsense. Of course, women would prefer that the person who provides them with their antenatal care also sees them through the birth of their child and cares for them in the first weeks after their baby is born. However, the number of women who have access to such care is severely limited. Women want carers they know and who know them to see them through this process—a process that is absolutely critical to the formation of strong and healthy families.

Increasing the capacity of midwives to provide one-to-one care is also a sensible response to workforce issues. Put simply, continuity of care cannot be guaranteed unless we make full and flexible use of the skills of all the health professionals involved in the provision of maternity services. This includes GPs, obstetricians and midwives. There have never been enough obstetricians to enable obstetricians to offer continuity of care to public maternity patients—not even in metropolitan areas—and there never will be. All parties need to accept this reality.

Despite the scaremongering of some, all the available evidence demonstrates that midwife-led care and GP/obstetrician-led care is a safe option for women assessed to be at low risk of complications, as is a planned birth either at home or in a small, local, stand alone, midwifery-led birthing centre. Despite the previously limited Commonwealth support for such approaches, they have already been successfully practised in Australia. As evidence, I refer senators to the recent review of the Ryde Midwifery Caseload Practice, in New South Wales. Western Australia has its own very successful community midwifery program, funded by the state government, which allows women in the program to birth at home with their midwife.

Midwife-led models of maternity care have been successfully implemented on a much wider scale in New Zealand, where the latest figures indicate that over three-quarters of all mothers choose a midwife to lead their maternity care. The British government has also recently committed to offering all mothers in the UK the choice of midwife-led care by the end of 2009. It is notable that in NZ obstetricians focus the majority of their work on riskier births, and there is a growing consensus there that this has been of benefit to the overall maternity services workforce.

Consultation and review processes in Western Australia and other states have highlighted the limits of state government’s capacity to holistically reform maternity services. To give an example, full and flexible use of the skills of midwives will require reforms to Medicare funding arrangements—reform that both the national Maternity Coalition and the Australian College of Midwives have been calling for. For more than a decade there has been an urgent need for the Commonwealth to drive reform in this area. Everyone recognised this; everyone except the Howard government.

A decade after the Senate’s own inquiry into childbirth procedures, we are finally moving forward at a national level. Earlier this year, building on the work already undertaken by state governments, the Australian Health Ministers Advisory Council endorsed a framework for the implementation of primary maternity services in Australia. This reform process will require strong action by the Australian government, and as such, I welcome the release of the Rudd government’s discussion paper on improving maternity services. The paper will guide a community consultation and review process at a national level. With all levels of government pulling in the same direction, and with all stakeholders involved in a national dialogue led by the Commonwealth, I have no doubt that we will finally make real progress in this critical area. This will deliver real benefits to mothers, babies and their families.

**Australian Defence Force Parliamentary Program**

**Senator ADAMS** (Western Australia) (9.59 pm)—Tonight I would like to speak about my experience as a participant in the Australian Defence Force Parliamentary Program attached to the Army regional force surveillance unit NORFORCE. NORFORCE, under the command of Lieutenant Colonel Michael Rozzoli, specialises in small group, long-range patrols using a variety of insertion and extraction techniques, including water, air, vehicle, foot patrols and, more recently, horses. The regiment has six squadrons and each is responsible for its own area of operations. The four surveillance squadrons within NORFORCE are based in the Kimberley, Darwin, Arnhem Land and Alice Springs.

This year the Australian Defence Force Parliamentary Program provided senators and members of parliament with 15 options to participate in routine operations and activities of the Australian Defence Force. My decision to apply for the NORFORCE option was twofold: I was keen to learn about this unique army unit with its large number of Aboriginal soldiers and I have a great interest in the Northern Territory emergency response Operation Outreach. As a member of the Senate Select Committee on Regional and Remote Indigenous Communities, it was a wonderful opportunity for me to see firsthand how community members and Army personnel interacted during community visits.

My parliamentary colleagues the member for Forrest, Nola Marino, and the member for Werriwa, Chris Hayes, and I were attached to NORFORCE’s Centre Squadron in Alice Springs for five days in May this year. Centre Squadron, under the command of Major James Cook, draws its soldiers from numerous settlements throughout the area of responsibility and 70
per cent of them are Aboriginal. The squadron has approximately 104 reservists and six full-time staff.

NORFORCE plays a major role in the protection of Australia’s northern regions and operates across the whole spectrum of military tasks. This is everything from community liaison, education such as numeracy and literacy training and employment to border protection and warlike operations in support of the rest of the Australian Defence Force. However, the most important operations the unit is involved with are Operation Outreach and Operation Resolute.

Operation Outreach is the Australian Defence Force’s support to the Northern Territory Emergency Response Task Force. There were approximately 80 NORFORCE soldiers involved with supporting Operation Outreach during the busiest period. In small survey teams they have completed community engagement and area surveys and supported child health check teams in 73 communities across the Northern Territory. Operation Outreach began on 27 June 2007. The military involvement will cease in October and post operation administration will cease in December 2008.

Major General Chalmers, the operational manager for the NT emergency response group, said when describing NORFORCE’s support to the health check teams:

When we very quickly had to take teams of doctors and some nurses out to very remote areas, there was probably no other contractor or agency that we could have called upon in the timeframes to get these teams out and supported in communities.

