CORRECTIONS

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Tuesday, 23 September 2008

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

BY AUTHORITY OF THE SENATE
INTERNET
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Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at

For searching purposes use
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SITTING DAYS—2008

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<td>December</td>
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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
FORTY-SECOND PARLIAMENT
FIRST SESSION—THIRD PERIOD

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
## Members of the Senate

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<th>State or Territory</th>
<th>Term expires</th>
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<td>Abetz, Hon. Eric</td>
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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—A Thompson
# Rudd Ministry

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<tr>
<td>Prime Minister</td>
<td>Hon. Kevin Rudd, MP</td>
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<tr>
<td>Deputy Prime Minister, Minister for Education, Minister for Employment</td>
<td>Hon. Julia Gillard, MP</td>
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<tr>
<td>and Workplace Relations and Minister for Social Inclusion</td>
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<tr>
<td>Treasurer</td>
<td>Hon. Wayne Swan MP</td>
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<tr>
<td>Minister for Immigration and Citizenship and Leader of the Government</td>
<td>Senator Hon. Chris Evans</td>
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<tr>
<td>in the Senate</td>
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<tr>
<td>Special Minister of State, Cabinet Secretary and Vice President of the</td>
<td>Senator Hon. John Faulkner</td>
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<td>Executive Council</td>
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<tr>
<td>Minister for Finance and Deregulation</td>
<td>Hon. Lindsay Tanner MP</td>
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<tr>
<td>Minister for Trade</td>
<td>Hon. Simon Crean MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
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<td>Minister for Defence</td>
<td>Hon. Joel Fitzgibbon MP</td>
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<td>Minister for Health and Ageing</td>
<td>Hon. Nicola Roxon MP</td>
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<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
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<td>Government and Leader of the House</td>
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<td>Minister for Broadband, Communications and the Digital Economy and</td>
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<tr>
<td>Deputy Leader of the Government in the Senate</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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<tr>
<td>Minister for Climate Change and Water</td>
<td>Senator Hon. Penny Wong</td>
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<tr>
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<td>Hon. Peter Garrett AM, MP</td>
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<tr>
<td>Attorney-General</td>
<td>Hon. Robert McClelland MP</td>
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<tr>
<td>Minister for Human Services and Manager of Government Business in the</td>
<td>Senator Hon. Joe Ludwig</td>
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<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>Hon. Tony Burke MP</td>
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<tr>
<td>Minister for Resources and Energy and Minister for Tourism</td>
<td>Hon. Martin Ferguson AM, MP</td>
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[The above ministers constitute the cabinet]
RUDD MINISTRY—continued

Minister for Home Affairs Hon. Bob Debus MP
Assistant Treasurer and Minister for Competition Policy and Consumer Affairs Hon. Chris Bowen MP
Minister for Veterans' Affairs Hon. Alan Griffin MP
Minister for Housing and Minister for the Status of Women Hon. Tanya Plibersek MP
Minister for Employment Participation Hon. Brendan O'Connor MP
Minister for Defence Science and Personnel Hon. Warren Snowdon MP
Minister for Small Business, Independent Contractors and the Service Economy and Minister Assisting the Finance Minister on Deregulation Hon. Dr Craig Emerson MP
Minister for Superannuation and Corporate Law Senator Hon. Nick Sherry
Minister for Ageing Hon. Justine Elliot MP
Minister for Youth and Minister for Sport Hon. Kate Ellis MP
Parliamentary Secretary for Early Childhood Education and Childcare Hon. Maxine McKew MP
Parliamentary Secretary for Defence Procurement Hon. Greg Combet AM, MP
Parliamentary Secretary for Defence Support Hon. Dr Mike Kelly AM, MP
Parliamentary Secretary for Regional Development and Northern Australia Hon. Gary Gray AO, MP
Parliamentary Secretary for Disabilities and Children's Services Hon. Bill Shorten MP
Parliamentary Secretary for International Development Assistance Hon. Bob McMullan MP
Parliamentary Secretary for Pacific Island Affairs Hon. Duncan Kerr MP
Parliamentary Secretary to the Prime Minister Hon. Anthony Byrne MP
Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion Senator Hon. Ursula Stephens
Parliamentary Secretary to the Minister for Trade Hon. John Murphy MP
Parliamentary Secretary to the Minister for Health and Ageing Senator Hon. Jan McLucas
Parliamentary Secretary for Multicultural Affairs and Settlement Services Hon. Laurie Ferguson MP
SHADOW MINISTRY

Leader of the Opposition
Deputy Leader of the Opposition and Shadow Minister for Employment, Business and Workplace Relations
Leader of the Nationals and Shadow Minister for Infrastructure and Transport and Local Government
Leader of the Opposition in the Senate and Shadow Minister for Defence
Deputy Leader of the Opposition in the Senate and Shadow Minister for Innovation, Industry, Science and Research
Shadow Treasurer
Manager of Opposition Business in the House and Shadow Minister for Health and Ageing
Shadow Minister for Foreign Affairs
Shadow Minister for Trade
Shadow Minister for Families, Community Services, Indigenous Affairs and the Voluntary Sector
Shadow Minister for Agriculture, Fisheries and Forestry
Shadow Minister for Human Services
Shadow Minister for Education, Apprenticeships and Training
Shadow Minister for Climate Change, Environment and Urban Water
Shadow Minister for Finance, Competition Policy and Deregulation
Manager of Opposition Business in the Senate and Shadow Minister for Immigration and Citizenship
Shadow Minister for Broadband, Communications and the Digital Economy
Shadow Attorney-General
Shadow Minister for Resources and Energy and Shadow Minister for Tourism
Shadow Minister for Regional Development, Water Security

Hon. Malcolm Turnbull MP
Hon. Julie Bishop MP
Hon. Warren Truss MP
Senator Hon. Nick Minchin
Senator Hon. Eric Abetz
Hon. Joe Hockey MP
Hon. Andrew Robb MP
Hon. Ian Macfarlane MP
Hon. Tony Abbott MP
Senator Hon. Nigel Scullion
Senator Hon. Helen Coonan
Hon. Tony Smith MP
Hon. Greg Hunt MP
Hon. Peter Dutton MP
Senator Hon. Chris Ellison
Hon. Bruce Billson MP
Senator Hon. George Brandis
Senator Hon. David Johnston
Hon. John Cobb MP

[The above constitute the shadow cabinet]
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
Shadow Minister for Defence Science and Personnel; Assisting Shadow Minister for Defence  Hon. Bob Baldwin 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
Shadow Parliamentary Secretary for Trade  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
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Tuesday, 16 September 2008

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

COMMITTEES

Finance and Public Administration Committee

Reference

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.31 pm)—by leave—I, and also on behalf of Senator Ellison, move:

That the subject of the motion for disallowance, 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.

Question agreed to.

NOTICES

Withdrawal

Senator BARNETT (Tasmania) (12.32 pm)—Pursuant to standing order 78, and also pursuant to the undertaking I gave yesterday, I now give notice of my intention, at the giving of notices on the next day of sitting, to withdraw the business of the Senate notice of motion for disallowance standing in my name.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Manager of Government Business in the Senate) (12.33 pm)—I move:

That government business notice of motion No. 1, to rescind a disallowance, be postponed to a later hour.

Question agreed to.

TRADE PRACTICES LEGISLATION AMENDMENT BILL 2008

Second Reading

Debate resumed from 15 September, on motion by

Senator Carr:

That this bill be now read a second time.

Senator XENOPHON (South Australia) (12.32 pm)—The social and economic fabric of Australia is inexorably linked with the viability and the vibrancy of our small and medium business sectors, which are responsible for employing millions of Australians. These businesses, their employees and, above all, the consumers of their goods and services deserve a strong and effective Trade Practices Act, an act that is clear in achieving its objective of maximising benefits to consumers that flow from having a competitive environment within a framework that is fair to large and small businesses alike. I commend the government and the Minister for Competition Policy and Consumer Affairs, Chris Bowen, for introducing the Trade Practices Legislation Amendment Bill 2008 and for seeking to grasp—

ple with what are clearly deficiencies within the current act. I hope this bill is the first step in coming years to tackle what are clearly inadequacies with trade practices laws in this country.

One of the most glaring inadequacies—the effectiveness of the misuse of power provisions in section 46—was exposed in the High Court’s 2003 decision in what is known as the Boral case. It is worth reflecting for a moment on the shameful conduct of Boral and the absence of a remedy in the act for the aggrieved parties. Boral engaged in a price war from 1993 to 1996 with its concrete masonry products in the Melbourne market. It sold its goods lower than its variable costs—in other words, below cost. It could do so because of its deep pockets. There was a strong suggestion that consumers in the rest of the country were paying higher prices to, in effect, subsidise the artificially low prices in the Melbourne market.

Two smaller competitors, Rocla and Budget, closed down their Victorian masonry operations in May 1995 and June 1996 respectively. Another smaller operator, C&M, came dangerously close to being driven to the wall after this sustained low-cost pricing—many would say predatory pricing—by Boral. The ACCC took action, but its prosecution was ultimately unsuccessful when the High Court took such a narrow view of the ‘market power’ definition in section 46. The High Court’s interpretation also put so many unrealistic hurdles in the way of a successful section 46 prosecution that it rendered the section virtually useless. The hurdles included a requirement to show evidence that a big business could only be prosecuted if it had the ability to raise prices without losing business—in other words, it needed to be a monopoly. In addition, the High Court applied a secondary test that big businesses facing prosecution also needed to be able to recoup their losses as part of engaging in predatory prices. This is a test requiring, in effect, proof of something in the future, a near impossible evidentiary exercise. Unless you have a time machine, you will never be able to prove it. In that respect I welcome the government seeking to remove the requirement for recoupment in section 46. However, the government has not addressed the very narrow primary test for market power which still requires proof of a big business being able to raise prices without losing business. Until this very narrow primary test is overcome, section 46 will remain next to impossible to enforce.

The proposed amendment to section 46 also seeks, in effect, to codify the take advantage test in section 46. The setting out of the criteria on the surface appears to provide some clarity. But I have a concern that it may have the effect of merely codifying—in effect entrenching—the existing very narrow interpretation by the High Court of the take advantage test. In the High Court decisions in the Melway and Rural Press
cases, the court held that a big business was only taking advantage of its market power if it was doing something unique with that market power. According to the High Court, if a big business had engaged in the same conduct with or without market power, it was not taking advantage of its market power and therefore it would not be in breach of section 46. What that in effect means is that the take advantage threshold would only be breached if a big business was engaging in conduct that could be attributed only to the fact that it had market power.

An analogy that has been put to me is that it is a bit like saying that if you rob a bank because you think you will get away with it you will not be charged if there was a chance you might also rob a bank believing you could not get away with it. It is confusing and there is certainly a lack of fairness, a lack of realism in the take advantage test. It really is Alice in Wonderland stuff. This is an artificial test, one where it is difficult to imagine a big business would ever be found to be taking advantage of its market power. Whilst I do not oppose the amendment, I ask the government to indicate how it believes this amendment would make it easier to cross the take advantage threshold. The ineffectiveness of section 46, as outlined in the Boral and other cases, led to the so-called Birdsville amendment passed just 12 months ago by this parliament. I commend Senator Barnaby Joyce for his relentless advocacy for small businesses and for this amendment in particular and for the former government for enacting it and for the former opposition for voting for it.

To say, as the now government says, that the Birdsville amendment should now be scrapped because the test of market share, rather than market power, is too uncertain is something that I cannot countenance. I see no reason why the Birdsville amendment cannot coexist with the proposed amendments to section 46 the government is seeking. What is wrong with letting the small businesses of Australia have an alternative—and some would say clearer—remedy for predatory pricing? These two subsections can and should coexist.

The concept of market share is not unknown in competition law. Canadian competition regulators look to market share as part of a benchmark to determine whether anticompetitive conduct has occurred. Those commentators who say the Birdsville amendment is unworkable or uncertain have failed to provide any real evidence in support of their claims. They fail to recognise the safeguards and inherent thresholds in the Birdsville amendment—namely that, firstly, substantial market share must be established; secondly, goods have to be sold below their cost; thirdly, they must be sold for a substantial period of time below their cost; and, fourthly, that it must be for an anticompetitive purpose. Senator Joyce is nodding, so I think I am on the right track there.

This amendment has only been law for less than a year. It is simply premature for the government to seek to ditch a provision that on the face of it has great potential to enhance competition. Research from the United States, including the work of Professor Skidmore and his colleagues, indicates that laws against below-cost pricing in the petrol industry have led to lower prices for consumers using similar concepts that I see in the Birdsville amendment.

I now refer to the other amendments in this bill. Firstly, I refer to the amendment that seeks to mandate the requirement that one of the ACCC’s deputy chairs has knowledge of and experience in small business matters. It seems, on the face of it, reasonable. However, it should be noted that the ACCC has had a small business commissioner since 1998. The key to assisting small businesses is, I believe, to ensure that the laws are effective, enforceable and accessible. Having a small business deputy commissioner is, of itself, no substitute for laws that are weak and ineffective and in practical terms unenforceable either because of narrow judicial interpretation or because it is just too costly for a small business to run the case.

Secondly, I support and commend the government for repealing the thresholds for unconscionable conduct. But I note and endorse the comments of Associate Professor Frank Zumbo from the Australian School of Business at the University of New South Wales who, in his evidence to the Senate Standing Committee on Economics, saw its use as being part of a broader reform process. He said:

... unless you change the substantive meaning or the substantive flaws in 51AC as they currently exist—that is, a lack of definition of unconscionable conduct in the section itself—removing the cap will not be of any practical assistance.

That is why I will move a second reading amendment that this issue be referred to the economics committee for an inquiry on the need to develop a clear statutory definition of unconscionable conduct and the scope and content of such a definition. I move:

At the end of the motion, add “and that the following matter be referred to the Economics Committee for inquiry and report by 3 December 2008:

The need to develop a clear statutory definition of unconscionable conduct for the purposes of Part IVA of the Trade Practices Act 1974 and the scope and content of such a definition”.

In relation to the jurisdiction of the Federal Magistrates Court I note the opposition does not support this amendment. I remain to be convinced that this will assist small businesses in a practical sense given that it is very expensive for a small business to bring action in any court let alone in the Federal Magistrates Court, let alone in an area of law as complex as trade practices law, particularly given the circumstances where the High Court has narrowly interpreted key provisions of the act.
My question to the government is: why has the ACCC been excluded from bringing an action in the Federal Magistrates Court? They can do so in the Federal Court but the government seeks to preclude the ACCC from bringing such an action in the Magistrates Court. Surely, if the government wants to assist small businesses, it should allow the ACCC to bring an action in the Federal Magistrates Court on behalf of small businesses, just as it can in the Federal Court.

I foreshadow an amendment for the committee stage to allow the ACCC to bring such actions in the Federal Magistrates Court. I also ask of the government: what funds or resources will the government make available to assist small businesses to bring cases before the Federal Magistrates Court? What is the point of having the right to a day in court if you cannot afford to get there in the first place?

Finally, in relation to the ACCC’s information gathering powers I broadly support the amendment under section 155. But it is reasonable for the government to disclose how these new powers for the ACCC will interact with the court’s power to order discovery or other interlocutory orders, and I look forward to an explanation from the government in this regard. If the Australian economy is going to serve the people of Australia, we do not just need free markets; we need fair markets. I look forward to the committee stage of this bill.

Senator FIELDING (Victoria—Leader of the Family First Party) (12.43 pm)—Fifteen months ago Family First introduced legislation to stop predatory pricing. Why? Because our competition laws were too weak and did not adequately deal with anticompetitive conduct like predatory pricing. Predatory pricing is a real problem because it can drive small businesses out of the market, and when you knock small businesses out of the market you get less competition, which results in driving up prices for consumers.

Last year, when Family First introduced its plan to stop predatory pricing, small business had already been waiting for government action for more than three years. That is how long it took to action recommendations from the Senate Standing Committee on Economics. Predatory pricing is where large and powerful businesses use their substantial market power or substantial financial power to drop their prices in one area to drive out competitors. Not only are small businesses affected, with some forced to shut up shop because they can no longer compete, but Australian families are also affected, suffering from higher prices in the long term. The Trade Practices Act states:

The object of this Act is to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.

The welfare of Australians is central, but to achieve that we need a mechanism to protect consumer welfare, which is fair trading and competition. There is a danger that, without the appropriate regulation, unfair trading and distorted competition can lead to higher prices and less choice for consumers as well as the loss of the benefit of small businesses to local communities. Family First acted on predatory pricing because Australia had some of the most concentrated markets in the world. Our grocery market is one of the most concentrated in the world, being dominated by just two players, and now our petrol market has gone the same way with Coles and Woolworths.

In September last year, with the support of both major parties, predatory pricing amendments were passed by this parliament. Family First’s plan to address predatory pricing was similar to what was eventually passed last September with the support of both Labor and the coalition. In fact, Family First’s plan went further by also adding substantial financial power to capture those big businesses that may not have substantial market share but have very deep pockets to price in such a way as to drive out competitors. Family First’s plan also introduced an effects test. The effects test would mean that those corporations that do have financial or market power would need to be careful in how they use that power so it does not have the effect of substantially lessening competition or eliminating competitors. Up until now it has proven nearly impossible to prove predatory pricing by intent only.

It was interesting that the ACCC supported an effects test in evidence to the 2004 Senate committee inquiry but did not take it any further. Last year, when the Senate looked at Family First’s predatory pricing plan, the Fair Trading Coalition pointed to problems in the operation of the Trade Practices Act to stop anticompetitive practising, arguing:

… as markets become more concentrated (as is the case in many sectors of the Australian economy) Australia needs to have strong and properly administered laws which guard against the misuse of market power and in particular, predatory behaviour by large businesses. Without significant laws against such behaviour, the FTC believes that large businesses will continue to take advantage of their market power, resulting in further concentration of markets. That concentration will eventually lead to a loss of competitors and thus competition in markets, a loss of choice for consumers and ultimately less price competition, which further disadvantages consumers.

At the same inquiry, there was widespread concern that, as Professor Frank Zumbo said:

… s 46—of the Trade Practices Act—

is not operating effectively to prevent large and powerful corporations from engaging in predatory conduct or other abuses of market power.

So that was the background to some of the changes. Even though Family First still believes the predatory pricing laws that were passed last year by the Senate
did not go far enough, it seems odd that the Rudd government now wants to undo some of those gains. Family First is not convinced that the changes made last year cannot be used by the Australian Competition and Consumer Commission to improve competition in the Australian marketplace.

Senator McLUCAS (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (12.49 pm)—I would like to thank senators who have taken part in the debate on the government’s Trade Practices Legislation Amendment Bill 2008. This bill delivers on the government’s promise to reform important areas of the Trade Practices Act, including strengthening section 46. The bill directly addresses predatory pricing. It aligns the predatory pricing prohibition in section 46 with the general prohibition against the misuse of market power, ensuring that it does not discourage legitimate discounting. It also ensures that it is not necessary to prove recoupment to establish predatory pricing.

The bill also strengthens section 46 more generally, by clarifying the meaning of ‘take advantage’ for the purposes of section 46. In particular, it addresses the 2003 Senate inquiry’s finding that the present test focuses on a corporation’s physical capacity to engage in conduct rather than its rationale for doing so. The bill also enhances the prohibitions against unconscionable conduct in business transactions. In particular, it repeals the monetary thresholds which currently limit the operation of 51AC of the Trade Practices Act and section 12CC of the ASIC Act. It enhances the protection afforded by both sections by focusing the prohibitions on the wrongdoing involved rather than the arbitrary monetary thresholds. In addition, the bill includes three amendments that improve the ability of the act to be effectively enforced. Firstly, it provides the Federal Magistrates Court with the jurisdiction to hear section 46 matters in appropriate cases. Secondly, it clarifies the ACCC’s section 155 powers, ensuring that it can fully investigate suspected contraventions of the law and act to protect consumers from harm. Thirdly, it requires that a deputy chairperson of the ACCC has experience in or knowledge of small business matters.

The amendments contained in the bill were announced by the government on 28 April this year and an exposure draft was released publicly on 1 May. They were also largely foreshadowed as opposition amendments to the Trade Practices Legislation Amendment Bill (No. 1) 2007. Those amendments, however, were not adopted in the final version of that bill, despite many of them being recommended by the 2004 Senate inquiry into the effectiveness of the Trade Practices Act in protecting small business. At the time, the government, then in opposition, noted that the amendments would be pursued following a change of government.

I would like to thank the Senate Standing Committee on Economics for its timely consideration of, and report on, the bill. The committee’s inquiry attracted a large number of submissions from groups interested in trade practices reform.

The government’s bill is supported by leading business groups, including the Council of Small Business Organisations of Australia and the Australian Chamber of Commerce and Industry, as striking the right balance. The bill also has the support of leading academics and legal practitioners.

I now turn to issues raised by senators during the course of the second reading debate on the bill. In relation to the treatment of predatory pricing under the act, the 2004 Senate inquiry considered that the act would be strengthened by making predatory pricing a clearer target of section 46. The government’s amendments achieve this objective. They do it in a way that is consistent with the longstanding prohibition in section 46(1) against the misuse of market power rather than through the uncertain and imprecise wording of the Birdsville amendment.

Considerable amendments have been made to clarify the meaning of ‘market power’ since the Boral decision. In 2007, amendments were made to section 46 which addressed the leveraging and coordination of market power. Those amendments also ensured that more than one corporation may have substantial market power and that a corporation may have such power even though it does not substantially control the market or have absolute freedom from competitive constraint. Those amendments were supported by the government when we were in opposition.

However, the government does not support the present operation of the Birdsville amendment. Its present reference to market share has given rise to confusion and may chill beneficial price competition. Both the method for calculating market share and what amounts to a substantial market share are unknown. The ACCC has publicly stated that section 46(1AA) as currently drafted adds considerable uncertainty to the law and that it should be amended to clarify the protection that it provides.

The argument has been made that the Birdsville amendment simply requires time to be tried and tested in the court. However, it may take many years for the uncertainty it has created to be resolved, increasing enforcement costs for the victims of predatory pricing and stifling procompetitive conduct. It is the role of the legislature to make good laws, not to leave the lawmaking to the courts.

The Birdsville amendment’s reliance on market share has also put Australia out of step with international best practice in regulating predatory pricing. As noted by the OECD, competition regimes are converging towards the notion that unilateral conduct provi-
sions should be applied only to firms that have substantial market power. In addition, by operating in relation to market share, the Birdsville amendment may not capture the conduct of many powerful firms. For example, it may not capture powerful firms who are entering new markets, are operating in markets where products or services are purchased infrequently on the basis of long-term contracts, typically through bidding processes, or derive their power by controlling upstream markets.

In contrast, market power is a well-established concept in competition law which allows the court to consider all the relevant characteristics of a market in determining whether a firm has acted anticompetitively. Such factors include the size of a firm, including its market share; the size and number of its competitors; the barriers to entry or expansion; profit margins; degree of vertical integration; and a variety of other factors. As noted by the International Competition Network, a key advantage of market power is that it involves a multifaceted analysis that reaches well beyond market share.

I note the opposition’s amendments will remove a key benefit of the government’s bill in relation to the treatment of recoupment by the courts. The bill clarifies the role of recoupment in predatory pricing cases under section 46(1AA). At present section 46 does not expressly provide whether it is necessary to prove recoupment in order to establish a case of predatory pricing. Submissions to the 2004 Senate inquiry raised concerns about this lack of clarity and its impact on the effectiveness of section 46. In particular, concerns were expressed that it may be necessary to prove recoupment in order to establish a predatory pricing case following the High Court’s decision in the Boral case. The Senate inquiry recommended that section 46 be amended to clarify that it is not necessary to prove recoupment when establishing a breach of section 46 for predatory pricing. The government’s bill gives effect to this recommendation. Section 46 should clearly provide that recoupment is not legally necessary in order to establish a breach for predatory pricing. Recoupment may be an indicator of such behaviour, but it should not be an essential precondition. By opposing the government’s amendment the opposition would return section 46 to the uncertain and undesirable position resulting from the High Court’s Boral decision.

The opposition opposes the extension of the Federal Magistrates Court jurisdiction to cover section 46 matters. I note that the Senate inquiry in 2004 concluded that the Federal Magistrates Court could resolve a number of section 46 cases with a cost saving for all sides. The Federal Magistrates Act 1999 permits the Federal Magistrates Court to transfer proceedings to the Federal Court when appropriate. Such a transfer may occur in complex and resource-intensive cases or where the amount being claimed is beyond the $750,000 jurisdictional limit of the Federal Magistrates Court. The Federal Magistrates Court could clearly be utilised in relation to cases where section 83 of the act applies. Section 83 allows parties to rely on factual findings from previous court proceedings. By expanding the jurisdiction of the Federal Magistrates Court to include section 46 claims, the court would be empowered to hear such matters. At the same time, the government’s bill does not limit that jurisdiction solely to matters arising by way of section 83, in recognition of the fact that litigants should have direct recourse to the Federal Magistrates Court in appropriate cases.

The views of the Law Council have been raised in relation to the Federal Magistrates Court amendment. I note that in its submission to the economics committee on this bill the Law Council recognised that a case brought with the assistance of section 83 in the Federal Magistrates Court ‘might well be justified’. The council submitted that the case for such claims to be brought in the Federal Magistrates Court is much more compelling up to the limit of the Federal Magistrates Court’s existing $750,000 jurisdictional limit. The opposition’s refusal to accept the government’s amendments to the ASIC Act in schedule 3 of the bill fails to recognise the existing jurisdiction of the Federal Magistrates Court. The FMC already has jurisdiction in relation to claims of unconscionable conduct in financial service. That jurisdiction was bestowed on the Federal Magistrates Court by the opposition when they were in government. The government’s amendments simply recognise this existing jurisdiction in clarifying the law. The same applies to the amendments to the unconscionable conduct provisions of the Trade Practices Act, which have been opposed by the opposition.

This bill delivers on the government’s commitment to strengthening laws promoting fair competition. It delivers for small business and consumers. It builds on the agenda implemented by this government to reform the Trade Practices Act. Working families will benefit from the government’s reforms because they will facilitate effective competition, which should result in lower prices, greater choice and better quality products and services.

The ACTING DEPUTY PRESIDENT (Senator Hutchins)—The question is that the second reading amendment of Senator Xenophon be agreed to.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland) (1.02 pm)—by leave—The opposition opposes items 1, 2 and 6 of schedules 1 and 2 in the following terms:
(1) Schedule 1, items 1 to 2, page 3 (lines 1 to 16), items TO BE OPPOSED.

(3) Schedule 1, item 6, page 4 (lines 8 and 9), item TO BE OPPOSED.

(4) Schedule 2, items 1 and 2, page 5 (lines 6 to 16), item TO BE OPPOSED.

(6) Schedule 2, item 6, page 6 (lines 8 and 9), item TO BE OPPOSED.

These relate to the question of the Birdsville amendment. They appear on the grey running sheet in the first bracket of amendments. For the reasons indicated in my speech on the second reading, the opposition will be opposing those clauses of the bill.

Senator XENOPHON (South Australia) (1.03 pm)—Can I get clarification from Senator Brandis that those amendments relate to the issue of the Federal Magistrates Court.

Senator Brandis—The Birdsville amendments.

Senator XENOPHON—Okay. I want to state my position that I support the opposition’s position in relation to that.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.03 pm)—Could I raise a matter I am not sure about and it would be useful if Senator Brandis could clarify this. The opposition’s two amendments we are dealing with here will remove one of the key benefits of the government’s bill in relation to treatment of recoupment by the courts. The bill clarifies the role of recoupment in predatory pricing cases under section 46(1AA). At present section 46 does not expressly provide whether it is necessary to prove recoupment in order to establish a case in predatory pricing. Submissions to the 2004 Senate inquiry raised concerns about this lack of clarity and its impact on the effectiveness of section 46, and in particular they expressed concerns that it may be necessary to prove recoupment in order to establish a predatory pricing case. I wanted to clarify whether that is actually the opposition’s intention to change this provision.

Senator Brandis—The opposition’s intention is as I have indicated.

Senator SHERRY—I understand it is the opposition’s intention as you have indicated, but I am not sure whether it is your intention to actually change this particular aspect. Our contention is that you are perhaps inadvertently changing this and we are surprised, frankly, that this is part of your amendments. We understand your position, but I am advised that inadvertently this would be to the detriment.

Senator BRANDIS (Queensland) (1.05 pm)—The reason that the opposition will be opposing the repeal and substitution of section 46(1AB) is that by the structure of the section as it would be proposed it only operates upon section 46(1AA). The opposition opposes the amendments to section 46(1AA). It wishes to leave section 46(1AA) alone. It therefore opposes the repeal of 46(1AB) in its existing form. So section 46(1AB) as it appears in the current act would stand.

Senator JOYCE (Queensland) (1.06 pm)—I would like to ask the minister if he can guide us all to where recoupment is ever an issue as determined by legislation which is actually written down or whether it was just in fact a case of a court’s interpretation that was subsequently dealt with last year in the explanatory memorandum, which explicitly stated that recoupment was not to be an issue of consideration in the determination of cases. So really what the minister might be giving us is something that has already been dealt with.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.07 pm)—The government’s position has been that it is a key and fundamental benefit to put it into the bill rather than allow the courts to deal with it. It is much stronger to have it defined and set out.

Senator JOYCE (Queensland) (1.07 pm)—Do you agree with the fact that it has already been dealt with in the explanatory memorandum of the previous Trade Practices Act pertaining to, and surrounding, the Birdsville amendment? This issue has already been dealt with by the Senate in that it is part of the explanatory memorandum of the legislation, which I have no doubt would be read and interpreted by the courts as being the will of the government.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.07 pm)—It is in the supplementary explanatory memorandum; it is not actually in the act.

Senator JOYCE (Queensland) (1.08 pm)—Would you also confirm that recoupment, as you describe, has never actually been legislated? There is nowhere in the legislation where it says that recoupment was ever required?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.08 pm)—True; that is why we are putting it in.

Senator XENOPHON (South Australia) (1.08 pm)—I would like to get some clarification from Senator Brandis in relation to this, and indeed from Senator Sherry. My position is that I support the Birdsville amendment. I do not want to see that tampered with, because I believe that it provides an alternative remedy for small businesses in predatory pricing cases. But I also support the existing section 46—given the decision in the Boral and other cases—insofar as it makes it clear that there is no requirement for recoupment, because that would not be inconsistent with the provisions of the Birdsville amendment. I would be grateful if Senator Brandis could clarify that for me.
Senator BRANDIS (Queensland) (1.09 pm)—It is not inconsistent with the requirements of the Birdsville amendment. The position that Senator Joyce has outlined in his questions to the minister is an accurate representation of the legal position. In order to protect the Birdsville amendment, in the opposition’s view, the existing section 46(1AA), in its current form, and the existing section 46(1AB), in its current form, should remain.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.09 pm)—What we are saying is that undercutting for a substantial period of time, and the impact of that on small business, is not acceptable. We are putting that in the law. What we are arguing here is that the opposition’s amendments—the two amendments we are dealing with—are, perhaps inadvertently, weakening what we are proposing to do in ensuring that recoupment is clearly contained within the bill. It is not there at the present time.

Senator JOYCE (Queensland) (1.10 pm)—Recoupment obviously is not something that small businesses want. Let us just go through recoupment. Recoupment means that you have to prove that it is the intention of the person who put you out of business, after he put you out of business, to recoup his losses. I can see abundant reasons why we do not want to put that provision in the bill. It has been left out for a deliberate reason, and I ask the minister about this. We are dealing with an interpretation of the court that put recoupment in. Recoupment was removed by the explanatory memorandum in the previous Trade Practices Act at the end of last year. For the Labor Party to now start talking about recoupment does nothing more than bring recoupment back in again.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.11 pm)—If we go back to the Senate inquiry we will see that it recommended that section 46 be amended to clarify that it was not necessary to prove recoupment when establishing a breach of section 46 in relation to predatory pricing. The government’s bill gives effect to that recommendation. We argue that that strengthens the position of small businesses which have been attacked as a consequence of this behaviour. Our concern with your amendment is that whatever your position on Birdsville—and we know what that position is—you are preventing, perhaps inadvertently, a stronger and tougher position, which is to the advantage of a business, presumably a smaller business, that is being preyed on. Recoupment may be an indicator of such behaviour but it is not an essential precondition. We argue that the effect of what you are doing—by the form in which you are opposing the government in this amendment—is to return section 42 to uncertainty and an undesirable position resulting from the High Court’s Boral decision. That is what we are arguing.

Senator BRANDIS (Queensland) (1.12 pm)—In response to what the minister has said, I am afraid that the minister misunderstands that recoupment, as the term is used in the cases, is an incident of market power. The concept that section 46(1AA) operates on is market share. Now, I can see the logic of the government amending section 46(1AB) in the manner indicated if section 46(1AA) were also amended to remove the Birdsville amendment so that section 46(1AA) operates not on market share but on market power. But for so long as section 46(1AA) operates on the concept of market share and not market power—and that is the essence of the Birdsville amendment, which the government is seeking to remove from the Trade Practices Act—then the proposed amendments to section 46(1AB) just do not make logical sense, because, as I said a moment ago, recoupment is understood as an incident of market power, not as an incident of market share. So section 46(1AA) is about market share. Section 46(1AB) cannot be about market power.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.14 pm)—Notwithstanding your logic, Senator Brandis, we still contend that you are in effect, by the change in the design of the amendments you are moving, making it more difficult for business to recoup losses. That is the impact that, I am advised, will occur as a consequence. We know what your position is with respect to Birdsville and if you had worded the amendments differently that would have maintained the integrity of Birdsville, as you argue. But the way they are worded, we would argue, will be detrimental with respect to recoupment for small business, which should not have to go through that process and prove it.

Senator BRANDIS (Queensland) (1.15 pm)—Minister, with respect, you are wrong. The one section that nobody has spoken about so far in this discussion, which is still the governing section of section 46, is section 46(1), which is unaffected by any of your amendments. If you wanted to introduce recoupment, you would deal with the matter by reference to section 46(1), not a newly worded section 46(1AA), which eliminates from consideration market share—which, as I was at pains to point out a moment ago, is the concept upon which the Birdsville amendment operates. So even on the basis of your own analysis, with respect, Minister, the proposed section 46(1AB) is inapt.

Senator JOYCE (Queensland) (1.16 pm)—Once more, on the question of whether recoupment is now to become an issue: recoupment is not in legislation. There is no legislation about recoupment, and any inference that it was in legislation was dispelled at the time of the previous trade practices amendment bill at the end of last year, which specifically dealt with the issue in the explanatory memorandum, saying that it
Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.17 pm)—I think we are starting to go over the same terrain again. I have stated our concern. We believe it is appropriate to have this provision in this area. My advice is that we do not agree with the consequential impact of your amendments—whether it would be inadvertent or not, we are not sure. However, we just do not believe it is appropriate that we should be putting a further burden on small business to recover their losses in this area.

Senator BRANDIS (Queensland) (1.18 pm)—If I may contribute one last observation on this matter, the effect of the government amendment to section 46(1AB) is not merely to introduce the concept of recoupment into the legislation for the first time but also to repeal the existing section 46(1AB). So what would be repealed from the act is the requirement that for the purposes of proving up a case brought under the Birdsville amendment—that is, brought under the ‘share of market power’ test—the court may have regard, for the purpose of determining whether a corporation has a substantial share of a market, to the number and size of competitors of the corporation in the market.

The government’s proposed amendment to section 46(1AB) has a double effect: it introduces this foreign concept into the act which, for the reasons Senator Joyce has explained, should not be there; but, secondly, it removes the guidance to the court in the existing section 46(1AB) as to what the court may have regard to. Presumably it does that because the words in the existing section 46(1AB) are premised upon market share rather than market power. So the government may think that, logically, if market share goes out of section 46(1AA) then that guidance to the courts about the determination of market share should go from section 46(1AB). But it is not right to say, with respect, Minister, that 46(1AB) or the changes to section 46(1AB) are unlinked from or not logically contingent upon the Birdsville amendment. They are. And if the integrity of the Birdsville amendment were to be respected then section 46(1AB) should be left as it is in the bill and section 46(1AA) should be left as it is in the bill.

If you wanted to introduce recoupment, which conceptually you could, you could introduce it as a further or additional subsection. Perhaps the inadvertence is on, with all due respect, the government’s part, and we could have that argument as a freestanding argument. But at the moment what you are doing by introducing this new section 46(1AB)—that is, the recoupment element—through the repeal of the existing section 46(1AB) is, you are depriving a court seized of a case under the Birdsville amendment, in which the court has to consider market share, of the guidance the statute gives it. Section 46(1AB) in its existing form is, in other words, integral to section 46(1AA) in its existing form.

Senator JOYCE (Queensland) (1.21 pm)—I just want to clearly put on the record, for all those who are driving off the road and getting confused at the moment: you cannot repeal something that does not actually exist. So to talk about getting rid of recoupment is an oxymoron, because it does not exist. With 46(1AA), market share came into place. Market share means that you do not have market power. Recoupment is a section of market power. Also, it has already been dealt with in an explanatory memorandum, but you would have to go to another section of the bill and specifically say that, if in the future a court ever found recoupment to be an issue, we have pre-empted that by saying it will never ever be considered. And if you go down that path you might start to consider a whole range of other things that courts may or may not consider and start repealing them—and we will be here till tomorrow night.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.22 pm)—You are right, Senator Joyce, you cannot repeal something that does not exist. But we want it to exist and that is why we are a little surprised that the wording of your amendments will prevent what you apparently believe should exist and we want to exist—they will not allow it to exist. But we will move to the vote.

Senator JOYCE (Queensland) (1.22 pm)—You are dead right—we do not want recoupment to be a test that exists. Therefore, consideration and discussion of recoupment as has been played out in section 46(1AB) is acknowledgement of something that we have already dealt with. The coalition has already dealt with this issue. It is done, dusted and finished. It finished last year with an explanatory memorandum and when the coalition moved to the market share test. What you are in essence doing is bringing this monster back into the room. You are not getting it out; you are bringing it back in.

Senator BRANDIS (Queensland) (1.23 pm)—Senator Joyce is right. The proposed new section...
Senator XENOPHON (South Australia) (1.24 pm)—I am grateful to Senator Brandis’s explanation of how this operates. This is very complex. It is not a question of criticising one party or the other for being inadvertent. If there were an issue in respect of recoupment, with respect to the market power test—and I think Senator Joyce said that it was dealt with in the context of the explanatory memorandum last year—then I think the government could go down that path. I defer to Senator Brandis’s position on this, but I am more than willing to talk to the government if they say that there is an alternative mechanism for dealing with what, I believe, they are intending to do. But I do not want to throw the baby out with the bathwater in terms of the adverse impact it will have on the Birdsville amendment.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.24 pm)—Relying on something in an EM is not as strong as relying on something that is actually written in the legislation.

Senator XENOPHON (South Australia) (1.25 pm)—I acknowledge what Senator Sherry has said but, given the way it would interact with the various subsections we have been discussing, I am concerned that there would be unintended consequences. That is why my position is to support the opposition. But I note the comments of Senator Brandis that there could be scope to clarify what has been a risk of unintended consequences with the government’s position.

Senator BRANDIS (Queensland) (1.25 pm)—There are two main problems here and Senator Xenophon has addressed one of them. The inadvertence is on the part of the government, with respect. What you have done, presumably inadvertently, is to mix up the repeal of the statutory guidance to the courts in applying the Birdsville amendment with the notion of recoupment. The Birdsville amendment and the issue of whether market share should be a test for entry into section 46, and should be the criteria that guide courts in applying that test, is one issue. Recoupment is a different issue. What you have done, by the way in which you have gone about the proposed new section 46(1AB), is to run the two things together in a manner that is confusing. Senator Xenophon, you are absolutely right in your apprehension that by voting for section 46(1AB) you would defeat the effect of what the opposition is trying to do to preserve the Birdsville amendment.

The second issue, which is the issue Senator Joyce alluded to, is that by introducing into section 46—even if it were not inadvertently mixed up with the substantial market share issue—this notion of recoupment expressed in this way as negative guidance to a court, you are creating, as I said before, an exception to a non-existent issue. It is an issue that does not arise on the face of the act at the moment and may very well have the unintended consequences, opposite to the expressed intention of the government, of which Senator Joyce has quite rightly warned.

Senator FIELDING (Victoria—Leader of the Family First Party) (1.27 pm)—I think the issue does need to be clarified. The government wants to put beyond doubt that you do not have to prove that you need to have recoupment as the basis of actually proving predatory pricing. I think that is the absolute clarity of the issue and I can understand why the government has put in:

A corporation may contravene subsection (1AA) even if the corporation cannot, and might not ever be able to, recoup losses incurred by supplying the goods or services at a price less than the relevant cost to the corporation of the supply.

To speed up things, I am wondering whether we should have the vote on the issue of whether the section stand as printed. Then, if that is defeated or, to put it in other words, is repealed, the government may want to put forward an amendment that inserts into the legislation this issue of making sure beyond doubt that you do not have to prove recoupment to be able to prove predatory pricing. That is an issue. It is in the explanatory memorandum and we had this debate some time ago. I think some senators were arguing at the time that it should be in the legislation. The government is honouring that by putting into the legislation the recoupment issue beyond doubt. But we are confusing market share issue versus the recoupment issue and I think, for clarity, the government should genuinely move that on its own right as an addition to the Trade Practices Act.

Question put:
That items 1, 2 and 6 of schedule 1 and items 1, 2 and 6 of schedule 2 stand as printed.

The committee divided. [1.34 pm]

(The Chairman—Senator the Hon. AB Ferguson)

Ayes………….. 30
Noes…………… 32
Majority……… 2

AYES

Arbib, M.V. Bishop, T.M.
Brown, C.L. Cameron, D.N.
Carr, K.J. Collins, J.
Conroy, S.M. Evans, C.V.
Farrell, D.E. Faulkner, J.P.
Feeney, D. Forshaw, M.G.
Furner, M.L. Hanson-Young, S.C.
Hogg, J.J. Hurley, A.

CHAMBER
It does not matter whether the case is being litigated in the Federal Court or in the Federal Magistrates Court: these cases, under section 46—and if I may say so, I suspect that I am the only person in the Senate to have run one or more of them—are very complex cases. It is not as if there are two categories of section 46 cases, the hard ones and the easy, low-budget ones.

The legal issues are complex. The factual issues are complex. Unlike most legal proceedings, they involve not only difficult issues of law but also difficult issues of economics and they necessarily involve extensive evidence from forensic economists about market definition and issues such as market share, barriers to entry and so on. It is simple-minded to think that you could have an easy section 46 case that can be knocked over in a couple of days in the Federal Magistrates Court and the harder section 46 cases that might take several weeks in the Federal Court. They are all long cases; they are all complex cases. The complexity of the issues is common, regardless of the monetary value at stake, as a matter of fact, because the issues of market definition, market share, barriers to entry and the other aspects of the economic evidence in particular do not change. So the complexity of the proceedings is unaffected by the forum. The length of the proceedings is unaffected by the forum. On the cost of the proceedings, to the extent to which most of the costs incurred in conducting litigation are the professional costs of counsel, solicitors and expert witnesses, the professional costs are going to be the same, regardless of what forum you conduct those proceedings in.

The risk that I see, were this amendment to be passed, is that section 46 cases might be commenced in the Federal Magistrates Court in the mistaken view that perhaps they would be swifter there, whereas in fact they could potentially be longer. The reason that they could potentially be longer is that the Federal Court now has a body of experience and expert knowledge in this particularly arcane area of the law and it also has long experience in conducting complex trials.

The Federal Magistrates Court, with all due respect to the federal magistrates, who are all good men and women, has no such body of expertise in this area and has no such equivalent body of experience in conducting complex commercial litigation. Eighty-five per cent of the work of federal magistrates is in fact Family Court work. In the entire federal magistracy, I can think of one federal magistrate who has a background in this field.

As a matter of commonsense, most people would understand that, if you have a complex matter dealt with by a jurisdiction with no experience and familiarity with its complexities, it is going to take longer and therefore be more costly than if you have that matter dealt with by a specialist, expert court which knows how to do it because it is practised in dealing with such
arcane and complex matters. If the argument put forward by the government is that it will save money—which is the argument put forward by Senator Sherry—it will not. It will cost the litigants more. That is why the opposition opposes these measures.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.44 pm)—There has been a fair amount of discussion on this matter. I just want to go to amendments—and we are moving (2), (5), (7) and (8) together. In respect of (2) and (5), we do not overstate the case, Senator Brandis. I do not believe that it would be correct to say that—

Senator Brandis—I am not saying that you are overstating the case. But to the extent to which you make the case, you are wrong.

Senator SHERRY—We would argue that you are too bleak in your outlook, Senator Brandis. Perhaps it is all those appearances in the Federal Court that have led you to the conclusion that costs cannot be saved anywhere at any time.

Senator BRANDIS (Queensland) (1.47 pm)—You should just trust to my cynicism.

Senator SHERRY—I am not suggesting that you are being cynical. Why not give it a go. We are not suggesting that there will be widespread massive savings, but why not at least attempt to have some provision that would permit some savings perhaps? We are not gilding the lily in terms of claims that costs will come down across the board, because that will not happen. But we really do not see why it is not unreasonable to actually attempt to do this. If the opposition’s amendments are carried, we do not even get to first base—we do not even attempt to do it. The arguments have been well put.

The other comments that I want to go to concern specifically (7) and (8). We do think that this may be an opposition error in respect of amendments (7) and (8). The opposition’s refusal to accept the government’s amendments to the ASIC Act in schedule 3 of the bill, which these amendments deal with, fails to recognise the existing jurisdiction of the Federal Magistrates Court. The Federal Magistrates Court already has jurisdiction in relation to claims of unconscionable conduct in financial services. It already has that jurisdiction and that jurisdiction was conferred on the Federal Magistrates Court by the now Liberal opposition when they were in government. So they are reversing something that they in fact did, and we find that approach difficult to understand.

Senator BRANDIS (Queensland) (1.46 pm)—Senator Sherry, upon consideration, you are right about that matter. The opposition therefore will not be opposing (7) and (8). Our concern about section 46 cases being dealt with in the Federal Magistrates Court is sufficiently expressed by our opposition to items 2 and 5. So I just correct myself and apologise to Senator Sherry. We will not be opposing items 1 to 4 and 9 to 11 in schedule 3.

Senator SHERRY—I just take your guidance, Mr Temporary Chairman. My understanding is that we had by leave been dealing with (2), (5), (7) and (8) together. Perhaps in terms of process—

Senator BRANDIS (Queensland) (1.48 pm)—I seek leave to have us deal with items (2) and (5) together and foreshadow that we will abandon our opposition to (7) and (8).

Leave granted.

The TEMPORARY CHAIRMAN (Senator Joyce)—We will divide the question. The question that is now before the chair is that schedule 1, item 3, and schedule 2, item 3, stand as printed. That will be the question.

Senator XENOPHON (South Australia) (1.48 pm)—I requested these things of the government, firstly, in relation to changing the jurisdiction, allowing the section 46 case to be brought in the Magistrates Court: what plans were there on the part of the government to provide assistance or resources to small businesses to bring such cases? The second issue relates to the amendment in my name that I will be moving. The ACCC is precluded from bringing an action in the Federal Magistrates Court. That is something that does concern me. I do not understand why that is the case given that they can bring actions in the Federal Court and given how expensive these actions are, as Senator Brandis has pointed out.

Thirdly, a matter for the minister to consider: there is the Semple review on the jurisdiction of federal courts, including the Magistrates Court, which I understand has not yet been released. I understand that there is some speculation that the Magistrates Court may well be amalgamated or turned into another entity in the not-too-distant future. Can the government provide us with details on that, because what we are doing here then becomes quite academic in the context of the Federal Magistrates Court?

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.50 pm)—The assistance that would effectively be provided to business through use of the Federal Magistrates Court is that they can use findings of fact that have already been established by the commission. We have appointed a full-time Commissioner for Small Business, who will be involved in providing that level of support, findings of fact, to a business. That is the form of assistance that can be extended through use of the Federal Magistrates Court. That cannot be provided if the alternative is used, which is the Federal Court. So that is the area of assistance.
In respect of your amendment, you sought guidance. We cannot support your amendment because the purpose of the amendments we are currently considering is to provide better access—and we have discussed and debated that. Your amendment goes beyond the scope of the bill. Section 86 covers parts IVA, IVB, VA and others of the act. Returning to my earlier comments, the ACCC, we believe, is well-resourced as a regulator, particularly with the improvements we have made to it and that it ought to continue to bring matters in the Federal Court. Therefore we would not support your amendment. Your second question I did not get—perhaps you could repeat it and I will cover it.

**Senator XENOPHON** (South Australia) (1.51 pm)—Before I get to the next question, is Senator Sherry saying that the government would be sympathetic to the concept being sought by this amendment—that is, that section 46 cases can be brought in the Federal Magistrates Court by the ACCC? My understanding is, and I will stand corrected if I am wrong, that they cannot be brought by the ACCC, whereas the ACCC has the ability to bring actions in the Federal Court.

**Senator SHERRY** (Tasmania—Minister for Superannuation and Corporate Law) (1.52 pm)—Your understanding is correct: the ACCC cannot currently do that. I understand you are proposing to allow it to access the Federal Magistrates Court—that is a consequence of your amendment. We cannot accept it. It has a range of consequences as to who else could be represented in the Magistrates Court because of the status of the ACCC there. There would be others who may need to be given status. That is why we will not support your amendment. There are some issues to consider about who would be permitted representation. We do not want to turn the Magistrates Court into the Federal Court.

**Senator Brandis**—That is what you are doing in section 46, Senator Sherry.

**Senator SHERRY**—I would argue that we are not. Anyway, that is the reason why we cannot support your amendment, Senator Xenophon.

**Senator XENOPHON** (South Australia) (1.54 pm)—I raised another query in relation to this: I understand that the Semple review is looking at the whole issue of the jurisdiction of the various federal courts. I think Senator Brandis may have greater knowledge than me on this but, as I understand it, the Semple review of the jurisdiction of the various federal courts, including the Federal Magistrates Court, may well be recommending that the Federal Magistrates Court be amalgamated or no longer be in its current form. Is that something that the government can enlighten us on?

**Senator SHERRY** (Tasmania—Minister for Superannuation and Corporate Law) (1.54 pm)—I am aware that the Attorney-General has asked the department, working closely with courts, to review the optimal structure of the Family Court and the Federal Magistrates Court. The government is concerned to effectively and efficiently deliver family law services by the Family Court and the Magistrates Court. I cannot give you a specific response because I would be preempting any outcome of that examination, which is not currently concluded.

**Senator XENOPHON** (South Australia) (1.55 pm)—I will go back to Senator Sherry’s response—and I thank him—in relation to why the ACCC cannot bring an action in the Magistrates Court. Given that response I cannot support this amendment in its present form. Whether there is scope for the government to further consider its position, or whether they believe there are other ways of dealing with that concern, I am not sure, but I am concerned that the absence of allowing the ACCC to bring these cases for section 46 may well be counterproductive to what is being proposed. The other thing that needs to be said is in the context of party-party costs. As I understand it, awards with respect to a Magistrates Court matter would be lower than in the Federal Court, which would mean a higher solicitor-client gap for litigants, particularly small business litigants. So I do have concerns as to the consequences of this particular amendment in the absence of the ACCC being able to instigate such cases.

**The TEMPORARY CHAIRMAN** (Senator Joyce)—The question is that schedule 1, item 3 and schedule 2, item 3, stand as printed.

Question negatived.

**Senator XENOPHON** (South Australia) (1.57 pm)—I move:

(1) Schedule 3, page 8 (after line 13), after item 13, insert:

13A Subsection 86(1A)

Omit “or the Commission”.

**Senator BRANDIS** (Queensland) (1.57 pm)—The opposition supports Senator Xenophon’s amendment, the effect of which will be to enable the ACCC to commence proceedings in the Federal Magistrates Court under part IVA, that is, the unconscionable conduct provisions of the act; part IVB, which deals with industry codes; and part V, which deals with consumer protection. With all due respect to Senator Sherry, in moving the amendments—which have just been defeated—to confer jurisdiction on the Federal Magistrates Court in respect to section 46 cases and now opposing Senator Xenophon’s sensible amendment to give the commission the capacity to instigate proceedings under part IVA, part IVB or part V of the Trade Practices Act in the Federal Magistrates Court, the government has got it precisely around the wrong way. The government’s position could not be more illogical if it tried. As Senator Sherry said a moment ago, you cannot transform the Federal Magistrates Court into the Federal Court, which is what he says Senator Xeno-
ophon’s amendment would do. Senator Sherry, the Federal Magistrates Court under section 86(1A) is already seized of these matters at the suit of private litigants. If it is already seized of these matters at the suit of private litigants, why is it not appropriate that the same cases should be dealt with in the same court at the suit of the ACCC, which is the principal institutional litigant? The government’s opposition to Senator Xenophon’s amendment is quite illogical. Rather than keep part IV cases, the complex antitrust cases, in the specialist Federal Court and open up the Federal Magistrates Court to proceedings initiated by the commission in the more straightforward consumer protection and unconscionable conduct cases, the government misunderstands in a black-and-white fashion the appropriate jurisdictional home of these different causes of action.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (1.59 pm)—I have stated our case. For the record, we oppose the amendment.

Progress reported.

QUESTIONS WITHOUT NOTICE
Economy

Senator FIFIELD (2.00 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. Will the minister advise the Senate whether the government or its agencies, including government superannuation and other funds, are exposed as a result of the collapse of Lehman Brothers and other developments in world financial markets? If so, to what extent?

Senator CONROY—It is very appropriate that Senator Fifield ask a question today, as his former employer was at the Press Club today, where we saw yet another attempt by those opposite to rewrite history.

Opposition senators interjecting—

The PRESIDENT—Order! Resume your seat, Senator Conroy. When the chamber is ready, we will proceed with question time.

Senator CONROY—When it comes to the economic legacy of the former Treasurer, I would rather take the advice of the IMF and Treasury. What they say is that his reckless spending left Australia with a legacy of high inflation and high interest rates. In June 2007, the IMF revealed that the former Treasurer’s last two budgets—

Senator Minchin—Mr President, on a point of order: this actually was a serious question. The world is facing very serious financial strife. Lehman Brothers has collapsed, and the other banks have been sold out. This is a serious question. Can the minister answer a serious question rather than immediately indulging in party-political propaganda? The people of Australia want to hear the answer to the question about what is going on in global financial markets and the impact on Australia. Mr President, I would ask you to ask the minister to answer the question.

Senator Chris Evans—Mr President, on the point of order—although I do acknowledge that Senator Minchin indicated this is the first serious question they have asked for a fair while—I make the point that Senator Minchin wants to debate the issues. Senator Conroy is attempting to deal with a question about the Australian economy. He is putting that in context, and it is a perfectly appropriate response. While the opposition may not like it, the reality is that it is in order for Senator Conroy to answer the question this way.

The PRESIDENT—There is no point of order, as I cannot instruct or tell a minister how to answer a question. But I draw the minister’s attention to the question and the issue of relevance.

Senator CONROY—We are facing one of the most difficult times in global financial markets in more than 20 years.

Senator Colbeck—We know that.

Senator CONROY—Yesterday you were laughing at it. Yesterday every time those on this side of the chamber—

The PRESIDENT—Order! Senator Conroy, resume your seat. Your comments should be directed to the chair and not across the chamber.

Senator CONROY—I accept your admonishment; I should not react to the interjections. But those opposite continued even as late as yesterday, at the mention of the global financial situation, to break into peals of laughter. How embarrassed they look today when their new Leader of the Opposition, Mr Turnbull, described it:

We are presently facing, probably, the gravest economic crisis globally in any of our lifetimes.

That demonstrates how out of touch those in this chamber on the opposite side have been. The global financial crisis is buffeting confidence and share markets around the world and slowing the economy. Five of the world’s seven largest developed economies recorded zero or negative growth in the three months to June this year. Global stock markets have fallen by around 20 per cent since the turmoil began and consumer confidence in economies across the whole OECD has fallen to its lowest point in almost 30 years.

Recently the IMF First Deputy Managing Director, John Lipsky, had this to say:

The global economy is facing its most difficult situation in many years as we grapple with the financial crisis that erupted last August—

that is, August 2007. We continue to see the consequences of these developments which have their origin in the US subprime market. As has already been mentioned, overnight Lehman Brothers, formerly the fourth largest US investment bank, filed for bankruptcy in the
US. It has also been announced that the Bank of America has agreed to buy Merrill Lynch, the world’s largest brokerage firm, and concerns have also been expressed for the financial health of AIG, the world’s largest insurer. The government has been briefed on developments by Treasury and the relevant regulators following yesterday’s quarterly meeting of the Council of Financial Regulators. The regulators are continuing to closely monitor events in the US and remain in close contact with their international counterparts. It is clear that we are not immune to these global difficulties. We are, however, better placed than most countries to weather the storm. The fundamentals of our economy remain strong. (Time expired)

Senator FIFIELD—Mr President, I ask a supplementary question. I invite Senator Conroy to treat these matters with the gravity they deserve. Given that global financial uncertainty has been building all year, why, since being elected, has the government deliberately talked down confidence in the economy and talked up inflation?

Senator CONROY—Unbelievable! Let us be clear. From day one we have been upfront and honest about the global challenges that we face, unlike those opposite, who have engaged in economic vandalism on the surplus that this government has delivered—a surplus that was larger than the one proposed by those opposite, a surplus that reached 1.8 per cent rather than 1.5 per cent.

Senator Fifield interjecting—

Senator CONROY—Senator Fifield keeps interjecting. Whatever happens in the rest of the week, when it comes to the frontbench appointments, whatever you do, do not back Senator Fifield. He backed the former Treasurer all the way against the former Prime Minister. He backed Mr Turnbull all the way against Mr Nelson, and today he backed Mr Nelson all the way against Mr Turnbull. What do we get there? Three strikes and he is out. So let us not take interjections from Senator Fifield at all seriously. (Time expired)

Economy

Senator STERLE (2.08 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister inform the Senate what the government is doing at home to respond to the impacts of the slowing global economy?

Senator CHRIS EVANS—I thank Senator Sterle for the question because the government acknowledges that the events overnight have reinforced the concern about global economic conditions and the pressure that that will place on the Australian economy as well as on all other nations’ economies. As we know, these events have had their origin in the US subprime market problems of some time ago. But the overnight filing of bankruptcy by Lehman Brothers reinforces how serious this situation is, and there are a range of other companies that seem to be under enormous pressure. We know that Australia will not be immune from these pressures.

We confront very difficult times. Global stock markets have fallen by around 20 per cent since the turmoil began; consumer confidence across the OECD economies has fallen to its lowest point in 30 years. So it is not a question of this government talking down confidence. This is a worldwide reality. Five of the world’s seven largest developed economies recorded zero or negative growth in the three months to June this year. All the economies of this world are facing tough economic conditions and we are no different. But we are confident that with the right policy settings Australia will come through these difficult times in a stronger position than other economies.

The global credit crunch and oil price shock have buffeted confidence in share markets, and there is slowing global growth. Despite all this, we think there is cause for optimism in Australia. We have a very strong surplus, record terms of trade and businesses that are investing in the future with confidence. As the Australian government, we are focusing on the things that we think we can influence. We have built a strong surplus—for good reason. We say the surplus that the opposition say is too large is absolutely necessary to help buffer us against these global pressures and give us the flexibility we need to meet today’s challenges.

We make no apology. We think the surplus that we delivered in our first budget is absolutely necessary to protect Australian families, Australian pensioners and Australian people generally from these pressures. We made room in the budget, though, to deliver support to those families with the $46 billion in tax cuts and the additional support for carers and seniors. We laid the foundation for $40 billion of responsible investment in nation building and growth for the future. We are still investing in our capacity and investing in our growth for the future as well as providing that relief for families.

There are some encouraging signs. The recent unemployment figures were encouraging. You do not want to set too much store by one month’s numbers, but unemployment fell to 4.1 per cent and that was obviously good news. We know that 159,000 jobs have been created since November 2007, almost 55,000 in the last three months. We think there is some room for optimism despite these pressures.

What is clear, though, is that we need a strong surplus to help buffer the economy against these international forces. We need a strong surplus. That is why we delivered a $22 billion surplus. I would urge the opposition and minor parties and Independents to support our budget, to support the surplus and to help us to pro-
tect Australian families against the problems that are confronting us from international pressures. Help us deliver the surplus that will put downward pressure on inflation and downward pressure on interest rates. *(Time expired)*

**Age Pension**

**Senator BOSWELL** *(2.12 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister confirm that, in addition to not raising the age pension to bring urgently needed relief, the Rudd government plans to deprive 22,000 older Australians of their Commonwealth seniors health card from July next year? Why is the government intent on fleecing rather than rewarding older Australians?

**Senator CHRIS EVANS**—I think Senator Boswell’s question highlights the sort of economic irresponsibility and confusion that the opposition have fallen into. It is the case that many Australian pensioners are doing it very tough. They are confronting rising food prices. Electricity, gas and petrol are also going up. It is the very argument I just put that our ability to help put downward pressure on these things is in part driven by the surplus and our capacity to manage the economy in a responsible way.

It is not the case that we are fleecing pensioners, as the senator said. I note in passing that, despite all the rhetoric from the opposition at their first opportunity in this parliament since the issue arose yesterday, they had not asked me one question about pensions. As the minister representing both the Prime Minister and the Minister for Families, Housing, Community Services and Indigenous Affairs, I got not one question about pensions. So for Senator Boswell to try and raise concerns now is, I think, a little ingenuous.

Mr President, we are concerned about the plight of pensioners. That is why there is a large investment in the budget in support of pensioners and carers. That support included an increase in utilities allowance from $107 a year to $500 a year—a $400 increase in the utilities allowance to help pensioners meet the rising costs of electricity, gas and other regular payments. We also provided the one-off bonus of $500 in the budget. I note that pensioners were not provided for in the previous government’s budget papers.

The concern for pensioners by this opposition is very recent. They provided 11 budgets—or 12 budgets; I am not quite sure which—and they did nothing to address the fundamental problems about pensioners and the level of the pension. We are saying that in our first budget we have invested in trying to assist pensioners—by the increases in their allowances, by the payment of the bonus—in a way that seeks to provide more support for them. We also indicated that more needs to be done and that we need to look at the fundamentals that underpin the pension rate, and we have undertaken to do that work seriously prior to the next budget. It has been clear, and it has been reinforced by Senator Boswell’s question, that these matters are complex, that movements in the pension have consequences in other areas, be it entitlement to seniors health cards, be it the impact on the rate they are paying in a nursing home, which is a set percentage of the pension, or be it in terms of other entitlements—for instance, state housing commission rents. It is not necessarily as simple as a movement in the rate of pension leading to an increase in disposable income for pensioners; for many pensioners it would not. So it is a complex matter. It does need to be addressed seriously. The government has undertaken to address it seriously while providing short-term relief in the budget by providing extra cash payments and an increase in the utilities allowance.

The opposition have got to get their position straight on this. Senator Boswell asked me why we cannot do more for pensioners and why we are effectively means-testing the pension. We have always supported a means test of the pension. We have always said support ought to go to those most in need. That was a policy that Senator Boswell’s government supported when they were in government. But again they seem to have abandoned those sorts of economic responsibilities in opposition. *(Time expired)*

**Senator BOSWELL**—The supplementary questions of question one and two were on pensions—

*Government senators interjecting—*

**Senator BOSWELL**—What are the benefits of—

*Government senators interjecting—*

**Senator BOSWELL**—This is my supplementary question!

*Government senators interjecting—*

**The PRESIDENT**—Order! Senator Boswell, resume your seat. I cannot hear the question because of the shouting across the chamber by a couple of senators.