So with NORFORCE, their operational tempo—they have a patrol program associated with their normal defence role—of patrolling increased dramatically whilst they sent out patrols which were essentially logistic support teams or camp support teams for our child health check staff.

So far 70 communities have had more than 9,000 child health checks undertaken. This is a great result, as the estimated total number of health checks is 11,200.

Operation Resolute is the umbrella under which the Australian Defence Force’s domestic maritime security activities are conducted. The Australian Defence Force contributes Royal Australian Navy surface patrols, Royal Australian Air Force maritime aerial surveillance and land based regional force surveillance unit patrols. NORFORCE joins these patrols on both land and water.

I will give some statistics about the undertakings of NORFORCE soldiers. They patrol 11,000 kilometres of coastline and rivers. They cover two time zones. Their territory stretches 2,000 kilometres from west to east and 1,700 kilometres from north to south. They deal with 120 language groups. With approximately 1.8 million square kilometres, their operational area is the largest of any military unit in the world. The area NORFORCE soldiers safeguard is two and a half times larger than New South Wales and covers nearly one-quarter of all Australian territory. In total, there are 680 soldiers, mainly reservists, who deal with this huge area.

While my colleagues and I were in Alice Springs we were very fortunate to be able to go on patrols to Uluru and Kings Canyon and back along 320 kilometres of very corrugated road. When we got back at 10 o’clock that night we were told that we had a clandestine operation at Barrow Creek, which is about 280 kilometres north of Alice Springs. That was a very good exercise. We were given four hours to have a sleep before we left. We camped out for two days. We observed and were involved in all of the security that goes along with these exercises.

At dawn the following day the aircraft came in and finally delivered what had to be delivered. NORFORCE are there to observe and to do everything they can, but they do not actually contact the people they are observing. The car that was collecting the ‘goodies’ went south and an hour and a half later a police siren was heard and the car came back doing about 150 kilometres an hour with the local police chasing it. That was a very good demonstration of just how everything works.

I would like in closing to thank Lieutenant Colonel Michael Rozzoli and Major James Cook for the work they did in preparing such a great exercise for us. It has really been a privilege for me to have Major James Cook here for the last week with the Defence Force exchange program. I think he really did enjoy being here and learning so much about the work that we do in comparison to the work that he does. He is a lawyer and is very interested in the workings of both the House of Representatives and the Senate. Also my congratulations go to Commodore Trevor Jones and to Lynton Dixon, the ADF Parliamentary Program Executive Officer, for putting this all together and providing us with such an experience.

Ms Vivian Wilson

Senator LUNDY (Australian Capital Territory) (10.08 pm)—Vivian Wilson died of a brain tumour on Sunday 31 August. She was well known to senators and members, having worked for the parliament for over 29 years. Having previously worked at the ANU, Vivian commenced as a part-time librarian in the Parliamentary Library in February 1974. She retired as a senior information specialist in May 2003. Parliamentary Library colleagues described Vivian as ‘a very special person, respected for her professional expertise and loved for her humanity, grace and wisdom’.

In her nearly 30 years as a research librarian Vivian saw her role as supporting the work of the parliament and the democratic process. She believed, as she said, that ‘most parliamentarians are good, hardworking
people who take on this job because they think they can make a difference for the better to ordinary people’s lives’. She served politicians and their staff with an attention to detail, a commitment to excellence and a fierce impartiality admired by clients and colleagues. In her retirement speech Vivian explained why she had worked for so long for the parliament. She said that the work was always interesting and challenging, never boring, and that she felt privileged to have had the opportunity to work in such a highly regarded, world-class institution as the Parliamentary Library. Quoting Peter Shergold, who said that one of the key qualities of a public servant was to find what you do best and keep at it with dedication, Vivian said that early in her working life she had found what she did best and, she said, ‘I like to think that I have kept at it with dedication.’

Indeed, Vivian was an expert and dedicated reference librarian—diligent and thorough. She brought to her work her extensive knowledge of literature, art, music, history, politics, science, librarianship, law and travel, and had a truly inquiring mind. She was trusted and admired by many senators and members, including former minister and member of this parliament from 1977 to 1998 the Hon. Professor Barry Jones AO, who said last week:

Vivian Wilson was a librarian of consummate professionalism, generosity and warmth who helped make my life as a back bencher productive and stimulating in the days before MPs had their own research staff, and the World Wide Web and Google were barely imaginable. Through Viv I came to know her father, the eminent physicist Sir Mark Oliphant, and she nursed him devotedly in his last years. Viv was much admired by politicians and staff, at least the reading ones, right across the political spectrum.

I mourn her passing deeply. I am grateful that tribute will be paid to her work and fragrant memory in the Australian Parliament, which she served so well.

This will give some solace to her son Michael and his family and her partner Keith Powell.

For many years Vivian was overall editor of the Parliamentary Handbook, which is the record of each parliament. Under her editorship it became a more comprehensive and accurate record. She was a founding executive member of the Parliamentary Group of Amnesty International. She was active in her support of many important social and political issues. On her retirement, she said that she planned to take a more active part in causes that she cared about, particularly the three Rs: reconciliation, refugee action and racial respect.

Classical music and the arts were an important part of her life. She was a passionate supporter of the ABC and planned to take a more active part in the Friends of the ABC. Vivian’s son, Michael Wilson, remembers the times with his mother as times of ‘laughter, good food, good company and animated debate about the world and life’. But she also demonstrated to him the importance of reflection, remembrance and solitude, and the ability to draw on inner resources to remain anchored, gain strength and understand others. Social justice, fairness, and the pursuit of a peaceful and sustainable world were the values that drove Vivian’s interest in politics and current affairs.