**Senator BOSWELL**—What are the benefits of the seniors health card and how much money will the government save by taking them away from older members of our community?

**Senator CHRIS EVANS**—I make no apology, and this government makes no apology, for insisting that payments in support of pensioners or anyone else are directed at those most in need. When Senator Boswell’s government were in power they supported that, and we have always supported them in that. There is not a bottomless pit, and what we are saying in those budget measures is that the seniors health card concessions and other concessions ought to be means tested and ought to be directed at those in need. If the opposition have abandoned that policy, I would like to hear it. But, yes, Senator Boswell, we do target those benefits, we target them at those most in need and this govern-
ment will continue to do so because our capacity to support pensioners is best enhanced by targeting it to those most in need.

**Economy**

**Senator ARBIB** (2.18 pm)—My question is to the Minister representing the Treasurer, Senator Conroy. Can the minister update the Senate on the challenges facing the Australian economy in light of recent global developments? Can the minister advise what steps the government is taking in response to events in global financial markets?

**Senator CONROY**—I thank Senator Arbic for his question. Every economy in the world is facing tough economic conditions, and at this stage yesterday the interjections and the laughter from those opposite ran around the chamber. Today they have discovered the true extent of conditions of the global credit crunch and the global oil price shock slowing the world economy at the moment—as we have already debated in this chamber. Global stock markets have fallen by around 20 per cent since the turmoil began. Consumer confidence, as we said, has fallen across the OECD to its lowest point in 30 years, and five of the world’s seven largest developed economies recorded zero or negative growth in the three months to June last year. As we have already noted in the chamber, overnight Lehman Brothers, the fourth largest investment bank, filed for bankruptcy in the US. It has also been announced that the Bank of America has agreed to what has been described as a shotgun marriage with Merrill Lynch, the world’s largest brokerage firm, and there are serious concerns about the financial health of AIG, the world’s largest insurer. I saw one commentator describe this as the eighteenth-largest company in the world.

So we should not be surprised that these global problems, together with 10 consecutive official rate rises under those opposite, have slowed the economy. From the beginning, we have been up-front and honest about that. But we need to put this into perspective: though we confront the most difficult global circumstances in a quarter of a century, the fundamentals of our domestic economy remain strong. We welcome the commentary of Mr Turnbull, the new Leader of the Opposition, on that this morning, because at least one of those opposite has finally stopped laughing about it and started to address the seriousness of it. While we are not immune from the global difficulties which are slowing the world economy, we are better placed than most countries to withstand them. We have built a strong $22 billion budget surplus, which acts as a buffer against global turmoil. The prices of our commodity exports are at generational highs, businesses are investing in our economy with confidence and we have a strong, well-regulated financial sector.

The recently released national accounts show that, despite the global financial crisis and the slowing global economy, the Australian economy continues to grow solidly. Real GDP rose by 0.3 per cent in the June quarter and 2.7 per cent over the year. The non-farm economy rose by 0.5 per cent in that quarter. These are solid numbers, especially considering the global challenges we are facing and what is happening to other developed economies. As I have said, five of the world’s seven largest developed economies recorded zero or negative growth in the June quarter. So, while the growth in the world’s largest developed economies has stalled or gone backwards, Australia has continued to grow. In fact, over the past year, our economy has grown more strongly than the US, the UK, Japan, Germany, France, Italy and Canada, and more strongly than the whole of the G7, G3 and the euro area economies. *(Time expired)*

**Senator ARBIB**—Mr President, I ask a supplementary question. Can the minister outline the implications that recent global developments have for our approach to domestic economic policy?

**Senator CONROY**—We are facing one of the most difficult times in global financial markets in more than 20 years—

**Opposition senators interjecting**—

**Senator CONROY**—We should not be taking it as flippantly as those opposite, who continue to interject. The new opposition leader, as I have said, has described it as facing probably the greatest economic crisis of our lifetime. I look forward to those opposite actually behaving in that way. Global financial markets are slowing and confidence rates are down, but what we are seeing from those opposite is a continued attempt to vandalise the budget surplus—just blow $6 billion out here, spend a few billion dollars there on pensions!

**Senator Minchin interjecting**—

**Senator CONROY**—What we are seeing from a failed finance minister known as ‘Dr Yes’, who is interjecting at the moment, is yet again that he has lost touch. * *(Time expired)*

**Family Court**

**Senator BRANDIS** (2.24 pm)—My question is to Senator Ludwig, the Minister representing the Attorney-General. Can the minister explain the delay in the release of the Semple report on the Family Court, which was originally due in May but has yet to see the light of day?

**Senator LUDWIG**—Thank you for that question, Senator Brandis. I will have to take it on notice and provide a response to you in due course. What we can say, though, in respect of these matters is that the government does take all of these reviews seriously. We will be providing a response to those in due course. **Opposition senators interjecting**—
Senator LUDWIG—Unlike those Liberals opposite, this government does have an ambitious reform agenda, designed to prepare Australia to meet the challenges of the 21st century, whether they be—

Senator Brandis—Mr President, I rise on a point of order—that of relevance. I perfectly understand that Senator Ludwig has told the Senate that he does not know the answer and therefore has to take the question on notice. Given that he has done that, the further material is, by his own admission, irrelevant to the answer.

Senator Conroy—Mr President, on the point of order: Senator Ludwig was clearly indicating he will get some more information and is clearly now expanding on that in his discussion with the Senate. Senator Brandis’s order should be dismissed for the frivolous point of order with no substance that it is.

The PRESIDENT—There is no point of order. I draw the minister’s attention to the question and ask the minister to come to the conclusion of his answer.

Senator LUDWIG—As I was saying in respect of this matter, I have indicated that in terms of the specific question I will get back to Senator Brandis and the chamber, but I am entitled to provide a broader answer in relation to the general issue of reviews that has been raised. That is precisely what I am doing. We have adopted, as I have said, in terms of meeting the challenges of the 21st century, a serious look at this—

Opposition senators interjecting—

Senator LUDWIG—unlike the opposition, as they interject, who do not take these matters seriously, it seems—in terms of the security challenges, the economic challenges or the environmental challenges. We have adopted a careful and considered approach to public policy. We engage in wide consultation to ensure the best views and ideas are available to government and are fed into the policy development process. To this end, there have been a number of reviews established in the portfolio. They have included, as we have said, the Clarke inquiry into the Haneef case to get the facts of the case and make appropriate recommendations to ensure our national security agencies are operating as best they possibly can, both individually and collectively; a review of security to ensure Australia can defend itself against increased sophisticated cyber attacks; and, of course, on the matter that Senator Brandis raised—

Senator Abetz—Mr President, I raise a point of order. Standing order 196 says:

The President ... may call the attention of the Senate ... to continued irrelevance ... and may direct a senator to discontinue a speech ...

This, in my submission, includes an answer at question time. To talk about national security in the terms of the question asked by Senator Brandis in relation to the Semple report is, with great respect, about as irrelevant as one can get to what was a very, very concise question. I would invite you, Mr President, to have a look at the specifics of standing order 196.

Senator Conroy—Mr President, on the point of order: as has already been indicated by Senator Ludwig, he was providing a broader context to the question. He made it perfectly clear. All he is doing now is doing exactly what he indicated he would be doing. Senator Abetz, who enjoys making these points of order, is once again wasting his time and the Senate’s time with a very frivolous point of order.

The PRESIDENT—There is no point of order. I cannot instruct the minister how to answer the question, as I have said now on numerous occasions since taking question time. I draw the minister’s attention to the question and remind the minister of relevance to the question.

Senator LUDWIG—Thank you, Mr President. What we actually have heard today is that clearly the Liberals are not seriously interested in what is a perfectly appropriate review by Mr Des Semple of the operation of the federal Family Law Court to ensure that the federal family law system meets the needs of families and their children facing family breakdown. These are serious matters. The review, as I have outlined in the opening remarks I made in respect of this, is that it is a serious issue. The government does take this seriously. We are ensuring that the review does meet the timetables that have been set for it, and it will provide a review in due course.

What I said in relation to the question asked by Senator Brandis was that I will get back to the specifics of that, but it does need to be put in context. The context, of course, is that there are a range of quite serious issues on which Senator Brandis might also like to provide information to the review, as the shadow Attorney-General; that is a matter for him. But the opposition are not serious in suggesting that we should not address these issues in the appropriate way in the appropriate time to ensure that we get it right. The opposition wants us to rush these things through, but this government will take a serious and considered approach to ensure that we meet the needs of the community and government and that Mr Des Semple is able to conduct the review in a way that ensures that those important matters that go to ensuring that the federal family law system meets the needs of families and their children facing family breakdown are given the consideration they deserve.

Senator BRANDIS—Mr President, I ask a supplementary question. Will the minister deny that the original draft of the report has been substantially rewritten within the Attorney-General’s Department and does not in fact reflect the views of Mr Semple? Will the minis-
ter commit to a release date for the doctored version of the Semple report?

Senator LUDWIG—As I have said, the review by Mr Des Semple of the operation of the federal Family Law Court is an important review. It should be allowed to run its course. Senator Brandis has made some pretty wild accusations about this, but only that reflects badly. I think, on the opposition, who are not taking this in a serious way. There should be an opportunity for Mr Semple to provide his report to the government and for the government to be able to consider the report to ensure that we give it the gravitas that it deserves. The opposition are not being serious in suggesting that we should rush these things through. We make no apology for seeking the views of the Australian community on these important issues of reform and we will continue to do that.

Population Policy

Senator BOB BROWN (2.33 pm)—My question without notice is to Senator Evans, representing the Prime Minister. Does the government have a population policy? Can the minister tell the Senate whether population growth is essential for economic growth, or is that assumption just plain wrong? If population growth is inevitably needed, is that not an ultimate recipe for planetary breakdown?

Senator CHRIS EVANS—I thank Senator Brown for the question. I think population policy is an important issue confronting Australia and we actually need to have a mature debate over the next couple of years about the development of population policy.

Senator Abetz—I’d say you need to have one.

Senator CHRIS EVANS—Senator Abetz, you keep on interjecting—

Senator Abetz, interjecting—

The PRESIDENT—Order! Senator Abetz, we can do without your interjections during question time.

Senator CHRIS EVANS—I actually think it is a serious issue. It was discussed at the 2020 conference and raised by lot of the delegates and it is an issue that the government has been engaging on, particularly in relation to the Treasurer’s role, the housing minister’s role and of course the environment and climate change ministers’ roles. We are working together to try and bring together a broader policy approach in this area.

In terms of my own area, on coming to office I found that the previous government set the immigration planning levels on an annual basis. They just picked a figure annually and there was no context to the selection of the figure and no longer term planning. In our first budget this year the cabinet agreed to my bringing forward next year a longer term planning framework for immigration to this country, which is in part an attempt to deal with that broader population question. We think we need a longer planning cycle. We think we need to deal with those broader considerations. At the moment we have a skills shortage in this country as a result of the previous government’s failure to invest in education and training and we are looking to build our capacity by training our own people, but in the short term we do have a need for labour and we are trying to address that.

One of the things I would point to is the changing demographics of the nation. We know that over the period 2010 to 2020 more people will retire than will join the workforce. If you like, 2010 marks the tipping point in the retirement of the baby boomers, and that will exceed the numbers of young people entering the workforce. That is not a temporary thing; this is a long-term demographic shift. It will not rectify itself. We will have a shrinking native-born labour force to supply a growing economy and an ageing population. So there are big challenges in the demographics area, and part of the solution to that will be an increase in migration and, I think, an increase in the overall population, because we will need more workers to support the population and we will need more workers to provide services to those ageing as the cohort of those ageing increases. But there are issues about environmental sustainability that need to be taken into account and there are issues about housing that need to be taken into account.

I suppose your question, Senator Brown, implied that somehow we should respond in a negative way. I think the way to respond is to say that we have a climate change problem and we have to address that problem. Whatever the size of the population, we will have a climate change problem. This government is immediately trying to tackle that climate change problem. We are trying to tackle the problem of water. All of those things need to be taken head-on. Those problems are not fixed by reducing our population or ending immigration to this country. We are serious about housing, we are serious about climate change and we are serious about the environment, but we face other challenges about the workforce and about our demographics. What we are trying to do is bring all that together so that the government has a broad view about these challenges and how we respond. I think we are making good progress on that, and certainly in my portfolio we are very much focusing on those broader issues.

Senator BOB BROWN—Mr President, I have a supplementary question. I thank the minister for the seriousness with which he answered that question. I return again to core question that I asked: is economic growth predicated upon population growth or is that a myth?

Senator CHRIS EVANS—that is a pretty big question to answer in one minute. What I would say to you is that I think economic growth is vital to Austra-
lia’s future. I think that in the medium term we will need a larger population than we currently have. I think we will have to run an immigration program to deal with the demographic shift and the drop in the workforce. But we also need to tackle those pressing environmental and other problems. The Greens keep raising with me, for instance, the question of climate change refugees and what we are doing to accommodate them. To accommodate them we would have to increase our immigration program. All these things are clearly linked. We are very much focused on the broader population policy issues, but I think we will need continuing economic growth, and I think we will see a continuing modest increase in our population levels over coming years.

DISTINGUISHED VISITORS
The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from China, led by Her Excellency Madam Yan Junqi, Vice-Chairwoman of the National People’s Congress Standing Committee. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Murray-Darling Basin
Senator FISHER (2.39 pm)—My question is to Senator Faulkner, the Minister representing the Minister for Climate Change and Water. On what empirical analysis has the government based its decision to pay $24 million to put 20 gigalitres of Toorale Station water into the Murray-Darling Basin whilst at the same time agreeing to pipe 110 gigalitres of water from the Murray-Darling to water the city of Melbourne?

Senator FAULKNER—I will provide what information I can to Senator Fisher in response to her question. I can inform the Senate that on 10 September the New South Wales government reached agreement with Clyde Agriculture to purchase the land and associated water rights of Toorale Station for some $23.75 million. The purchase of Toorale Station in New South Wales is in accordance with the principles of buying from willing sellers at market prices and will be assisted through a substantial grant from the Commonwealth to New South Wales for this purpose.

The purchase of Toorale Station will return an average of 20 billion litres of water to the Darling River each year, peaking at up to 80 billion litres in flood years. I can say that significant environmental assets that will benefit from this purchase include some wetlands of national importance at Menindee Lakes as well as the Darling River itself. Of course the recent CSIRO sustainable yields audit for the Barwon-Darling system also found that the middle zone of the Darling River, between Bourke and Menindee Lakes, is in poor condition. When the water-sharing plans for the Warrego and Darling rivers are finalised, Toorale Station’s 14 billion litre per year water entitlement and floodplain harvesting rights will be transferred to the Commonwealth Environmental Water Holder to boost environmental flows in the northern Murray-Darling Basin.

In relation to the second part of Senator Fisher’s question, which goes to the Sugarloaf pipeline, I can inform the Senate that the Victorian government has provided assurances that there will be no reduction in flows to the environment, and particularly to the Murray, as a consequence of this particular project. I can also say to the Senate that the Minister for the Environment, Heritage and the Arts, Mr Garrett, has imposed conditions to ensure that those assurances from the Victorian state government are met. Specifically, it is a condition of Mr Garrett’s approval that no water can be taken from savings allocated to the Living Murray Initiative, from the Water for Rivers entitlements or from environmental reserves and that all water-savings projects supplying the pipeline are compliant with the EPBC Act. The proponent has identified water savings in allocations for the first year of the pipe’s operation in 2010, including savings achieved from the Central Goulburn 1 to 4 projects, the Shepparton Modernisation Project and a water quality reserve not allocated to environmental projects (Time expired)

Senator FISHER—Mr President, I ask a supplementary question. From that answer I take it that there is a lack of empirical modelling upon which putting water back in and taking water out is based. Minister, what four or five other farms does the government propose to take out of food and fibre production to feed the 110 gigalitres promised to put Melbourne on the Murray-Darling Basin?

Senator FAULKNER—The information I have and I can assist Senator Fisher with is this. The project was assessed at the state level by an independent advisory committee, which has reviewed the project impact assessment report and the public submissions received in relation to it and has also held public hearings. I can also indicate to the senator that this assessment process was accredited under the EPBC Act to address matters of national environmental significance, which of course are matters for which Mr Garrett is responsible, as you would appreciate. If there is any other information I can provide to the senator I am happy to do so, but I will ask Mr Garrett, as minister for the environment, as well as my colleague Senator Wong. (Time expired)

National Security
Senator CAROL BROWN (2.46 pm)—My question is to the Minister representing the Attorney-General, Senator Ludwig. Can the minister update the Senate on details of recent successful counterterrorism prosecutions?
Yesterday a jury in Melbourne returned guilty verdicts against six defendants in a major counterterrorism trial. I will not comment on the specifics of the case as the jury is still deliberating in relation to two accused, and certain court orders remain in place and, of course, there are outstanding charges against a number of the accused. However, more broadly, in relation to the matters that are settled, the government welcomes the guilty verdicts.

By way of providing the Senate with a brief summary, there have been six individuals convicted of membership of a terrorist organisation, three individuals convicted of providing support to a terrorist organisation and one individual convicted of directing the activities of a terrorist organisation. It has been a lengthy and complicated case. The Melbourne trial commenced in February this year and comprised over 50 witnesses and in the order of 6,000 pages of evidence. The jury has, as it is entitled to do, reached various verdicts on the evidence before it, and four individuals have been acquitted of the charges brought against them. Yesterday’s verdict followed the guilty verdict returned last week on one count in the case of Belal Khazaal, which was another successful counterterrorism prosecution.

I commend all those involved in the case. It is important to recognise that yesterday’s verdicts are an example of effective cooperation between the Australian Federal Police and ASIO and, of course, the Commonwealth Director of Public Prosecutions as well as the Victorian police—

Senator Brandis—On a point of order, Mr President: I wonder if you might caution the minister as to the Senate’s practice in relation to commenting on pending judicial proceedings. The minister did qualify himself at the start of his answer, quite properly, when he said that there are matters still before the jury. But as he expanded upon his answer he did seem to me to trespass on issues which are still currently before the court in the proceedings he describes. I do not think, Mr President, that there is a standing order that governs the matter. There certainly is the practice of the Senate, and I wonder if you might counsel the minister accordingly.

The PRESIDENT—On the point of order, I hear the point that you are making, Senator Brandis. Again I will say I cannot instruct the minister as to how to answer the question. I draw the minister’s attention to his opening statement and the need to confine his remarks very carefully to what he said.

Senator Ludwig—Thank you, Mr President. We in the government do recognise the conventions in this place. What I have gone on to talk about is the great cooperation between the Australian Federal Police and ASIO, on counterterrorism matters more broadly, and the Commonwealth Director of Public Prosecutions. To ensure better coordination and ultimately successful prosecution of terrorism cases, cooperation between these agencies is crucial. This cooperation is central to the implementation of the recommendations recently made by the Street review on the need for coordination of operations in national security.

It should also be noted that the Muslim community has been integral to the success of investigations, particularly this one, and that strong and positive links have been forged between police and the Muslim community through ongoing efforts of the Australian Federal Police’s community engagement teams. Recognition should also be given to the court, including the judge and court staff and jury, who have dedicated themselves over many months to this very demanding responsibility.

The Rudd government is committed to protecting all Australians. We take a hard line against terrorism, and we make no apology for that. Successful prosecutions are important in sending a clear message to those who may be influenced by violent extremism. The real prospect of conviction and imprisonment will hopefully open their eyes to what terrorism really is. It is criminal behaviour at its most base. The government stands with the community against those who would threaten and harm innocent civilians. The seriousness of the offences involved in this case highlights why we must do all we can to ensure that public security is at the utmost top of our minds. Clearly, a terrorist event would not only cause loss of life, injury and destruction to property, it would also do significant damage to our social fabric. We are proud to live in a tolerant, multicultural society and it is important that we do everything we can to defend this way of life. I commend all those involved in the successful prosecutions.

Uranium Sales

Senator Trood (2.51 pm)—My question is to the Minister representing the Prime Minister, Senator Evans. Why does the government urge other countries to sell their uranium to India but refuse to allow Australian uranium to be sold to India?

Senator Chris Evans—I thank Senator Trood for the question and will indicate to him what I indicated to the Senate I think only a matter of weeks ago in response to a similar question from the Greens. Perhaps Senator Trood was not in the chamber at the time. I indicated then that the Australian government has a policy which is to only allow the export of uranium to countries which are parties to the nuclear non-proliferation treaty. We have made that clear. We made it clear in the lead-up to the election. We committed to that in the lead-up to the election and we have maintained that commitment in government. We do not believe that Australia ought to be exporting uranium to...
countries which are not party to the nuclear non-proliferation treaty and with which we do not have bilateral safeguard agreements.

This was the policy of the previous government for a long period, and then there was some confusion as to what their position was. Various former ministers seem to express different views about whether or not the previous government was prepared to export uranium to countries that were not members of the nuclear non-proliferation treaty. We think that the architecture of international cooperation and safeguard, of which the nuclear non-proliferation treaty is a part, is important for protecting all of the world against the exploitation of uranium for nuclear energy in a way that might prove a danger to security. We think there ought to be this sort of framework, which has been supported for many years by both sides of politics until recently, in regard to exporting uranium.

We are very keen to maintain very strong relations with India. The Minister for Foreign Affairs, Mr Smith, visited India in the last week or so and reinforced the government’s commitment to a strong relationship with that country. I know from my own state of Western Australia that there has been a commitment under governments of both persuasions in the last 15 or 20 years to build stronger relations with India. We think it is important to build strong relations as India is an emerging power, just as our Chinese colleagues are. India and China are important trading partners for Australia. They are important emerging nations with large economies and they have a great deal of influence in international affairs.

We believe that the nuclear non-proliferation treaty is an important safeguard and that the policy of only exporting to countries which are members of the treaty is an important safeguard for the world against proliferation in nuclear weapons. We have encouraged countries that are interested in being involved in the nuclear processes to join the nuclear non-proliferation treaty and contribute to that strong international system of safeguards.

Senator TROOD—Mr President, I ask a supplementary question. I thank the minister for his heroic but rather unpersuasive efforts to try and explain the inconsistencies in the government’s policies. Does the government support the development of uranium mines in Queensland and Western Australia? If so, will the government allow Queensland and Western Australian uranium to be sold to India?

Senator CHRIS EVANS—I am not sure why Senator Trood regards a statement of policy as heroic given that it was a policy of his government for many years. I do not know whether this again is something that has changed in opposition. The Labor Party went to the last election indicating that we would not sell or export uranium to countries that were not members of the nuclear non-proliferation treaty. The government, as it has in all other areas, is honouring its commitment. The approval for export of uranium, be it from whatever state, will be governed by those same regulations and international obligations that have been in place for many years and will be applied by this government.

Aung San Suu Kyi

Senator CAMERON (2.56 pm)—My question is to the Minister representing the Minister for Foreign Affairs, Senator Faulkner. In light of reports in the press in the last few days about the health of Aung San Suu Kyi, the leader of the pro-democracy movement in Burma, could the minister tell the Senate what the government understands to be the state of the Ms Suu Kyi’s health and her circumstances?

Senator FAULKNER—I thank Senator Cameron for that important question. The government remains deeply concerned about the political, economic and humanitarian situation in Burma. Australia has consistently called for the full participation of all players in a political reform process supported by the international community. The ongoing detention of Aung San Suu Kyi, the General Secretary of the National League for Democracy, along with that of a further estimated 1,500 political prisoners is, of course, a major impediment to genuine political reform.

We understand that Aung San Suu Kyi has refused food deliveries for several weeks. We are pleased that, with the easing of some of the conditions of her detention, she has resumed accepting food deliveries. She has been under house arrest continuously now for the last five years and for nearly 13 of the past 19 years. While under house arrest we understand that she receives periodic visits from her doctor and her lawyer. The Minister for Foreign Affairs, Mr Smith, has expressed Australia’s deep concerns about the further extension of Aung San Suu Kyi’s detention. He expressed those concerns directly to his Burmese counterpart when they met in July this year. The government, of course, has repeatedly called for her release immediately and has also called for the unconditional release of all political prisoners in Burma. Australia’s ambassador in Rangoon renewed these representations, most recently on 11 September, to the Burmese deputy foreign minister.

While the UN envoy, Ibrahim Gambari, met with limited success on his most recent visit to Burma, it is important that the international community continues to support the development of inclusive dialogue in Burma. Australia places pressure on the Burmese leadership towards this end through the implementation of targeted financial sanctions and through travel restrictions on senior regime figures and their associates and supporters. The government maintains an extensive list of senior members of the regime who are subject to travel restrictions, which is kept under review. Should
a person who is subject to travel restrictions apply for or be found to hold a visa, Mr Smith is provided with advice and options, based on consultation between his department, the Department of Foreign Affairs and Trade, and the Department of Immigration and Citizenship. From time to time it may be drawn to our attention that someone close to the Burmese regime is in Australia. Should this occur, of course the government looks carefully at such a case and responds appropriately.

Senator CAMERON—Mr President, I ask a supplementary question. Have recent political developments in Burma had any impact on the capacity of the Australian government to provide assistance in the aftermath of Cyclone Nargis earlier this year?

Senator FAULKNER—It is an important supplementary question, and I can assure the Senate that Australia is continuing to work with its regional and international partners, especially ASEAN, to coordinate aid efforts and ensure that the Burmese regime maintains access for international aid organisations. Mr Smith discussed the relief effort with ASEAN Secretary-General Surin Pitsuwan in July, and Australia has agreed to support key personnel positions for ASEAN operations in Burma and is exploring further opportunities to assist ASEAN. Australia’s total contribution in response to the cyclone now stands at $55 million, making Australia one of the largest individual donors.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Pensions and Allowances

Senator CHRIS EVANS (Western Australia—Minister for Immigration and Citizenship) (3.02 pm)—I seek leave to incorporate in the Hansard an answer to a question Senator Boswell asked me about pensions and allowances on Thursday, 4 September.

Leave granted.

The answer read as follows—

Further Information For Senator Boswell Question Asked Thursday 4 September

[Senator BOSWELL—Mr President, I ask a supplementary question. When will the government advise the 74,400 families receiving family tax benefit and the 18,800 families receiving childcare benefit that they will receive reduced benefits from July 2009?]

In April each year, FTB instalment customers receive a New Financial Year Assessment (NFYA) letter advising them of the need to update their Income estimate for family assistance purposes for the coming financial year. At this time, customers will be advised to include in their income estimates from the 2009-10 financial year onwards, any amounts to be salary sacrificed to superannuation and net financial investment losses that will need to be taken into account in determining their new income estimate.

Murray-Darling Basin

Senator FAULKNER (New South Wales—Special Minister of State and Cabinet Secretary) (3.02 pm)—I seek leave to incorporate in the Hansard an answer to a supplementary question that was asked of me yesterday by Senator Hanson-Young about the issue of a risk assessment in relation to the Lower Lakes region in South Australia.

Leave granted.

The answer read as follows—

Lower Lakes Risk Assessment for Seawater Option

Yesterday Senator Hanson Young asked a supplementary question concerning the potential impacts of introducing seawater into the Lower Lakes on the groundwater resources of the region, and on longer-term salinity levels within the Lakes.

Senator Hanson Young asked specifically whether the Minister for Water, Senator Wong, will commission a risk assessment on these issues.

To date, preliminary work has been undertaken by the Murray Darling Basin Commission to identify short term management options for the Lower Lakes, and to scope-out some of the potential impacts of these options. This work will inform more detailed consideration by the South Australian Government.

As the Prime Minister indicated previously, 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.

Should the South Australian Government consider that introducing seawater may be necessary, it would be responsible for assessing the potential social, economic and environmental impacts, and for ensuring that the requirements of the Environmental Protection Biodiversity Conservation Act (1999) are met.

I would anticipate that the South Australian ‘Government would use the best science available to inform this work. The knowledge and expertise of the Commonwealth Government, and of the Murray Darling Basin Commission, will of course be made available to assist South Australia in this work.

As you know, the Australian Government has committed up to $200 million towards a lasting solution to the environmental problems in the Lower Lakes and Coorong, with $10 million immediately available to accelerate feasibility work.

Education

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (3.03 pm)—I seek leave to incorporate in the Hansard an answer to a question asked of me by Senator Colbeck yesterday on matters relating to Tasmania.

Leave granted.

The answer read as follows—

CHAMBER
MINISTER FOR EDUCATION - Senate
Question Without Notice
Senator Colbeck asked the Minister Representing the Minister for Education (Senator Carr), without notice on 15 September 2008.

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. 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)

Response
The Minister for Education has provided the following information.

Why is it that all applications for funding from Tasmania under round 1 of the Trade Training Centres in schools program were rejected?

Answer
- The Trade Training Centres in Schools Program will operate over 10 years, with a total of $2.5 billion funding.
- It will provide all secondary schools with the opportunity to apply for funding of between $500,000 and $1.5 million to build or upgrade their trade training facilities and equipment.
- The first phase of funding for the Program saw $90.27 million of the $2.5 billion allocated to 34 projects, encompassing 96 schools.
- The application process was very competitive. Consistent with the assessment process outlined in the Program Guidelines, all applications undergo a rigorous assessment against the published assessment criteria of quality of proposal, need and capacity to benefit, value for money and financial viability.
- Final decisions are essentially dependent, though, on the quality of applications. Applications that do not meet a certain quality standard do not progress through the assessment process.
- In Tasmania two applications were received and in this competitive process both were unsuccessful in Round One (Phase One). These schools are eligible to reapply in Round One (Phase Two) of the Program and have received feedback to assist strengthen any future application.

Has the government done a special deal with Tasmania Premier, who is also the Tasmanian Minister for Education, that will see the funding go to the Tasmanian government’s Tasmania Tomorrow reforms?

Answer
- The Trade Training Centres in Schools Program is designed to complement existing State and Territory Government investment in trade training. In their applications, all schools must demonstrate that they will complement and consider existing and/or planned State or Territory initiatives.
- The implementation of the Tasmania Tomorrow reforms does not impact on Tasmanian schools’ ability to apply for funding under the Trade Training Centres in School Program.
- Tasmanian schools wishing to apply for funding were advised that their proposals were to be consistent with the strategic direction of the Tasmania Tomorrow initiative.

Family Court

Senator LUDWIG (Queensland—Minister for Human Services) (3.03 pm)—In respect of the question asked of me by Senator Brandis in question time today about the Semple review, I have the particulars that he asked for. The Attorney-General received the report on the Semple review on 4 September 2008. The government is considering the recommendations of the review and will release the review when it responds to those recommendations.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Murray-Darling Basin

Senator IAN MACDONALD (Queensland) (3.04 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 Fisher today relating to the Murray-Darling Basin system.
I just want to repeat it, because I cannot believe that Senator Faulkner did not understand the impact of the question. The question related to the Labor government paying an amount of $24 million to buy a water entitlement of some 14 billion litres to feed into the Murray-Darling system. If you did not know too much about that proposal, one might say that it is a good initiative. But there are some concerns about that purchase, which my colleague Senator Heffernan raised in the Senate a couple of days ago, which really do demand some serious investigation by the relevant authorities. I note that Sir Rod Eddington, who is the Labor government’s trusted adviser in several areas, is a member of the board of the vendor company which is receiving the $24 million.

The purchase was to put 14 billion litres into the Murray-Darling system. But, at the same time, this Labor government is facilitating the Victorian Labor government taking out of the Murray-Darling system some 74 to 110 billion litres of water for the north-south pipeline in Victoria. I emphasise that they are paying $24 million to get 14 billion litres into the system and giving away for free something like 80 billion litres. Something like five or six times the amount of water that is being put into the river, they are allowing out. What hypocrisy, what absolute stupidity of this government and a minister, Senator Wong, who is quite clearly incapable of dealing with the very difficult issues of water in Australia. The senator is an abject and complete failure in her task as Australia’s water minister.

Senator Sterle interjecting—

The DEPUTY PRESIDENT—Order! Senator Sterle!

Senator IAN MACDONALD—Thank you for your protection, Mr Deputy President, but I do not need it from someone like Senator Sterle. Nobody takes too much notice of what he might say. Senator Wong, the minister, has been an abject failure in relation to water and certainly in relation to the Murray-Darling system. Mr Garrett gave EPBC Act approval for this pipeline, which will suck some 80 billion litres out of the Murray-Darling system to go down to Melbourne to flush toilets. It did not take him all that long to make that decision.

It seems funny the way that the Labor government and Mr Garrett deal with applications under the EPBC Act. You see, up in my state of Queensland Mr Garrett has just made a number of decisions under the EPBC Act—quite quickly—to stop developments in Cairns and Townsville and much needed coal port developments in the Rockhampton area. It did not take him long to determine those. But it has taken him at least nine months—because that is as long as he has been there—to not make a decision on the application under the EPBC Act in relation to the Traveston Crossing dam in Queensland, an environmentally disastrous proposal by the Queensland government.

I am just making this point: what is the difference between the decisions that Mr Garrett makes elsewhere and the decision that he has made in relation to the north-south pipeline and the decision he has not made in relation to the Traveston Crossing dam. The answer is this: the decisions that he has made in Queensland have been against developers, who would have helped with some of the infrastructure that we need. In relation to the Victorian decision, it was an application by his mates in the Victorian government. In the Queensland decision, he clearly should rule against it, but it is an application by his mates in the Queensland Labor government to allow approval for that particular dam. This whole incident and the impact of Senator Fisher’s question clearly show that the Labor Party is in disarray when it comes to water policy. This needs to be emphasised.

Senator HUTCHINS (New South Wales) (3.09 pm)—The issue that has been raised today is one of great importance, as we are all aware. Indeed, last week Senator Fisher and I, along with others, were involved in an inquiry over two days—here in Canberra and then in Adelaide—into the Lower Lakes and the Coorong. We received a number of submissions from government bodies and individuals about what should happen to that part of South Australia, where that water should come from and whether or not seawater should be put into these areas where there has not been any water for some time.

One of the things that struck me about our inquiry—I understand that Senator Fisher will be speaking shortly, and she may well agree with me, as I am sure Senator Heffernan will, too—is that we need to try to depoliticise this issue and make sure that we have a solid policy base from which to proceed. Senator Fisher would agree with me that that is not necessarily occurring with the opposition at the moment.

Senator Fisher—You’re the government. You do something

Senator HUTCHINS—There are people in the opposition who clearly know what needs to occur. If you listen to some of the things that that maverick senator, Senator Heffernan, says—despite some of the other things that he says—he makes a lot of sense in a number of these areas.

The one thing that clearly comes out in all this is that if there were more water in this Murray-Darling system it would be used. But the fact is that we have not had sustained rainfall for some time. There are many communities in these areas that are very frightened about their future. That is why I say that this should be depoliticised. As we saw only last week—and Senator Fisher would agree with me—one of the minor parties, and I am talking about the National
Party, took opportunistic shots during the inquiry. They took any opportunity to try and scare people and came up with bandaid solutions, or tried to pull magic out of the sky to make available water that is not there.

I say to the opposition: the water is not there. We are being confronted with issues that I am sure none of us would have wanted to have to deal with. But the fact is that there is no water. If you listen to some of your senior colleagues—

Senator Fisher—There is no water, but you are taking water out and sending it to Melbourne.

Senator Hutchins—I will sit down and listen to you in silence.

Senator Fisher—Do not acknowledge me, then.

Senator Hutchins—We have some very difficult demographic decisions that are going to be forced upon us in the next few years. I do not think that any of us like it. You cannot come in here with a South Australian badge on or a Queensland badge—

Senator Fisher interjecting—

The Deputy President—Order! Senator Fisher, I note that you are down next to speak in this debate, so I suggest that we listen to Senator Hutchins in silence.

Senator Hutchins—We have to come in here representing the Commonwealth of Australia. This is an Australian difficulty—an Australian problem. It is no good saying, ‘They are taking water from us up here and they are transferring it here.’ It is no good saying, ‘They are stealing it from New South Wales and they are not giving it to the Queenslanders.’ I am sure that even Tasmanians would like to get into the act just so they are not ignored.

This is a very serious issue. People are very frightened. Their futures are at stake. They are demanding of the Commonwealth government and of the Commonwealth parliament some serious leadership in this. People should not come in here and say, ‘They are stealing water from the Murray and giving it to Melbourne,’ and ‘They are stealing water from the Murrumbidgee and giving it to South Australia.’ We have to come in here and act responsibly, particularly—and I say this to Senator Fisher—the major parties. You would recall, as I do, the opportunistic actions of the Greens last week. They had to be checked by the CSIRO the next day. There are plenty of people out there who are going to exploit this for political reasons. It is up to us in the major parties to make sure that that does not occur.

Senator Fisher (South Australia) (3.14 pm)—I rise to take note of the answer given by Senator Faulkner to my question about the empirical undertakings for the government’s decision on the one hand to put water in and on the other hand to take water out, which applies equally to government decisions to take water out on the one hand and put it back in on the other. The Prime Minister promised Australians evidence based policy. Tragically, in respect of water it is becoming clear that there is no method to Labor’s water madness. There is no evidence based policy formulation and, as a consequence, there is no accountable action being taken. This means both a failure to act strategically and a failure to act transparently in respect of the Murray-Darling Basin.

Senator Faulkner’s answer exhibited this failing essentially in three ways. The first way in which this failure to deliver strategically and transparently is illustrated by the government is in respect of bringing water back into the system. The second way that this failure is demonstrated is in respect of having a plan to bring water back into the system. What is the evidence based plan to redistribute it on a fair and equitable basis? The third way in which this failure is demonstrated by the Rudd government is in respect of the lack of a strategic plan and the lack of transparent actions to better collect, store, use and reuse water.

Senator Hutchins is right to the extent that he says that this is a national problem that demands national solutions. It is not about state versus state or, should I say, it should not be about state versus state, nor should it be about city versus country and nor should it be about user versus user. But Senator Wong is also right when she at another time said, ‘We are faced with some very hard choices.’ Well, Prime Minister Rudd and team, take the hard decisions, do the hard actions, because hardness of necessity in this context means some will have to bear pain. Where is the Rudd government’s evidence based policy to underpin what the government must do and must have the courage to do in inflicting some of that pain to bring the Murray-Darling Basin back in terms of its ability to water Australia—and water Australia it can. So, in respect of the government’s failure to act strategically and transparently in bringing water back into the system: that means its failure to address the overallocations and that means its failure to bring back into the system water which is already available.

The Rudd Labor government proposes instead to buy Toorale Station, to purchase a food and fibre production unit. Where is the government’s empirical analysis that shows that Toorale Station is the right place in Australia—one of the best places, presumably, in Australia—to take out food and fibre production at a time when we are facing food issues globally? Where is the government’s empirical analysis to show that Toorale Station is one of the best places to take out of food and fibre production and give to the environment? Let us hope that the government actually visited Toorale Station and did a bit of an inspection tour and ensured that Toorale Station is a place of national interest that justifies returning it to the environment as a national park.
On what basis does the government justify its buy-back plan for irrigators? Where is the evidence based policy in terms of giving irrigators the incentive to put water back into the system—to give back, essentially, the overallocations? All the government has demonstrated thus far is a failure to understand water use and a failure to understand farmers. Sorry, that is not all they have demonstrated, but it is a significant part of the failure that they have demonstrated. (Time expired)

Senator FARRELL (South Australia) (3.19 pm)—I rise to take note of comments by Senator Faulkner. This of course is my first opportunity to congratulate you formally, Mr Deputy President, on your accession to your position. I am very pleased to see a fellow South Australian in a senior position in this chamber. Of course we do have another fellow South Australian who is doing an absolutely fantastic job at the moment on this issue of water, and that of course is Senator Wong. I would just like to put on record my congratulations for the steps that she has taken to deal in a serious way with the issues of water, particularly for my own state. I think it contrasts very dramatically with what we saw under the previous Howard government. It was full of South Australians—

Senator Minchin—Hear, Hear!

Senator FARRELL—Yes, Senator Minchin was one of them. It was full of South Australians. There was Senator Hill, Senator Vanstone and Mr Downer, and even Mr Pyne got there in the end. It was full of South Australians, but not one drop of water was purchased for South Australia despite all of those South Australians being in that cabinet. This previous government never lost an opportunity to lose an opportunity when it came to the Murray River.

Senator Fisher—It is losing water very quickly—

Senator FARRELL—This government has taken the issue of water security—

Senator Fisher interjecting—

Senator FARRELL—You had your go. Let me have a go now. You never lost an opportunity to lose an opportunity when it came to the Murray River. Now when we finally get a South Australian minister who is prepared to do something serious about the water issue—for drinking water in South Australia, for water for irrigators but, most importantly, to bring the Murray back to life—

Senator Fisher interjecting—

Senator FARRELL—We have got a minister who is prepared to do that and what do we find?

Senator Fisher—With what? How?

Senator FARRELL—We have a minister who is prepared to do that and what do we find? We find the opposition criticising the decision to buy this station. At last somebody is starting to do something about the water issue in South Australia, and it is the Labor government.

Senator Fisher interjecting—

The DEPUTY PRESIDENT—Order! Senator Fisher, you have had your turn. I suggest you listen to Senator Farrell in silence.

Senator FARRELL—We have a government now that is prepared to do something about saving water in South Australia. This is the down payment; this is the first instalment of a Labor government that is prepared to bring the Murray River back to life. I made the comment in my maiden speech that I am the only South Australian senator actually born on the Murray. I was born in Murray Bridge in 1954. I remember what it was like back then when we had free-flowing water. We have not got that any more because for 12 years the opposition simply ignored the issue of water. Labor is now starting to do something about it.

What are we going to do? The first thing we want to do is secure drinking water for South Australia. The best way of doing that is longer term is through a desalination plant. The South Australian state Labor government was prepared to do something about that and, in order to support them, the Federal government came to their assistance and what might have been a 50 gigalitre desalination plant will now be either an 80 gigalitre or, with any luck, a 100 gigalitre desalination plant. That is going to start the process of getting us water security in South Australia for drinking water.

What else are we doing? We are starting to buy stations like Toorale Station as a part of a long-term process to increase the amount of water that flows into South Australia. Adelaide needs about 230 gigalitres of water a year. The Murray, as far as it relates to South Australia, needs about 900 gigalitres of water. We are starting this process of buying it back. The previous government did nothing to do that. We have started this process and we will continue to do that. We will continue to buy water. We are not going to force people who currently have water rights to sell those water rights, but we are going out there into the market to purchase this water to get it to where we need it, which is South Australia. We are not prepared to risk Adelaide’s long-term water supply so we are leaving some of that water—(Time expired)

Senator NASH (New South Wales) (3.24 pm)—I rise to take note of the answer given by Senator Faulkner to a question from my colleague—

Senator Marshall interjecting—

Senator NASH—No, I know she knows I know her name: Senator Fisher. I have some very serious concerns about this whole debate. The answer given by Senator Faulkner really leads us to the crux of this problem around Toorale Station. The purchase of Toorale Station shows such a lack of strategy and such
an ad hoc approach that it is representative of the entire approach that the government is taking towards the situation with water around this country. I agree with my colleague Senator Hutchins when he referred earlier to ‘taking the politics out of this’. To my mind, there is no bigger issue at the moment for this country than water and how it is managed. Taking the politics out of it is very difficult because, as colleagues in this place know, we sit on either side of this chamber, as in the other place, and there are varying views.

Today I would like to talk about the impact that decisions like buying Toorale Station have on regional communities. We talk a lot about the situation with water around this country. We argue backwards and forwards across the chamber and through the media, but we have to remember that this is about people. This is about people who live in communities. It does not matter whether they live in Adelaide, Melbourne, along the Murray or anywhere else in this country that is dependent on water because it is those people that are being affected by our decisions—the decisions the government makes and the decisions that we try to get them to make or to change as the opposition. It is an absolute responsibility that we get that right because those people out in those communities need us to make the right decisions.

Where this gets incredibly difficult is that it has not rained. It does not matter how much policy we put in place, how many determinations we make to change policy or to do things differently—it has not rained. And around the country we collectively have to understand how important that very simple statement is. Mark Twain once said, ‘Whisky is for drinking and water is for fighting over.’ We have to stop fighting over this and put some practical, sensible policy measures in place. We have got to stop arguing about whether or not CO2 is causing climate change. We have to accept that the climate is changing, regardless of the reason for that climate change.

I am very concerned about the lack of planning and strategy that we are seeing from the government in terms of how their policy decisions are going to affect communities—not only rural and regional communities but also those metropolitan communities at the end of the line, if you like. There were references before to a committee, which is running an inquiry at the moment, commenting on the fact that there is a lack of information about the social and economic impact that is going to be brought on rural and regional communities as a result of the decisions on policy being made around water. And Toorale is a classic example. Around 100 jobs are directly being lost. The local community up there is going to be significantly changed in how it operates and, indeed, whether it is sustainable. And yet we have seen no investigation from the government of any kind on the social or economic impact on the community. And yet they have made an ad hoc decision to buy Toorale Station. There can only be some major implications. As I understand it, the government did not even go there to have a look, to actually see. They are working from some kind of evidence or advice provided. They have not even been to have a look.

So my absolute concern is that this strategy is ad hoc. We have seen recently a $50 million water buy-back by the government, which effectively bought airspace in dams. I understand that we need to be concerned about the environment. We all are. There is no one more concerned about the environment than farmers. I can tell you that now. It is their livelihood. It is how they live; it is how they make a living. I did notice that in one of the answers before concern was expressed about the impact on the environment of the pipeline in Victoria. There was no mention of impact on farmers and regional communities! I implore that we all work together on this but I argue that the government is going down a path of ad hoc strategy which needs to be fixed because there are significant life changing ramifications for those people who particularly live in our rural and regional communities right across the country.

Question agreed to.

Population Policy

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.30 pm)—I move:

That the Senate take note of the answer given by the Minister for Immigration and Citizenship (Senator Evans) to a question without notice asked by Senator Bob Brown today relating to economic and population growth.

I am grateful to Senator Evans for responding to a question that is very rarely raised in this parliament let alone taken on and answered at some length—and that is the question of the role of population in our future. The former Treasurer, Peter Costello, said that population is destiny. I would agree with that, although I think I am coming from a different point of view.

We are on a planet in which there are now 6½ thousand million people, whereas when I was a lad it was half that amount. At the change from the 19th century to the 20th century there were 2,000 million people, which is less than a third of today’s population. And we know that by mid-century the population is going to be 9,000 million to 10,000 million people. The world advice is that that simply cannot be sustained. We are now looking at rapidly deteriorating food stores on the planet. We are down to fewer than 50 days of flow-on food availability to meet any great emergency, and the number of people facing starvation around the planet right now is in the millions and increasing rapidly, particularly in Africa but also in parts of Asia, like North Korea.

Because energy drives agriculture, and with the on-rush of climate change, the very slow growth in pro-
ductivity compared to population, and peak oil, we will be facing a mammoth, chaotic social outcome of too many people with too few resources on the planet in the lifetime of some of us here and certainly in the lifetime of our children. We are obliged to look at this. That is why I asked the government whether it had a population policy, and I do not believe it does. I do not believe the opposition does. The Greens have one which is very general.

I think it is incumbent upon us all to say what we think about the fundamental supposition that the economy needs a growing population if it is to be sustainable. I think that is a fundamental error but it drives all economic policymaking at government level around the world at the moment. If you take the idea that you must have a growing population to have a healthy economy then the planet will implode because the logic of that is that, if the numbers of humans on the planet keep increasing—and we are the biggest, most marauding group of mammals there has ever been on the planet—to just bring other people up to our level of consumption our current population projections say that we will need not one but three or four planets with the resource base of the earth to sustain human population by mid-century. I am talking about 40 years away. It is simply not sustainable.

We as responsible politicians and representatives of the interests of the future of this nation, if not the planet, have to debate this matter. I believe we have to come to the conclusion that we have to devise economic growth that is not predicated on population growth. If not, we have to state at what level we will stop growing the economy because there are too many people. That is an inevitable outcome of the theory that you must have population growth if you are going to have economic wellbeing. It is a fundamental part of the political discourse and yet it is missing from public debate.

One of my major reasons for raising this question is that I get asked about it all over the country. It does not matter what you are talking about, when you go into any size audience somebody will come up and say, ‘What about population growth?’ So here I am asking that question in the Senate because so many Australians want it debated.

Question agreed to.

PETITIONS

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

Abortion
To the Honourable the President and Members of the Senate in Parliament assembled:
Whereas,
• item 16525 of the Health Insurance (General Medical Service Table) Regulations 2007 provides for the pay-ment of Medicare funds for the performance of second trimester abortions, that is, abortions as late as 26 weeks of pregnancy;
• Medicare funds have, since 1994 paid $1.7 million for 10,000 second trimester abortions;
• babies as young as 21 weeks gestation have been born alive and subsequently flourished;
• Medicare funds may be used to abort babies through the partial birth abortion method and also for abortion procedures in which the baby is born alive but then deliberately left to die; and therefore
We, the undersigned petitioners, pray that the Senate will disallow item 16525 of the Health Insurance (General Medical Service Table) Regulations 2007 and thereby stop the funding of second trimester and late abortions.

by Senator Barnett (from 12,160 citizens)

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 Faulkner (from 21 citizens)

Petitions received.

NOTICES

Presentation

Senator Barnett to move on the next day of sitting:
That the Legal and Constitutional Affairs Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 18 September 2008, from 4 pm, to take evidence for the committee’s inquiry into the Independent Reviewer of Terrorism Laws Bill 2008 [No. 2].
Senator Siewert to move on the next day of sitting:
That the Senate—
(a) notes:
(i) recent research published in The Lancet (vol. 370, 3 November 2007) that highlights possible negative behavioural impacts on children associated with the consumption of the following food colourings: Tartrazine (lemon yellow) (102), Quinoline yellow (104), Sunset yellow (110), Carmoisine (red) (122), Ponceau 4R (red) (124) and Allura red AC (129),
(ii) that in April 2008, the United Kingdom’s Food Standards Agency called for a ban on the use of these food colourings and the voluntary removal of these colourings by food manufacturers,
(iii) that in July 2008, the European Parliament passed legislation mandating the labelling of any food products containing these colourings, and
(iv) that these food colourings are currently approved for use in Australia by Food Standards Australia New Zealand; and
(b) calls on the Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas) to place the issue of banning these food colourings on the agenda of the Australia and New Zealand Food Regulation Ministerial Council scheduled for 24 October 2008.

Senator Faulkner to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend the Archives Act 1983, and for related purposes. Archives Amendment Bill 2008.

Senator Conroy to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend the law relating to broadcasting, and for other purposes. Broadcasting Legislation Amendment (Digital Radio) Bill 2008.

Senator Bernardi to move on the next day of sitting:
That the Senate—
(a) notes the difficulties experienced by people with a disability, particularly people with vision impairment, in accessing some formats of Senate documents online; and
(b) calls on the Government and the Department of the Senate to ensure all Hansard and Senate committee documents are made accessible via the Internet to people with a disability as soon as they become public.

Senator Ellison to move on the next day of sitting:
That the Senate—
(a) notes:
(i) that Wednesday, 17 September 2008 is Citizenship Day,
(ii) the Coalition established this day of commemoration of the diversity of the Australian community in 2001,
(iii) this is a day to celebrate the contribution to the wealth and progress of Australia by our diverse society and a tribute to all those who have contributed to and continue to build Australia’s future, and
(iv) that Australian citizenship is the cornerstone of our inclusive and culturally diverse society, representing loyalty to Australia and its people, a share belief in the democratic process, respect for the rights and liberties of other Australians and a commitment to uphold and obey Australia’s laws; and
(b) urges the Rudd Labor Government to ensure that there are sufficient resources available so that all those who sit the test can adequately prepare for and understand the citizenship test.

Senator Ludlam to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend the Defence Act 1903 to provide for parliamentary approval of overseas service by members of the Defence Force. Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No. 2].

Senator Ludwig to move on the next day of sitting:
That—
(a) the address-in-reply be presented to Her Excellency the Governor-General by the President and such senators as may desire to accompany him; and
(b) on Monday, 22 September 2008, the Senate suspend at 5 pm, for the purposes of presenting the address-in-reply to the Governor-General.

Senator Bob Brown to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to amend certain territory legislation to restore legislative powers concerning euthanasia and to repeal the Euthanasia Laws Act 1997, and for related purposes. Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2008.

LEAVE OF ABSENCE

Senator McEwen (South Australia) (3.36 pm)—by leave—I move:
That leave of absence be granted to Senator Crossin and Senator Bilyk for the period 15 March to 16 September 2008 for family and health reasons respectively.
Question agreed to.

NOTICES

Postponement

The following item of business was postponed:
General business notice of motion no. 123 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, relating to an amendment to the reporting date for the Joint Standing Committee on Electoral Matters into the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, postponed till 23 September 2008.
Withdrawal
The following notice of motion was withdrawn:
General business notice of motion no. 171 standing in
the name of Senator Hanson-Young for 25 September
2008, relating to Japan and comfort women.

COMMONWEALTH SCIENTIFIC AND
INDUSTRIAL RESEARCH ORGANISATION
Senator PARRY (Tasmania) (3.37 pm)—At the re-
quest of Senator Abetz, I move:
That the Senate—
(a) congratulates Dr Megan Clark on her appointment as
the next Chief Executive Officer (CEO) of the Com-
monwealth Scientific and Industrial Research Organi-
sation (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 inno-
vation future; and
(c) condemns the Rudd Labor Government for cutting
$63 million out of the CSIRO’s budget over the for-
ward estimates.

AGE PENSION
Senator BOB BROWN (Tasmania—Leader of the
Australian Greens) (3.38 pm)—I move:
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 age pensions; and
(b) calls on the Government to act on this immediately.

AGE PENSION
Senator BOB BROWN (Tasmania—Leader of the
Australian Greens) (3.39 pm)—I move:
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
age pension, to explain why they will not immediately in-
crease the single age pension by $30 per week.

MURRAY-DARLING RIVER SYSTEM
Senator SIEWERT (Western Australia) (3.39 pm)—I move:
That the Senate—
(a) notes the threat to the communities and the environ-
ments of the Murray-Darling Basin posed by the
combined pressures of climate change, extended
drought and over-allocation of our limited shared wa-
ter 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 envi-
ronmental needs;
(c) notes the concerns expressed by the Victorian Au-
tor-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 Envi-
ronment, Heritage and the Arts (Mr Garrett) to give
approval to the Sugarloaf Pipeline under the provi-
sions of the Environment Protection and Biodiversity
Conservation Act 1999; and
(e) calls on all governments to commit that no new pro-
jects or schemes that increase the level of dependence
on and the amount of water extracted from the system
will be countenanced or approved.

UNITED NATIONS DECLARATION ON THE
RIGHTS OF INDIGENOUS PEOPLES
Senator SIEWERT (Western Australia) (3.40 pm)—I move:
That the Senate—
(a) recognises that 13 September 2008 was the first anni-
versary of the United Nations Declaration on the
Rights of Indigenous Peoples;
(b) notes the promise from the Australian Labor Party
that it would support the declaration; and
(c) calls on the Rudd Government to make a statement of
support for the declaration at the United Nations
General Assembly in October 2008.

The Senate divided. [3.44 pm]
(The Deputy President—Senator the Hon. AB Fer-
guson)

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

NOES
Adams, J. Arbib, M.V.
Barnett, G. Bernardi, C.
Birmingham, S. Bishop, T.M.
Boyce, S. Brown, C.L.
Bushby, D.C. Cameron, D.N.
Carr, K.J. Cash, M.C.
Colbeck, R. Collins, J.
Conroy, S.M. Cormann, M.H.P.
Eggleston, A. Ellison, C.M.
Farrell, D.E. Feeney, D.
Ferguson, A.B. Fielding, S.
Fierravanti-Wells, C. Fifield, M.P.
Fisher, M.J. Furner, M.L.
Humphries, G. Hurley, A.
The Senate for discussion, namely:

received a letter from Senator Mason proposing that a
occasion but school students
discussion to rise in their places.

I call upon those senators who approve of the proposed

Xenophon, N.
Williams, J.R.
Wortley, D.
Scullion, N.G.
Sterle, G.
Ronaldson, M.
Ryan, S.M.
Polley, H.
Pratt, L.C.
Ronaldson, M.
Ryan, S.M.
Scullion, N.G.
Troeth, J.M.
Williams, J.R.
Xenophon, N.

* denotes teller

Question negatived.

COMMITTEES
Economics Committee
Meeting

Senator McEWEN (South Australia) (3.48 pm)—
At the request of Senator Hurley, I move:

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 manda-
tory Last Resort Home Warranty Insurance scheme, as fol-
lo

(c) Wednesday, 24 September 2008, from 5 pm to 6 pm.
(b) Tuesday, 23 September 2008, from 5 pm to 6 pm; and
(a) Wednesday, 17 September 2008, from 4 pm to 5.30
pm;

MATTERS OF PUBLIC IMPORTANCE
Education

The DEPUTY PRESIDENT—The President has
received a letter from Senator Mason proposing that a
definite matter of public importance be submitted to
the Senate for discussion, namely:

The failure of the Rudd Government to appropriately
plan, cost and implement in a timely manner its flagship
election promise, the “education revolution”,

I call upon those senators who approve of the proposed
discussion to rise in their places.

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

The DEPUTY PRESIDENT—I understand that infor-
mal arrangements have been made to allocate spe-
cific times to each of the speakers in today’s debate.
With the concurrence of the Senate, I shall ask the
clerks to set the clock accordingly.

Senator MASON (Queensland) (3.49 pm)—You
might remember in November last year that one of the
defining points of the election campaign was the then
Leader of the Opposition, Mr Rudd, at a school sur-
rrounded by an adoring throng—not the media on this
occasion but school students—holding a laptop com-
puter. He said of the laptop computer, ‘This is the tool-
box of the 21st century.’ It was great optics and very

good politics but also, of course, great spin. The educa-
tion revolution became one of the centrepieces of the
campaign, in particular the computers in schools pro-
gram—the promise that every high school student
would get their own computer.

Nine months later, however, we have all been ex-
pecting the good news but it seems perhaps there is a
false pregnancy. After two rounds of estimates, several
COAG meetings and increasing media scrutiny, we
now know that the education revolution is a sham. This
is symptomatic of the general approach of the Rudd
government: clever rhetoric, I will give them that—

often great rhetoric—attractive promises and lots of
spin. But then the reality hits. It sounded like a good
idea at the time, but they have not gone through with it.

They have not done the costings, they do not know
how they are going to implement it and it ends up be-
ing a shambles.

Let us just go back and look at the computers in
schools program. There are roughly one million year 9
to 12 students in Australia studying at both public and
private schools. The promise, on kevin07.com.au, was
that there would be one computer for every student—in
other words, roughly one million laptop computers
provided. That was in November last year.

When we got to estimates this year, the promise then
was not one computer for every student; it was that
there will be access—the government will provide a
computer so that all students can access a computer. So
we have gone from one computer for each student to
each student having access to a laptop computer. Then
we get to June—to budget estimates.

Senator Ellison—But wait—there’s more!

Senator MASON—There is more. We have
kevin07.com.au, then Kevin 08 and then Kevin 08 ver-

sion 2. Version 2 in the June estimates was different.
This time the government admitted that in fact the aim
was to supply one computer for every two students—
that is, half as many as they initially said. So we have
gone from an allocation of one million laptop com-
puters to about half a million—half the computers they
initially said they would provide. But it gets worse,
much worse—the shambles goes on, as does the decep-
tion. We learnt in estimates that the government had
budgeted $1,000 per unit. I can see my friend the chair
of the estimates committee in which I serve, Senator
Marshall, sitting over there and I am sure he will back
me up on this. The government allocated $1,000 per
unit: $500 for each laptop and $500 for all the other
costs. There are start-up costs such as wiring, connec-
tion to the internet, networking computers and cabling.
That is all part of the $500. Next are the ongoing costs
such as maintenance, repair, insurance, security costs,
storage costs, ongoing internet costs, air conditioning,
electricity and so on and so on. And this is all part of
the $500. Finally, of course, there is the cost to the education system of training teachers, upskilling them to make use of this new technology. All this for $500! It is an absolute fiasco.

The best estimates from industry are that the ratio is about one to four. So, if we have a unit cost of $500, the initial costs, the ongoing costs and the cost for the education of teachers to use this technology is roughly, let us say, $2,000. So it is being underbudgeted by $1,500 per computer. If we have half a million computers times $1,500 then we are left with a huge difference. What a farce. It was a great idea. It gave great visuals. It was great politics, great rhetoric and great spin. But that is exactly where it ends.

So who picks up the bill, because the $500 is not enough? Two groups of people. If the students go to independent schools for years 9 to 12 then their parents will pick up the bill, because the $500 will not pay for all of those costs. If the students go to state schools, where most Australian students go, then state governments will be expected to pick up that bill. What do state governments say about these ongoing costs, the set-up costs and the cost of educating teachers? Let me go through that. What did Mr Carpenter, the late Premier of Western Australia, say—

Senator Marshall—I don’t think he’s late!

Senator MASON—You are probably right, Senator Marshall. That is a little bit rough even for Mr Carpenter. I should say the former Premier of Western Australia. Mr Carpenter got some things wrong but he got some things right. What he said was that the program was underbudgeted by about $3 billion—which again is about the average commercial ratio. Mr Carpenter said: ‘The Western Australia state government isn’t going to fund this proposal. This is a federal government initiative and they can pay for it.’ But what about some of the other states? Let us have a look at South Australia. I will read from the Australian of Friday, 12 September this year. The article says:

South Australian Education Minister Jane Lomax-Smith said the funding deal was predicated on the states being able to buy a computer and licence for $1000.

“The federal Government have agreed that the funding should cover the cost of the equipment and legitimate on-costs,” Dr Lomax-Smith said. “If what (schools) are suggesting is the state Government should fund a federal commitment (to pay for the licences), then I’m a little bit bemused. It is a federal government initiative.”

Just like the Western Australian government, the South Australian government will not pay for this fiasco. They have said that they will not do that. And it gets worse. In New South Wales the budget papers of the former Treasurer, Mr Costa, said this:

To date, the COAG Working Groups have primarily focussed on developing detailed implementation plans for the major Commonwealth election commitments, such as the Digital Education Revolution and the National Rental Affordability Scheme.

According to the budget paper, the COAG meeting:

… recognises that the Commonwealth election commitments and the policy objectives and programs underpinning them reflect the Commonwealth’s priorities and preferences for service delivery.

The budget paper continued:

Whilst some of these election commitments relate to NSW broad policy objectives, they do not necessarily reflect the core commitments and priorities of the NSW State Plan.

The NSW Budget therefore has been prepared on the basis that the Commonwealth fully pays for all “legitimate and additional” State costs in implementing the Commonwealth Government’s election commitments.

So there we have it: Western Australia, South Australia and New South Wales all saying they will not fund the Rudd government’s computers in schools program.

Senator Ellison—So much for cooperative federalism.

Senator MASON—So much for that indeed, Senator Ellison. This is what you get when you have a government that does not believe in anything—that has, in fact, no soul. It is run by bureaucrats. It is process driven and there is nothing left of the heart and soul of the Labor Party. My friend Senator Marshall sits over there. He is no doubt an economic conservative as well. That is no doubt why he joined the Australian Labor Party. The problem is that you have two sorts of people in the ALP: Senator Marshall, who believes in something, and the other sort—and it is unpalatable and wrong—who believe in nothing. What has happened to the ALP is that such people are all that are left—(Time expired)

Senator MARSHALL (Victoria) (3.59 pm)—In my very first speech in this place I said, among very many other important things, the following:

I believe education is a fundamental right that all people should have the opportunity to receive. It is an ingredient that all in our society are richer for and, in turn, it is the responsibility of all in our society to fund and control it. It is the basis for all invention, innovation, research development and leading social theory in our society. It is the key to equality, opportunity and prosperity.