Vivian was born in the United Kingdom in 1938 to a young single mother, and adopted as a baby by Sir Mark and Lady Oliphant, who were then living in Birmingham, as a little sister for their adopted son, Michael. By the time Vivian was able to trace her natural mother, she found that she had died many years earlier of ovarian cancer. Among the interests and causes that Vivian worked for were those of ovarian cancer research and assisting the processes of enabling contact between relinquishing parents and adopted children.

In her young life, Vivian learnt to cope with not only the pressures of public life but also its privileges as the daughter of Sir Mark and Lady Oliphant. Sir Mark’s outspoken views and fame attracted criticism as well as approval, and it was not easy growing up in Canberra in the 1950s, which was then a small town, as the daughter of a famous person. When Sir Mark was the Governor of South Australia, from 1971 to 1976, Vivian sometimes acted as a hostess at Government House functions.

Despite her background, or perhaps because of it, Vivian never sought the limelight and was always unassuming, willing to help others and ever competent. When her father moved back to Canberra after the death of her mother, Vivian had a flat built for him at the back of her house. From then on she helped her father with his life—food, shopping, medical care, his many visitors, his correspondence and his financial affairs—generally in a backup role at first, but later doing absolutely everything for him. Sir Mark died in 2000, aged 98.

With her retirement in May 2003, Vivian looked forward to travel with her partner, Keith Powell, and to enjoying time with her son, Michael, daughter-in-law, Peppi, and especially her two little grandchildren, Alissa and Sam. It is sad that this time was so curtailed. Our thoughts and condolences are with Vivian’s family. We recognise and celebrate Vivian’s contribution to this parliament and to public life, as well as her achievements, friendships and lasting influence.

Senate adjourned at 10.14 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Civil Aviation Act—

Civil Aviation Regulations—
Civil Aviation Order 40.0 Amendment Order (No. 2) 2008 [F2008L03194]*.

Instruments Nos CASA—

EX56/08—Exemption – refuelling with passengers on board [F2008L03050]*.
EX58/08—Exemption – use of radiocommunication systems in firefighting operations [F2008L03085]*.
EX60/08—Exemption – refuelling with passengers on board [F2008L03104]*.
EX61/08—Exemption – from take-off and landing minima outside Australian territory [F2008L03142]*.
EX63/08—Exemption – refuelling with passengers on board [F2008L03236]*.
EX64/08—Exemption – powered weight shift controlled aircraft [F2008L03235]*.

EX58/08—Exemption – use of radiocommunication systems in firefighting operations [F2008L03085]*.

EX58/08—Exemption – use of radiocommunication systems in firefighting operations [F2008L03085]*.

EX60/08—Exemption – refuelling with passengers on board [F2008L03104]*.
EX61/08—Exemption – from take-off and landing minima outside Australian territory [F2008L03142]*.
EX63/08—Exemption – refuelling with passengers on board [F2008L03236]*.
EX64/08—Exemption – powered weight shift controlled aircraft [F2008L03235]*.