That is why, after being in this place for six years, I am excited and thrilled that this newly elected Rudd Labor government is embarking on the much needed education revolution for this country. I think it is disappointing that Senator Brandis, who readily admitted in his contribution that he has dealt with all these issues already through the Senate estimates—

Senator Carol Brown—You mean Senator Mason.

Senator MARSHALL—Did I say Senator Brandis? I say sorry to both Senator Brandis and Senator Mason, and I hope neither of them sues me. Senator Mason readily admitted in his contribution to this debate that
all these issues have been thoroughly dealt with through the Senate estimates process. All those issues and figures that Senator Mason talked about were thoroughly canvassed and adequately responded to by the department and the relevant minister at the table through many, many hours of Senator Mason’s questions, yet Senator Mason continues—based on a fabrication—to run the line that this government is not committed to the education revolution. Quite frankly this demonstrates the poverty of the previous government’s, the now opposition’s, position with respect to education as a whole.

Senator Mason well knows that some of those figures that were being quoted were on the basis of a single computer with singly purchased software in a single installation. That is clearly not the case and that was gone through and explained to Senator Mason hour after hour by the department. The costs of bulk purchasing of the many thousands upon thousands of computers and their software together with the bulk arrangements for the rollout of these computers in schools are nowhere near the costs that he quotes for a single individual unit. I think it is unfortunate that, based on that fabrication, Senator Mason wants to run the line that what we are doing in terms of an education revolution is not with the best intentions for the future of our economic development in this country and with the best interests of our community at heart.

I appreciate that Senator Mason is actually very passionate about education and I give him due credit in that respect. But it is a problem when in opposition—and I have seen it because I have spent quite some time in opposition—that rather than constructively addressing the issue he is trying to take this fabrication and expand it into an argument to undermine the very education revolution that this country needs. I thought that Senator Mason was better than that. One must wonder and question, given his contribution today, whether he actually thinks that rolling out computers to secondary school students is a good thing or a bad thing.

Senator Brandis—You shouldn’t question that at all. What he said is that you screwed up the policy.

Senator MARSHALL—Senator Brandis, maybe you should have been here for the contribution.

Senator Brandis interjecting—

Senator MARSHALL—I will listen very carefully to your contribution to this debate later on. Senator Mason’s words stand for themselves. Given his attacks on the rolling out of computers, which are all based on a fabricated set of figures, one must question—

Senator Brandis—They weren’t a fabricated set of figures.

Senator MARSHALL—Maybe, Senator Brandis, you should listen a little bit more carefully to what I have just explained to you and which was explained hour after hour to Senator Mason. Either he did not listen to what the departmental officials were explaining to him or maybe, just conveniently, he did not want to hear, so he could keep running this fictitious case based on fabricated figures, which he knows—and I am disappointed that he is not better than this and that he is not actually lifting his game to a higher level—is simply a political stunt to undermine the education revolution that this country so needs. One would have thought that he could have actually got up and told us about what they did when they were in government. We did not hear anything about that because we know that what they, the now opposition, did in government was simply to de-fund education. They did worse than stand still.

In the House today Minister Gillard talked about the latest OECD figures from 2005—and they are the latest figures available. They showed that public school funding during the life of the previous government was 4.3 per cent of GDP in this country against the average OECD figure of five per cent. We were ranked 19th in the OECD. That is very close to the bottom. In early education spending we were 24th out of 26 in the OECD. So it is not surprising that Senator Mason cannot come in and contribute to this debate based on any record of the previous government and instead simply wants to undermine our education revolution, which is so needed to fill the neglect that was left by the previous government.

The initiatives that the Minister for Education, Employment and Workplace Relations has undertaken in her portfolio touch on a number of bases. The education revolution is not just a slogan. The education revolution is a response to over 12 years of Liberal Party neglect.

Opposition senators interjecting—

Senator MARSHALL—I will be very interested to hear those senators interjecting opposite get up and defend the record of the previous government, because that record is absolutely atrocious.

Senator Brandis interjecting—

Senator MARSHALL—I wait to hear your contribution in this debate, Senator Brandis; you seem to have a lot to say in your interjecting from the sidelines, but let us hear your contribution. If you total up all the new commitments in education that the Rudd Labor government has made since the election, the figure is around $17.6 billion committed to our education revolution. Against what?

Senator Brandis—Did *The Hollowmen* write your speech for you?

Senator MARSHALL—Senator Brandis, if you want to keep interjecting, tell us what you spent. In your contribution to this debate, you can tell us what
your government spent, because it pales into insignificance with our plans for an education revolution.

There are many reasons that this education revolution is needed. Research undertaken by the previous government last year showed that 44 per cent of Australian businesses were having trouble recruiting the people they needed. They were your figures, Senator Brandis. What we have in this country is a skills crisis. This government has made fixing it a national priority, and that does not mean just plugging the skills gaps we have today; it means building the skills we will need for tomorrow. That is in stark contrast to everything the previous government did. It was always about short-termism, always about blaming everybody else but never about a long-term vision of what this country needs. That is why this government has undertaken the education revolution. The people on the opposition benches should be applauding us for these initiatives, but instead we heard from Senator Mason a fabricated set of figures, which he then based a whole argument on, to try to undermine the massive commitment that this government is making to the future of our economy, our education system and our society.

This government has made massive new investments in every stage of the learning journey. At the heart of this initiative, it is essential that we overcome disadvantage and improve educational outcomes. We need a skilled workforce to fill the jobs of the future—white-collar, green-collar and blue-collar jobs—and that is a fact that the opposition apparently failed to recognise in their entire term of office.

Moreover, the government need to address the challenges of 12 years of climate change denial by the previous government. We need smart citizens to make climate change adaptation work on the ground and the education revolution will ensure that we have people with these skills to handle the new technologies climate change will summon forth, to hold down increasingly knowledge intensive jobs and to contribute creatively to the innovation process. (Time expired)

Senator MILNE (Tasmania) (4.10 pm)—I rise today to comment on this important matter brought before the Senate in relation to the planning, costing and implementation, in a timely manner, of the flagship election promise, the ‘education revolution’. Frankly, I am concerned that there is not going to be an education revolution in Australia but that we are actually going to see a reformation of where the Howard government has been and that this government is going to head in exactly the same direction. A revolution implies excitement; it implies a change. It implies something different, innovative, new—an energy in the sector.

I do congratulate the Rudd government for its undertaking to put computers in schools. That is a critically important bit of infrastructure that the Australian education community needs, but I note and take on board what has been said about how that has actually been rolled out, because it is absolutely true that schools are being short-changed in the rollout of computer programs. What is happening is that schools are being forced to buy cheaper laptops and spend up to 30 per cent of their grants on licensing and government fees. That is just the reality. I went to a school in north-eastern Tasmania where they are having to rewire whole sections of the school because they do not have the most basic wiring able to accommodate the equipment that is now required if they are actually going to deliver education in the way that they hope to.

According to a recent newspaper report, South Australian public schools are paying $250 for licensing fees for each new computer and a $40 state government administration fee. They pay $6 a student to cover existing licences, but replacement computers do not attract the $250 fee. In fact those schools which are the most disadvantaged, and therefore have the fewest computers and are now getting new computers, will pay the highest fees because they are not replacement computers and therefore they have to pay additional licensing fees. In some states—New South Wales, Victoria and Western Australia—the state governments have agreed to absorb the licensing fees and pay the whole of the grant to the school, but in other states this is not the case.

New South Wales has stumped up the money to give schools wireless access and I think that is a good idea as well. But the South Australian Secondary Principals Association has said that allowing the states to administer the scheme has led to funding inequities. In South Australia, for example, they had hoped to be leading edge nationally, but that is not the case. If you are a disadvantaged school and have not been able to build up the number of computers, nearly all of the computers will be new and they will carry the $250 fee. Hallett Cove School in Adelaide’s south is paying more than $51,000 on Microsoft fees, administration costs and so on and so forth.

What we are finding is that, whilst in theory it is a good idea, in practice it has not rolled out smoothly or uniformly across the country. The other thing to point out is that the same arrangement was made for privileged schools and completely underprivileged schools and so it has not addressed the inequity in the system. That is the point I really wanted to address today in terms of the education revolution. You cannot have a revolution in education unless you fund it.

Giving people computers is not a revolution on its own. It is no use putting a computer in front of a young person if you do not have teaching staff who can actually help them to discern what is good and reliable information, what is information that might be suspect and how to negotiate the internet, because the information superhighway is not uniform in quality.
The issue of public school funding is a critical one, and I am concerned that we are shortly going to see a break with the past when the government introduces its new funding for the next quadrennium. What we are most likely going to see is the splitting off, for the first time, of funding for private schools from funding for public schools, and that the public school funding will not come until after the negotiations with the states later this year. What this means is that the private schools will get their certainty early—within the next few weeks—and the public schools are going to have to wait till much later in the year. Politically, it is quite a savvy tactic because it allows the private schools to get their money without the public schools being able to have a point of comparison and reference for some time. On the other hand it allows the government the opportunity to negotiate a much better deal with the state governments. If one were less cynical one would hope that the motivation may be for the government to at last sit down and negotiate with the states to get a real injection of funds into public education.

As we know, under the Howard government the share of Commonwealth funding to public education slipped backwards. We would need an investment of $1.5 billion upfront now to bring public education up to the same share it had in 1996, when the Howard government took office. So let us not fail to remember that under the Howard government for a decade the share of Commonwealth funding for public schools in Australia slipped right back. For all those years we had Julia Gillard, now the Deputy Prime Minister, saying that when there was a problem in the education sector the Howard government looked around for someone to blame: generally in question time it was the education unions and then it was state Labor governments.

But I have to say that Minister Gillard is now doing exactly the same thing—she is looking around for people to blame and she is generally blaming teachers. I will not have it. I am not going to stand in this parliament and allow governments to blame teachers for educational performance. In fact, you need to have your best teachers in the most difficult schools if you are going to get the best outcomes and offer equitable education outcomes. By setting up systems where you reward people on the basis of the educational attainment of students in schools, you are setting up a system whereby you end up with your best teachers not necessarily wanting to be in those difficult schools, and therefore those difficult-to-staff schools.

I want to put a line in the sand here and say that it is time as a society we thought much more about the place of schools in our community and about how we value teachers in our community and the job that they do. The whole society must recognise the value of teachers and what they bring to the classrooms. Computers are one thing, but it is the human management skills and the human teaching skills that are critical. We need smaller class sizes. We need a policy whereby if we have inclusion of students with disabilities of any kind, whether they are physical or mental disabilities or learning problems, there are smaller class sizes. We have to support the inclusion policy with enough aids to be able to allow students in those circumstances to learn.

I would like to see the Rudd government go back and have a look at how the states have handled the rollout of computers in their schools. It should look at the fact that, because some state governments have subsidised it and others have not, students are not receiving the computers in the equitable way the government promised they would. The fact that it is costing so much for reconfiguration of classrooms, for rewiring, for licensing fees and so on, is also undermining the value of these computers. But computers alone will not do it. We have to fund education adequately and increase the share of public education funding as a matter of urgency.

Senator HUMPHRIES (Australian Capital Territory) (4.19 pm)—Before I talk about the failure of the education revolution, I want to address the last point that Senator Milne made, which has also been made by other speakers in this debate, and that is the claim that the Howard government allowed public school funding to slip during its time in office. That claim is based essentially on a trick with the numbers. Senators should be aware that during the life of the Howard government there was a significant increase in the number and the proportion of school students in Australia who attended non-government schools. Of course, the constitutional arrangements in Australia are very clear: the federal government has prime responsibility for the funding of non-government education and the state governments have responsibility for the funding of state schools. And it was that growth in non-government school enrolments that drove an increase in the size of the non-government funding sector. But it is absolutely not true to say that the Howard government neglected the funding of government schools. I illustrate that point by observing that, in the life of the Howard government, enrolments in government schools increased across Australia by approximately two per cent and funding of government schools by the federal government increased by more than 70 per cent in real terms. To increase funding by that level over that period of time is not an indication of neglect, and those opposite should know better than to manipulate figures in that way.

On the matter of public importance, let me say that I think the education revolution launched by the government is essentially a slogan in search of an intellectual underpinning. It is also in search of some real dollars to make it actually work. I see in this policy noth-
Labor announcing it, Prime Minister? Why are you paying for teachers? We have been opposing league tables for some years. We have been opposing performance pay for good teachers. They are great ideas, but where do those ideas come from? They were borrowed directly from the education reforms announced by the then education minister, Brendan Nelson, in 2004.

Senator Nash—It was hardly a revolution.

Senator HUMPHRIES—As Senator Nash has pointed out, it was hardly a revolution. In fact the nearest we got to a revolution was in the Labor Party caucus when these plans were announced. People were saying: ‘We have been opposing these approaches for some years. We have been opposing performance pay for teachers. We have been opposing league tables for schools. We are not in favour of that. Why are you announcing it, Prime Minister?’ Indeed, the question remains: what exactly is Labor’s approach? Why was Labor prepared to back state governments that resisted these reforms during the life of the Howard government? Why are they now prepared to back them in the face of, presumably, some misgivings on the part of the state governments now that they are in government at the federal level? It just does not add up. Labor is thrashing about to try and find some basis for proceeding.

While they are doing that they are also cutting back on the essentials of a solid education system, which was so important to the way in which the former federal government implemented education reform and improved education outcomes. The best illustration of how badly they have mismanaged this exercise is their abolition of the very successful $1.2 billion Investing in our Schools Program. I do not think that there is a single senator in this chamber who would not, at one stage, have gone to a school in their state or territory and seen the good that that program did to the fabric and the morale of both government and non-government schools across this country. That program made an enormous difference to the quality of outcomes students were getting. Incidentally, it was purchasing computers for schools at a much greater rate than we are seeing at the present time. How many computers have appeared on the desks of Australian students as a result of the Rudd government’s education revolution? Not one. We are yet to see the very first computer arrive. When it does we will no doubt have a big media splash about it. But so far there are no results for this program. We delivered many, many computers to government and non-government schools through Investing in our Schools and, sadly, that program has been abolished.

We have also seen, courtesy of the former government, the release, very belatedly, of national literacy and numeracy tests. The tests were conducted in May and it was only in the last week or so that these test results have been finally released, making them much less useful to Australian schools and parents than they should have otherwise have been. It tested students in years 3, 5 and 7.

Having established that certain students have certain problems, the question then needs to be asked: what can a government committed to an education revolution do about assisting the particular needs of those students? Again, we had an answer to that question. We had the Even Start National Tuition Program of $450 million to provide tutorial vouchers worth $700 per student to ensure that students in this country who were falling behind had some means of catching up. As we know, no school system, no matter how good, is capable of making sure that every student marches at the same pace. For those that fall behind we had a solution. What has this government’s response been to that particular program? It has been, of course, to abolish Even Start with $450 million down the gurgler.

Their Trade Training Centres in Schools program was much vaunted as the answer to the problem of shortages in trades across the country. Again, it was poorly conceived and has produced very little in the way of tangible results. Just 34 schools across Australia are to receive funding to date. That is 1.3 per cent of the nation’s 2,600-odd schools, and it is very doubtful whether the funding allocated will produce any meaningful outcomes for schools in terms of building the appropriate facilities, maintaining them, depreciating them and providing for staffing and training and so forth. So the education revolution so far is a miserable parody of the promises that were made to the Australian community and we have yet to see them realised. We have yet to see the philosophy behind this revolution properly explained to the Australian community.

Senator JACINTA COLLINS (Victoria) (4.27 pm)—Earlier today when I saw this motion from Senator Mason I thought that it was quite audacious on this of all days. I was pondering in the chamber a moment ago with my interjections that perhaps the good senator was seeking the education portfolio. Consider the content of the motion—
The failure of the Rudd government to appropriately plan, cost and implement in a timely manner its flagship election promise, the ‘education revolution’.

You can only help but reflect on the inconsistency of the opposition’s current approach. On the one hand we have: ‘Everything is being pushed off to review after review after review. All this government is about is reviews.’ Then, on the other hand, we have: ‘They are not doing anything now. They are not doing anything immediately.’ The Rudd government has achieved an awful lot in the short time that has been available in relation to this agenda.

Senator Humphries made the point—and did cover some other relevant areas to this debate—that the education revolution is not just about the sexy idea of improving digital infrastructure in schools. There is a hell of a lot more to the agenda. He suggests that the Australian public needs to know more about the philosophy and the background being covered here. There is a mighty lot of information that can be referred to to sustain that case. We have before us now a ground-breaking, unprecedented COAG agenda.

Let us look at a couple of the key priorities of that agenda. But before I do that I also want to put before the Senate some other facts about school funding. Senator Humphries says that the funding between government and non-government schools has been misrepresented in the discussion by some parties. Others have suggested that we are really only looking at the rollout of digital infrastructure. But the real point is: what is education spending as a proportion of the total government spend? That was where we went backwards under the Howard government. Let me be very clear and very fair: for the benefit of the Senate I will now I will apply exactly the same measurement criteria to their previous period and to our current period, and let us look at the difference. The previous government was heading for a decrease in education spending from 7.54 per cent in 2007-08 to 7.47 per cent in 2008-09. Under the same measurement basis, the current government has increased its spending from 7.83 per cent in 2007-08 to eight per cent in 2008-09.

These small figures, when you are not looking at the total context of these scenarios, do not quite paint the full picture, so let me do that. In our first budget we allocated $19.3 billion to education initiatives, including not only the $1.2 billion for the digital education revolution, which will over time provide access to a computer for every student in years 9 to 12, but also the $11 billion for the Education Investment Fund, a national curriculum for all students in English, maths, science and history as well as national Asian language studies programs, and the $2.5 billion trades training centres program across Australia, which will help to provide robust trade skills for students and keep them engaged in schooling. That is the broader context. Senator Humphries can raise implementation issues. Indeed, Senator Milne also mentioned implementation issues, although she, in far better perspective, made the point that we do need to be mindful of how well these programs are being implemented. The flexibility and the preparedness to deal with that is something that I think this government has and is quite prepared for and able to do.

The final point I make about keeping students engaged in schooling takes me back to the COAG agenda. We know that during the Howard government era keeping our students engaged in high school was, to the disgrace of Australia, going backwards. We had an appalling standard—if you look at other OECD countries—on the schooling and retention in schooling of our secondary school students. Worse than that, whilst most other OECD countries were going forwards, we were going backwards. This is not an issue to do with the debate between government and non-government schools; this is a pretty basic, clear benchmark for our school education. Why is it so basic? I encourage any of the senators to have a look at this document about quality education that was recently released by the government. Very clearly, it highlights for all of us the impact and the difference it makes for students to complete year 12. Any government concerned about social justice or inclusion cannot look past a simple benchmark such as improving the level of students remaining in our institutions until year 12. The consequences of them not doing so are appalling.

Let me move to the other area that is part of our COAG agenda. The secondary schooling benchmarks are one key area, but another area very close to my own heart is early childhood. It is another area where we measure very, very poorly—in fact, possibly worse—on OECD standards. What did the Howard government do in that area? It talked about having a national agenda for early childhood. It talked about it repeatedly, but it never had a plan. It never had a plan, yet we have had Senator Mason here today criticising at this early stage of the Rudd government our ability to appropriately plan, cost and implement our education revolution. Early childhood is a key part of our education revolution. A key part—and, again, the former government talked about it—is ensuring that every Australian child has one year of access to preschool education before they make the transition into our schools.

So our COAG plan is about the transition into schools and also about the transition out of schools. That plan is something that is easily available for any senator to refer to. As I said, it is groundbreaking and it is unprecedented. Yes, we will have implementation problems with the states. It is not easy to roll out these types of agendas across areas where you have had state management of delivery across a whole range of policy
areas as well, but I believe the Rudd government will achieve that end. (Time expired)

Senator CASH (Western Australia) (4.35 pm)—It has been interesting to sit here and listen to those on the other side espousing the good things that the Rudd government has done since coming to office in relation to education. I, too, have to acknowledge one thing that the Rudd government is good at. But it has nothing to do with education. It is all about media spin—spin over substance every time; 10 out of 10 on the report card for that one. I think it is fair to say that the greatest success of the Rudd government to date is its capacity to produce spin rather than substance when dealing with important policy issues. After all, the Rudd government was elected as a result of media hype and media spin, with a range of so-called policies that, in the main, comprised of glib lines designed to entice and entrap the voter into believing that a Rudd government would actually deliver the educational needs of the nation. After nine months we can now see how the worm has turned and how the voter has now learnt that they got taken for a ride based on spin, rhetoric and a few glib political lines rather than substance.

Labor’s so-called education revolution has to be seen for what it is, and that is a fraud on the people of Australia, who were entitled and are entitled to expect more from this government. Let us look at the promises made by Mr Rudd in relation to the Productivity Places program, a Labor election commitment to deliver an additional 450,000 training places over four years. The spin on that is absolutely fantastic. Mr Rudd sold this policy as ‘a core piece of our overall armoury in fighting inflation’. This was the commitment: up to 20,000 places were offered to jobseekers from 1 April to 30 June. That was phase 1. From 1 July, up to 66,000 training places would be available to existing workers looking to upskill. But what is the reality in terms of this government delivering on this election promise? The reality is that the Rudd government has failed to meet their own expectations that were placed on the program when it was launched. Labor failed to fill even half of the 20,000 training places before phase 1 ended on 30 June. After selling this policy as ‘a core piece of our overall armoury in fighting inflation’, this is a gross failure by the Rudd government.

Only 3,300 places of the 66,000 places that are available to existing workers have been filled, because the Rudd government has only negotiated agreements with three states. This is in stark contrast to the coalition’s work-school vouchers. This was a simple, fully funded federal government initiative which allowed every jobseeker who wanted to improve their skills the opportunity to do so.

Now let us look at Mr Rudd’s plans to hand over all of the Australian technical colleges to the states, in favour of—and you have to love this one—a resource stretched trade training centre policy. Labor’s proposal, or spin as I like to call it, is to build state-of-the-art trade training centres in all 2,650 secondary schools around the country. Each school can apply for between $500,000 and $1.5 million to build or upgrade vocational education training facilities. The problem is that the funding available for each school program is grossly inadequate to provide proper trade training.

The coalition, however, spent an average of $24 million for each Australian technical college. In contrast, the Rudd government is offering each school an average of just $900,000 over 10 years. The funding is so paltry schools will be lucky if they can update woodwork rooms at best. This will not create 2,650 state-of-the-art trade training centres.

The evidence is clear. The Rudd Labor government’s education revolution is now being seen by the public for what it is. The Rudd government has during its time in office failed to deliver its education revolution, which was hailed as a flagship election policy. Clearly, the Rudd Labor government has failed the people of Australia, and the people are entitled to feel cheated. The product that was advertised to the people of Australia and that they bought is not the product that is now being delivered. If the Labor government were subject to the provisions of the Trade Practices Act, they would be sued by the people of Australia for misleading and deceptive conduct and the people of Australia would win hands down.

Senator ARBIB (New South Wales) (4.41 pm)—Two weeks ago in my first speech to the chamber I talked about the importance of education to our country’s future, the importance of education in transitioning our economy, the importance of education in allowing us to take advantage of new science and technology and the importance of education in providing opportunities for all Australians to improve their own and their families’ livelihoods. That is why I was absolutely astonished on hearing of this MPI raised by Senator Mason.

I was astonished because I believe one of the main causes for the coalition’s defeat at the last election was their poor record in and neglect of our education system. In short, the former Howard Liberal government’s legacy on education was appalling. There was 12 years of underfunding, 12 years of inaction and 12 years of neglect. The sheer hypocrisy of investing so little in education is galling.

In 2005, Australia’s public spending on education as a percentage of GDP was 4.3 per cent, which was well below the OECD average of five per cent. We now rank 19th overall behind Canada, the United States, the United Kingdom and many other European countries. Yet the Liberals still have the nerve to come into this chamber and challenge the Rudd government on its commitment to education.
It was not just underinvestment that characterised their 12 years in government; it was also extreme ideology. Just like in the workplace with Work Choices, the coalition was ideologically driven on education. Former Prime Minister John Howard’s ideological extremism on history, curriculum and student unions is well known and supported by all those on the opposite of the chamber. For the Liberal Party, education was a wedge to try and attract votes rather than a pathway to skills and a brighter future. The Rudd government believes passionately in education and this is why we are undertaking an education revolution at every level: primary, secondary and tertiary. Importantly, we are also delivering on our election commitments.

Last May in our budget the government met its commitment on schools, providing support for technology, infrastructure, curriculum and resourcing through a $3 billion down payment on building a world-class education system. We are attempting to make the jump into the 21st century. With the information age right at our doorstep it is of the greatest importance that a modern, vibrant economy equips our children with the means necessary to prosper in the world economy. Therefore, the government will spend $1.2 billion over five years as part of the digital education revolution, providing computer equipment to every secondary school—years 9 to 12—through the National Secondary School Computer Fund. In the last two months alone we have approved $116 million for the funding of 116,000 new computers in 896 secondary schools right across the country. This is happening now. Some senators may laugh, but this is serious. These are computers that are going into schools now. Children in years 9 to 12 will have computers to use to improve their schooling and to improve their livelihood, and it is happening right now.

On childhood education we are also delivering on our commitments. Again, going back to the OECD figures, their report in 2005 on education showed that just 0.1 per cent of Australia’s GDP was spent on primary institutions compared to the OECD average of 0.4 per cent, ranking Australia 24 out of 26 countries in education—and this mob over here are proud of their record on education? You have got to be kidding me! Twenty-fourth out of 26 countries! That is why the government is spending $577 million on getting the basics right. There is an action plan on literacy and numeracy and under this program funds will be available to support schools across the board, focusing on those schools and students that are most in need of help.

The Australian government will also commit $5 million per annum over four years to support the activities of the National Curriculum Board to develop a national curriculum. The previous government talked about it; we are delivering on it. It is not just a national curriculum, but national testing—testing that is taking place right now in our schools. The results were out last week. And it is not just about curriculum and testing; it is also looking at the future of languages. The National Asian Languages and Studies in Australian Schools Program will be vital in our commercial, social and cultural engagement with Asian nations, and it is rightly recognised by the Prime Minister in high schools where language teaching and training and support is so needed.

On skills we are also taking up the fight. A recent survey by global business consultant Grant Thornton International found that the shortage of skilled workers was the biggest single barrier to business expansion in Australia. Therefore, in the area of skills training, which the former government talked about but did very little about, the Rudd government’s trade training centres will provide $2.5 billion over 10 years to enable all secondary schools right across the country to apply for trade training centres. Already we have provided more than $90 million for these trade training centres and almost 100 schools nationwide will benefit.

Not only is the Rudd government committed to the education of children, it is also committed to ensuring that our children have the best facilities possible. The Rudd Labor government’s Local Schools Working Together policy has allocated $62 million to build facilities to be shared between government and non-government schools with 25 projects right across the country to build shared facilities such as assembly halls, computer and science laboratories, libraries and sporting facilities. And it is not just schools. The education revolution is also about universities and we are spending $500 million for campus renewal through the Better Universities Renewal Fund. After 12 years of the previous government’s neglect, the Rudd government is taking education seriously. (Time expired)

MINISTERIAL STATEMENTS

Geothermal Energy

Housing

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.49 pm)—I present two ministerial statements relating to:

Geothermal energy; and

Housing.

COMMISSION TO ADMINISTER THE OATH OR AFFIRMATION OF ALLEGIANCE

The ACTING DEPUTY PRESIDENT (Senator Fierravanti-Wells)—The President has received from Her Excellency the Governor-General a Commission to administer the oath or affirmation of allegiance to senators, and I table the document.
COMMITTEES
Membership

The ACTING DEPUTY PRESIDENT—The President has received letters from party leaders seeking to vary the membership of committees.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.50 pm)—by leave—I move:

That senators be appointed to committees as follows:

Economics—Standing Committee—
   Appointed—Senator Xenophon
Finance and Public Administration—Standing Committee—
   Appointed—Senator Hanson-Young
Library—Standing Committee—
   Appointed—Senator Fielding
Parliamentary Library—Joint Standing Committee—
   Appointed—Senator Fielding.

Question agreed to.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION (FAIR BANK AND CREDIT CARD FEES) AMENDMENT BILL 2008

Report of Economics Committee

Senator McEWEN (South Australia) (4.51 pm)—On behalf of the Chair of the Standing Committee on Economics, Senator Hurley, I present the report of the committee on the Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2008, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

TRADE PRACTICES LEGISLATION AMENDMENT BILL 2008

In Committee

Consideration resumed.

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.52 pm)—We were considering the final amendment moved by Senator Xenophon to the Trade Practices Legislation Amendment Bill 2008 just prior to question time commencing. Indeed, I was hoping we would get to that vote but unfortunately we did not. My understanding is that at five o’clock we are to move to first speeches. The debate has been well canvassed. I understand the position of the Liberal opposition and Senator Xenophon. The amendment will be carried so we will not be re-canvasing the earlier discussion. We will not be calling a division. I will be making my best endeavours to ensure we get to the vote just prior to five o’clock when we have the first speeches.

The TEMPORARY CHAIRMAN (Senator Fieravanti-Wells)—The question is that Senator Xenophon’s amendment on sheet 5582 be agreed to.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator SHERRY (Tasmania—Minister for Superannuation and Corporate Law) (4.55 pm)—I move:

That this bill be now read a third time.

Question agreed to.

(Quorum formed)

Bill read a third time.

FIRST SPEECH

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

Senator RYAN (Victoria) (4.58 pm)—Thank you, Mr President. I commence by congratulating you on your election and, through you, thanking the staff of the Senate for all their assistance and support as I have taken office over these last few months. It is with a great deal of humility and pride that I stand here this evening as a senator for Victoria and follow in the footsteps of my good friend and mentor Rod Kemp. He made an enormous contribution to our nation over his ministerial career and to the Senate itself.

I come to this place in a much stronger Australia and Victoria than that of my childhood. I grew up in Victoria in the 1980s. What confronted my generation was very different from that which faced our parents and which confronts people today. In 1990, one in eight people in Victoria could not find work and tens of thousands had simply given up looking. One in three young people could not find work. Education, job training and apprenticeships had been wiped out by the dereliction of a government dedicated to the pursuit of an outdated ideology—the fatal conceit that government could control the economy as simply as driving a car, and that government debt did not matter.

These were state and federal governments who claimed to serve and protect the vulnerable. But, when the state steps beyond the bounds of its competence, it is the most vulnerable who suffer—in the failure to provide the services they need and in preventing them from finding work.

The last 30 years have seen the long march of liberalism, not only in Australia but around the world. I grew up under the shadow of global nuclear holocaust, a threat in the main that now belongs in the history books. I did not understand why nations built walls around their people and raised armies to train their guns on them. I did not understand why Australians...
would protest against us and our allies trying to bring this tyranny to an end. I learned then that democracy and basic human liberties are not relative concepts. We must always guard against the slippery slope of moral equivalence in such affairs.

Twenty years ago we saw a photo of a young man standing in front of a tank in Beijing—the epitome of the individual defying the coercive power of the state. Just as I was excited at the fall of the Iron Curtain and the looks of joy across the faces of the people of eastern Europe as they tasted freedom for the first time in generations, I look forward to seeing similar looks of joy increasingly in our own region. This may seem a long way from the Lucky Country and this place, but these were the experiences that framed my political outlook. As Abraham Lincoln said:

The legitimate object of Government is to do for a community of people whatever they need to have done, but cannot do at all or cannot do so well for themselves in their separate and individual capacities. In all that the people can individually do as well for themselves, Government ought not to interfere.

Over the course of the last century it is when this is forgotten that the greatest threat to freedom and prosperity arises. Whenever we choose to do something in this place, we are removing the right and responsibility to make a personal choice—from a family, a community or an individual. Whenever we choose to spend money, we take it from someone’s pocket.

As a young man I was drawn to the Liberal Party by a key principle: the dignity of each and every individual and the value of their own conscience. As a boy I remember reading a union publication called The Metal Worker—well known to some in this place, I am sure. But while I read it I knew that my father was not a member by choice. When I got my first job I had to agree to join a union if required. When I went to university I was forced to join a student union and pay the poll tax that those fees represent—levied regardless of income, means or ability to use the alleged services. The idea that someone in Australia should be forced to join a union in their workplace is now alien to us. I look forward to the day when there is no longer a question that students should also be guaranteed this right.

I am proud to say that I am the product of a Catholic education. As a direct result of the policies of the Liberal Party spanning over 40 years, choice in education has been made available to thousands. While various vested interests still harbour hopes of ending it, the promotion of school choice is one of the proudest aspects of the Liberal tradition. Contrary to its detractors, school choice is not about playing fields or swimming pools; it is about supporting diversity for all in our society, not just those with means. It is about supporting the thousands of teachers and volunteers, like my own mother, who have built and taught in these schools when conditions and salaries were often better elsewhere.

I arrived at university due to this passion for education that had been instilled in me. I joined the Melbourne University Liberal Club—for a long time one of the nurseries of Liberal thought. Through the encouragement of people like Katherine Forrest, Ian Patison, Chris Muir and Michael O’Brien, my own ideas were debated, tested and refined. They taught me a valuable lesson: it is not what you think that matters most; more important is your willingness to discuss it, debate it and maintain an open mind to new ideas. I am proud to say I have followed a long and diverse line of people from that organisation into this place—from Alan Missen to Rod Kemp, as well as members in the other place. I hope to live up to their record, achievements and decency.

When looking ahead to the challenges facing our nation, I look to history for lessons. Over the last two decades we have implemented a massive program of economic reform in this country. This was bipartisan, at least when we were on this side of the chamber. Opening up Australia’s economy, ending the sclerotic policies of protection, reforming the tax system and reforming the finance and labour markets were not easy decisions. These ideas were generated, debated and promoted outside this place by organisations like the Institute of Public Affairs and the Centre for Independent Studies as well as by members here. Not supported by government funding to this day, they are a critical part of our civil society.

These changes not only provoked howls of outrage from interest groups safe in the bosom of protection paid for by others; they had a heavy cost for many in our community. Thousands of workers, mainly no- or low-skilled or in industries that were simply not competitive, lost their livelihoods. Many of them were never to find work again, not helped by a recession they were told they had to have. But they did not go and burn down the nearest McDonald’s in protest. They did not march in the streets or demand hand-outs. They realised that change, painful though it may be, was necessary to ensure a better life for their children. Many of our leaders, and especially the Liberal Party in opposition, refused to engage in simple slogans and oppose these policies for partisan advantage. Principle beat populism, and Australia today is undoubtedly the better for it.

This poses a test for us as leaders. As we confront the challenges of today, it is all too easy to fall into political slogans, spin and the 24-hour news cycle. There is always a temptation to simplify complex issues, take advantage of angst and promise to cure the incurable in a futile fight against change. Government is complex, and to attempt to simplify it or promise things we know we cannot deliver is irresponsible—
even more so if our leaders know otherwise. When we focus on the billboard outside a GP clinic more than how we are going to staff it with doctors, when we blame the Murray-Darling crisis on climate change rather than what we ourselves are doing to it, we do an injustice to those thousands of people who have made substantial sacrifices over the last 30 years.

To attempt to wind back the clock of economic reform will not deliver a more prosperous Australia. To promise to insulate Australia from change is futile and misleading. It breaks the bonds of trust with those who bore this cost during this period and from which we all benefit today. And these were not the rich, the powerful or the organised; they were the true modern-day forgotten people. They have placed their trust in us and we cannot breach it.

For the first time in a generation the problem of mass unemployment has been resolved, at least for the time being. The previous government achieved levels of employment that I was taught, only 15 years ago, were unattainable. This cannot be sacrificed on the altar of vested interests, outdated ideology or short-term political gain.

I am proud to describe myself as a federalist. It is entirely consistent with liberalism that power should be divided and kept as close as possible to the people. This chamber itself reflects that fact. This Senate is granted a mandate by the people to review, reject or amend legislation. It is an explicit and intentional check on the domination of the other place by the executive. But federalism is complex. It does itself no favours in terms of slogans or press releases and it is not just about borders drawn a century ago. It simply guarantees that decisions should be taken by those whom they will affect.

Secondly, a bicameral parliament and power divided between states and the Commonwealth concedes that power itself is a dangerous thing. Dividing it is the best way to control it. Robert Menzies appreciated this balance when he wrote:

... in the demarcation of powers between a Central Government and the State governments, there resides one of the true protections of individual freedom.

As the Australian people have constantly shown in virtually every opportunity put to them, they do not want more power centralised in Canberra.

Lately we have heard new slogans such as cooperative federalism. But cooperative federalism can easily become coercive federalism or cartel federalism and it can be too easily used to hide failure. When we hear of the need for a single national curriculum or national control of hospitals for people who move between the states, we fail to see that it is this very diversity that may be one of the reasons they move. When we hear of national control or national consistency, we fail to understand that diversity amongst our states is not merely a product of governments; it is about different communities having different needs and different priorities.

The problem of states deferring their responsibilities is not new to our federation. Robert Menzies also said: It is so easily said about any local problem, ‘Well, why don’t you take this to Canberra? Why don’t you get the Commonwealth to do something about it?’

The true reason there is occasionally a clamour for the Commonwealth to take control of a particular issue is that the states, especially in recent years, have failed to address some of these issues. I do not see how further removing responsibility solves this. Indeed, the problems would only likely be magnified. Vested interests like centralisation; it is easier to capture one government than six or seven.

The true challenges in many of these areas reside in the power of sectional interests and control over the public sector. An unwillingness to tackle these is not cured by making the problem even more distant from the people. It never ceases to amaze me how the leadership of public sector unions construct such fanciful arguments and go to so much trouble to prevent the public knowing about their performance. Whether it is schools, public hospitals or a raft of other services, why are the leaders of these groups so insistent on keeping their performance a secret from those who utilise their services and pay their wages?

The true answer to these challenges is to hold governments to account and to ensure voters and consumers have the information to judge the performance of whoever should be held accountable. For that reason, we should consider the creation of a statutory independent agency to collect performance data in all these areas. Like the ABS or the Audit Office, it would set benchmarks and test our various government provided services against them. Independent of the executive, it would report regularly to the people, ensuring they could compare their state, their school or their hospital against the best in the country. Only through freely available and accessible information independent of the distortions of vested interests and executive control can we truly give the people real choice and the opportunity to pass judgement.

As I stated earlier, standing here this evening is a humbling experience and I am under no illusion that it is due purely to my own efforts. My election is the result of the efforts of thousands of members of the Victorian division of the Liberal Party and the trust they and the voters of Victoria have placed in me to serve their common interests and aspirations. They are too numerous to thank individually, but I specifically note the efforts of those who carried the Liberal flag in the seats that we did not win at the last election; I would not be here without them.

I thank all my colleagues, particularly my fellow Victorians here and in the other place. Your support,
counsel and wisdom have been and will continue to be especially valued. I also thank the staff of the Victorian division. I have had the privilege of working with them in various capacities over many years and I appreciate their tireless efforts in our cause. As party presidents, fellow new Senator Helen Kroger and Russell Hannan encouraged my passion for reform even when it was not always convenient for them.

In recent years I have had the privilege of working with Dr David Kemp. David’s commitment to the betterment of Australian politics and society and the Liberal Party itself has been demonstrated by his integrity and a career dedicated to public and political life. Michael Kroger has long been a friend—there in the tough times as well as the good and never asking for anything other than a willingness to debate.

It is often said of my generation that our friends form a second family. In this sense, I consider myself doubly lucky. I am fortunate to have a wide circle of friends, without whose support I would not be able to take advantage of this enormous opportunity. I cannot mention them all—and there are several here tonight—but there are a few who I would like to single out. Scott Pearce, Sally Carrick, Jason Aldworth, Andrew Bell, John Snaden, Matthew and Renae Guy, Tony Barry, Jon Mant and Kelly O’Dwyer have been as close as a second family, in my personal life as much as in politics, as anyone could have. If I live up to their hopes and aspirations I know I will have made Australia a better place.

As I am sure my fellow new senators have experienced, finding the words to thank one’s family is particularly difficult. I have been influenced very strongly by the women in my life; my grandmother Mary Coghlan has seen an unfair share of tragedy in hers. I was in the fortunate position of being her eldest grandson, and her love, kindness and faith shaped me as much as anything else. Words cannot do justice to my mother, Anne. Endless patience, never-ending support in all my endeavours and a constant faith in her son—nothing more can be asked of any parent.

One person I would like to thank is not here this evening. He was a quiet man, very different from his eldest son, and he did not have all the opportunities I had, but he made sure I had them all. Taken from us too early, I know he is looking down this evening. I can only hope to act in a way that would make him proud and that I can simply be as decent as he was. Finally, I come to my better half, now my fiancee after a period of time which caused many of my friends to question my judgement. Helen, I simply could not have done this without you, your optimism, your faith and your support. I look forward to sharing our new life.

The last quarter century has illustrated exactly what this country and its people are capable of. Over the last decade in particular, the Liberal agenda for Australia has delivered not abstract numbers or statistics but meaningful improvements in the lives of all Australians, particularly those most vulnerable. As Winston Churchill said, ‘I fight for my corner,’ and I look forward to working with my colleagues to bring us back to office and continue our work. I thank the Senate for the courtesy it has extended me this evening.

Honourable senators—Hear, hear!

FIRST SPEECH

The PRESIDENT—Order! Pursuant to order I now call Senator Ludlam to make his first speech and ask honourable senators that the usual courtesies be extended to him.

Senator LUDLAM (Western Australia) (5.16 pm)—I would like to begin by acknowledging that we meet on the traditional lands of the Ngunawal people and by paying my respects to the custodians of culture and country. After ‘sorry’ comes the other s-word, ‘sovereignty’—sovereignty over this island continent that was never ceded by the traditional owners. The tent embassy just down the hill is one visible reminder of the depth of the unfinished business still before this parliament.

I am the fifth Greens senator that Western Australians have dispatched to Canberra. Four strong women led the way here, which is a wonderful political lineage. In 1984 Jo Vallentine was the first person to win a seat in any parliament in the world on a platform of nuclear disarmament. I am delighted to acknowledge Jo’s presence as a mentor and friend in the public gallery tonight and to use this occasion as a dedication to carry forward her work to set these weapons to rest, once and for all. Jo was followed by Christabel Chamarette and then Dee Margetts, who carried the load of the balance of power in here for several eventful years. More recently, Senator Rachel Siewert joined an expanded Greens team with Senators Brown and Milne, and Kerry Nettle, who is greatly missed in here. I had the extraordinarily good fortune to work for Rachel in her Senate office for 2½ years and I know that many senators appreciate Rachel’s special brand of passion and tenacity. I really thank her for the opportunity that she gave me to support her work in here.

I cannot go past this opportunity without also thanking Robin Chapple and the rest of the wonderful Greens WA team. Robin is the one—and, it has just been announced, future—MP for the mining and pastoral region of Western Australia, who mentored me through four good years on the road, during which time I discovered a lot about my own state.

I am very proud to be here this evening representing the state of Western Australia—not just the 100,000 Greens voters who sent me here but everyone who holds aspirations for an economy that serves the com-
munity and protects our spectacular environment. And this is the theme of what I wanted to say tonight.

I grew up in the back of a van which was somewhere different every day, with my loving and generous parents Graham and Jude, whom I am really happy are here tonight, and my dear brother Glen, who is going to be a father in a matter of a few weeks. So my earliest childhood memories, after distant impressions of New Zealand, are of Indian back roads, London snow and African railways. But since the age of eight I have lived in Perth, and Western Australia has been a good place to call home. It is a place that has been kind to me and I love the prospect of being able to give something back at a time like this.

My central preoccupation and reason for being here is that I share with my Greens colleagues the optimistic sense that Australia—and the world—is poised on the edge of a historic transformation. I am convinced that we are up to this challenge. We are surrounded by events that are just unrelentingly bleak. In our relentless insistence on pursuing the fossil-fuel growth economy, the industrialised nations have melted the North Polar ice cap. It happened a hundred years earlier than the world’s most sophisticated computer models said it would, so now within a year or two there will be no summer sea ice at all. That eight million square kilometre mirror was reflecting a lot of sunlight back into space. That was keeping the Arctic Ocean cold enough to hold the Greenland icesheet together in one piece—and, you know, we really need it to stay that way. Instead, it is coming apart so fast that there is now a discernable tenor of panic creeping into reports from front-line climate scientists. There are 2.8 million cubic kilometres of ice perched above sea level there, and a similar amount impounded in the West Antarctic icesheet, where the situation is just as fragile and changing just as rapidly.

Mr President, humankind has kicked over the first domino. It begins with the vanishing sea ice. If we get the next hundred months wrong it will end with something in the order of a five-metre sea-level rise this century, the death of the Barrier Reef, the passing of the Amazon rainforest as the carbon cycle slams into reverse. To any climate sceptics whose company I have joined this evening, I say that I celebrate scepticism. Without scepticism we would probably still be living in caves. Denial, on the other hand, has now brought humankind to the edge of something almost unthinkable. I, also, wish this was not happening to our battered little planet, but it is. It is time for determined, intelligent, coordinated action.

In a perverse twist, the northern ice melt has touched off a mad scramble to peg the Arctic seafloor for oil and gas acreage—an example of market forces at work which I would find darkly satirical if the stakes were not quite so high. I imagine historians of the future looking back on this time as the beginning of the oil endgame: the age in which Australia sleepwalked along behind a tiny handful of powerful nations armed with nuclear weapons into a disastrous occupation of Iraq, with the singular objective ofcornering the world’s shrinking reserves of cheap oil. China’s behaviour in Burma and Sudan, and Russian aggression in Georgia, flow from this same terrible imperative.

And so now there are more than six billion people sharing the globe, one-third of them children. More than half of us now live in cities, with fully one billion people crowded into simmering slum encampments. All of us, to a greater or lesser degree, are bound together unknowingly in near-total dependence on fossil fuel, fossil agriculture and fossil architecture. This fossil economy knows only how to grow. It has to be larger this year than it was last year, lest its debts and contradictions collapse upon itself and people’s lives and careers get crushed in the wreckage. When our economy fails to grow we call it a recession; but an entity that knows only blind growth we call a cancer. The fossil growth economy gives us pulp mills that erose ecosystems while showering its neighbours with toxic emissions; it gives us the tragic industrial vandalism of the Ice Age heritage on the Burrup Peninsula; it gives us the expansion of uranium mining to feed the 436 plutonium factories that we know as nuclear power stations; it gives us burnout, family breakdown and fly-in-fly-out workforces; and it gives us an industrial relations system that sought to treat working Australians as components to be deployed and discarded like any other business asset. Can you believe that we live in a country that throws away $5.3 billion worth of food a year and now dumps 40 million tonnes of waste each year?

Our greatest tragedy is to imagine that this is the only kind of economy there is. My favourite author, William Gibson, observes that:

The future is here. It’s just not widely distributed yet.

What would a closed loop conserver economy look like if it became widely distributed—one in which every industrial output became an input for something else in cradle-to-cradle product cycles; one in which chemical toxins were not proliferated under voluntary industry codes but designed out of the system entirely; an economy under democratic control which resumed its role as an essential subset of exchange and allocation within our community rather than this blind growth machine which is asset-stripping the biosphere? What would our economy look like if we substituted the frenzied incineration of our finite energy base with the limitless and infinite flows of renewable energy? Most importantly, what would our economy look like if we erased the degrading word ‘consumer’ from our vocabulary and took back our power as citizens of this
This kind of Australia is not merely possible; it is coming into being right now by the sheer force of will of thousands of people in every town and city in the country. Some of the ideas are new; some of them are very old. What keeps me optimistic is the collective vision held out by so many people working everywhere toward a renewable community, because that is the place I want to live. This is not the end of economic growth but the beginning of a conversation about what kind of growth we need and what kind we can no longer afford. It is about how to truly live as human beings on a fragile planet.

In the early 19th century it was discovered that all you needed to do to generate an electric current was to spin a magnet. So let us go back to first principles. In a few metres of seawater off the coast of Fremantle there is a beautifully simple device attached to the seabed that harvests the energy of the incoming swells and pumps water at very high pressure through a Pelton generator onshore, producing electricity. Throw a switch and the salt water diverts through a reverse osmosis filter and out comes fresh water. The company is so impressed after several years of testing that they are now proposing wave energy farms with dozens of these devices arrayed together on the sea floor, generating baseload electricity and fresh water day and night.

Senators might also be aware of the quiet genius behind the oil mallee plant under development in the Western Australian town of Narrogin. It is a facility that will produce electricity for domestic use as well as exporting activated carbon and eucalyptus oil. It gives farmers a cash crop and a chance to restore the landscape of some of our most important agricultural areas. You are probably also aware of the modest uptake of wind energy under the former government’s mandatory renewable energy target. That restricted program could have laid the groundwork for world-class wind energy hubs and community owned wind farms that give renewable energy target. That restricted program could cut demand by 70 per cent. Efficiency is the hidden gift in energy policy that we have ignored for far too long. With the kind of leadership inspired by Senator Christine Milne’s Energy Efficiency Access and Savings Initiative—or, EASI—it is time to grab this gift with both hands and pursue energy efficiency as though our lives depended upon it.

One rather profound consequence of a renewable energy system is that, once the infrastructure is in place, the fuel costs are largely free. No-one can own the sun, the wind and the tides—and perhaps it is this which scares the fossil corporations more than anything. I think it is time we admitted that, far from being an economic and social disaster, greening our communities is going to transform our society for the better. Traffic congestion, for example, is something that we can leave behind as our urban areas evolve toward pedestrianised, human-scale urban villages linked together with world-class broadband and fast, affordable mass transit. Transit oriented developments like these are taking shape all over Europe, East Asia and North America, anchored by medium- and high-density cores that blend affordable housing with retail services, health care, education, childcare centres and cultural institutions.

Electrified light rail systems and electric vehicles hold out the promise of transport network that runs on sunlight. Imagine if we could invent a zero carbon form of personal transport that had no fuel costs, emitted no toxic chemicals and improved the physical health of the passenger. Such an invention is already in wide use in parts of our community where planning policies favour bicycles and pedestrians instead of cars. In a renewable society we will no longer have the debatable luxury of eating heavily processed, overpackaged food-like products from the far side of the planet, or the fuel costs are largely free. No-one can own the sun, the wind and the tides—and perhaps it is this which scares the fossil corporations more than anything. I think it is time we admitted that, far from being an economic and social disaster, greening our communities is going to transform our society for the better. Traffic congestion, for example, is something that we can leave behind as our urban areas evolve toward pedestrianised, human-scale urban villages linked together with world-class broadband and fast, affordable mass transit. Transit oriented developments like these are taking shape all over Europe, East Asia and North America, anchored by medium- and high-density cores that blend affordable housing with retail services, health care, education, childcare centres and cultural institutions.

A couple of weeks ago some of us attended a briefing here by one of Australia’s pre-eminent geothermal energy companies, who are poised over the next few years to affordably tap the heat of the deep inner earth for the first time anywhere in the world. Hot rocks technology is deceptively simple but its potential is virtually limitless. And it is an acknowledged tragedy that a decade of neglect saw Australia lose our edge in the field of solar research and development. But we are going to get it back. Give us a national feed-in tariff and legislated renewable energy targets and within a few years we will be on our way to living in a solar nation. We are going to transform our sunburnt country with PV on every roof and large solar thermal plants feeding baseload electricity into the grid around the clock.

A couple of years ago the federal government’s own studies showed that with off-the-shelf technology with an average payback time of four years we could cut domestic energy consumption by a massive 30 per cent. Up the ante with more ambitious efficiency measures with an average eight-year payback and we could cut demand by 70 per cent. Efficiency is the hidden gift in energy policy that we have ignored for far too long. With the kind of leadership inspired by Senator Christine Milne’s Energy Efficiency Access and Savings Initiative—or, EASI—it is time to grab this gift with both hands and pursue energy efficiency as though our lives depended upon it.

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bit of foresight, we can step past the desperate handful of fossil advocates who are scaremongering about the end of the economy as they know it and demanding that Australia should not get too far in front of the rest of the world. The most damaging myth of all is the one that says this cannot be done. People who say it cannot be done need to get out of the way of those who are doing it.

The Greens are the tip of the iceberg, really—the parliamentary expression of much deeper currents within society—and I would not be here tonight without the work of thousands of Greens WA volunteers who gave up a Saturday last November to work on a polling booth, or the wonderful campaign team who gave up the better part of 2007 so that we would have a fighting chance come election day. Four good friends saw me through the personal highs and lows, so, to Elize, Steph, Rina and Marie, thank you. The warmest possible thanks are also due to Ray, Trish, Luke and Khristo, who were the nucleus of this huge effort. In particular, my thanks go to Dave and Alison, who were there for me right from day one until we saw it through. Having you here tonight is really a gift, so thank you.

We had a superb team of lower house candidates and their supporters who put in the hard work in their local communities all over Western Australia, and in turn we were part of a huge mobilisation nationally, guided by the inspiring, gentle-humoured and seemingly inexhaustible Senator Bob Brown. I cannot help but reflect on what might have been for those who shared the roller-coaster with Sarah and me—Richard, Larissa, Alan, Kerrie Tucker and, of course, Kerry Nettle—but for the capriciousness of our electoral system. I know you are here with us in spirit as we carry this work forward. Senators will notice a number of new faces and some familiar ones behind the scenes. With formal party status for the first time, the five of us in here are supported by an expanded and very talented team of researchers, advisers and campaigners who are already too numerous to thank individually for their work. But I will settle for singling out my team for huge gratitude. Trish, Ray and Flick, thanks for being here and taking this journey with me.

In my work as a campaigner and researcher over the last few years, I have come into contact with some exceptional people. My enduring passion has been for an end to the nuclear age, and this has taken me from the blockade of Jabiluka as a guest of the Mirrar to the heavily contaminated villages surrounding the Jadugoda uranium mine in India, where the struggle is the same. Last month Flick and I spent the 63rd anniversary of the atomic bombings of Hiroshima and Nagasaki as guests of Mayor Akiba in Hiroshima, which has left afterimages that I will carry with me for the rest of my life. So tonight is dedicated to the atomic survivors, the Hibakusha, and to people like Uncle Kevin, Mitch, the Kungkas and their supporters everywhere. Our work for a world free of the curse of uranium mining, nuclear weapons and nuclear waste began on the humid morning of 6 August 1945. May we successfully conclude this work before the next Chernobyl is visited on some familiar city or Hiroshima comes home in the back of a parked van.

Tonight is dedicated to Nic and the rest of the Sea Shepherds who are gearing up for the next voyage to Antarctica to stay the harpoons on behalf of our ecological cousins, the great whales. It is dedicated to the crew camped in the Weld Valley tonight, in East Gippsland and Chester forest in the wild south-west, who have pledged to silence the chainsaws that are still hacking into our country’s precious native forests, our irreplaceable carbon banks. It is dedicated to those who stood up against the Burmese military a year ago this week in pursuit of democracy in their country, and to their supporters and family members here in Australia who remind us to never take our democratic safeguards for granted. And it is dedicated to the new generation of young activists who held Australia’s first camp for climate action in the coal terminals of Newcastle in July. They are acting because of our failure to act, and they are doing so with such powerful grace and good humour that it is impossible not to be inspired by their clarity of purpose. These young Australians are your sons and daughters, and they must be heard. They are from the same lineage as the people who raised the Southern Cross over the goldfields of Victoria or stood up for land rights, for an end to the carnage in Vietnam, for the right to organise collectively in the workplace and for every woman’s right to vote. Rather than reflexively setting our security forces against them, tapping their phones, vilifying them in the media or playing out all the other rituals of state intimidation, I urge the government to pause and reflect on their message of collective survival. Please do not baton-charge the messenger.

Many of the people who do this work are tired of fighting against poorly conceived megaproposals, toxic developments and wars, one after another. It is exhausting work and, even when you win, often all you have to show for your efforts is the absence of something awful. At our campaign launch last year I recalled an allegory that I had read of a group of washerwomen on a river bank who noticed a young child floating past, clearly in trouble. They waded in and managed to rescue the child. Then they noticed another and they saved that one too. And then another floated by, and another, and soon they were struggling to cope. Finally one of the women threw up her hands and retreated from the riverbank. The others panicked: ‘We need you here, comrade! Where are you going?’ Without breaking stride she replied, ‘I’m going to find whoever it is who’s throwing them in.’ It is up to every one...
of us to keep rescuing the children, but we also need to figure out what it is we are doing collectively that is putting them in harm's way in such great numbers. Millions of us marched to prevent harm coming to the children of Iraq. Starting here in Australia on 15 February 2003, millions of people around the globe in more than 800 cities warned against going to war in Iraq over weapons of mass destruction that were not there. George Bush called us a ‘focus group’. In fact it was the largest protest in world history, and history has proven us right.

What we need is a mass destruction of weapons. The Iraq war must teach us this lesson, and it can become the exit strategy from war itself. This year the world will spend $1.3 trillion on narrow-minded military security, in the pursuit of ever more efficient and deadly forms of state-sanctioned violence. Australia’s contribution to this wilful ‘theft from those who hunger and are not fed’, as President Eisenhower put it, is $62 million a day according to forward estimates. This is feeding back predictably into regional arms races. You do not have to be a pacifist to recognise that this is a pathological and tragic misallocation of resources that cannot be allowed to continue. We need those resources to buy climate change mitigation and adaptation, to build sustainable cities, to close the gap and to bring about the transition to a world where this vast infrastructure of collective insecurity will be obsolete.

As a society, we have inherited an interlocking set of crises that were set in motion long before any of us were born. Climate change was not caused by people in this parliament. Peak oil is manifestly not the fault of anyone sitting here tonight. But a failure to act decisively given the stark evidence piling up all around us is no longer excusable. There are so many signs of hope. The apology in February lifted the spirits of the whole nation. The Prime Minister’s commission on nuclear non-proliferation and disarmament is a truly welcome initiative. This country is overflowing with good ideas and a willingness to get on with this great work, but people are looking to this house for a sign that the political will exists to harness our national and global collective intelligence.

I am starting my time in here on the assumption that every one of us in this building wants the best for our families and friends, wants to serve the community, and wants to pass the place on to our kids in better condition than we found it.

We know that the media dines out on the spectacle of conflict and abuse which our Westminster system seems to imply, but in my very short time here it is already apparent that a vast amount of what the Senate does is based on collaboration, hard work and a certain grudging respect for different points of view.

Mr President, in the time it has taken me to deliver this speech, three thousand children were born into the human family, 300,000 tonnes of greenhouse pollution were injected into the warming air and $51 million was wasted on global military spending. We have only a short time to set our house in order and bring these priorities into balance.

I realise it is an exceptionally rare thing to have the undivided attention of this room; I thank you for that, and I really look forward to working with you as we bring our collective efforts, wisdom and good grace to bear on the challenges which confront us all.

Thank you.

HEALTH INSURANCE (DENTAL SERVICES) AMENDMENT AND REPEAL DETERMINATION 2008

Motion for Disallowance

Recess

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy) (5.41 pm)—I move:

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.

During the election last year we announced we would be delivering a $290 million Commonwealth Dental Health Program to help reduce public dental waiting lists that had blown out to 650,000 across the country. We also announced that we would be delivering the Medicare Teen Dental Plan, which will involve an investment of $490 million. This means that we would be investing, in total, $780 million over the next four years in dental health—compared to the previous government, which spent less than $4 million on dental health over the four years until the 2007 election. So that is $780 million over four years compared to $4 million over four years.

At the same time we made it absolutely clear that we would abolish the Howard government’s poorly targeted and failing chronic disease dental scheme. We were entirely open about our policies. We made it clear that in order to fund our dental program we would have to redirect funding from the Liberal scheme to the Labor scheme—not unreasonable, given we won the election. We had made a choice, and so did the public. They chose in favour of Labor’s better targeted dental programs. That choice was necessary to maintain our budget surplus, and that is the clear choice now facing the Senate.

Today’s motion will decide whether the government can implement the dental policies which the Australian public voted for or whether the government will have to suspend its investment in public dental services because of the economic vandalism of those in the oppo-
sition. The motion will decide whether the government can provide a million more dental consultations and treatments for needy Australians, especially pensioners and concession card holders, or whether these people will continue to languish on public dental waiting lists because of the opposition’s irresponsible approach.

It has been estimated that there are about 650,000 Australians languishing on public dental waiting lists. Thirty per cent of Australians are reported to have avoided dental care due to the cost of services. Fifty thousand people each year end up in hospital with preventable dental conditions, putting more pressure on our hospitals. Tooth decay is Australia’s most prevalent health problem, with gum disease ranking as the fifth highest. Over a quarter of the Australian adult population have untreated dental decay—untreated because they are not accessing the dental care they require.

This alarming state of affairs is even worse amongst the poorer, most needy Australians. Concession card holders such as pensioners have lost on average 3.5 more teeth than non-concession card holders. As the member for North Sydney himself said, under the Liberal government things had got to the point where: Dentistry remains out of reach to those on low incomes with around 30 percent of Australians unable to see a dentist because of cost.

That quote is from 6 March of this year by the member for North Sydney. It is clear from these terrible facts that we need action on dental health, particularly for disadvantaged Australians, such as pensioners.

Rather than addressing these problems, the Howard government spent much of the past decade cynically playing the blame game. They did nothing but say, ‘Dental health is not our responsibility; blame the states.’ But it was the Howard government that helped create some of these problems in the first place. One of their first acts of government was to scrap Labor’s Commonwealth Dental Health Program in 1996. They ripped $100 million a year from Australia’s public dental system and this led to the explosion in public dental waiting lists which we see today. Six hundred and fifty thousand people waited, sometimes for years, for treatment. Then, belatedly, the Howard government introduced a dental scheme which was not targeted at the most disadvantaged, such as pensioners. Concession card holders, or whether these people will continue to languish on public dental waiting lists because of the opposition’s irresponsible approach.

The previous government’s failed chronic disease dental scheme deserves a little bit more scrutiny. Labor recognises that, for those able to navigate their way through the complicated referral process and the red tape, the former government’s chronic disease dental scheme offered some help. But many people missed out—often the most needy people in our community. For example, in the four years up to 31 July 2008, under the Liberals’ chronic disease dental scheme no-one under the age of 30 received any services in the Northern Territory, despite it having some of Australia’s most needy Indigenous communities. This is a fact. No-one under the age of 15 has received any services in South Australia. This means that no child born in South Australia or the Northern Territory during the term of the Howard government received any help from the scheme. Only three people under the age of 20 received any services in Tasmania, Senator Colbeck, under the previous government’s scheme. Only nine people under the age of 25 received any services in Western Australia—and I am looking at a Western Australian senator as I am speaking—under the previous government’s program. Only 21 people under the age of 10 received any services in my own home state of Victoria. That is, on average, less than one person every two months.

Moreover, the former government’s scheme was not targeted at the most disadvantaged, such as pensioners and concession card holders. Under the Liberal scheme, a multimillionaire could get help but a pensioner with a toothache could not. Under the Liberal scheme, if you were a pensioner and you had a toothache, how much help do you think you could get? The answer is none. If you were a pensioner and needed a tooth extracted, how much help could you get? That is right—none. If you were a pensioner in any part of Australia and needed a simple filling to save a tooth, how much help could you get? That is right again—none.