Civil Aviation Safety Regulations—Airworthiness Directives—Part—

105—

AD/A330/90—Time Limits/Maintenance Checks – ALS Part 3 [F2008L03331]*.
AD/A330/91—Wings – Movable Flap Track Fairing No. 3 [F2008L03330]*.
AD/AC-112/17—Aileron Hinges and Elevator Trim Tab Hinges [F2008L03329]*.
AD/AC-CLA/6 Amdt 1—Wing Struts Carry-Through Tube [F2008L03328]*.
AD/B737/338 Amdt 1—Auxiliary Fuel Tanks [F2008L03409]*.
AD/B737/339—Elevator Tab Pushrod Ends [F2008L03408]*.
AD/B737/340—Outboard Trailing Edge Flap Carriage Spindles [F2008L03327]*.
AD/B737/341—Auxiliary Fuel Reservoir Tank Electrical System [F2008L03389]*.
AD/B737/342—Auxiliary Fuel Pump Electrical System [F2008L03388]*.
AD/B737/343—Auxiliary Fuel Pump Electrical System [F2008L03387]*.
AD/B737/344—Auxiliary Fuel Pump Electrical System [F2008L03386]*.
AD/B737/345—Auxiliary Fuel Pump Electrical System [F2008L03385]*.
AD/B737/346—Auxiliary Fuel Pump Electrical System [F2008L03384]*.
AD/B737/347—Auxiliary Fuel Pump Electrical System [F2008L03383]*.
AD/B737/348—Auxiliary Fuel Pump Electrical System [F2008L03382]*.
AD/B737/349—Auxiliary Fuel Pump Electrical System [F2008L03381]*.
AD/CESSNA 400/77—Aft Auxiliary Wing Spar Attachment – Modification [F2008L03305]*.
AD/CESSNA 400/78—Elevator Quadrant Cable Guard Screw – Inspection [F2008L03304]*.
AD/CESSNA 400/79—Cabin Overhead Bulkhead – Inspection [F2008L03303]*.
AD/CESSNA 400/80—Elevator Trim Tab Actuator Chain Guard Attachment – Inspection [F2008L03302]*.
AD/CESSNA 400/82—Elevator Quadrant/Cable Guard Screw – Inspection [F2008L03301]*.
AD/CESSNA 400/83—Up Elevator Stop Bolt – Inspection and Replacement [F2008L03419]*.
AD/CESSNA 400/84—Fuel Filter – Inspection and Modification [F2008L03380]*.
AD/CESSNA 400/91—Elevator Bellcrank Bracket Integrity [F2008L03299]*.
AD/CESSNA 400/94—Aileron Hinge Assembly [F2008L03298]*.
AD/CESSNA 400/95—Pilots Instruments Air System [F2008L03379]*.
AD/CESSNA 400/100—Elevator Bellcrank Support Structure [F2008L03297]*.
AD/CESSNA 400/106—Passenger Seat Installations [F2008L03296]*.
AD/CESSNA 500/1—Wing Cover Plate Screws – Replacement [F2008L03292]*.
AD/CESSNA 500/2—Centre Flap Aft Bearing – Modification [F2008L03291]*.
AD/CESSNA 500/3—Elevator Torque Tube Assembly – Inspection and Replacement [F2008L03290]*.
AD/CESSNA 500/5 Amdt 1—Landing Gear – Structural Life Limitation [F2008L03289]*.
AD/CESSNA 500/6—Oxygen Mask Door Actuating Piston – Replacement [F2008L03378]*.
AD/CESSNA 500/9 Amdt 1—Static Port – Modification [F2008L03375]*.
AD/CESSNA 500/10—Throttle Control Lock – Modification [F2008L03374]*.
AD/CESSNA 500/11—Aft Facing Seat – Inspection [F2008L03288]*.
AD/CESSNA 500/12—Gildeslope Interlock – Modification [F2008L03373]*.
AD/CESSNA 500/13—Pre-Certification Requirements – Modifications [F2008L03372]*.
AD/CESSNA 500/16 Amdt 1—Cabin Door Frame – Inspection, Modification and Replacement [F2008L03287]*.
AD/CESSNA 500/17—Elevator Sector Bracket Attach Rivets – Inspection [F2008L03286]*.
AD/CESSNA 500/18—Main Gear Actuator to Strut Attach Stud – Inspection [F2008L03285]*.
AD/CESSNA 500/19—Elevator and Rudder Trim System – Inspection [F2008L03284]*.
AD/CESSNA 500/20 Amdt 2—Tailcone Skin and Vertical Fin Spar Interference [F2008L03283]*.
AD/CESSNA 500/22—Brake Shuttle Valve [F2008L03369]*.
AD/CESSNA 500/24—Drag Chute [F2008L03368]*.
AD/DA42/7—Rear Engine Support Bracket [F2008L03281]*.
AD/DAUPHIN/86 Amdt 3—Starflex Star Arm End Bushes [F2008L03343]*.
AD/DHC-1/1—Tailplane Bracket Bolt – Locking [F2008L03280]*.
AD/DHC-1/11—Elevator Trim Tab Cable – Inspection [F2008L03278]*.
AD/DHC-1/13—Flap Return Spring/Flap Check Cable [F2008L03277]*.
AD/DHC-1/15—Tail Landing Gear and Lower Surface of Tailplane – Inspection and Modification [F2008L03276]*.
AD/F2000/32—Fuselage – LH Stringer 13 at Frame 8 [F2008L03274]*.
AD/P68/19 Amdt 3—Control Wheel Shaft Universal Joint [F2008L03273]*.
AD/PA-22/12—Tailplane Actuating Jack – Inspection [F2008L03272]*.
AD/PA-22/15 Amdt 1—Brake Master Cylinder Diaphragm – Replacement [F2008L03271]*.
AD/PA-22/23—Brake Cable – Inspection [F2008L03270]*.
AD/PA-22/29—Fuselage Structure, Upper Cabin – Inspection [F2008L03269]*.
AD/PA-22/32 Amdt 2—Fuselage Door Frame Tube Corrosion [F2008L03268]*.
AD/PA-28/61—Lower Cowl Drain – Inspection and Modification [F2008L03364]*.
AD/PA-32/2—Rudder Trim Installation – Modification [F2008L03267]*.
AD/PA-32/3—Windshield Collar – Replacement [F2008L03275]*.
AD/PA-32/4 Amdt 1—Fuel Tanks – Inspection [F2008L03363]*.
AD/PA-32/5 Amdt 3—Aileron and Stabilator Balance Weight Assembly and Rudder Horn Assembly – Inspection [F2008L03266]*.
AD/PA-32/9 Amdt 1—Aileron Spar [F2008L03265]*.
AD/PA-32/11—Wing Rear Spar Attach Bolts – Inspection [F2008L03264]*.
AD/PA-32/16—Control Wheel Retaining Pin – Modification [F2008L03260]*.
AD/PA-32/18—Fuel Selector Valve – Modification [F2008L03360]*.
AD/PA-32/22—Pitch Trim Switch – Modification [F2008L03359]*.
AD/PA-32/26—Stabilator – Inspection and Drilling of Drain Holes [F2008L03259]*.
AD/PA-32/28—Air Induction Hose System – Modification [F2008L03357]*.
AD/PA-32/29—Rudder Bar Assembly – Inspection and Modification [F2008L03258]*.
AD/PA-32/31—Automatic Pilot Servo Roll Shear Pin – Installation [F2008L03356]*.
AD/PA-32/32—Outer Wing Spar – Inspection [F2008L03257]*.
AD/PA-32/33—Air Conditioning System – Modification [F2008L03256]*.
AD/PA-32/34 Amdt 1—Main Landing Gear Cylinder Cracking [F2008L03255]*.
AD/PA-32/36—Fuel Valve – Replacement [F2008L03341]*.
AD/PA-32/51—Fuel Line – Modification [F2008L03338]*.
AD/PA-32/52—Electric Pitch Trim Switch – Modification [F2008L03337]*.
AD/PA-32/53—Engine Control Rod End Bearings – Inspection and Replacement [F2008L03336]*.
AD/PA-32/55—Engine Cowling – Drain Hole Provision [F2008L03335]*.
AD/PA-32/57—Nose Landing Gear Retraction System – Modification [F2008L03254]*.
AD/PA-32/58—Glove Compartment – Modification [F2008L03253]*.
AD/PA-32/61—Stabilator Skin – Inspection [F2008L03252]*.
AD/PA-32/62—Nose Gear Actuator Rod End Bearing – Replacement [F2008L03251]*.
AD/PA-32/65—Fuselage Firewall – Modification [F2008L03250]*.
AD/PA-32/66—Window Curtain Rod Support Area – Inspection [F2008L03249]*.
AD/PA-32/69—Rudder/Aileron Interconnect Bracket – Interference Inspection [F2008L03248]*.
AD/PA-32/71—Aileron Balance Weight Attachment – Inspection and Modification [F2008L03246]*.
AD/PA-32/73—Battery Strap Installation [F2008L03333]*.
AD/PA-32/75—Stabilator Attach Fitting Corrosion [F2008L03245]*.
AD/PC-12/53—Pitch Trim Actuator Attachment Parts [F2008L03344]*.
AD/ROCK-114/6—Fuel Selector Valve – Replacement [F2008L03354]*.
AD/ROCK-114/8—Pilot and Front Passenger Seats – Modification [F2008L03244]*.
AD/S-PUMA/79—Main Rotor – Main Rotor Head [F2008L03454]*.
AD/SWSA226/96 Amdt 1—Inboard Wing Leading Edge Electrical Wires [F2008L03417]*.

106—
AD/ARRIUS/15—Engine Fuel and Control – Balancing Piston Life Limit [F2008L03411]*.
AD/ARRIUS/16—Engine Fuel and Control – P3 Air Pipe [F2008L03410]*.

107—
AD/RAD/51 Amdt 1—Rockwell International/ Collins Aviation Division TDR-94D Transponder [F2008L03355]*.
AD/SEATS/3—Sicma Passenger Seats [F2008L03412]*.
AD/SUPP/21—Helicopter External Rescue Systems [F2008L03243]*.

Commissioner of Taxation—Public rulings—
Class Rulings—
Goods and Services Tax Ruling—Addendum—
GSTR 2003/5.
Product Rulings—
Taxation Determinations—
Erratum—TD 2008/23.
Notice of Withdrawal—TD 94/85.
Customs Tariff Act—Customs Tariff (Safeguard Goods) Notice (No. 2) 2008 [F2008L03452]*.
Defence Act—Determinations under section 58B—Defence Determinations—
2008/40—Leave, tied residences and retention bonus forms – amendments.

2008/42—Overseas conditions of service – amendment.


Dental Benefits Act—Dental Benefits Amendment Rules 2008 (No. 1) [F2008L03453]*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of threatened species, dated 1 September 2008 [F2008L03420]*.

Health Insurance Act—

Health Insurance (Intracytoplasmic Sperm Injection) Determination 2008 [F2008L03424]*.

Health Insurance (Sacral Nerve Stimulation) Determination 2008 [F2008L03425]*.

Industry Research and Development Act—Re-tooling for Climate Change Program Ministerial Direction No. 1 of 2008 [F2008L03440]*.

Judiciary Act—High Court of Australia—Rules of Court, dated—

27 August 2008 [F2008L03427]*.

4 September 2008 [F2008L03438]*.

Maritime Transport and Offshore Facilities Security Act—Notice about how incident reports are to be made (No. 3) [F2008L03423]*.

Migration Act—Migration Regulations—Instruments IMM1—

08/064—Travel Agents for PRC citizens applying for Tourist Visas [F2008L03431]*.

08/075—Working Holiday Visa – post office box addresses [F2008L03432]*.

National Health Act—Instruments Nos PB—

92 of 2008—Amendment declaration and determination – drugs and medicinal preparations [F2008L03433]*.

93 of 2008—Amendment determination – pharmaceutical benefits [F2008L03434]*.

94 of 2008—Amendment determination – responsible persons [F2008L03435]*.

95 of 2008—Amendment Special Arrangements – Highly Specialised Drugs Program [F2008L03436]*.

96 of 2008—Amendment Special Arrangements – Chemotherapy Pharmaceuticals Access Program [F2008L03437]*.


Trade Practices Act—Class Exemption Determinations Nos—

1 of 2008 [F2008L03426]*.

2 of 2008 [F2008L03445]*.

* Explanatory statement tabled with legislative instrument.

Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2008—Statements of compliance—

Attorney-General’s portfolio agencies.

Commonwealth Ombudsman.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Climate Change: Media Staff
(Question No. 29)

Senator Minchin asked the Minister for Climate Change and Water, upon notice, on 12 February 2008:

As at 26 November 2007, with reference to the department and all agencies in the Minister’s portfolio:

(1) How many employees are engaged in positions responsible for public affairs, media management, liaison with the media and media monitoring.

(2) What are the responsibilities of these staff.

(3) What are the Australian Public Service classifications of these positions.

(4) For each of the financial years 2007-08, 2008-09, 2009-10 and 2010-11, what is the current operating budget for these media-related sections within the department or agency.

Senator Wong—The answer to the honourable senator’s question is as follows:

The information provided below relates to the minister’s portfolio after the machinery of government changes which took place on 3 December 2007.

(1) 14.6

(2) The responsibilities of these staff are:

Communicating and raising awareness of Australian Government policies and programs relating to climate change and water and, where appropriate, encouraging behaviour change. This includes:

Strategic communications planning; media management – media monitoring, media responses, media training etc; issues management; events management; advertising; communication products – newsletter, brochures, reports, banners etc; speeches; research – formal market research and desk research; stakeholder management; web content; awards/Sponsorship; social marketing – behaviour change; community education; branding; reputation management; channel management; writing, editing; new media (Web 2.0); internal communications; image and vision libraries; and Corporate support and management functions: procurement, contract management, budgets, reporting, client management, staff development.

(3) The APS classifications of these positions are:

Senior Public Affairs Officer Grade 1 (1 position)
Public Affairs Officer Grade Three (6.6 positions)
Public Affairs Officer Grade Two (3 positions)
Public Affairs Officer Grade One (2 position)
Executive Level 2 (1 position)
APS level 6 (1 position)

(4) 2007-08: $3.327m

2008-09: Budget not yet set
2009-10: Budget not yet set
2010-11: Budget not yet set
2010-11: Budget not yet set

* note: the above figure is based on salaries and general operating costs for the relevant areas of my two Departments and related entities

Human Services: Government Appointments and Grants
(Question No. 136)

Senator Minchin asked the Minister for Human Services, 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 Ludwig—The answer to the honourable senator’s question is as follows:
(1) Senator the Hon Chris Evans as Minister representing the Prime Minister in the Senate will respond on my behalf.
(2) As at 12 February 2008 there are no vacant positions to be filled by Ministerial appointment.
(3) No grants have been approved within the Human Services Portfolio.
(4) Senator the Hon Nick Sherry as Minister representing the Minister for Finance and Deregulation in the Senate will respond on my behalf.

The honourable Senator is welcome to attend Estimates hearings in future and request the information sought in this question on notice.

Prime Minister and Cabinet: Media Management Contract
(Question No. 441)

Senator Minchin asked the Minister representing the Prime Minister, upon notice, on 30 May 2008:
Since 1 July 2006: (a) has the department or any agency in the Minister’s portfolio engaged: (i) CMAX Communications, (ii) Maximum Communications, (iii) Mr Christian Taubenschlag, (iv) Ms Tara Taubenschlag, or (v) any company operated by Mr Christian Taubenschlag or Ms Tara Taubenschlag; and (b) if so, in each case: (i) when was the engagement, (ii) what was the nature of the engagement, (iii) what was the value of the engagement, (iv) what was the term of the engagement, (v) was the engagement entered into after a competitive process; if not, why not, and (vi) did the Minister or any of his/her staff have a role in recommending this engagement.

Senator Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:
(a) (i) Yes.
(ii) No.
(iii) No.
(iv) No.
(v) Yes.
(b) I am advised that:
(i) CMAX Communications was engaged by the Department of the Prime Minister and Cabinet on 3 March 2008.
(ii) CMAX Communications was engaged to provide professional media support to the Steering Committee in support of the Australia 2020 Summit.
(iii) $61,993 incl. GST
(iv) The term of the engagement was from 3 March to 24 April 2008.
(v) The procurement was a direct source consistent with Part 8. 65(b) of the long standing Commonwealth’s mandatory procurement procedures.
(vi) The Department of the Prime Minister and Cabinet provided detailed advice on the engagement of CMAX for the Australia 2020 Summit to the Senate Standing Committee on Finance and Public Administration.

Tasmania: Weld River
(Question No. 477)

Senator Bob Brown asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 3 June 2008:
With reference to the answer to question on notice No. 272 (Senate Official Hansard, 13 May 2008, p. 1660) regarding the decision to destroy the ancient forest in Weld River coupe WR15F:
(1) What is the Minister’s definition of ‘deforestation’
(2) (a) On what date was Weld River coupe WR15F fire bombed for a ‘regeneration burn’; and (b) by whom.
(3) Was the burn contained within the planned boundaries.
(4) With what was coupe WR15F regenerated.
(5) (a) What is the current status of the wildlife that were in coupe WR15F before the logging; (b) where did the wildlife go; and (c) what happened to the resident wildlife already in those destinations.

Senator Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:
(1) Deforestation is defined as: a type of land clearing involving the permanent removal of tree cover. As the Weld River coupe WR15F is to be regenerated with native species following timber harvesting, there is not a permanent removal of the tree cover.
(2) (a) Under the Tasmanian Regional Forest Agreement land management issues are the responsibility of the Tasmanian Government. Forestry Tasmania advises that the coupe was subject to a regeneration burn on 19 April 2008.

(b) The regeneration burn was undertaken by officers from Forestry Tasmania Huon District.

(3) Forestry Tasmania advises that the regeneration burn was contained to within 20 metres of the planned boundary, which is consistent with established practice for regeneration burns, which rely on measured moisture differentials between harvested and unharvested forest to contain the fire. Staff were on hand on the day of the burn and ensured the burn was contained.

(4) Forestry Tasmania advises that the coupe was regenerated with Eucalyptus seed: specifically, *Eucalyptus delegatensis* and *Eucalyptus obliqua*.

(5) (a) Populations of flora and fauna species occur in coupe WR15F. These populations would change as a result of logging and fire. At the time of logging or the regeneration burn individuals of these fauna populations would have either:

(i) moved out of or into the coupe;
(ii) been killed at the time of, or immediately after, the logging or regeneration burn process; or
(iii) survived and remained in the coupe boundary.

(b) Those fauna individuals that moved out of the coupe would likely move into adjacent forest habitats, some of whom will move back into the coupe once regeneration is established.

(c) Resident fauna populations in adjacent forest habitats may have been subjected to increased competition for resources, depending upon the population levels and competition pressures at that time in those destination habitats.

**Rudd Government: Population Policy**

(1) (a) The Government’s strategy to deal with population growth: (a) in Australia; and (b) worldwide.

(2) Is there no limit to the carrying capacity of (a) Australia; and (b) the Earth; and if there is, in each case, what is it.

(3) (a) What resources has the Government committed to meeting the pressures of increased population in Australia; and (b) what is the expected outcome.

**Senator Bob Brown**—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) (a) The Government is taking a range of actions to achieve environmental and economic sustainability. A more efficient economy with higher levels of productivity provides the means to deliver higher living standards.

The key to achieving a sustainable future environmentally is to take decisive steps to tackle major problem areas like water resources and carbon emissions. The Government has recently taken action to secure the long term water supply for all Australians with its $12.9 billion investment over 10 years in the Water for the Future initiative. Further, the Government will introduce emissions trading by 2010 through the Carbon Pollution Reduction Scheme and has recently released a Green Paper for public comment.

In order to maintain high living standards, the Government is focused on increasing productivity by investing in infrastructure and skills and training. The Government recently established Infrastructure Australia, the $20 billion Building Australia Fund, the $11 billion Education Investment Fund and the $1.9 billion Skilling Australia for the Future initiative.

At the Australia 2020 Summit in April, participants for the ‘Population, Sustainability, Climate Change, Water and the Future of Our Cities’ stream were asked to consider the challenges and opportunities for a sustainable future for Australia. The Government is considering recommendations from the Summit’s Final Report, and will respond by the end of the year.

(b) Managing population growth in other nations is primarily the responsibility of those jurisdictions. However, the Government supports multilateral institutions delivering global population programs. In 2008–09, through AusAID, the Government provided $6.5 million to the United Nations Population Fund and $1 million in support of programs in the Pacific.

(2) (a) Carrying capacity is not a fixed figure, and depends on many variables including technological change and economic development.

(b) see (2)(a)

(3) (a) see (1)(a)

(b) The Government will continue to address Australia’s long term challenges.

**Prime Minister and Cabinet: Printer Products**

(1) (a) The Government will continue to address Australia’s long term challenges.

**Senator Milne** asked the Minister representing the Prime Minister, 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 Chris Evans—The Prime Minister has provided the following answer to the honourable senator’s question:

I am advised that:

（1）No. However, the Department of the Prime Minister and Cabinet (Department) includes requirements for environmental sustainability in its procurement processes where appropriate. The Government has established an interdepartmental committee on Government Leadership in Sustainability to improve government performance, including government procurement practices.

（2）Refer to response to question (1).

（3）The Department has an arrangement in place whereby all used printer cartridges are collected and sent to a specialist in recycling services.

（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 Department has been advised that these cartridges can be reused by returning them to the original manufacturer.

（5）No.

（6）Under the arrangements referred to in (3) above, printer cartridges are sent to a recycling specialist who remanufactures cartridges that are in good condition for re-use. The plastics in printer cartridges not suitable for remanufacture are used to make recycled products (e.g. park benches, tables, bollards, speed humps and other miscellaneous plastic items).

（7）The Department does not have a specific contract for the supply of printer consumables.

（8）The Department does not categorise the purchase of stationery products and to answer this question would involve review of individual invoices and the extraction of relevant information. Such an exercise would constitute an unreasonable diversion of resources for my department.

（9）Refer to response to question (3).

（10）The Department purchases printer cartridges from stationery resellers including Corporate Express Australia Pty Ltd and Toner Express (A’Asia) Pty Ltd.

Immigration and Citizenship: Printer Products

（Question No. 524）

Senator Milne asked the Minister for Immigration and Citizenship, 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 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

Senator Chris Evans—The answer to the honourable senator’s question is as follows:

(1) Currently DIAC does not have a specific policy regarding the use of remanufactured printer products. However, DIAC is committed to the philosophy of “rethink, reduce, reuse and recycle.” DIAC’s Environmental Policy makes a strong commitment to green procurement and environmental considerations when purchasing and contracting. As further work is undertaken in developing an environmental management system (EMS) it will include specific policies / guidelines in relation to the use of remanufactured printer products and their disposal.

DIAC’s Multi Function Devices (MFD’s) and their consumables are covered under a contract with an external service provider, Unisys. Unisys also have a sub-contract arrangement with Fuji/Xerox whereby they have an Eco-Manufacturing Centre in Sydney where toners are remanufactured.

DIAC also has a number of local Lexmark network printers, these printers are managed outside the Fuji/Xerox contract. DIAC does not currently have a policy to use remanufactured printer products for these printers.

(2) The management of toner cartridges for our MFD’s is managed by Unisys who sub-contract to Fuji/Xerox as part of the “Docicare” maintenance contract for the machines, whereby all MFD maintenance by Xerox includes the supply and change over of toner cartridges.

Currently local network printers are not covered by an environmental policy.

(3) DIAC through the aims of its Environmental Policy has put in place a preference for all toners to be recycled.

(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. Advice from Fuji Xerox, who manage MFD cartridges on behalf of DIAC under contract to Unisys states that “it is a misconception that the chips are in toners to prevent reuse. The intention is to prevent uncontrolled reuse by third parties and ensure the appropriate use of reconditioned cartridges in our equipment. The inclusion of chips in no way impedes our current resource recovery efforts, but rather ensures reconditioned cartridges are always used appropriately in our equipment.”

(5) No. The current contract for the Multi function devices is with Unisys who sub-contract to Fuji/Xerox. Unisys also manages the maintenance of the Lexmark printers, with DIAC being responsible for consumables for these printers.

(6) Empty printer cartridges are provided to either Planet Ark or Cartridge Rescue. Cartridge Rescue ensures a minimum of 90% of all returned cartridges are reused; that unusable aluminium photoconductor drums, flexible and rigid plastics, paper and boards are recycled.

Cartridge Rescue works with a third party recycler to convert toner waste into recycled products after they have been eliminated from the reuse process.

(7) DIAC’s current MFD supply contract is with Unisys via Fuji/ Xerox and includes a maintenance contract called “Docicare”. Under this contract MFDs are maintained by Xerox, including the supply change over of toner cartridges.

Supply of cartridges for Lexmark network printers is through DIAC’s stationery contract with Corporate Express.

(8) The amount spent on toner cartridges for the large Multi Function Devices (MFDs) supplied throughout DIAC is not a separately identified amount but is included as part of the fixed service contract with Unisys. As a result it is not possible to estimate the total cost of printer cartridges used by DIAC.

(9) DIAC uses both Planet Ark and Cartridge Rescue for the recycling of its used toners.

Cartridge Rescue ensures a minimum of 90% of all returned cartridges are reused; that unusable aluminium photoconductor drums, flexible and rigid plastics, paper and boards are recycled.

Cartridge Rescue works with a third party recycler to convert toner waste into recycled products after they have been eliminated from the reuse process.

(10) DIAC has its stationery contract with Corporate Express and the cartridges for Lexmark network printers can be ordered through this supplier.

Agriculture, Fisheries and Forestry: Printer Products

(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 they cannot be re-used.
(5) Does the department have any contractual arrangements with Lexmark or Epsom; 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 Sherry—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) (a) Yes.
    (b) No.
(2) No.
(3) The Department of Agriculture Fisheries and Forestry (the department) has not put in place an environmental standard in regard to the disposal of printer cartridges.
(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) No.
(7) The majority of printers are delivered under the department’s outsourcing arrangement with Volante. The contract allows the department to lease printers from Volante or other suppliers to best meet its operating requirements. Volante printers are leased on a three year term including maintenance. Cartridges are provided to a specification and purchased through the department’s stationery supplier.
(8) $576 764
(9) Yes.
(10) Yes.

Occupational Health and Safety
(Question No. 567)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 30 July 2008:

(1) What is the Government’s position on the balance of responsibility between employers and employees in occupational health and safety (OHS) matters.
(2) Given the recent commitment by the Workplace Relations Ministers’ Council to work toward harmonisation and reform of OHS legislation across Australia, what steps will the Minister take to ensure that all states and territories adopt the principle of ‘reasonable and practical control’.
(3) (a) What is the Minister’s position on the New South Wales Government’s withdrawal of its proposals for reform; and (b) how will the withdrawal affect the Council of Australian Governments commitment.
(4) What steps will the Government take to ensure that model legislation is uniformly enforced to ensure maximum gains to the economy.

Senator Ludwig—The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) The Government’s position on OHS matters and how they are expressed in law will be informed by the current National Review into Model OHS Laws.

    The advisory panel conducting the National Review will make recommendations to the Workplace Relations Ministers’ Council (WRMC) on the optimal structure and content of a model OHS Act. This includes recommendations regarding the OHS responsibilities of employers, employees and others, and the extent and limits of those duties.

(2) Issues regarding the principles of ‘reasonably practicable’ and ‘control’ in OHS laws are currently being examined by the panel conducting the National Review into Model OHS Laws. The panel will make recommendations to the Workplace Relations Ministers’ Council on the optimal structure and content of a model OHS Act.
(3) parts (a) and (b): NSW has committed to working with the Commonwealth and other jurisdictions to harmonise OHS laws. NSW has signed the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety, and is participating fully in the consultative processes of the National OHS Review.

(4) The Council of Australian Governments signed the Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety (the IGA) on 3 July 2008. The IGA commits the parties to working cooperatively to achieve harmonisation of OHS laws. The IGA expresses the agreement of the parties that OHS harmonisation means uniformity of the legislative framework, complemented by a nationally consistent approach to compliance policy and enforcement policy.