In addition, take-up of the Liberals’ chronic disease dental scheme has been highly skewed, with many states receiving far less than a fair population share. While one in five concession card holders live in Queensland, about 18.9 per cent, it has received only 4.4 per cent of benefits under the chronic disease dental scheme. While one in 11 concession card holders live in South Australia, about 8.9 per cent, it has received only 2.5 per cent of benefits. Again to my colleague from Western Australia, while one in 12 concession card holders live in Western Australia, about 8.5 per cent, it has received only 0.7 per cent—less than one per cent—of benefits for necessary care. While three per cent of concession card holders live in Tasmania, Senator Colbeck, it has received only 0.3 per cent—less than half of one per cent—of benefits.

These figures show clearly that the Liberals’ chronic disease dental scheme has failed. It has failed pensioners, it has failed the poorest, most disadvantaged people in our community with the worst dental health and it has failed our kids and our teenagers. It has failed to help them maintain their teeth to prevent much worse problems later on in life. That is why the government is seeking to redirect funds from the Liberals’ failed program to support better-targeted dental programs, such
as the Commonwealth Dental Health Program and the Medicare Teen Dental Plan.

We have made a decision—as governments need to—that we should be helping the most needy people in our community first in the most effective way possible. But, thanks to the economic vandalism and irresponsibility of the opposition, Labor’s more targeted approach is being put at risk. In particular, if the motion before the Senate fails, the government will have to suspend implementation of the Commonwealth Dental Health Program. A million additional dental consultation and treatment services would not be able to be provided—one million services that would benefit pensioners and concession card holders.

If the opposition gets its way, every state and territory would miss out on the additional services and investment in public dental services they would receive under the CDHP. The Liberals are clearly returning to a multi-billion-dollar hole in the budget. The Charter of Budget Honesty costings which Labor took to the election are consistent with what the government is doing. We will have to maintain a strong budget surplus and make tough choices. The Liberal opposition is blowing a multi-billion-dollar hole in the budget. The Charter of Budget Honesty costings which Labor took to the election are consistent with what the government is doing and include savings from closing the Liberals’ failed scheme in order to pay for Labor’s better policies.

The opposition is demonstrating its economic irresponsibility in its claim that you can have it both ways and keep both the Liberal’s failed dental scheme and Labor’s better targeted policies. The Rudd government is committed to economic responsibility. That means we will have to maintain a strong budget surplus and make tough choices. The Liberal opposition is blowing a multi-billion-dollar hole in the budget. The Charter of Budget Honesty costings which Labor took to the election are consistent with what the government is doing and include savings from closing the Liberals’ failed scheme in order to pay for Labor’s better policies.

The CDHP includes a number of initiatives to support and expand the dental workforce, including the establishment of new public dental clinics, improved training for dentists and fly-in fly-out services to remote areas. The Liberals’ chronic disease dental program does not include any funding for workforce or rural initiatives. There is no funding for rural initiatives under your scheme. All of these initiatives which will help pensioners, people with chronic diseases, children and Indigenous Australians will not be able to be implemented if the Senate supports the opposition’s politically opportunistic and irresponsible approach.

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So it is simply untrue for Senator Colbeck to claim, as he has done, that the CDHP will not benefit people with chronic disease. It is simply not true, Senator Colbeck. The Liberals’ chronic disease dental scheme has also had little benefit in particular for Indigenous Australians and children, with no young people at all up to the age of 14 receiving services in South Australia or the Northern Territory over four years.

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of those election promises to the Senate later on—are not the figures that are in their election policies. In fact, I have spent quite a deal of time interrogating the Labor Party’s election policies through the estimates process, and his numbers are just plain wrong.

The government talked about $290 million for the Commonwealth Dental Health Program over three years, not over four years as Senator Conroy has just told the Senate, and, according to the government’s election promises, the Teen Dental Plan was for $510 million over three years. So the figure that he quotes is what has actually been appropriated by the government since the election, not what they promised the Australian people they would spend before the election.

When the election promises went through the Charter of Budget Honesty—and I notice Senator Conroy has now left the chamber—via the Department of Finance and Deregulation, the teen dental program was costed down from $510 million to $326 million. It was then re-announced at $340 million and has been finally costed in the budget at $360 million over three years, the fourth figure we have had since the initial election promise was made. If you go back to how much the Labor Party promised the Australian people they would spend on dental programs at the election, it was $800 million over three years. Their commitments are actually $150 million short of what they promised they would spend. If you go back and do the numbers, that expenditure is $150 million short of what they promised the Australian people at the election.

For them to come in here now and tell us that we are stopping them from implementing a program because of the funding is an absolute absurdity, because they are the ones who have not kept their promise to the Australian people to spend $800 million and, at this point in time, over the term of legislation, not over four years as Senator Conroy has just come in here and quote figures from four years ago all he likes, but they bear absolutely no relevance whatsoever to this debate. The figures should be targeted at what has happened within this scheme over the last eight or nine months—since November last year is the time frame of relevance for this scheme. All of Senator Conroy’s figures, all of his assertions and all of his pointed suggestions to senators from different states around this chamber this evening are completely and utterly irrelevant because they relate to a time frame that is not associated with the enhanced dental program that we are talking about here today.

Since this scheme went through its process of disallowance earlier in the year, the reaction that I have had from all over Australia to the importance of this scheme has been quite extraordinary. I had a phone call from an elderly citizen in the electorate of Robertson who actually got into the dentist’s chair only to be told that the dentist would not treat him because of threats from Minister Roxon about the use of the program. This chamber legitimately disallowed the Medicare item that would remove this initiative. This chamber legitimately went through that process and yet Minister Roxon has actively discouraged doctors and dentists from taking up this program—even though doctors and dentists from all over Australia understand the value and importance of this program. The reaction has been extraordinary.

I received correspondence from a Dr Passmore in Sydney. Senator Conroy talked about this being a scheme for the rich. I am not sure whether or not Senator Conroy is suggesting that Medicare should be means tested—I will leave that for him and the government to respond to. But I thought that the universal access obligation associated with Medicare was one of the things that we were all proud of—that anybody could get access to Medicare. Senator Conroy says that this is a program for the rich. Dr Passmore has two practices in Sydney, one in the more affluent suburbs and one in the western suburbs. He practices 1½ days a week at Granville and has another practice in the Labor electorate of Reid. If this is something that only rich people can access, the real experience of the doctors on the ground is what should be considered. In the time that the scheme has been operating, Dr Passmore has not referred one patient from his practice in Turramurra in the electorate of Bradfield, and yet in the western suburbs he has referred 150 patients—all from those lower socioeconomic areas.

Can I say to you, Mr Acting Deputy President, that we should look at the impact of this scheme. I have pictures here of the sorts of things that are being treated. These pictures are a terrible demonstration of the need for this program. And yet the government,
while quite dishonestly going back over four years to quote its statistics, believes that there is no place or need for this particular scheme. What the government would prefer to do is to refer people to the state system, back into those huge queues where there is no capacity. Last time I spoke to the department about this at estimates, and even in some documentation I have seen since, the government was still negotiating this initiative with the states. It had no idea how this was going to work. The department could shed no light on how the scheme was going to work and how it would integrate into the existing schemes that operate within the states. It had no idea. The government talks about the opposition stopping the initiative from being brought forward. I have not seen any legislation. I have not heard of any draft legislation. There is nothing on the Notice Paper for the House of Representatives.

All the government is doing is trying to throw up a smokescreen for a failure that it has had in a thought bubble that it put up before the election. The reaction around the country from doctors and from the oral health association has been quite extraordinary in relation to this particular program. I do not think any of us realised what was going on. The allegation from the government is that all the effort was being put into New South Wales and none into any of the other states. But the government has made absolutely no effort at all to let people know this program is there—in fact, quite the opposite; the minister has written threatening letters to dentists suggesting that they not participate in this process because the program is going to end and so there is no benefit in a referral. Yet when you look at what this program can provide to a patient versus what was going on, the government’s program can provide to a patient the comparison is quite stark.

The Commonwealth Dental Health Program is estimated at $14.63 per person for those eligible, whereas the program the government want to remove provides $2,165 of dental support per annum over two years. So you just cannot compare the programs. It is quite clear that this program has real relevance. Even in the previous debate we had as part of the disallowance motion, government senators said there needed to be a broad suite of measures as part of this program to look after dental services in the country. We said at the time that this was part of that broad suite. We do not have any problem with the government bringing in their Commonwealth Dental Health Program. We think that is quite legitimate. We think it was quite dishonest of them to say before the election that they were going to spend $800 million and then after the election under-spend that by $150 million—and then come in here and blame us for being ‘financially irresponsible’. They are the ones who cannot meet their election campaign commitments. They do not seem to have any remorse in respect of that. As far as they are concerned, as long as the program is being met they are doing the job. But the clear commitment in their election policies was for $800 million. That was confirmed in a statement from the now minister’s office prior to the election.

So I think the government have got a bit of a nerve coming back in here trying to reverse this process. I really do. They talk about the will of the parliament. They talk about evidence based policy. Well, the evidence is that this program has doubled in numbers of participants almost every month since it started. The government talk about a failed system, a system that is hard to access. But they quite dishonestly talk about four years that are not relevant to the current debate. So not only are all of their arguments basically completely without foundation as far as what we are talking about here this afternoon goes but also it is quite dishonest to come in here and say that this program has failed. It is obviously a successful program. It is obviously greatly needed. If you look at the pictures that have been provided to me of people who need assistance under this program, you see that it is quite clear that this program should remain in place. The government have $150 million up their sleeve to spend to maintain their dental promises over three years—not the $780 million over four or five years that they talk about, which is their budget allocation. They ought to keep their election promises. They ought to work with the parliament to see this scheme stay in place. The opposition retains its position with respect to the enhanced Medicare dental scheme because it believes that it has a real role to play in the dental care of Australians. We will not be supporting the motion.

Senator SIEWERT (Western Australia) (6.13 pm)—The Greens will not be supporting this motion either. We are deeply concerned about the dental health of Australians and deeply concerned about a dental program that is now proving to be effective. The Greens are well aware that it was not as effective before as it became in November, when the threshold went up over two years to nearly $4,500. That meant that many people could access dental treatment for the first time. Many people for the first time ever were finally able to access dental treatment. These are people who are suffering from chronic illness and this dental treatment made and is making a very significant impact on their lives. I will read through a few stories shortly.

The Greens position, as the Minister for Health and Ageing quite correctly pointed out in the media today, has for a very long time been one of support for a Commonwealth dental scheme. There is absolutely no doubt about that. Just as the Greens very strongly support a universal public health scheme, so do we support some sort of universal dental plan. However, we would like to point out that the program that we are now talking about getting rid of, dentistry is for the first time part of mainstream health and funded under Medicare.
Therefore, this actually meets a key part of Greens policy. So, far from the Greens now voting against their policy, we are actually supporting a key part of our policy—to fund dental services through Medicare.

The government said to the Greens that it is one or the other. The Minister representing the Minister for Health and Ageing here today said, ‘If you do not support this motion we are not going to be able to fund our Commonwealth dental health program, so we will have to cut this other funding program.’ It is not the Greens fault that the government has decided to invest $31 billion worth of surplus money into tax cuts. The government made the decision, so do not try to shoot it home to the Greens—thank you very much—that we are the ones that are going to be doing in the Commonwealth dental health plan. You did it in yourselves by deciding that you were going to provide $31 billion in tax cuts and to, unwisely, cut into this country’s surplus. I agree that money should be invested into dental health outcomes for Australians and particularly for those low-income Australians who cannot afford adequate dental health cover and who have never or very rarely been able to access dental health services. Don’t come back and blame the Greens for your bad decisions. It is very disingenuous. The Greens are very well aware of our dental policy and we do not need to be reminded of that by the government, thank you very much.

This program is helping thousands of Australians who have been accessing these health services, in some cases for the first time. The numbers accessing the services have doubled, as Senator Colbeck said. When the minister for health first announced these changes earlier in the year, she said that the program had failed. That word has been used here tonight and it has been used in the media—the scheme was failing and had not been providing proper support. In the past, it had not been. But the numbers that we have been provided show that, since November, there has been a doubling in the uptake of this program and that over 640 services have been provided to the chronically ill.

I must point out here that the accusation has also been made that this is for rich people—that it is not means tested. The Greens position is, as I have said, that we have a universal health system, so of course we do not agree that it should be means tested. We have done a lot of consultation on this. I acknowledge that we voted differently last time but since then we have carried out a lot of consultation. We have talked to a lot of patients, dentists and doctors who have very clearly pointed out that it is low-income people who have been accessing these services.

May I just ask members in the chamber how many wealthy people who have chronic illness they see running around with bad teeth? I tell you what: dental pain is one of the worst pains you can deal with. People talk about it being one of the most shameful things that they have to deal with. It affects your whole life. So, if you can afford it, you go and get it fixed. The people that have been accessing these services are overwhelmingly those that cannot afford these services.

Dr Passmore told us that he participates in two practices, one in a wealthy suburb and one in a non-wealthy suburb, and that the people in the non-wealthy suburb are the people who have been accessing his services. It was also pointed out that some states have not been accessing these services as much as New South Wales but it would be interesting to know how they have been promoted and whether doctors have been particularly focused on this issue in New South Wales. That there is an overburden of people with chronic illness in New South Wales who have dental problems is quite obvious. The reason may be that New South Wales is not investing enough in dental services; however, to make the chronically ill and the people who can least afford it carry that can is not fair either. Yes, state and territory governments need to be fixing that, but do not expect the chronically ill to pay for it literally through their teeth.

There are already 650,000 people on waiting lists. The people who would be able to access these services are now going to be forced back onto those waiting lists. We have been told tonight that the new system is going to fund 995,000 services, yet there are 655,000 people already on the waiting lists. So the people who urgently need this dental work will be forced back onto the waiting lists and will not be able to access the most immediate remedies that they need and which they can actually access now through this program.

There is also a dispute about how many people have already been to their GP, have been referred, who should have been receiving treatment and have not been able to receive treatment because we did not know whether the program was stopping or starting. One of my staffers rang up Medicare for some advice and got two different answers. If a person who is usually pretty good at working their way through the system got two different answers, I suspect that Australian punters out there who have been ringing up to try and work their way through the maze will also have had different answers. I suspect, too, that GPs and dentists have. I do not think it is true to say that people knew what was going on. To say that Aboriginal people have not been accessing it is partly true—I have seen the figures; I know they are not accessing it as much—but I have also taken the trouble to speak to a dentist who is working in a remote community and was told that, as we all know, dental services are stretched in remote communities for various reasons, including unfamiliarity with some of the Medicare administration requirements. Dentists up there have only just started making use of this provision and it was around the same time,
Unfortunately, that the minister announced it was being withdrawn.

That dentist spoke of people’s shame—Aboriginal people suffer the same shame that non-Aboriginal people do when they have bad teeth. When they are having their front teeth in particular extracted, they will not smile. He said that this program had just started to be taken up and had just started to make a difference. He was dismayed at the end of the scheme because he thought that it was a good way of delivering a service to Aboriginal people in remote communities.

If one of the reasons that the figures are skewed is that the information on service provision has not been good or people have not been able to access the information, you do not then cut the service. Surely, you improve the information available to dentists, to doctors and to the community about the service, which is, as I have said, highly valued by the community. My office has been overwhelmed by the number of people who have contacted us to tell us their stories and how much this program has meant to them. They have told us what a difference it has made to their lives, to their wellbeing, to their self-respect and in some instances to them being able to get a job because they have felt so bad about their dental problems that they have not felt confident enough to participate in the workforce. The service has multiple impacts on people.

I think every member of the Senate has received the photos that show absolutely what this program means to people. My office received a phone call today from a lady in very tragic circumstances. She is suffering from cancer and I am not going to go through the whole story. She was dismayed when she found out that she probably was not going to be able to access the service. Now she is not going to be able to get the funding she needs to do some very important dental work that would mean a difference between a good quality of life and an extremely poor quality of life for her.

We heard of another example of people who were suffering from chronic hepatitis C, who were unable to eat the more nutritious food that they needed because of their poor dental health. Instead of eating soft food, which is more likely to be high in sugar and fat and which only adds to their chronic illness, if they were able to access this sort of program, it would greatly assist them in terms of their quality of life and their health outcomes.

If this program disappears, these people will go back onto waiting lists and their conditions will worsen. For example, a person suffering from a severe iron deficiency was told to increase his consumption of red meat. He was unable to do so because he could not chew due to his rotten teeth. By the time he finally got to see a dentist under the scheme, all his remaining teeth had to be removed and he was provided with false teeth. That is what happens when you are stuck on waiting lists. The problem gets worse and worse.

The Commonwealth dental health plan, which is what the government said they want to replace this service with, was supposed to begin on 1 July. It did not. It is dependent on funding agreements with the states, and these are to be signed in the very near future, but that has not happened yet. If the scheme is withdrawn now, people who are currently receiving treatment will have nowhere to go. Even if they have somewhere to go at the moment, they will go onto waiting lists, and the funding that is available for those services is not going to provide the sort of care that they need and which they can receive under the current program to deal with the extent of their problems.

I am not here by any stretch of the imagination defending the coalition, because I do not agree with a lot of their health policy plans, so I do not want anyone running away with that wild idea. However, this program was a good program. It is genuinely helping people who are suffering, who have chronic illnesses and who have poor dental health. They need support. I am not about to support a motion that cuts off that little support. It is quite obvious that it is fulfilling a desperate need out there. The doubling of the use of the service in that short space of time says there is a big need out there.

Yes, the Greens support a Commonwealth dental health scheme, but not at the expense of those people who are currently receiving much needed support. Funding has been cut to public dental services and the states have not been performing properly, but I say again that you do not then inflict that pain on low-income workers—on the people who have the least capacity to pay. It is the wealthy people who have the capacity to pay; low-income people do not have the capacity to pay. If we support this motion to rescind the disallowance of the dental services determination, the minister would whip in another instrument to get rid of this program. It would not immediately be replaced with a Commonwealth dental scheme as they say. The time frame is quite loose on that and there is absolutely no guarantee that the people who are currently being treated under this scheme or who would be eligible to be treated under this scheme will be able to be treated in a timely manner that deals with their problems and symptoms immediately under the new scheme.

The government need to come back with a better funding proposal for their dental scheme. They need to show the Greens how they are going to properly look after the people who currently are able to access treatment under this scheme, which is proving extremely valuable and worth while and delivering results to thousands of Australians. They need to show us how these people can be treated and also how they are going to get their Commonwealth dental plan up.
Don’t dare blame the Greens if the government decide they are not going to fund their Commonwealth dental plan. When they announced those tax cuts, they made a decision about how they were going to spend that money. Australia can afford both—don’t you try to tell me that we cannot. We can. We are a caring society and we can afford both. Don’t try and blame the Greens when this goes down.

Senator XENOPHON (South Australia) (6.30 pm)—Can I say firstly I think the questions put by Senator Siewert towards the end of her contribution are very relevant ones and they deserve a comprehensive and considered answer from the government. I rise to speak briefly on this motion. The previous government’s dental scheme relied on the referral of patients by GPs so that dental services could be accessed through Medicare according to demand. This plan cost $490 million and due to its reliance on Medicare requires a disallowance by this house. The Rudd government wishes to replace this scheme with two new schemes, the Commonwealth Dental Health Program and the Medicare Teen Dental Plan, at a cost of $780 million. The funding for this was factored into the last federal budget on the assumption that the funding for the previous scheme would be stopped—and I note the question by Senator Siewert: why can’t we fund both? That is a reasonable question. It is a question I have posed to the government.

However, I note that the previous scheme was poorly accessed in most states, with my home state of South Australia receiving only 2.8 per cent of the funding. I have had an email from a ministerial adviser to the Minister for Health in South Australia. The minister’s office asserts in that email that, on the basis of the available figures, South Australian patients comprised 1,256 out of the 44,774 patients who accessed the chronic disease dental scheme from 1 November 2007 to 31 July 2008. That is about a 2.8 per cent share of the national total, compared to the 8.7 per cent which South Australia will receive under the Commonwealth Dental Health Program. The minister’s office also says that total benefits provided to SA patients under the old scheme amounted to $2.5 million from 1 November 2007 to 31 July 2008. This is a 2.4 per cent share of the total expenditure, compared with $24.7 million which SA will receive under the Commonwealth government’s proposed scheme. The office goes on to state that, in comparison with the former scheme, the new scheme will provide for 85,600 visits over three years, which will see dental waiting times reduce from around 19 months now to about 12 months. That is the position of the South Australian government. Anyone who knows about my relationship with the South Australian government could never accuse me of being a spruiker for that government, but I think it is a fair point that has been made by the minister’s office. I have taken that into consideration insofar as it impacts on the citizens of South Australia.

It seems to me the dilemma is that the government is not prepared to fund the chronic dental scheme and so what do you do with the available resources? That is my concern, although I think Senator Siewert’s question as to why we cannot fund both is one that must be answered by the government. I see benefit in the proposed new dental scheme that the government wants to implement, and that will be a good thing for South Australians. But I also note the concern that those with a chronic dental problem will no longer be able to access this scheme on the basis of the government’s position.

By the government’s own admission, thousands of people with chronic dental needs who are currently receiving assistance under the old scheme will miss out under the new scheme because they do not qualify for concession cards. That is obviously a real concern. Anyone who has had to wait longer than a day for an appointment with a dentist to treat something as minor as a toothache or a minor chip will appreciate how distressing dental pain can be. If we then consider those suffering chronic dental pain, and how chronic pain dominates all aspects of one’s life, it is not acceptable that these people be deserted to suffer. It is not acceptable for those currently receiving support or those on the cusp of the concession card threshold to be suddenly facing huge dental bills. It is a case where we should not be robbing Peter to pay for Paul’s teeth.

I can say that I have had some very useful discussions with the minister and the minister’s office, and I appreciate that. I have sought further information as to the extent to which like-for-like treatments could be funded in South Australia for chronic dental conditions in relation to the proposed new scheme that is currently in abeyance. I have also sought information on how many South Australians with chronic dental needs would lose out due to these changes and how many new treatments would be afforded for like-for-like treatments. I accept in good faith that the government will be providing me with those details in due course. However, I think there are some legitimate concerns raised by the opposition and by the Greens about this. I think more needs to be done to convince me that this is the way to go. So, on balance, I cannot support the government’s position on this, but I look forward to further discussions and perhaps a further commitment from the government in relation to the matters of concern that have been raised in the course of this debate.

Senator FIELDING (Victoria—Leader of the Family First Party) (6.35 pm)—Regrettably, the government has made this debate a choice between one dental health program and another. That makes it an enormously difficult decision because both the Rudd government’s Commonwealth Dental Health Program and
the previous government’s Allied Health and Dental Care Initiative have merit. One helps people with chronic disease with their dental problems, while the proposed new government scheme helps with reducing dental waiting lists. If you look at both of those you think, ‘Gee, they are both pretty important things.’ And when you look to see which one has more merit than the other, there are arguments for going both ways.

We have been in discussion with the minister and we are aware that there are winners and losers, which is unfortunate with this particular issue. Dental services in Australia have been mammothly underfunded for many years. People have been suffering while governments dither about providing enough money and resources to fully tackle this problem. There are more than 480,000 people waiting for public dental care, with waiting times averaging between one and 1½ years. There are reports that some patients have waited for 10 years to see a dentist. I will say that again—there are 480,000 people, and some of them have been waiting for 10 years to see a dentist. That is in Australia—it is not another country; it is in Australia—and that is a disgrace. And here we are today, squabbling and saying that you can have one and not the other.

We have had a lot people contact our office on this issue. There are strong merits for both schemes. The Rudd government’s proposal to put money into the dental system will see a reduction in the waiting lists. It is nowhere near enough money, but I do not think that anyone in this place would deny that the Rudd government’s scheme would reduce the waiting lists. It has also become clear that the previous government’s scheme, the chronic disease dental scheme, was actually serving a need for Australians who have debilitating chronic dental needs. We could say that we could let go of the chronic disease dental scheme if the new proposal by the Rudd government would help those people with chronic dental diseases. We have sought some assurances from the minister about priorities being given to people on the chronic disease lists and we have had an assurance that the needs of people with chronic dental diseases would be factored into the waiting lists.

I am swayed both ways but, at the end of the day, I think there is enough money in the system to allow both schemes to run. That is the conclusion that Family First has come to, and it has not come to it lightly, frankly. I think both systems have merit and both seem to address different issues. Ultimately I really believe that Family First would continue to seek the continuation of both. If the government wants to force us into choosing one or the other, I think that they are going to find that we will hold onto the chronic disease scheme now and see whether the government can put more money into the system. There is money there and they can put it in if they want to. It is a choice that they can make as to whether they actually do something about the waiting lists. But I think the needs in the chronic disease area are also real. I would just say that dental services in Australia have been mammothly underfunded collectively and we need to work out how we can have both. With the resources we have in Australia, I think we can have both.

Senator LUDWIG (Queensland—Minister for Human Services) (6.40 pm)—I will take the opportunity to close the debate on this matter. This afternoon we have heard contributions from a range of senators in this place. One of the issues I want to address is that raised by the theme that went through all of the debates—that there is a need to address the dental issues in the Australian population. Those needs have not been addressed by the Liberals in the last 11 years. They did not take the matter seriously. In fact, in 1996, they withdrew substantial moneys from the system. We now have a view, expressed at least between the minors and the Greens, that the issue does need to be addressed.

Prior to the election of the Rudd government we took a responsible position by making it perfectly clear that we would abolish the former Howard government’s poorly targeted and failing chronic disease dental scheme. It was not working. It was not providing the benefits that people should have received. What it was doing was targeting those who would otherwise not need the service. For those who did need the service, such as pensioners and people on concession cards, it was not adequately, and in some cases not at all, addressing their dental needs. We had a clear choice that we took to the election, which was either a scheme that the Labor minister for health had put forward or a scheme that the former government had maintained. And the choice was made. The public chose in favour of Labor’s better targeted dental programs. The choice was necessary to maintain our budget surplus, and it is clear that that is still facing this Senate.

In a perfect world we might all be able to give everyone perfect outcomes. This is not a perfect world. There are choices that need to be made and there are tough decisions in tough economic times that need to be made. The Rudd government has put forward a perfectly proper process. Prior to the election it took an economically responsible path to maintain both a strong budget surplus and make tough choices. It did not take the easy way out of promising everybody an outcome. You cannot do that because all you are then doing is contributing to blowing out a multibillion dollar hole in the budget. The Charter of Budget Honesty provided a system where we would be costing our election promises and, having done so, it then provided the way forward where we could say that these included
savings from the Liberal’s failed scheme in order to pay for Labor’s better policies. That is the process we took forward. Our commitment, compared to the previous government’s record of ripping $100 million a year from public dental services and leaving 650,000 people languishing on public dental waiting lists, was a clear vote at the last election for Labor’s policies.

We are now in the process of ensuring that we can proceed with ours while shutting down theirs. So, in response to Senator Xenophon’s arguments about some of the process issues around our scheme, we are happy to engage with senators in respect of the detail of how our program will be rolled out. What we are doing today is shutting down the existing scheme. It is not economically sensible to try to maintain both schemes. It was not what we tried to do before the election. We made that clear. The public made a choice about that. We then ensured that at the first opportunity we would roll out our new scheme and, of course, the savings from the existing scheme to be closed down would be used to fund election commitments. Why? It was to maintain a proper surplus of $22 billion to ensure that we could be responsible economic managers and also address the dire needs of those people who need dental assistance. To do that through our programs, which are targeted and designed to assist those people who need assistance, is the Labor way. It is the Rudd government’s way to ensure that we have the proper outcome. It is not about waving a magic wand, unfortunately, and hoping that everybody can benefit with the two schemes still running. That is not the position we are in. We have before us today the opportunity to shut one system down and give the Rudd government the opportunity to roll out its scheme to address dental issues that exist in the community and to start to target it to those people who are in need. That is the position we are now in.

In terms of the arguments that have occurred in this chamber, the main one from the opposition was held during the election campaign. Senator Conroy earlier this afternoon went through the reasons why their program was in dire need of closing, and still needs to be closed down. It had failed abysmally. It had also been wrongly targeted and it allowed people to gain access to a system that they did not need because they could afford it themselves. It is a program that needs to be closed down and it needs the Senate to do so. It can only be done through this system that we have before us. When you look at the Liberal’s chronic disease dental scheme, you see that it was highly skewed, with many states receiving far less than a fair population share. One in five concession card holders lived in Queensland—18.9 per cent—but it only received 4.4 per cent of benefits under the chronic disease scheme. That is just one example of the scheme that the Senate will maintain if it does not support Labor’s position. To continue that scheme would be unfair and unjust for those people. The money could be better spent being targeted by Labor’s proposal.

This government does not have a magic wand to wave around and say, ‘We can maintain all of the schemes; we can maintain all of the programs of the Liberal government.’ To do that would not recognise in truth there was a change at the election. There was a change for the better. The population voted for the Rudd government’s plans not only in dental care but in health and a whole range of other programs. The opposition are stalling in respect of this matter. They have to accept that we do have a mandate in this issue and we should be allowed to get on with managing these schemes. The opposition can take the opportunity to be critical of our scheme but they should support our mandate to allow us to govern and to provide the outcomes that we said we would, to provide the election commitments that we said we would and to provide the savings to maintain the strong surplus that we said we would. I was not going to take up much time in respect of this matter. It is coming up to the time for another debate to occur. On those words, I urge the Senate to close down the existing Liberal scheme.

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

The Senate divided. [6.53 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes………….. 26

Noes………….. 38

Majority……….. 12

AYES


NOES


56 SENATE

Tuesday, 16 September 2008
Mustafa Ally, a man who I have worked with over many years who came to live in Brisbane after growing up and working in South Africa. He took on the project of recording the history of the mosque with the local group and particularly with the help of Jenny Dean, who I met on the day.

I think it is an acknowledgement of the work of the Muslim community in our city that the start of this book has a foreword by the Hon. Kevin Rudd. The new Governor of Queensland, Ms Penelope Wensley, in what must have been one of her first official acts, put a message from the Governor. There were also the local people who had worked there over many generations to achieve what we now see as something important not just to the Muslim community but also to all of us in Queensland.

Those of us who have lived in the area cannot think of travelling through that part of Brisbane without looking up on the hill and seeing the green and white dome and the minarets. I remember as a small child being in the area and being lucky enough to visit the mosque. I remember being welcomed as family and as a schoolchild to come in and to learn more about the religion, to meet the people and to defuse some of the horrible myths that have built up over many years.

You can stand there and know that for a hundred years people have gathered on this one small piece of land in southern Brisbane. A group of people were there in 1906 when they worked with the local early settler Mr Henzell. They were welcomed onto that land where they met without the structures that they have today and from that time onwards they worked to get the money, buying the land in 1908 and establishing that corner of Brisbane as their safe place where they could practise their religion and welcome people there so that despite the various waves of Islamic immigration and visitation to our country there was a place there that they could call their own.

The early Afghan settlers who came into the western parts of Queensland as camel drivers were the first Muslims identified in the area. They had come to the southern parts of the country many years earlier. The first known mosque, at Maree in South Australia, was established in 1861. Then came other mosques in Adelaide in 1890, in Broken Hill in 1891 and in Perth in 1904. Then there was the Brisbane mosque in Queensland. I am sure that not many people who live and work in our country can understand that there have been people practising the Islamic faith living and working in our country for that long, and I think that is one of the great things the awareness of the celebration of the hundred years has brought home to many other people. Now through this book, which will be on the shelves of libraries and I hope in many schools, we see pictures and stories about the work, the commitment, the early services, and the key families who over so
many years gave their hard work, their commitment and their faith to build our community.

At the beginning of the book it points out some people that should be acknowledged for how the mosque developed. It says:

Several groups serve to illustrate the diversity and the scale of contributions—all acknowledged with the greatest of respect.

(1) The elders of the community whose dreams for establishing a place of worship, of learning, (Ma'drassa) for youth, and of community building for the sake of Allah (swt);

(2) The Fijian people who contributed substantial funding to the project—sometimes their last and only one pound note—given for the sake of Allah;

(3) The youth who would volunteer to work at the site to do whatever they could, perhaps best epitomised by Mr Yousef Goss who would go with his uncle to Brisbane on many occasions just to lend a small hand.

(4) The Arabic calligrapher from Fiji who produced the script for the dome—

and which we can still see there—

which was then traced painstakingly by Nazeer Goss with his father.

(5) The building team under the supervision of Shaffee Mohammed Golam Goss—bricklayers, tilers, labourers and landscapers.

(6) Those who excavated the site and removed rubble load by load to prepare the way.

All those people gave their time and their effort so we could see where people could gather together and practise their faith.

At the beginning of the book it says—and it is old quote:

Whoever builds a Mosque for the love of Allah, Allah will build for him a mansion in paradise.

The many people who gathered at Holland Park last month can know that that work has led to sharing in some form of paradise. A particularly personal experience for me was that when we arrived there were so many small children there from very many different cultural backgrounds. They were so excited, running around sharing in the celebration of their faith and also enjoying the fete that was put on to mark the occasion.

I was able to talk with some of the ladies group there. Consistently through this book great credit is given to the various women’s groups over the years that have worked, often behind the scenes but now much more prominently, to raise funds to build a safe place. One of the fundraisers for the women’s group was a cupcakes stall. Somehow I found it particularly meaningful. The day before I had been at the local Catholic school fete in my own suburb. I had gone to the local ladies group at the Catholic school fete and bought cupcakes. For some reason it came home to me that there I was on two separate days in different parts of Brisbane working with different faith communities, both of whom worked so strongly in their own communities to provide so much social strength for so many people. The real strength of our community is based in groups of people who come together and share and work for others. And on these two separate days, at the Catholic fete and then the celebration of 100 years of the mosque, we had families celebrating and working with the same recipes. I found that to be a particularly meaningful moment. I want to congratulate the Islamic community of Queensland and in particular. It is such a vibrant community that works so actively and with such enthusiasm across the board to build community and to ensure that all of us have a greater awareness of sharing our knowledge and our acceptance.

There were some tough times for the community. We know that after the September 11 acts overseas there were some pretty tough times across Australia. In Brisbane itself there were attempted fire-bombings and attacks on people in the streets, based purely on the way they looked and on their religion. That was forgotten last month when we celebrated the centenary of their mosque. Somehow I think it is also part of building our awareness and our knowledge. The chairperson of the community who led the welcoming ceremony last week, Mohammed Abdul Gaffar Deen, talked about his own personal experience over many generations of his family working there. He welcomed all of us to share in their celebration and we all hope that in the future we can go back to the mosque and celebrate future activities, knowing that we are welcome and knowing that whilst we share in building a mosque for the love of Allah, we will also hopefully share in paradise in the future.

Australian Defence Force Parliamentary Program

Senator TROOD (Queensland) (7.07 pm)—In July this year I once again had the pleasure of participating in the Australian Defence Force Parliamentary Program. On this occasion, I was joined by my colleague from the other place Mr Secker, the member for Barker. We were able to observe at close hand, courtesy of the Royal Australian Navy, the biennial RIMPAC exercises taking place in the waters off Hawaii. RIMPAC is the largest maritime exercise of its kind anywhere in the world and this year drew together elements of the armed forces of 10 Pacific and NATO countries.

Australia is one of only three countries that has participated in every RIMPAC exercise since its inception. This year the participating elements of the ADF included HMAS Anzac, HMAS Waller, HMAS Success and HMAS Tobruk, the Australian clearance diving team 4, two AP3C Orion search aircraft from 30 Squadron in Edinburgh, with their crews and mainte-
nance staff, and a team of Amphibs. In addition, a si-
gnificant number of Australian defence personnel were
assigned to key headquarters and leadership roles for
the exercise. In this context I particularly wish to men-
tion Commodore Brian Johnston who acted as
COMFLOT for the exercise. The several days I spent
with Australian forces as part of RIMPAC once again
underscored the extraordinary value and importance of
the ADFP program. I take this opportunity to encour-
age all senators to consider participating in it during
their term of office.

This year I spent time with each of the Australian
and some of the American units participating in
RIMPAC. I am especially grateful to the captain and
crew of HMAS Anzac for their generous hospitality
while I was on board and to the captain and crew of
HMAS Success for the equally friendly and hospitable
way they welcomed me. The officers and crews of
these ships together with the members of the diving
team and the RAAF unit we visited gave of their valu-
able time cheerfully and helpfully and made my close
association with the ADF both a memorable and very
valuable experience.

The great value of the ADFP program is that it pro-
vides senators and members with the opportunity to
learn more about our Defence Force. Among other
things, it offers insight into the roles, tasks and mis-
sions of individual units, the quality of the platforms
and equipment we provide for them and, surely not
least, the conditions and circumstances under which
the men and women of the ADF serve in defence of our
security.

On the subject of personnel, let me say that as Aus-
tralians we are very fortunate indeed in having such a
dedicated group of professionals so thoroughly com-
mitted to their duties as members of our three services.
They are required to perform in often difficult, gener-
ally challenging and frequently dangerous circum-
stances. While they have made this career choice them-
selves, we who benefit from their dedication need to
recognise that being a member of the ADF makes
unique demands on the individuals who serve and on
their families. We should as a matter of the highest pri-
mary ensure that they are looked after both as they
serve, and subsequently. Doing this effectively is
surely an important part of meeting the current chal-
lenge we face to improve recruiting and retention in the
services. My recent experience with the ADFPP leads
me to conclude that we still have some way to go in
meeting this challenge, at least as far as Navy goes.

Remuneration is clearly not the only reason people
join, continue in or leave the Navy but, understandably,
it is a material consideration. In discussions I had with
some junior and senior sailors it was clear that there
are some obvious issues here. These have less to do
with general rates of pay than with the reality that the
value of allowances is often greatly diminished by the
levels at which they are taxed and by other considera-
tions. Some consideration to reducing the marginal tax
rate of allowances, or perhaps offering tax-free bene-
fits, could well pay significant dividends in recruiting
and retention. Extending full health benefits to families
could also make a difference, though clearly these
measures would be a considerable drain on resources.
Several other matters came to my attention during the
program. The efficiency of the Navy spare parts supply
chain would seem to require review. Equally, the op-
erational efficiency of some units is being affected by
delays in the acquisition of critical pieces of new
equipment.

On the more positive side, I was delighted during
my program to have the opportunity to spend several
hours aboard the United States amphibious ship USS
Bon Homme Richard. Although a much larger vessel
than the two amphibious LHDs ordered for the Aus-
tralian Navy, the visit provided me with valuable insight
into the wide range of capabilities provided by this
type of ship, and encouraged me in my belief that when
the Royal Australian Navy takes delivery of its new
ships it will add enormous and valuable capability to
the ADF.

Another facet my visit was the opportunity to meet a
number of young Australian sailors participating in
the new gap year program for school leavers. While frank
about their experiences in the program, the sailors I
spoke to were, for the most part, very positive about its
value. Several have already decided as a result of their
exposure to naval life to make a career in the service.

It was clear from the week I spent with our forces at
RIMPAC that participation in the exercise provides
Navy with invaluable operational experience and train-
ing in working with the maritime forces of other coun-
dies. Enhancing skills in antisubmarine warfare, mine
clearance, replenishment at sea, together with practice
in live firing drills, missile testing and war gaming all
aim to enhance our force’s readiness to deal with the
threats that we trust will never come, but for which we
nevertheless need to be prepared.

In closing, I extend my sincere thanks to Com-
mander Fiona McNaught from Navy headquarters who
so capably organised my program and whose company
during my visit to RIMPAC ensured that everything
delivered smoothly. Commander McNaught is about to take
up a new post at HMAS Creswell and I wish her well
in relation to her new duties. I am sure she will dis-
charge those duties with considerable distinction.

National Blood Donor Week

Senator McLucas (Queensland—Parliamentary
Secretary to the Minister for Health and Ageing) (7.14
pm)—Madam Acting Deputy President Moore, I am
sure you will be pleased to know that this is National
Blood Donor Week, which provides the opportunity for
all Australians to celebrate and recognise those who donate blood and to acknowledge the professionals who have helped Australia build one of the safest and well-managed blood supply systems in the world. A single blood donation is a most generous gift—given free of any remuneration and given free of any expectations of thanks or gratitude. One single blood donation can save the lives of up to three people—accident victims, people with burns or cancer and, commonly, mothers who have just delivered or, in fact, their babies. We in Australia are very fortunate that more than 500,000 individual Australians donated blood in the last year. I would like to formally record the sincere thanks of the Australian government for the generosity of each and every one of those 500,000 donors.

But I do ask the Senate to think about the incredible logistics associated with the provision of blood products to patients 24 hours a day, seven days a week, 365 days a year, and to understand the very real responsibility that donors are placing upon all the other players in the sector to use their donation wisely. In this National Blood Donor Week, I commend and recognise the Australian Red Cross Blood Service for the enormous amount of work they do in ensuring the safety and timeliness of delivery of our blood supply and for the whole range of services that ARCBS have supplied for us as a country over many years.

Around 20,000 blood donations are required each week to ensure that there is enough blood for people who need it. Fresh blood lasts in storage only up to 42 days, and platelets—one of the most important blood components—last only five days. A successful and sustainable future demands exemplary stewardship from all players in careful management of both supply and demand issues.

From the supply side, there are a number of elements we must be mindful of. We need to ensure that people understand the scarcity of the product we are dealing with. Each and every donation is a precious commodity, and it should be treated as such. Hospitals need to treat blood with care. Blood is not something to be discarded casually because it was left out of the fridge too long. Doctors well know that it should not be given as therapy without clear evidence of its benefits.

We also need to think seriously about how best to attract and then retain new donors. One in three Australians will need blood or blood products in their lifetime but only around 3½ per cent of the eligible population donates blood regularly. This will not be sustainable as our population grows and gets older.

We must avoid unnecessary wastage. Wastage of this precious gift is a shocking and unacceptable failure in our stewardship of the product. I call on everyone from the manufacturer to the hospital porter, the blood bank scientist, the ward nurse and the prescribing doctors to understand that each and every unit of red blood cells, platelets or plasma has come at a cost—not a cost to the system from the donor but a cost to ensure that it is safe, of good quality and provided at the right time.

We also have to recognise that a sustainable future means ensuring ongoing improvement to the processes used for collection, testing, manufacturing and distribution to maximise outcomes from government funding and the generosity of donors. We must also have reliable inventory reporting at the hospital level, with stocking levels considered and agreed to on the basis of good quality information to minimise the risk of a failure of supply.

Our responsibilities do not stop there. We also have to look at the issue from the demand side and perspective. We need to better understand where we use blood products. We need to know what proportion of the product is used to treat which diseases. Without knowing this, our capacity to predict demand will remain poor. Importantly, our capacity to predict demand is also hindered by the significant variation in use in Australia across jurisdictions, across specialties and within specialties in hospitals that cannot be explained by clinical evidence. To assist in managing demand, we must ensure all use is appropriate and we must work collaboratively to reduce the overall volume of transfusions that are required. This is being pursued internationally through an approach known as ‘patient blood management’.

All states and territories in Australia have implemented a range of activities to increase the appropriateness of use. We need to work collaboratively with the clinical community and across governments to better understand the overall benefit and risk equation for patients from receiving a blood transfusion. Everyone needs to work together to make sure that all patients are managed in a more holistic manner to reduce the likelihood of them needing a transfusion. For example, treatment of iron deficiency anaemia with iron therapy rather than transfusions could reduce the need for a significant proportion of red cell transfusions. An audit in one state found that 25 per cent of transfusion episodes in this category—with the majority being for stable patients, unfortunately—could have been avoided with appropriate iron therapy in the community.

Further, to manage our demand we need to improve our understanding of the nature of transfusion related adverse events that do, unfortunately, occur in Australian hospitals. In saying that, I acknowledge that Australia has one of the safest blood supplies in the world. While not significantly different from international experiences, the available data suggests that there could be improvements in the appropriateness of use of the product. We also have to provide improved information to patients on the risks and benefits of a blood transfusion just like with any other clinical intervention
so that they can make an informed choice. Each and every one of us has a real and pressing obligation to fulfil the responsibilities of appropriate stewardship in accountability for the financial, clinical and other resources associated with managing blood donations.

Next year marks 80 years of blood transfusion and collection services in Australia. Next year has been nominated as the Year of the Blood Donor, representing a unique opportunity to lead the world in ensuring that we use our precious donations with world-class expertise based on the best science and the utmost respect. In this National Blood Donor Week I once again commend those 500,000 people who generously, selflessly and for the good of the community broadly make a donation on a regular basis. Senator Moore, I know that you are in the chair but I commend you for having as one of the badges that you do wear from time to time the 100-donation badge. You would be one of the few people in this place who would proudly wear that badge, and I say ‘thank you’ because there are many people who have been assisted from your donation of blood over many years.

Australia is already leading the way in how we manage and run our blood supply within the Asia-Pacific region, and hosting World Blood Donor Day will provide the opportunity to showcase this. But let us put down a challenge. Let us challenge all of us with will provide the opportunity to showcase this. But let us put down a challenge. Let us challenge all of us with the responsibility to use our precious donations with world-class stewardship and use of this precious gift of human blood.

Social Inclusion

Senator BOYCE (Queensland) (7.24 pm)—I rise tonight to talk about social inclusion and the Rudd Labor government’s record thus far in this area. When the social inclusion ministry was announced, when the Rudd government came to power, I had a strong interest in this department and a degree of anticipation of a lot of improvements because of a focus on some areas. Social inclusion is aimed at recognising that there are barriers that prevent the most disadvantaged in our society from participating in the benefits available to others. A social inclusion policy consciously aims to overcome this in a structured and focused way. Let us look at what has happened so far.

The Rudd Labor government claims to believe that all Australians need to be able to play a full role in all aspects of Australian life. They say that, to be socially included, all Australians must be given the opportunity to secure a job; access services; connect with family and friends, work, personal interests and local community; deal with personal crises; and have their voices heard. Unfortunately, the reality after 10 months is that getting their voices heard—particularly for disadvantaged Australians—above the all-spin-no-substance government rhetoric is very problematic. Let us not get confused and think that social inclusion under this government has anything to do with overcoming educational exclusion or overcoming plain, straight-out discrimination.

For a start, I would like to look at the structure of the government’s social inclusion effort to date. The Social Inclusion Unit is administered out of the Department of Prime Minister and Cabinet. The minister in charge of social inclusion is Ms Julia Gillard, the Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion. So, if you want to talk to the minister, you ring the Department of Education, Employment and Workplace Relations. If you want to talk to the unit, you ring PM&C. If you have media or general enquiries about social inclusion, you contact DEEWRS but, if you want to talk to the secretariat of the Social Inclusion Board, then you need to talk to PM&C. Do not bother trying to get any meaningful information on social inclusion from the social inclusion website. You can get some information from the Social Inclusion Board website, but it is only slightly better.

So what has been the reality in terms of social inclusion over 10 months? The Social Inclusion Board has been established. The membership of the board includes many prominent and worthy Australians—people like Ms Patricia Faulkner, who chairs the board and is the global manager of KPMG health care; Mr Ahmed Fahour, CEO of National Australia Bank, who obviously represents the multicultural community; Mr Eddie McGuire, who is a TV compere, amongst other things; and Fiona Stanley, the Australian of the Year in 2003 and a professor of paediatrics. This board has so far held two meetings. They have said that they are going to develop a statement about the principles of social inclusion—something I would have thought that you understood before you established the board but a worthy aim nevertheless. One of the other things they have done is to invite that seriously disadvantaged group the Boston Consulting Group to speak to them on the topic of early childhood development.

It is quite interesting to look at some comments around activities of the Blair government 10 years ago. The quote that I am about to give you comes from an interview with Bob Holman, a professor of social work at Bath University, about the Social Exclusion Unit—looking at the same problem but from a different perspective—set up by the Blair government 10 years ago. Mr Holman said:

The first thing the Social Exclusion Unit did was to define its own membership, its own leading 12 members. And the 12 members include professionals, a highly paid business person, chiefs from the voluntary sector, people who’ve been to public school and Oxbridge, but nobody who is unemployed, who is poor, who lives in the estates like Easterhouse.
That is obviously a socially disadvantaged area of London. He went on:

So here’s a very strange thing, that immediately the Social Exclusion Unit excludes anybody who is excluded.

That is an eerie and upsetting similarity between those two groups, in the sense that I do not think social inclusion can be dealt with by a board of CEOs, no matter how eminent, no matter how worthy.

Let us look at some of the things that have happened in terms of social inclusion in Australia so far. We have had lots of papers—white papers and green papers—and workshops and discussion groups, and yet a very large proportion of our population cannot access any of this information because the information is not available to people who are blind, to those who need some form of technology to read or to those who do not have English as a first language. One would have thought this was a critical issue of interest to all Australians irrespective of their ability to access an English language website, but the Disability Discrimination Commissioner, Graeme Innes, suggested recently that a large number of government departments, including the Department of Climate Change, were in fact not complying with the Disability Discrimination Act, which says they must provide access to government information for all. He said he is going to start naming and shaming if this is not improved.

In another area, a new out of school hours program has been developed for students with disabilities between years 8 and 12—a very worthy aim. The only problem is that, whilst all other out of school care programs are funded by the Department of Education, Employment and Workplace Relations, the programs for students with disabilities are funded by the Department of Families, Housing, Community Services and Indigenous Affairs, so we have a whole separate system willing set up in a time of alleged focus on the issue of social inclusion. The Rudd government recently announced the membership of the National Council to Reduce Violence Against Women and Children, yet there is no woman with a disability on this committee even though all the evidence suggests that women with disability experience violence at a higher rate and more frequently than any other group in the community. I know that Women with Disabilities Australia, the peak organisation for women with a disability, lobbied the Minister for the Status of Women to have a woman with a disability included on that council. There are more than two million women with a disability in Australia and, according to the research, they are at a significantly higher risk of violence, they have fewer avenues and less access to safety than others, they tend to be subjected to violence over longer periods and they experience violence at the hands of a greater number of perpetrators. Yet we can set up a national council to look into this issue and not include a woman with a disability in the group.

In March 2007 we became a signatory to the United Nations Convention on the Rights of Persons with Disabilities. It talked about emphasising the importance of mainstreaming disability issues, recognising the importance for persons of individual autonomy and recognising women. Whilst we are the signatories to a UN charter that recognises all these issues affecting people, including women, with disabilities, we do not have any voice for women on these groups.

To me, this is a very poor example of concentrating on social inclusion. I think perhaps what we need is one more ‘watch’ by the Rudd government. I think we need ‘inclusion watch’. I think it is very obvious to all of us that often ‘disadvantaged’ means people with disabilities and people with chronic illness. They form a large part of our disadvantaged community. If we cannot watch what we are doing in terms of including them, the whole program is not worth the paper that it is written on.

Water

Senator HEFFERNAN (New South Wales) (7.33 pm)—Madam Acting Deputy President, I seek leave to speak for 20 minutes.

Leave granted.

Senator HEFFERNAN—Tonight I want to talk about something that ought not be political, that is in the national interest and that is all about the future of Australia. I want to background that against the climate science for the planet and reduce it to the climate science for Australia and to the catastrophic errors that are being made in water management, including the recent purchase of Toorale station on the Darling.

As I have said many times in this chamber, the climate science for the next 50 years says that, presuming the world population grows from six billion to nine billion during the next 50 years, one billion people will be unable to feed themselves. At present there are 800 million people on the planet who are short of food—and one billion people who are obese and eat too much food, which is the contra. Thirty per cent of the productive land of Asia, where two-thirds of the world’s population is going to live, will go out of production due to climate change. The food task is going to double. Fifty per cent of the world’s population is going to be water poor, including 400 million people on the great northern aquifer in China and about 250 million people in the northern part of southern Africa. With the food task doubling, there will be 1.6 billion people at the top of the science vagary who will be displaced on the planet. That is a lot of people and a problem which the United Nations will not cure.

Coming to Australia, the same science says—and in all science there is vagary—that there will be a decline
of between 25 and 50 per cent in the water run-off in the southern parts of Australia. As water declines in a river run-off, you have to disproportionately return water to the freight of the river, for the fish to swim down, otherwise you have to carry buckets of water down, as it were. So a disproportionate amount of water is going to be available in the southern Murray-Darling Basin, where we already know 38 per cent of the run-off comes from the two per cent of the landscape that is going to be most affected by the change in climate. Presently I am part of the Senate Standing Committee on Rural and Regional Affairs and Transport inquiry looking at the future for the Coorong. The Coorong barrages are a half a metre from sea level now and the lakes are below sea level. Hundreds of years ago they were in the sea and they are going to return to the sea.

What has got to happen in the Murray-Darling Basin and what has got to happen right across Australia is that we have got to take possession and ownership of the future based on science not on the hopes, wills and wishes of the past. This ought to be done in the national interest. The committee that I sit on does not play politics with people’s livelihoods—as Senator Barnaby Joyce would know. We try to get it right in the national interest.

I have had cattle on agistment everywhere, and I am getting sick of it. It is still crook out there in southern New South Wales. I learnt the hard way that if you are going to buy something or agist somewhere then you have to go and have a look. Years ago, I rang up a bloke east of Cunnamulla at Murra Murra—Senator Joyce, do you know where Murra Murra is?

Senator Joyce—I know it well.

Senator HEFFERNAN—There is some beautiful country as you drive up through Cunnamulla and you head east to go to St George. I thought, ‘Oh, gee, this is pretty good country. This will be good.’ I drove into Murra Murra and it was, as you know, bloody scrub. I had already sent the cattle because the bloke said, ‘Oh, send them up. There’s enough feed here for two years.’ Anyhow I learnt a hard lesson—that is, you should go and have a look—because the feed was not there, after I had gone to all that trouble. I have never allowed myself to get trapped like that again.

The Commonwealth government need to learn this lesson because, much to my dismay, they have just spent nearly $24 million buying Toorale station up there on the Darling River at the junction of the Warrego River and no-one from the Commonwealth has set foot on the property. They have bought its sight unseen. There has been a bit of a fly over from the parks mob and last Tuesday before the sale two girls from New South Wales parks went there to look at—the people on their property tell me—the machinery and goods and chattels that were given in with the sale. The crops and the stocks are not given in. They were there for 45 minutes. We in our wisdom, to return water to a system to which it is not going to return, spent $24 million buying that property. I just want to put on the record exactly what it is that the government have bought.

Toorale station covers an area of 98,000 hectares. It is a beautiful dryland property owned by Clyde Agriculture. I note that on the board of the Swire Group, which controls Clyde Agriculture, is the federal government’s adviser on acquisitions of infrastructure and water et cetera Mr Eddington. I have to say also that Mr John Anderson is on that board. I note also that Mr De Lacy is on the board of Cubbie Station, which I will come to. Toorale’s 98,000 hectares—which is roughly a quarter of a million acres—runs 30,000 merino sheep, including 10,000 breeding merino ewes. So it is a viable enterprise in the wool industry. It runs 800 cows. And tucked away down in the corner near the junction of the Warrego and the Darling rivers is between 4,000 and 5,000 acres of country that is prepared for irrigation, of which they generally use two-thirds annually. The Warrego floods perhaps 20,000 to 30,000 acres through a series of banks that were put in 100 years ago or more. The Warrego splits and a lot of the water goes west—

Senator Joyce—It bifurcates.

Senator HEFFERNAN—That is the technical term. It joins the Darling downstream. Usually the Warrego has a flood event every year, and it has what we call a large event every three or four years. Most years that it has an event of any proportion the Darling also has a good flow. In the last 17 years that the manager who is there now has been there, there has been only one year where the Warrego had an event and the Darling did not have one. I think that was two years ago. So in its wisdom, without having a look, the government has decided to purchase this station.

Dr Tom Hatton, from whom we took evidence last week, from the CSIRO is doing a study on the flow regimes of the Culgoa River and the Warrego River. This is not a scientific snapshot including the full drilldown for the environmental impacts of decisions; it is just an assumption on future flows of the system and what can be extracted. He said on the record last week that buying this station is no short-term solution; it is sort of a long-term planning thing. This is about buying a water licence in one of the few places left in New South Wales where they have not separated the land from the water. So to get the water they have had to buy a seriously large grazing enterprise which employs a lot of people and is the lifeblood of a place like Bourke.

By not going to have a look and not understanding the country, they did not understand that there are a couple of banks there—the Boera and the Booka
dams—which divert water for two adjoining properties' stock and domestic water. Those properties have now put their hands up. They are ringing Toorale asking, ‘Well, what are we going to do about our water?’ No-one had thought about it. This is sort of silly stuff. I just want to put on the record exactly what you are buying when you buy these places, because obviously if we want to return water to the likes of the Coorong et cetera then you are not going to get it up there. Tom Hatton, Don Blackmore and Mike Young, all scientists, have put that on the record. We all know that. Anyone who is a practical person will know that the freight component of getting that water through 4,000 kilometres of river from the top end to the bottom just will not work.

I have a list here of what is at Toorale just so that I do not get it wrong. In the extraction regime for Toorale there is an A licence of 67 megalitres, there is a B licence of 1,437 megalitres and there is a C licence of 6,168 megalitres. That water can be extracted according to flow levels at Louth from the Darling. It is an extraction licence. It will go into their storage, which holds about 14,000 megalitres. So you could say that they have 6,000 or 8,000 megalitres of extraction out of the Darling. Then they have 6,000 megalitres gravity fed into the same storage out of the Warrego. No-one actually knows how much they take because there are no meters and no pumps. It is just sort of a good guess, and no-one has ever queried it. So they have a 6,000 megalitre licence for that. They have bank licences of 972 megalitres and 1,141 megalitres. And, quaintly I think—I do not know of any other that is left in New South Wales; there may be some—they have an area licence.

The original water licences in New South Wales 40 years ago were given on the acreage you wanted one for, not for the volume of water you wanted. They have a 1,620 hectare water licence, which apparently does not get utilised. The Ross Billabong’s storage capacity is 13½ thousand megalitres and they gravitate from the Warrego and pump from the Darling. They have water in the account for the Darling but if the water is not there it is still in the account. You do not actually get it. What they have done there is to buy a pig in a poke. If the water was further down the system you would have it by allocation not entitlement. It is a serious and grave error.

I have to say there has been some amusement from the locals at the lack of expertise shown in the negotiations on the sale of the property. My understanding from the locals is that the government got played on a break, buying it sight unseen. There was no on-ground inspection by federal authorities prior to the sale and purchase. They did not buy water that was separate from the land title—one of the few places in the state where that is the case. I mean, you talk about influence and why they might be buying this place! The Queensland government then, to square up the account, came up the next day and said, ‘We are going to donate 10 gigalitres of water, eight of that from the Warrego.’ It is unallocated water. It is meaningless. It is a smoke and mirrors trick because it is not allocated. So that means it was going to flow down the system anyhow. When it flows down the system to Toorale there is a series of banks that was put in there a hundred-odd years ago. In recent years there has been an effort by the authorities in New South Wales to free up some of the flow. Those pipes let through between 600 and 1,000 megalitres in an event and there is about 2,000 megalitres in the event when it gets to Toorale in a normal high river. So what they have done is to put two four-foot pipes in all the banks. The banks then create an artificial flood in a low river, and in a big river it floods anyhow. They are saying some fantasy about 90,000 megalitres of water returning to the system and somehow finding its way down the river. In fact, there will probably be nothing finding its way down the river if that river remains in the condition it is in now.

The Ross Billabong stores their water. In recent days there was some footage and a photograph in one of the papers of a lot of water at the homestead. That is actually just the stock and domestic billabong. When the thing floods they fill it up for stock and domestic water. I do not understand how we cannot have enough brains to know that if you want to return water to the system you buy water that is separate from the land. Why are they buying this land and putting into some sort of a park a property that is vibrant and enthusiastic, that employs a lot of people, that has 30,000 sheep, 10,000 breeding sheep, 800 cows and irrigation? They are going to turn it into a national park which, I am told, will cost $3 million to $4 million to supervise just to stop it from going to bloody rabbits, kangaroos and burnt out boomerangs or something. At the same time they will put a whole lot of people out of work. If that same water had been bought further down the system somewhere, it would have made sense. Go to the records of the inquiry of the Senate Standing Committee on Rural and Regional Affairs and Transport into the Coorong. They will tell you that Don Blackmore, Tom Hatton from the CSIRO and Mike Young said that it is a waste of time. It is a further waste of time because, like the water that Anna Bligh has said we are going to donate to the system, it is a furphy. The water resource plan for the river had no science that was connected to the environment applied to it when it was developed, and the resource operating plan still says they can issue licences. If they buy this water under the present arrangements for the system, they can issue new licences further up the system, Senator Joyce, and take the water before it gets to Toorale anyhow. It is sort of crazy stuff.

*Senator Joyce interjecting—*
Senator HEFFERNAN—Well, they can still issue them. They wanted to have that auction last year and they cancelled it. There was a bit pressure put on from one or two people close to me. I have to say that it distresses me greatly that we think taxpayers should put up with an arrangement where the Commonwealth would go and spend $24 million, sight unseen, on a property to return a few thousand megalitres of low security water entitlement to that system when at the same time there is the situation with the New South Wales government in the Riverina. Bear in mind that the New South Wales government and the Commonwealth got together on this even though they did not go and have a look. The New South Wales parks mob went and had a look—they flew over it in a helicopter or something. But on-the-ground inspection is the way to find out what is really going on, which is why the neighbours are worried and why the locals are distressed. They set aside about $20 million in the Riverina to recompense people who lost their groundwater entitlements. It is the same thing: all governments of all persuasions for all time have cocked up the management of water. This is not to do with a particular flavour of government. They allowed $20 million, which is less than the price of this property, for all compensation in the Riverina for groundwater. I know one property—and I will not name them so I do not embarrass them—that spent $30 million developing almond orchards and the latest of trickle root-zone irrigation. They acquired the water licences, were ticked off and were approved. There were 280,000 almond trees. Then they got a note in the mail that said, ‘By the way, we are going to take half your water back off you.’ They tore up $10 million on one property, with no proper compensation. I know another family down in the Riverina who lost 85 per cent of their water and have a look. Adelaide last week, is to go back and apply the science with no compensation. And we think this is sensible? This is silly.

On the Balonne, having done this job on the Warrego, they are issuing a draft ROP and they are going to issue a series of licences. Then they are proposing to buy them back and that is going to cost hundreds of millions of dollars. They need to redo the plan. Everyone I speak to says, ‘Bill, you are right, but we don’t know what to do.’ I think the government have panicked about having to act symbolically, to be seen to be doing something, about the mismanagement of the Murray-Darling Basin. They have made some grave errors and we ought to rethink the way we are managing water. It is a waste of taxpayers’ money. In fact, I think there ought to be an inquiry into some of these allocations where people who are not qualified for water licences are getting water licences in the full knowledge that they are sharing in the process to give them back to the government. I think it is a fraud. (Time expired)

Senate adjourned at 7.54 pm

DOCUMENTS

Tabling

The following government documents were tabled:

Aboriginal Land Commissioner—Report and recommendations to the Minister for Families, Housing, Community Services and Indigenous Affairs and to the Administrator of the Northern Territory—No. 70—Crown Hill (Irinjurinjirri) land claim no. 106.


Research Involving Human Embryos Act 2002—Report pursuant to section 47C.

Treaties—

Bilateral—Agreement between Australia and the Republic of Finland on Social Security done at Helsinki, 10 September 2008—Text, together with national interest analysis.

Multilateral—Text, together with national interest analysis and annexures—


Tabling

The following documents were tabled by the Clerk:

Sydney Airport Curfew Act—Dispensation Report 10/08.

**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—
  - Australian Taxation Office.
  - Department of Broadband, Communications and the Digital Economy.
  - Treasury portfolio agencies.

**Departmental and Agency Contracts**

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended: